

## **PerkinElmer North American Terms and Conditions of Purchase**

**1. Definitions.** As used throughout this document:

“**Buyer**” means the PerkinElmer affiliate listed on the face of this purchase order.

“**Seller**” means the supplier identified on the purchase order.

“**Products**” means the goods specified on the face of this purchase order.

**2. Order Acceptance.** This purchase order is an offer by Buyer for the purchase of the specified Products from the Seller in accordance with these terms and conditions. Seller acknowledges acceptance of this order and all its terms and conditions unless Seller raises exceptions within five (5) days after the date of this order. If exceptions are raised, Buyer and Seller shall negotiate mutually acceptable terms and conditions. If this order results from Seller having acknowledged Buyer’s request for quotation (proposal), then this order is considered Buyer’s acceptance of Seller’s offer subject exclusively to the terms contained herein. If Buyer did not issue a request for quotation (proposal), this order is Buyer’s offer to Seller to remain outstanding for five (5) days from date of receipt and when accepted by acknowledgment or by performance in whole or in part, shall become a binding contract subject exclusively to the terms contained herein. Any reference in this order to Seller’s or its suppliers’ quotation (proposal) by number or title does not imply acceptance of any terms and conditions in such quotation. Notwithstanding any provision of law to the contrary, any terms and conditions in such quotation which are in addition to, or inconsistent with, the terms and conditions contained in this order, are excluded. Failure to return the acknowledgment copy promptly (if attached hereto) may result in delay in payment of the invoice against this order. Acknowledgment must be executed by an officer or other duly authorized employee of Seller.

**3. Complete Agreement.** This order, including any supplementary schedules, exhibits, riders, and attachments annexed hereto by Buyer, contains the complete and entire agreement between the parties with respect to the sale of Products by Seller to Buyer and supersedes any other communications, representations, warranties, understandings or agreements, of any kind, oral or written, concerning this order. These terms and conditions shall prevail over any terms and conditions contained in any other documentation, and expressly exclude any of Seller’s general terms and conditions of sale or any other document issued by Seller in connection with the sale of Products hereunder.

**4. Changes.** (a) Buyer may at any time prior to shipment, without charge or liability, change delivery schedules, or quantities by written order and may change the method of shipment, packing and place or time of delivery by any means of communication. (b) Buyer may also at any time change drawings, designs or specifications by written order. If such change affects cost or delivery schedules of this order, an equitable adjustment shall be made for actual resulting costs incurred by Seller that cannot be avoided by Seller commencing reasonable mitigation efforts, provided Seller makes a written claim within fifteen (15) days of Buyer’s notification, but this clause shall not excuse Seller from proceeding immediately with this order as changed. Where Seller includes the cost of material made obsolete or excess as a result of a change, Buyer shall have the right to prescribe the disposition of such property. (c) Any changes proposed by Seller or Seller’s subcontractors, to materials, processes, or software, which may affect the form, fit, or function of the Products, and/or the reliability, safety, regulatory compliance, serviceability, performance and warranty of the Products, and/or any approved Product quality plans, must be submitted by Seller prior to implementation in the form of a written change request for Buyer’s approval. For clarification purposes, applicable Product changes may be inclusive of but not limited to, changes of sources of material, components and parts, changes in manufacturing processes, test procedures, manufacturing locations and relocation or replacement of any equipment utilized in manufacturing the Products. Products affected by such changes may not be delivered to Buyer until Seller has received written approval for the changes from Buyer. The change notice must include the affected part number or software revision (if applicable), proposed date of implementation, serial number verification/validation records, effectiveness of the assembly that is changed, reason for the change, specific details of the change and, if available, supporting data that demonstrates that Product reliability will not be impacted negatively. In addition, Buyer has the right to request Product samples for evaluation prior to approval by Buyer of such Product changes.

**5. Advertisements and Public Announcements.** Seller shall not (i) advertise, publish, or otherwise make any public announcements, denials or confirmations concerning any aspect of this order, or (ii) otherwise use Buyer’s trademarks, service marks, trade names, logos, domain names or

other indicia of source, affiliation or sponsorship, in each case, without prior written consent of Buyer, which may be withheld by Buyer in its sole discretion. If Seller fails to observe this provision, Buyer reserves the right to cancel this order without obligation.

