



# Purchasing terms & conditions



## 1. Acceptance of terms

Seller agrees to be bound by and to comply with all terms set forth herein and in the purchase order, to which these terms are attached and are expressly incorporated by reference (collectively, the "Order"), including any amendments, supplements, specifications and other documents referred to in this Order. Acknowledgement of this Order, including without limitation, by beginning performance of the work called for by this Order, shall be deemed acceptance of this Order. The terms set forth in this Order take precedence over any alternative terms in any other document connected with this transaction unless such alternative terms are: i) part of a written supply agreement ("Supply Agreement"), which has been negotiated between the parties and which the parties have expressly agreed may override these terms in the event of a conflict and/or ii) set forth on the face of the Order to which these terms are attached. In the event these terms are part of a written Supply Agreement between the parties, the term "Order" used herein shall mean any purchase order issued under the Supply Agreement. This Order does not constitute an acceptance by Buyer of any offer to sell, any quotation, or any proposal. Reference in this Order to any such offer to sell, quotation or proposal shall in no way constitute a modification of any of the terms of this Order. **ANY ATTEMPTED ACKNOWLEDGMENT OF THIS ORDER CONTAINING TERMS INCONSISTENT WITH OR IN ADDITION TO THE TERMS OF THIS ORDER IS NOT BINDING UNLESS SPECIFICALLY ACCEPTED BY BUYER IN WRITING.**

## 2. Prices and payments

All prices are firm and shall not be subject to change. Seller's price includes all payroll and/or occupational taxes, any value added tax that is not recoverable by Buyer and any other taxes, fees and/or duties applicable to the goods and/or services purchased under this Order; provided, however, that any state and local sales, use, excise and/or privilege taxes, if applicable, will not be included in Seller's price but will be separately identified on Seller's invoice. If Seller is obligated by law to charge any value added and/or similar tax to Buyer, Seller shall ensure that if such value-added and/or similar tax is applicable, that it is invoiced to Buyer in accordance with applicable rules so as to allow Buyer to reclaim such value-added and/or similar tax from the appropriate government authority. Neither party is responsible for taxes on the other party's income or the income of the other party's personnel or subcontractors. If Buyer is required by government regulation to withhold taxes for which Seller is responsible, Buyer will deduct such withholding tax from payment to Seller and provide to Seller a valid tax receipt in Seller's name. If Seller is exempt from such withholding taxes as a result of a tax treaty or other regime, Seller shall provide to Buyer a valid tax treaty residency certificate or other tax exemption certificate at a minimum of thirty (30) days prior to payment being due. Unless otherwise stated on the face of this Order, payment terms are net due ninety (90) days from the Payment Start Date. The Payment Start Date is the later of the required date identified on the Order, the received date of the goods and/or services in Buyer's receiving system or the date of receipt of valid invoice by Buyer. The received date



of the goods and/or services in Buyer's receiving system will occur: a) in the case of goods/materials shipped directly to a customer of Buyer ("Material Shipped Direct" or "MSD"), including balance of plant and goods sent to a non-Buyer/non-customer facility in accordance with this Order to be incorporated into MSD, within 48 hours of Buyer being presented with a valid bill of lading confirming that the goods have been shipped from Seller's facility or in the case of services performed directly for a customer of Buyer, within 48 hours of Buyer's receipt of written certification of completion of the services; b) in the case where goods are shipped or services are provided directly to or at a non-Buyer/non-customer facility in accordance with this Order, within 48 hours of Buyer receiving notice from such third party that it has received the goods or services; or c) in the case where the goods are shipped directly to Buyer or services are performed directly for Buyer, within 48 hours of Buyer's receipt of such goods or services. Seller's invoice shall in all cases bear Buyer's Order number. Buyer shall be entitled to reject Seller's invoice if it fails to include Buyer's Order number or is otherwise inaccurate, and any resulting delay in payment shall be Seller's responsibility. Seller warrants that it is authorized to receive payment in the currency stated in this Order. No extra charges of any kind will be allowed unless specifically agreed in writing by Buyer. Buyer shall be entitled at any time to set-off any and all amounts owing from Seller to Buyer or a Buyer Affiliate (defined below) on this or any other order. "Affiliate" shall for the purposes of this Order mean, with respect to either party, any entity, including without limitation, any individual, corporation, company, partnership, limited liability company or group, that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with such party. Seller warrants the pricing for any goods or services shall not exceed the pricing for the same or comparable goods or services offered by Seller to third parties. Seller shall promptly inform Buyer of any lower pricing levels for same or comparable goods or services and the parties shall promptly make the appropriate price adjustment.