### **6. Termination**

(a) **Termination for Convenience by Buyer.** Buyer may terminate this order in whole or in part at any time by providing written notice to Seller. If Buyer’s notice of termination pursuant to this Section 6(a) is provided after shipment of any Products, then Buyer shall be responsible for the fees associated with the Products actually shipped prior to Seller’s receipt of notice pursuant to this Section 6(a). In no event shall Buyer be obligated to pay for Products associated with an order terminated in accordance with this Section 6(a) that were not shipped prior to Seller’s receipt of such notice.

(b) **Termination for Cause by Buyer.** If Seller breaches any provision of this order, Buyer may terminate the whole or any part of this order, unless Seller cures the breach within ten (10) business days after receipt of Buyer’s notice of breach. For purposes of hereof “breach” shall, without limitation, include (a) Seller’s failure to provide Buyer, upon request, with reasonable assurances of performance; or (b) any other failure by Seller to comply with this order. If Buyer terminates this order in whole or in part as provided in this Section 6(b), Buyer may procure, upon such terms and in such manner as Buyer deems appropriate, replacement goods or services, and Seller shall reimburse Buyer upon demand for all additional costs incurred by Buyer in purchasing such replacement goods or services.

**7. Price and Invoices.** Seller shall not fill this order at prices higher than those shown on this order. Seller warrants that the prices for Products ordered herein do not exceed prices charged to other customers similarly situated, for similar quantities of products of like quality. Invoices covering only one order, shipping notices, bills of lading, and receipts shall be mailed promptly after shipment. Seller’s invoice shall identify the country of origin of each Product sold to Buyer. Payment for undisputed invoices shall not be due and owing until ninety (90) days net from the later of (i) receipt of the Products furnished under this order or (ii) the date of invoice. Further, if set forth in a purchase order, Seller shall provide a prompt payment discount of 3% for payments received within fourteen (14) days net from the later of (i) receipt of the Products furnished under this order, or (ii) the date of invoice. If Buyer disputes any charges on an invoice, Buyer will so notify Seller and provide a description of the particular charges in dispute and an explanation of the reason why Buyer disputes such charges. Buyer will not be obligated to pay any amounts it disputes until the dispute has been resolved to Buyer’s reasonable satisfaction. The parties will work together diligently and in good faith to resolve all disputes as quickly as possible. Neither the failure to dispute any charges prior to payment nor the failure to withhold any amount will constitute, operate or be construed as a waiver of any right Buyer may otherwise have to dispute any charge or recover any amount previously paid.

**8. Packing, Shipment, Transportation and Taxes.** The price stated herein includes all charges for boxing, packing, crating, drayage, storage and all applicable federal, state and local taxes. Seller shall pay said taxes and hold Buyer harmless from them. Products shall be suitably packed to ensure the Products are delivered in an undamaged condition, secure, lowest transportation costs and conform to the requirements of common carriers and any applicable specifications. All shipments containing hazardous materials/dangerous goods shall comply with all applicable regulations. Seller shall provide hazardous material data sheets promptly upon request. Seller shall comply with Buyer’s shipping instructions, including using the shipper account number provided by Buyer in its shipping instructions. Unless otherwise specified by Buyer, all shipments shall be DDP (Incoterms 2010) Buyer’s specified location. The purchase order number must appear on all packages, with itemized packing slips referencing the purchase order number with each delivery. Where transportation charges are to be prepaid by Seller and billed to Buyer, the amount shall be separately indicated on the invoice and, upon Buyer’s request, substantiated with receipts.

**9. Delivery.** Time is of the essence. Seller shall deliver strictly in accordance with the quantities and schedules set forth in this order. If no delivery date is specified, Seller shall deliver the Products within ten (10) business days of Seller’s acceptance of this purchase order. All Products shall be delivered to the address specified in this order during Buyer’s normal business hours. Seller shall report delays in shipment immediately to Buyer. If Seller should fail to make deliveries in accordance with the terms of this order, Buyer reserves the

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right to cancel this order in whole or in part. Buyer may also, without limiting its other remedies, direct expedited routing and any increased costs due to expedited routing shall be paid by Seller. Unless otherwise specified herein, no deliveries shall be made in advance of Buyer's delivery schedule. Seller's delay or default caused by a subcontractor's delay or default shall be excusable only if it arose out of causes beyond the control of both Seller and subcontractor, without the fault or negligence of either of them, and the supplies or services to be furnished were not obtainable from other sources to permit Seller to meet the required delivery schedule. Buyer's representatives shall, during Seller's normal business hours, have access to Seller's plant for the purpose of assuring delivery in accordance with the delivery schedule.