### 3. Delivery and passage of title

If Seller fails to deliver the goods or complete the services as scheduled, Buyer may assess such amounts as may be set on the face of an Order as liquidated damages for the agreed delay period. The parties agree that such amounts, if assessed, are an exclusive remedy for the agreed delay period; are a reasonable pre-estimate of the damages Buyer will suffer as a result of delay based on circumstances existing at the time the Order was issued; and are to be assessed as liquidated damages and not as a penalty. In the absence of agreed to liquidated damages, Buyer shall be entitled to recover damages that it incurs as a result of Seller's failure to perform as scheduled. Unless expressly stated to the contrary, Buyer's remedies are cumulative and Buyer shall be entitled to pursue any and all remedies available at law or equity. Further to the foregoing, Seller shall not make material commitments or production



arrangements in excess of the amount or in advance of the time necessary to meet Buyer's delivery schedule. Should Seller enter into such commitments or engage in such production, any resulting exposure shall be for Seller's account. If goods will be delivered as MSD or for use as balance of plant by Buyer, each shipment shall include a detailed, complete bill of material/parts list that lists each component of the goods purchased by Buyer. Seller shall also include, in each item shipment, the complete bill of materials/parts list for such item and indicate which components of the bill of materials/parts list are included in the shipment as well as those bill of material/parts list components which are not included in the item shipment. This bill of material/parts list shall be included with the packing list for each shipment. When requested by Buyer, Seller must provide a packing list with values for each item. If goods will cross an international border, Seller shall provide a commercial invoice as required for customs clearance. The invoice shall be in English, or destination country specific language, and shall include: contact names and phone numbers of persons at Buyer and Seller who have knowledge of the transaction; Buyer's order number; Buyer's order line item; release number (in the case of a blanket order); part number and detailed description of the merchandise; unit purchase price in currency of the transaction; quantity; INCOTERM and named location; and country of origin of the goods. In addition, all goods or services provided by Buyer to Seller for the production of goods not included in the purchase price shall be separately identified on the invoice (i.e., consigned material, tooling, etc.). Each invoice shall also include the applicable Order number or other reference information for any consigned goods and shall identify any discounts or rebates from the base price used in determining the invoice value. If goods will be delivered to a destination country having a trade preferential or customs union agreement ("Trade Agreement") with Seller's country, Seller shall cooperate with Buyer to review the eligibility of the goods for any special program for Buyer's benefit and provide Buyer with any required documentation (e.g., NAFTA Certificate, EUR1 Certificate, GSP Declaration, FAD or other Certificate of Origin) to support the applicable special customs program (e.g., NAFTA, EEA, Lome Convention, GSP, EU-Mexico FTA, EU/Mediterranean partnerships, etc.) to allow duty free or reduced duty for entry of goods into the destination country. Similarly, should any Trade Agreement or special customs program applicable to the scope of this Order exist at any time during the execution of the same and be of benefit to Buyer in Buyer's judgment, Seller shall cooperate with Buyer's efforts to realize any such available credits, including counter-trade or offset credit value which may result from this Order and acknowledges that such credits and benefits shall inure solely to Buyer's benefit. Seller shall indemnify Buyer for any costs, fines, penalties or charges arising from Seller's inaccurate documentation or untimely cooperation. Seller shall immediately notify Buyer of any known documentation errors.

#### 4. Buyer's property

Unless otherwise agreed in writing, all tangible and intangible property, including, but not limited to, information or data of any description, tools, materials, drawings,



computer software, know-how, documents, trademarks, copyrights, equipment or material furnished to Seller by Buyer or specially paid for by Buyer, and any replacement thereof, or any materials affixed or attached thereto, shall be and remain Buyer's personal property. Such property and, whenever practical, each individual item thereof, shall be plainly marked or otherwise adequately identified by Seller as Buyer's property and shall be safely stored separate and apart from Seller's property. Seller further agrees to comply with any handling and storage requirements provided by Buyer for such property. Seller shall use Buyer's property only to meet Buyer's orders, and shall not use it, disclose it to others or reproduce it for any other purpose. Such property, while in Seller's custody or control, shall be held at Seller's risk, shall be kept insured by Seller at Seller's expense in an amount equal to the replacement cost with loss payable to Buyer and shall be subject to removal at Buyer's written request, in which event Seller shall prepare such property for shipment and redeliver to Buyer in the same condition as originally received by Seller, reasonable wear and tear excepted, all at Seller's expense. As noted in Section 3.4 above, any consigned material, tooling or technology used in production of the goods shall be identified on the commercial or proforma invoice used for international shipments. Buyer hereby grants a license to Seller to use any information, drawings, specifications, computer software, know-how and other data furnished or paid for by Buyer hereunder for the sole purpose of performing this Order for Buyer. This license is non-assignable and is terminable with or without cause by Buyer at any time. Buyer shall own exclusively all rights in ideas, inventions, works of authorship, strategies, plans and data created in or resulting from Seller's performance under this Order, including all patent rights, copyrights, moral rights, rights in proprietary information, database rights, trademark rights and other intellectual property rights. All such intellectual property that is protectable by copyright will be considered work(s) made for hire for Buyer. If by operation of law any such intellectual property is not owned in its entirety by Buyer automatically upon creation, then Seller agrees to transfer and assign to Buyer, and hereby transfers and assigns to Buyer, the entire right, title and interest throughout the world to such intellectual property. Seller further agrees to enter into and execute any documents that may be required to transfer or assign ownership in and to any such intellectual property to Buyer. Should Seller, without Buyer's prior written consent and authorization, design or manufacture for sale to any person or entity other than Buyer any goods substantially similar to, or which reasonably can substitute or repair, a Buyer good, Buyer, in any adjudication or otherwise, may require Seller to establish by clear and convincing evidence that neither Seller nor any of its employees, contractors or agents used in whole or in part, directly or indirectly, any of Buyer's property, as set forth herein, in such design or manufacture of such goods. Further, Buyer shall have the right to audit all pertinent records of Seller, and to make reasonable inspections of Seller facilities, to verify compliance with this section.

## 5. Drawings

Any review or approval of drawings by Buyer will be for Seller's convenience and will not relieve Seller of its responsibility to meet all requirements of this Order.



## 6. Changes

Buyer may at any time make changes within the general scope of this Order in any one or more of the following: a) drawings, designs or specifications where the goods to be furnished are to be specially manufactured for Buyer; b) method of shipment or packing; c) place and time of delivery; d) amount of Buyer's furnished property; e) quality; f) quantity; or g) scope or schedule of goods and/or services. If any changes cause an increase or decrease in the cost of, or the time required for the performance of, any work under this Order, an equitable adjustment shall be made in the Order price or delivery schedule, or both, in writing. Any Seller claim for adjustment under this clause will be deemed waived unless asserted within thirty (30) days from Seller's receipt of the change or suspension notification, and may only include reasonable, direct costs that will necessarily be incurred as a direct result of the change. Any change to this Order shall be made by a signed amendment.

## 7. Plant access / Inspection

In order to access Seller's work quality, conformance with Buyer's specifications and compliance with this Order, upon reasonable notice by Buyer, all: i) goods, materials and services related in any way to the goods and services purchased hereunder (including without limitation raw materials, components, intermediate assemblies, work in process, tools and end products) shall be subject to inspection and test by Buyer and its customer or representative at all times and places, including sites where the goods and services are created or performed, whether they be at premises of Seller, Seller's suppliers or elsewhere; and ii) of Seller's books and records relating to this Order shall be subject to inspection by Buyer. In the event that Seller desires to transfer any work under this Order to another site or make any material modification in its manufacturing process or the procurement of materials related to the goods, it shall first consult with and obtain the prior written consent of Buyer, which consent shall not be unreasonably withheld. Such consent by Buyer shall be subject to qualification of the new site under Buyer's supplier qualification standards. If any inspection, test, audit or similar oversight activity is made on Seller's or its suppliers' premises, Seller shall, without additional charge: (i) provide all reasonable access and assistance for the safety and convenience of the inspectors and (ii) take all necessary precautions and implement appropriate safety procedures for the safety of Buyer's personnel while they are present on such premises. If Buyer's personnel require medical attention on such premises, Seller will arrange for appropriate attention. If in Buyer's opinion the safety of its personnel on such premises may be imperiled by local conditions, Buyer may remove some or all of its personnel from such premises, and Buyer shall have no responsibility for any resulting impact on Seller or its suppliers. If specific Buyer and/or Buyer's customer tests, inspection and/or witness points are included in this Order, the goods shall not be shipped without an inspector's release or a written waiver of test/inspection/witness with respect to each such point; however, Buyer shall not be permitted to unreasonably delay shipment; and Seller shall notify Buyer in writing at least twenty (20) days prior



to each of Seller's scheduled final and, if applicable, intermediate test/ inspection/ witness points. Buyer's failure to inspect, accept, reject or detect defects by inspection shall neither relieve Seller from responsibility for such goods or services that are not in accordance with the Order requirements nor impose liabilities on Buyer. Seller shall provide and maintain an inspection, testing and process control system acceptable to Buyer and its customer covering the goods and services to ensure compliance with this Order and shall keep complete records available to Buyer and its customer for three (3) years after completion of this Order. Acceptance of such system by Buyer shall not alter the obligations and liability of Seller under this Order.

## 8. Rejection

If any of the goods and/or services furnished pursuant to this Order are found within a reasonable time after delivery to be defective or otherwise not in conformity with the requirements of this Order, including any applicable drawings and specifications, whether such defect or non-conformity relates to scope provided by Seller or a direct or indirect supplier to Seller, then Buyer, in addition to any other rights, remedies and choices it may have by law, contract or at equity, and in addition to seeking recovery of any and all damages and costs emanating therefrom, at its option and sole discretion and at Seller's expense may: a) require Seller to immediately re-perform any defective portion of the services and/or require Seller to immediately repair or replace non-conforming goods with goods that conform to all requirements of this Order; b) take such actions as may be required to cure all defects and/or bring the goods and/or services into conformity with all requirements of this Order, in which event, all related costs and expenses (including, but not limited to, material, labor and handling and any required re-performance of value added machining or other service) and other reasonable charges shall be for Seller's account; c) withhold total or partial payment; d) reject and return all or any portion of such goods and/or services; and/or e) rescind this Order without liability. For any repairs or replacements, Seller, at its sole cost and expense, shall perform any tests requested by Buyer to verify conformance to this Order.

## 9. Warranties

Seller warrants that all goods and services provided pursuant to this Order, whether provided by Seller or a direct or indirect supplier of Seller, will be free of any claims of any nature, including without limitation title claims, and will cause any lien or encumbrance asserted to be discharged, at its sole cost and expense, within thirty (30) days of its assertion (provided such liens do not arise out of Buyer's failure to pay amounts not in dispute under this Order or an act or omission of Buyer). Seller warrants and represents that all such goods and services will be new and of merchantable quality, not used, rebuilt or made of refurbished material unless approved in writing by Buyer, free from all defects in design, workmanship and material and will be fit for the particular purpose for which they are intended.