**10. Overshipment.** Subject to inspection and acceptance, Buyer will be liable for payment only for quantities ordered and delivered. Overshipments shall be held at Seller's risk and expense for a reasonable time awaiting shipping instructions. Shipping charges for returns shall be at Seller's expense.

**11. Title and Risk of Loss.** Title and risk of loss shall pass to Buyer upon delivery, except that Seller shall retain the risk of loss for Products which Buyer does not accept or rejects.

**12. Warranty.** Seller expressly warrants that all Products delivered hereunder will: conform strictly to Seller's published specifications for the Products, and/or designs, specifications, drawings, performance standards, samples or other requirements furnished or specified by Buyer; will be of new material, free from defects in material and workmanship; be merchantable; and, be fit and sufficient for the purposes intended. Such warranties shall survive any inspection, delivery, acceptance, or payment by Buyer of, or for, the Products, for a period of twelve (12) months following date of delivery. Buyer's remedies under these warranties shall include at Buyer's election (a) return and full refund of the purchase price paid by Buyer for such Products, (b) repair by Seller or persons designated by Seller and accepted by Buyer of any Products found to be defective in violation of these warranties, without charge, or (c) replacement of Products with new products that conform to the above requirements. Seller shall be responsible for all shipping and other costs and expenses in connection with return and/or replacement of defective Products. Notwithstanding the foregoing, Buyer may, in its sole discretion, charge Seller an administrative handling fee equal to the greater of (x) \$500.00 or (y) an amount not to exceed 15% of the invoiced price of a non-conforming Product if (i) Buyer, at any time, discovers that Seller provided to Buyer a non-conforming Product or (ii) Seller's Product(s) are rejected at Buyer's facility. Seller shall effectuate non-conforming repairs or replacements under this Section 12 within five (5) business days of Seller's receipt of non-conforming Products from Buyer. If Seller fails to repair or replace such non-conforming Products within such five (5) business day period, Buyer may reject the non-conforming Products, and Seller shall reimburse Buyer for all associated costs paid by Buyer. If Buyer rejects the non-conforming Products, Buyer may terminate this order and procure replacement products. Seller shall reimburse Buyer upon demand for all additional costs incurred by Buyer in purchasing any such replacement products.

**13. Inspection and Testing.** Seller shall verify that all Products meet all specifications before shipment. Seller upon request shall give Buyer reasonable notice of such verifications and Buyer may be represented therat. Seller upon request shall supply Buyer with a certified true copy of Seller's test results. All Products will be subject to Buyer's inspection and test prior to acceptance. Payment, in whole or part, will not constitute acceptance. Buyer may reject any non-conforming Product and return it to Seller at Seller's risk and expense at the full invoice price plus all applicable inspection, test, boxing, packing, crating, transportation and other related costs. Alternatively, Buyer may, with Seller's express permission and agreement to reimburse Buyer therefor, rework all or part of Seller's non-conforming Product. At Buyer's option, Seller agrees to negotiate in good faith regarding an equitable reduction in the price of non-conforming material which Buyer agrees to accept in a use-as-is condition. Buyer, or its representative, may inspect any Seller's location engaged in the performance of this order and may inspect or test Products to be delivered hereunder during manufacture, processing or storage. If Buyer, or a representative of Buyer, makes any inspection or test on the premises of Seller, Seller shall provide all reasonable facilities and assistance for the safety and convenience of such personnel. If as a result of any testing by Buyer or Seller, Buyer finds that the Products do not comply with the order or are unlikely to comply upon completion, Buyer shall inform Seller in writing and Seller shall take action to ensure compliance. Neither payment nor acceptance shall relieve Seller of liability for failure to conform to order requirements.