Such goods and services will be provided in strict accordance with all specifications, samples, drawings, designs, descriptions or other requirements approved or adopted by Buyer. Any attempt by Seller to limit, disclaim or restrict any such warranties or remedies by acknowledgment or otherwise shall be null, void and ineffective. The foregoing warranties shall, in the case of turbine plant related goods and services, apply for a period of: (i) twenty-four (24) months from the Date of Commercial Operation (defined below) of the turbine plant (in the case of Nuclear power-related goods and services, thirty-six (36) months from the Date of Commercial Operation of the nuclear power plant), which Buyer supplies to its customer or (ii) forty-eight (48) months, plus delays such as those due to non-conforming goods and services, from the date of delivery of all goods from Seller to destination/performance of the services, whichever occurs first. "Date of Commercial Operation" means the date on which the plant has successfully passed all performance and operational tests required by Buyer's customer for commercial operation. In all other cases the warranty shall apply for twenty-four (24) months from delivery of the goods or performance of the services, or such longer period of time as customarily provided by Seller, plus delays such as those due to non-conforming goods and services. The warranty shall run to Buyer, its successors, assigns and the users of goods and services covered by this Order. If any of the goods and/or services are found to be defective or otherwise not in conformity with the warranties in this Section during the warranty period, then, Buyer, in addition to any other rights, remedies and choices it may have by law, contract or at equity, and in addition to seeking recovery of any and all damages and costs emanating therefrom, at its option and sole discretion and at Seller's expense may: a) require Seller to inspect, remove, reinstall, ship and repair or replace/re-perform nonconforming goods and/or services with goods and/or services that conform to all requirements of this Order; b) take such actions as may be required to cure all defects and/or bring the goods and/or services into conformity with all requirements of this Order, in which event all related costs and expenses (including, but not limited to, material, labor and handling and any required re-performance of value added machining or other service) and other reasonable charges shall be for Seller's account; and/or c) reject and return all or any portion of such goods and/or services. Any repaired or replaced part or re-performed services shall carry warranties on the same terms as set forth above, with the warranty period being the later of the original unexpired warranty or twenty-four (24) months after repair or replacement.

## 10. Suspension

Buyer may at any time, by notice to Seller, suspend performance of the work for such time as it deems appropriate. Upon receiving notice of suspension, Seller shall promptly suspend work to the extent specified, properly caring for and protecting all work in progress and materials, supplies and equipment Seller has on hand for performance. Upon Buyer's request, Seller shall promptly deliver to Buyer copies of outstanding purchase orders and subcontracts for materials, equipment and/or





services for the work, and shall take such action relative to such purchase orders and subcontracts as Buyer may direct. Buyer may at any time withdraw the suspension as to all or part of the suspended work by written notice specifying the effective date and scope of withdrawal. Seller shall resume diligent performance on the specified effective date of withdrawal. All claims for increase or decrease in the cost of or the time required for the performance of any work caused by suspension shall be pursued pursuant to, and consistent with, Section 6 "Changes".

## 11. Termination

**11.1 Termination for Convenience.** Buyer may terminate all or any part of this Order at any time by written notice to Seller. Upon termination (other than due to Seller's insolvency or default including failure to comply with this Order), Buyer and Seller shall negotiate reasonable termination costs consistent with costs allowable under Section 6 and identified by Seller within thirty (30) days of Buyer's termination notice to Seller, unless the parties have agreed to a termination schedule in writing.

**11.2 Termination for Default.** Except for delay due to causes beyond the control and without the fault or negligence of Seller and all of its suppliers (lasting not more than 60 days), Buyer, without liability, may by written notice of default, terminate the whole or any part of this Order if Seller: a) fails to perform within the time specified or any written extension granted by Buyer; b) fails to make progress which, in Buyer's reasonable judgment, endangers performance of this Order in accordance with its terms; or c) fails to comply with any of the terms of this Order. Such termination shall become effective if Seller does not cure such failure within ten (10) days of receiving notice of default. Upon termination, Buyer may procure at Seller's expense and upon terms it deems appropriate, goods or services similar to those so terminated. Seller shall continue performance of this Order to the extent not terminated and shall be liable to Buyer for any excess costs for such similar goods or services. As an alternate remedy and in lieu of termination for default, Buyer, at its sole discretion, may elect to extend the delivery schedule and/or waive other deficiencies in Seller's performance, making Seller liable for any costs, expenses or damages arising from any failure of Seller's performance. If Seller for any reason anticipates difficulty in complying with the required delivery date, or in meeting any of the other requirements of this Order, Seller shall promptly notify Buyer in writing. If Seller does not comply with Buyer's delivery schedule, Buyer may require delivery by fastest method and charges resulting from the premium transportation must be fully prepaid by Seller. Buyer's rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this Order.

**11.3 Termination for Insolvency/Prolonged Delay.** If Seller ceases to conduct its operations in the normal course of business or fails to meet its obligations as they mature or if any proceeding under the bankruptcy or insolvency laws is



brought against Seller, a receiver for Seller is appointed or applied for, an assignment for the benefit of creditors is made or an excused delay (or the aggregate time of multiple excused delays) lasts more than 60 days, Buyer may immediately terminate this Order without liability, except for goods or services completed, delivered and accepted within a reasonable period after termination (which will be paid for at the Order price).

**11.4 Obligations on Termination.** Upon expiration or after receipt of a notice of termination for any reason, Seller shall immediately: (1) stop work as directed in the notice; (2) place no further subcontracts or purchase orders for materials, services or facilities hereunder, except as necessary to complete the continued portion of this Order; and (3) terminate all subcontracts to the extent they relate to work terminated. After termination, Seller shall deliver to Buyer all completed work and work in process, including all designs, drawings, specifications, other documentation and material required or produced in connection with such work and all of Buyer's Confidential Information as set forth in Section 16.

## 12. Indemnity and insurance

**12.1 Indemnity.** Seller shall defend, indemnify, release and hold harmless Buyer, its directors, officers, employees, agents representatives, successors and assigns, whether acting in the course of their employment or otherwise, against any and all suits, actions, or proceedings, at law or in equity, and from any and all claims, demands, losses, judgments, fines, penalties, damages, costs, expenses, or liabilities (including without limitation claims for personal injury or property or environmental damage, claims or damages payable to customers of Buyer, and breaches of Sections 15 and/or 16 below) arising from any act or omission of Seller, its agents, employees, or subcontractors, except to the extent attributable to the sole and direct gross negligence of Buyer. Seller further agrees to indemnify Buyer for any attorneys' fees or other costs that Company incurs in the event that Company has to file a lawsuit to enforce any indemnity or additional insured provision of this Order.

**12.2 Insurance.** Seller shall maintain the following insurance: (i) Comprehensive General Liability in the minimum amount of \$3,000,000 combined single limit per occurrence with coverage for bodily injury/property damage, including coverage for contractual liability insuring the liabilities assumed in this Order, products liability, contractors protective liability, where applicable, collapse or structural injury and/or damage to underground utilities, where applicable, and coverage for damage to property in Seller's care, custody and control; (ii) Business Automobile Liability Insurance covering Comprehensive Automobile Liability covering bodily injury/property damage and all owned, hired and non-owned automotive equipment used in the performance of the Order in the amount of \$2,000,000 combined single limit each occurrence; (ii) Employers' Liability in the



amount of \$1,000,000 each occurrence; (iv) Property Insurance covering the full value of all goods and services owned, rented or leased by Seller in connection with this Order; and (v) appropriate Workers' Compensation Insurance protecting Seller from all claims under any applicable Workers' Compensation and Occupational Disease Act. Coverage similar to Workers' Compensation and Employers' Liability shall be obtained for each local employee outside the United States where work in connection with this Order is performed. Buyer shall be named as additional insured under Seller's Comprehensive General Liability policy for any and all purposes arising out of or connected to this Order. Upon request, Seller shall furnish Buyer an endorsement showing that Buyer has been named an additional insured and a certificate of insurance completed by its insurance carrier(s) certifying that insurance coverages are in effect and will not be canceled or materially changed except ten (10) days after Buyer's written approval. Seller hereby waives subrogation. All insurance specified in this section shall contain a waiver of subrogation in favor of Buyer, its Affiliates and their respective employees for all losses and damages covered by the insurances required in this section, including coverage for damage to Buyer's property in Seller's care, custody or control.

### 13. Assignment and subcontracting

Seller may not assign (including by change of ownership or control, by operation of law or otherwise) this Order or any interest herein including payment, without Buyer's prior written consent. Seller shall not subcontract or delegate performance of all or any substantial part of the work called for under this Order without Buyer's prior written consent. Should Buyer grant consent to Seller's assignment or subcontract, such assignee or subcontractor shall be bound by the terms and conditions of this Order. Further, Seller shall advise Buyer of any subcontractor or supplier to Seller: a) that will have at its facility any parts or components with Buyer's or any of its Affiliates or subsidiaries' name, logo or trademark (or that will be responsible to affix the same); and/or b) 50% percent or more of whose output from a specific location is purchased directly or indirectly by Buyer. In addition, Seller will obtain for Buyer, unless advised to the contrary in writing, written acknowledgement by such assignee, subcontractor and/or supplier to Seller of its commitment to act in a manner consistent with Buyer's integrity policies, and to submit to, from time to time, on-site inspections or audits by Buyer or Buyer's third party designee as requested by Buyer. Buyer may assign this Order to any Affiliate upon notice to Seller. If Seller subcontracts any part of the work under this Order outside of the final destination country where the goods purchased hereunder will be shipped, Seller shall be responsible for complying with all customs requirements related to such subcontracts, unless otherwise set forth in this Order.



## 14. Proper business practices

Seller shall act in a manner consistent with Buyer's integrity policies, a copy of which has been provided to Seller, all laws concerning improper or illegal payments and gifts or gratuities and agrees not to pay, promise to pay or authorize the payment of any money or anything of value, directly or indirectly, to any person for the purpose of illegally or improperly inducing a decision or obtaining or retaining business in connection with this Order. Further, in the execution of its obligations under this Order, Seller shall take the necessary precautions to prevent any injury to persons or to property.