**14. Title to Specifications and Confidentiality.** Buyer shall at all times have

title to all designs, specifications, drawings, performance standards, samples or other requirements furnished or specified by Buyer to Seller, and Seller shall, upon Buyer's request, or upon completion of the work, promptly return all such information and copies thereof to Buyer. Seller shall not disclose, in any manner or to any other party, including any subcontractor, any information whatsoever supplied by Buyer, without prior written consent from Buyer. Seller agrees to maintain all such information under secure conditions using at least the same level of security as Seller uses in protecting Seller's own information, but not less than a reasonable degree of care. Seller covenants and agrees that any Products manufactured using Buyer's information will be sold only to Buyer or Buyer's designee, and for a period of five (5) years from the date of this order, Seller shall not, without Buyer's prior written consent, either directly or indirectly, manufacture, sell, or distribute any Products or products substantially similar to the Products produced using Buyer's information. Any information Seller discloses to Buyer incident to this order shall not, unless specifically agreed to in writing by Buyer, be considered confidential or proprietary information, and shall be acquired free from any restrictions. No employee of Buyer has authority to make any agreement, express or implied, limiting the use of, publication of, or providing for confidential treatment of, information or suggestions of whatever kind received by him, unless such agreement is made in writing and signed by an officer of Buyer. Seller shall not copy or permit the copying of, in whole or in part, and shall not furnish, offer, quote, sell, or advertise for sale, any items or information owned by Buyer, or any Products made in accordance with Buyer's specifications, drawings or samples, without Buyer's express prior written consent. Seller acknowledges that its satisfaction of the covenants and agreements set forth in this Section are necessary to protect the business, goodwill, and other proprietary interests of Buyer and that a breach of such covenants or agreements may result in irreparable and continuing damage to Buyer for which there may be no adequate remedy at law. Seller agrees that in the event of any breach of the foregoing covenants or agreements, Buyer shall be entitled to injunctive relief without the necessity of proof of actual damages. If the scope of any restriction contained in this Section is too broad to permit enforcement of such restriction to its full extent, then such restriction shall be enforced to the maximum extent permitted by law, and Seller hereby consents and agrees that such scope may be judicially modified accordingly in any proceeding brought to enforce or interpret such restriction.

**15. Buyer's Property.** All materials and tools, including all dies, tools, gauges, fixtures, equipment, molds and patterns furnished or specifically paid for by Buyer, shall be the property of Buyer, subject to removal at any time without additional cost upon demand by Buyer, used only in filling orders from Buyer, kept separate from other materials or tools, and clearly identified as the property of Buyer. Seller assumes all liability for loss or damage to such material, with the exception of normal wear and tear, and agrees to supply detailed statements of inventory promptly upon request. Where Buyer has agreed to pay for tooling, Buyer shall make payment only upon acceptance of the first run of Products fabricated therewith.

**16. Tooling.** Seller at its own expense shall furnish, keep in good condition and replace when necessary, all dies, tools, gauges, fixtures, equipment, molds and patterns necessary for the production of the Products. Buyer has the option to take possession of and title to any dies, tools, gauges, fixtures, equipment, molds, and patterns that are special for the production of the Products covered by this order and, solely with respect to such tooling that is not Buyer property under Section 15, shall pay to Seller the unamortized cost thereof, except when the Product ordered is the standard product of Seller or if a substantial quantity of like product is being sold by Seller to others.

**17. Subcontracting and Assignment of Rights.** Seller shall not assign this order or subcontract any work related to this order without the prior written consent of Buyer.

**18. Insolvency.** Buyer shall be entitled to cancel any unfilled part of this order without any liability whatsoever in the event of any proceedings, voluntary or involuntary, in bankruptcy or insolvency by or against Seller, or in the event of the appointment, with or without Seller's consent, of an assignee for the benefit of creditors or of areceiver.

**19. Quality Requirements.** (a) Seller shall document, implement and maintain an acceptable quality system of ISO 9001 standard or an equivalent certification. Where appropriate, quality management systems such as ISO13485 may be required. If Supplier is not certified to an acceptable quality standard, Buyer may perform a Supplier audit per the requirements of the applicable standard. When requested by Buyer, Supplier will execute a supplier quality agreement in a form provided by Buyer. (b) Buyer will identify non-

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conforming Products in accordance with Buyer's internal inspection procedures and notify the Seller of such non-conformance in writing, and where warranted, by issuing a more formal Supplier Corrective Action Request. In all instances Seller shall acknowledge receipt of notice in writing and provide an initial written status response back to Buyer within three (3) business days. Seller will investigate the non-conformance and implement correction and/or corrective actions, as required. Seller will provide Buyer with a summary report, including a summary of any investigations and corrective actions within the agreed upon timeline. In addition to all other rights or remedies available to Buyer under this order and at law or in equity for defective/non-conforming Products, if two percent (2%) or more of any Product shipped by Seller during a rolling three calendar month period do not meet Buyer's product specifications (a "Non-Conforming Product"), Seller shall make payment to Buyer in an amount equivalent to fifteen percent (15%) of the aggregate price of all such Non-Conforming Products. Seller will provide such payment to Buyer within sixty (60) days of receiving Buyer's written notice. The calculation for determining the two percent (2%) threshold is the following: the total number of each Non-Conforming Product received by Buyer during the applicable rolling three calendar month period, divided by the total number of the same Product received by Buyer during the same period.