## 15. Compliance with laws

**15.1 General.** Seller represents, warrants, certifies and covenants that it will comply with all laws applicable to the goods, services and/or the activities contemplated or provided under this Order, including, but not limited to, any national, international, federal, state, provincial or local law, treaty, convention, protocol, common law, regulation, directive or ordinance and all lawful orders, including judicial orders, rules and regulations issued thereunder, including without limitation those dealing with the environment, health and safety, records retention, personal data protection and the transportation or storage of hazardous materials. As used in this Order, the term "hazardous materials" shall mean any substance or material defined as a hazardous material, hazardous substance, toxic substance, pesticide or dangerous good under 49 CFR 171.8 or any other substance regulated on the basis of potential impact to safety, health or the environment pursuant to an applicable requirement of any entity with jurisdiction over the activities, goods or services, which are subject to this Order. Seller shall also comply with good industry practices, including the exercise of that degree of skill, diligence, prudence and foresight which can reasonably be expected from a competent Seller who is engaged in the same type of service or manufacture under similar circumstances in a manner consistent with all applicable requirements and with all applicable generally recognized international standards. No goods or services supplied under this Order have been or will be produced: (i) utilizing forced, indentured or convict labor; (ii) utilizing the labor of persons in violation of the minimum working age law in the country of manufacture of the goods or any country in which services are provided under this Order; or (iii) in violation of minimum wage, hour of service, or overtime laws in the country of manufacture or any country in which services are provided under this order. If forced or prison labor, or labor below applicable minimum working age, is determined to have been used in connection with his Order, Buyer shall have the right to immediately terminate the Order without further compensation. Seller further represents that the goods were or will be produced in compliance with the Fair Labor Standards Act of 1938, as amended, including Section 12 (a). Seller agrees to cooperate fully with Buyer's audit and/or inspection efforts intended to verify Seller's compliance with Sections 14 or 15 of this Order. Seller further agrees at Buyer's request to



provide certificates relating to any applicable legal requirements or to update any and all of the certifications, representations and warranties under this Order in form and substance satisfactory to Buyer. Buyer shall have the right to audit all pertinent records of Seller, and to make reasonable inspections of Seller facilities, to verify compliance with this section.

**15.2 EHS / MBE / WBE.** Seller represents, warrants, certifies and covenants that it will take appropriate actions necessary to protect health, safety and the environment, including, without limitation, in the workplace and during transport and has established an effective program to ensure any suppliers it uses under this Order will be in conformance with section 15 of this Order. In addition, Seller shall comply with any provisions, certifications (including updates), representations, agreements or contract clauses required to be included or incorporated by reference or operation of law in this Order dealing with applicable provisions of the following laws and related regulations: i) Equal Opportunity (Executive Order 11246 as amended by Executive Orders 113575 and 10286); ii) Employment of Veterans (Executive Order 11701); iii) Employment of the Handicapped (Executive Order 11758 as amended by Executive Order 11867); iv) Employment Discrimination Because of Age (Executive Order 11141); v) Utilization of Disadvantaged and Minority Business Enterprises (Executive Order 11625, Public Law 95-507); vi) Occupational Safety and Health Act (OSHA), including without limitation those regulations, such as, 29 CFR 1910.1200, concerning Material Safety Data Sheets (OSHA Form 20) and mandated labeling information; vii) related U.S. Environmental Protection Agency (EPA) regulations, including those pertaining to the commercial introduction of chemicals and chemical products; viii) if any goods or materials sold or otherwise transferred to Buyer hereunder contain hazardous materials, similar labeling and other information provision requirements in any other jurisdiction to or through which Buyer informs Seller the goods will likely be shipped or to or through which Seller otherwise has knowledge that shipment will likely occur; and ix) Section 211 of the Energy Reorganization Act, 10 CFR 50.7 (Employee Protection) and 29 CFR 24.2 (Obligations and Prohibited Acts), prohibiting discrimination against employees for engaging in “protected activities”, which include reporting of nuclear safety or quality concerns, and Seller shall immediately inform Buyer of any alleged violations, notice of filing of a complaint or investigation related to any such allegation or complaint. Seller shall also comply with U.S. Department of Transportation regulations governing the packaging, marking, shipping and documentation of hazardous materials, including hazardous materials specified pursuant to 49 CFR, the International Maritime Organization (IMO) and the International Air Transport Association (IATA). Seller certifies that it is in compliance with the requirements for non-segregated facilities set in 41 CFR Chapter 60-1.8. Seller agrees to provide small business as well as minority and/or women-owned business utilization and demographic data upon request. Seller represents, warrants, certifies and covenants that each chemical substance constituting or contained in goods sold or otherwise transferred to Buyer is listed on: (i) on the list



of chemical substances compiled and published by the Administrator of the EPA pursuant to the U.S. Toxic Substances Control Act ("TSCA") (15 U.S.C. 2601 et seq), otherwise know as the TSCA Inventory, or exempted from such list under 40 CFR 720.30 – 38; (ii) the Federal Hazardous Substances Act (P.L. 92-516) as amended; (iii) the European Inventory of Existing Commercial Chemical Substances (EINECS) as amended; (iv) the European List of Notified Chemical Substances (ELINCS) and lawful standards and regulations thereunder; or (v) any equivalent or similar lists in any other jurisdiction to or through which Buyer informs Seller the goods will likely be shipped, or to or through which Seller otherwise has knowledge that shipment will likely occur. Goods sold or transferred to Buyer will not include: (i) any of the following chemicals: arsenic, asbestos, benzene, beryllium, carbon tetrachloride, cyanide, lead or lead compounds, cadmium or cadmium compounds, hexavalent chromium, mercury or mercury compounds, trichloroethylene, tetrachloroethylene, methyl chloroform, polychlorinated biphenyls (PCB), polybrominated biphenyls (PBB), polybrominated diphenyl ethers (PBDE); (ii) any chemical or hazardous material otherwise prohibited pursuant to Section 6 of TSCA; (iii) any chemical or hazardous material otherwise restricted pursuant to EU Directive 2002/95/EC [27 January 2003] (the "ROHS Directive"); (iv) designated ozone depleting chemicals as restricted under the Montreal Protocol (including, without limitation, 1,1,1 trichloroethane, carbon tetrachloride, Halon-1211, 1301, and 2402, and chlorofluorocarbons (CFCs) 11-13, 111-115, 211-217), unless Buyer agrees in writing and Seller identifies an applicable exception from any relevant legal restriction on the inclusion of such chemicals in the goods sold or transferred to Buyer; (v) any other chemical or hazardous material the use of which is restricted in any other jurisdiction to or through which Buyer informs Seller the goods are likely to be shipped or to or through which Seller otherwise has knowledge that shipment will likely occur, unless Buyer expressly agrees in writing and Seller identifies an applicable exception from any relevant legal restriction on the inclusion of such chemicals or hazardous materials in the goods sold or transferred to Buyer. Seller represents, warrants, certifies and covenants that, except as specifically listed on the face of this Order or in an applicable addendum, none of the goods supplied under this Order are electrical or electronic equipment under EU Directive 2002/96/EC [27 January 2003] (the "WEEE Directive"), as amended, or any other electrical or electronic equipment take-back requirement of a jurisdiction in which Buyer informs Seller the goods are likely to be sold or in which Seller otherwise has knowledge that sale will likely occur. For any goods specifically listed on the face of this Order or in such addendum as electrical or electronic equipment that are covered by the WEEE Directive, as amended, or other applicable electrical or electronic equipment take-back requirement and purchased by Buyer hereunder, Seller agrees to: (i) assume responsibility for taking back such goods in the future upon the request of Buyer and treating or otherwise managing them in accordance with the requirements of the WEEE Directive and applicable national implementing legislation or other applicable electrical or electronic equipment take-back requirements; and (ii) take back as of the date of this Order any used



goods currently owned by Buyer of the same class of such goods purchased by Buyer hereunder up to the number of new units being purchased by Buyer or to arrange with a third-party to do so in accordance with all applicable requirements. Seller will not charge Buyer any additional amounts, and no additional payments will be due from Buyer for Seller's agreement to undertake these responsibilities.

**15.3 Anti-Dumping.** Seller represents, warrants, certifies and covenants that all sales made hereunder are made in circumstances that will not give rise to the imposition of new anti-dumping or countervailing duties under United States law (19 U.S.C. Sec. 1671 et seq.), European Union (Council Regulation (EC) No. 384/96 of December 22, 1995, Commission Decision No. 2277/96/ECSC of November 28, 1996), similar laws in such jurisdictions or the law of any other country to which the goods may be exported. To the full extent permitted by law, Seller will indemnify, defend and hold Buyer harmless from and against any costs or expenses (including any countervailing duties which may be imposed and, to the extent permitted by law, any preliminary dumping duties that may be imposed) arising out of or in connection with any breach of this warranty. In the event that countervailing or anti-dumping duties are imposed that cannot be readily recovered from Seller, Buyer may terminate this Order with no further liability of any nature whatsoever to Seller hereunder. In the event that any jurisdiction imposes punitive or other additional tariffs on goods subject to this agreement in connection with a trade dispute or as a remedy in an "escape clause" action or for any other reason, Buyer may, at its option, treat such increase in duties as a condition of force majeure.

**15.4 Importer of Record and Drawback.** If goods are to be delivered DDP (INCOTERMS 2000) to the destination country, Seller agrees that Buyer will not be a party to the importation of the goods, that the transaction(s) represented by this Order will be consummated after importation and that Seller will neither cause nor permit Buyer's name to be shown as "importer of record" on any customs declaration. Seller also confirms that it has Non-Resident importation rights, if necessary, into the destination country with knowledge of the necessary import laws. If Seller is the importer of record into the United States for any goods, including any component parts thereof, associated with this Order, Seller shall provide Buyer required documentation for Duty Drawback purposes which includes, but is not limited to, Customs Form 7552 entitled "Certificate of Delivery" properly executed as well as Customs Form 7501 "Entry Summary" and a copy of Seller's Invoice.