**20. Labor Disputes.** Seller agrees to immediately give notice to Buyer whenever an actual or potential labor dispute delays or threatens to delay the timely performance of this order.

**21. Indemnification and Insurance.** Seller shall indemnify, defend and hold Buyer and its affiliates and their directors, officers, employees and agents harmless from and against any and all actions, claims, liabilities, costs, damages and expenses (including reasonable attorneys' fees) arising out of, resulting from or caused by (i) any breach or alleged breach of any warranties made by Seller hereunder, (ii) any act or omission of Seller in the performance of the order, (iii) any negligent act or willful misconduct of Seller in the design, manufacture or supply of the Products, or (iv) from any defect or alleged defect of the Products or mislabeling of the Products. This indemnification shall be in addition to the warranty obligations of Seller.

Seller shall maintain adequate Workers Compensation, Employer's Liability, Product Liability and General Commercial Liability insurance to cover its obligations set forth herein. Seller will furnish a certificate of insurance to Buyer with respect thereto upon request. Seller agrees that said insurance policies shall not be canceled without ten (10) days prior written notice to Buyer. If Seller or its representative performs work on Buyer's premises, Seller agrees that both shall be bound by Buyer's security and safety policies.

**22. Patent, Trademark and Copyright Indemnity.** Seller warrants that the Products and the sale, lease, or use of the Products will not infringe any United States or foreign patent, trademarks, or copyrights. Seller agrees to defend, indemnify and save harmless Buyer, its successors, assigns, customers and users of its products from and against, all suits, at law or in equity, and any and all costs and expenses (including reasonable attorneys' fees), liabilities or other losses arising from, or by reason of, any actual or claimed infringement of such patents, trademarks, or copyrights, except where the Products furnished hereunder by Seller are manufactured in accordance with designs, drawings or specifications furnished by Buyer. Seller shall give Buyer prompt written notice of any infringement claim.

**23. Recalls.** Buyer shall have the sole authority to declare a recall of any Products, as standalone products or as contained within Buyer products, if Buyer believes that there is a potential significant health hazard or non-compliance with applicable government regulations. Seller agrees to reimburse Buyer for all damages related to any recall provided that such recall is attributable to a breach of any of Seller's obligations or warranties under this order. The parties will work together in good faith to minimize the parties' financial exposure as part of the recall.

**24. Compliance with Laws.** Seller certifies that it complies with all federal, state, and local statutes and regulations and other legal requirements applicable to this order, including but not limited to those related to anti-corruption and anti-bribery, the regulation of health, safety, environment, welfare, production, storing, handling and delivery, inclusive of but not limited to, regulations and directives, e.g., REACH, RoHS, Conflict Minerals regulations, labor laws, environmental laws, Custom Trade Partnership against Terrorism (CTPAT), product safety laws, and any relevant medical device regulations that apply within the countries where Products will be

distributed and/or within the countries of operation. Seller agrees that this certification may be considered as the certificate contemplated by the amendment dated October 26, 1949, to the Fair Labor Standards Act of 1938 and regulations issued thereunder. Seller certifies that it complies with the provisions of all rules and regulations (including those of the Secretary of Labor) and Executive Orders (including Nos. 11246, 11375, 11625, 11701 and 11758) applicable to this order regarding nondiscrimination because of race, creed, color, sex, age, national origin, physical or mental handicap, and veteran status. Seller warrants that all goods or services delivered hereunder shall comply with all provisions of the Williams-Steiger Occupational Safety and Health Act of 1970 including any regulations issued thereunder. **Further, Seller shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a).** These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability. Seller shall also comply with Buyer's Supplier Code of Conduct (available at <https://resources.perkinelmer.com/corporate/pdfs/downloads/supplier-code-of-conduct.pdf>). Upon request by Buyer, Seller shall promptly furnish Buyer with a current certificate of compliance with applicable laws. Additionally, Seller shall provide Buyer any and all information or material required for either Buyer or Buyer's customers to comply with all laws, regulations, rules, guides, ordinances and/or standards, including, without limitation, Material Safety Data Sheets.

**25. Equal Employment Opportunity.** Seller is on notice that Buyer may utilize the Products specified in this order in the manufacture of products destined for sale to the U.S. Government. By accepting this order, Seller is therefore deemed to have assumed the obligation of compliance with Executive Order 11246, as amended, and the applicable regulations contained in 41 CFR Parts 60-1 through 60-60, and unless otherwise exempt under the rules, regulations and orders of the Secretary of Labor or pursuant to Federal Procurement Regulations (1-1 2.804) or the Armed Services Procurement Regulations (1 2-802), this Order is subject to the requirements of the Equal Employment Opportunity clause as set forth in 1-12.803.2 and 12-802 (a), said clause being herewith incorporated into this order by reference. Further, if applicable, by accepting this order, Seller assumes the obligations of compliance with the affirmative action commitment for disabled veterans and veterans of the Vietnam era, set forth in 38 U.S.C. Section 4212 and the applicable regulations contained in 41 CFR 60-250.4 and/or 60-300 and 29 CFR Part 471, Appendix A, the affirmative action clause for handicapped workers, set forth in 29 U.S.C. Section 793 and the applicable regulations contained in 41 CFR 60-741.4, and the related regulations of the Secretary of Labor, 41 CFR Chapter 60, which are hereby incorporated by reference in this order. By accepting this order, Seller certifies that it complies with the authorities cited above, and that it does not maintain segregated facilities or permit its employees to perform services at locations where segregated facilities are maintained, as required by 41 CFR 60-1.8.

**26. Export Controls Compliance.** Seller hereby certifies that neither it nor any of its affiliates, officers, directors, or employees, have been previously or are currently, included in any list of sanctioned or restricted entities, groups, organizations or individuals, as such lists may be maintained and updated by any "Governmental Authority" (including without limitation any agency or department of the United States government, the European Union, any member state of the European Union and the United Nations, and any other jurisdiction where Buyer is currently established and/or engaged in business operations) or owned or controlled by, or affiliated with any such entities, groups, organizations or individuals. Buyer may periodically screen the name of Seller and its known affiliates, officers, directors, or employees against the above-mentioned lists. Seller shall not supply to Buyer any parts, materials, components, assemblies or other items that originate in or have been imported, directly or indirectly, from those countries under trade sanction or trade embargo, including: Russia, Russian territories of Ukraine, Cuba, Iran, Syria, Sudan, and North Korea, as maintained, enforced and periodically updated by the United States government and/or the European Union and its member states. Seller shall comply with all applicable legal and regulatory requirements relating to the importation and/or exportation of the Products and provide Buyer with all required and/or requested information and documentation, including but not limited to, mill test certifications, the country of origin, the applicable Harmonized System Code and the Export Control Classification Number of each Product. In the event of any change in the above-mentioned information, Seller shall immediately notify Buyer of such change in writing and provide Buyer with revised and updated information and

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documentation.

**27. Remedies, Notices, and Severability.** The rights and remedies provided by Buyer herein shall be cumulative and in addition to any other rights and remedies provided by law, equity or the Uniform Commercial Code. Waiver of a breach of any provision of this order shall not constitute waiver of full compliance with such provision nor shall it be construed as a waiver of any other breach, right, remedy or provision. Upon any default or breach of this order by Seller, Buyer may, at its option, require Seller to transfer to Buyer all materials, goods, work in process, completed supplies, tooling plans, and specifications allocable to the canceled portion of this order and Buyer shall pay Seller the fair value of such items. All notices shall be given in writing and be personally delivered or sent by postage prepaid mail addressed to the parties at their addresses set forth in the order or as otherwise designated to the other by written notice. If any provision herein is deemed unenforceable by a court of competent jurisdiction, the other provisions shall remain in full force and effect as if the unenforceable provision had not been included.

**28. Governing Law.** This order shall be interpreted and governed in all respects according to the laws of the State of New York without regard to its conflict of laws rules. Buyer and Seller shall meet in good faith to attempt to resolve any disputes arising out of this order.

**29. Arbitration.** Any dispute arising out of or relating to this purchase order, including the breach, termination or validity thereof, shall be finally resolved by arbitration in accordance with the International Institute for Conflict Prevention and Resolution (“CPR”) Rules for Non-Administered Arbitration (the “Non-Administered Rules”) by three arbitrators, of whom each party shall designate one, with the third arbitrator to be designated by the two party-appointed arbitrators. The arbitrators shall have primary responsibility to hear and determine challenges to the jurisdiction of the arbitrators. The arbitration shall be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1 et seq., and judgment upon the reasoned award rendered by the arbitrators may be entered by any court having jurisdiction thereof. The place of the arbitration shall be New York City, New York. The language of the arbitration shall be English. Seller shall proceed diligently with the performance of this order pending final resolution of any dispute.

**30. Set Off.** All claims due or to become due from Buyer shall be subject to deduction by Buyer for any setoff or counterclaim arising out of this or any of Buyer's transactions with Seller.