**15.5 U.S. Export Controls.** This Order and all items furnished by Buyer to Seller in connection herewith shall at all times be subject to the export control laws and regulations of the U.S. including, but not limited to, 10 CFR Part 810 and U.S. Export Administration Regulations. Seller agrees and gives assurance that no items, equipment, materials, services, technical data, technology, software





or other technical information or assistance furnished by Buyer, or any good or product resulting therefrom, shall be exported or re-exported by Seller or its authorized transferees, if any, directly or indirectly, except to the consignee(s), if any, specified on this Order, unless in accordance with applicable U.S. export laws and regulations. The aforesaid obligations shall survive any satisfaction, expiration, termination or discharge of any other contract obligations.

## **16. Confidential or proprietary information and publicity**

Seller shall keep confidential any technical, process, proprietary or economic information derived from drawings, 3D or other models, specifications and any other data and/or information furnished by Buyer in connection with this Order (the "Confidential Information") and shall not divulge, directly or indirectly, the Confidential Information for the benefit of any other party without Buyer's prior written consent. Confidential Information shall also include any notes, summaries, reports, analyses or other material derived by Seller in whole or in part from the Confidential Information in whatever form maintained (collectively, "Notes"). Except as required for the efficient performance of this Order, Seller shall not use or permit copies to be made of the Confidential Information without Buyer's prior written consent. If any such reproduction is made with prior written consent, notice referring to the foregoing requirements shall be provided thereon. The restrictions in this Section regarding the Confidential Information shall be inoperative as to particular portions of the Confidential Information disclosed by Buyer to Seller if such information: (i) is or becomes generally available to the public other than as a result of disclosure by Seller; (ii) was available on a non-confidential basis prior to its disclosure to Seller; (iii) is or becomes available to Seller on a non-confidential basis from a source other than Buyer when such source is not, to the best of Seller's knowledge, subject to a confidentiality obligation with Buyer, or (iv) was independently developed by Seller, without reference to the Confidential Information, and Seller can verify the development of such information by written documentation. Upon completion or termination of this Order, Seller shall promptly return to Buyer all Confidential Information, including any copies thereof, and shall destroy (with such destruction certified in writing by Seller) all Notes and any copies thereof. Any knowledge or information, which Seller shall have disclosed or may hereafter disclose to Buyer, and which in any way relates to the goods or services purchased under this Order (except to the extent deemed to be Buyer's Property as set forth in Section 4, above), shall not, unless otherwise specifically agreed to in writing by Buyer, be deemed to be confidential or proprietary, and shall be acquired by Buyer free from any restrictions (other than a claim for infringement), as part of the consideration for this Order and, notwithstanding any copyright or other notice thereon, Buyer shall have the right to use, copy, modify and disclose the same as it sees fit. Seller shall not make any announcement, take or release any photographs (except for its internal operation purposes for the manufacture and assembly of the goods), or release any information concerning this Order or any part thereof or with respect to its business relationship





with Buyer, to any third party, member of the public, press, business entity, or any official body except as required by applicable law, rule, injunction or administrative order without Buyer's prior written consent.

## 17. Intellectual property indemnification

Seller shall indemnify, defend and hold Buyer harmless from all costs and expenses related to any suit, claim or proceeding brought against Buyer or its customers based on a claim that any article or apparatus, or any part thereof constituting goods or services furnished under this Order, as well as any device or process necessarily resulting from the use thereof, constitutes an infringement of any patent, copyright, trademark, trade secret or other intellectual property right of any third party. Buyer shall notify Seller promptly and give Seller authority, information, and assistance (at Seller's expense) for the defense of same, and Seller shall pay all damages and costs awarded therein. If use of said article, apparatus, part, device or process is enjoined, Seller shall, at its own expense and at its option, either procure for Buyer the right to continue using said article or apparatus, part, process or device, or replace same with a non-infringing equivalent.

## 18. Supplier security and crisis management policy and c-tpat requirements

**18.1 Security and Crisis Management Policy.** Seller shall have and comply with a company security and crisis management policy, which shall be revised and maintained proactively and as may be requested by Buyer in anticipation of security and crisis risks relevant to the Seller's business ("Security and Crisis Management Policy"). The Security and Crisis Management policy shall identify and require Seller's management and employees to take appropriate measures necessary to do the following:

- (a) provide for the physical security of the people working on Seller's premises and others working for or on behalf of Seller;
- (b) provide for the physical security of Seller's facilities and physical assets related to the performance of the work, including, in particular, the protection of Seller's mission critical equipment and assets;
- (c) protect software related to the performance of work from loss, misappropriation, corruption and/or other damage;
- (d) protect Buyer's and Seller's drawings, technical data and other proprietary information related to the performance of work from loss, misappropriation, corruption and/or other damage;
- (e) provide for the prompt recovery, including through preparation, adoption and maintenance of a disaster recovery plan, of facilities, physical assets, software, drawings, technical data, other intellectual property and/or the Seller's business operations in the event of a security breach, incident, crisis or other disruption in Seller's ability to use the necessary facilities, physical assets,



software, drawings, technical data or other intellectual property and/or to continue its operations; and

(f) ensure the physical integrity and security of all shipments against the unauthorized introduction of harmful or dangerous materials.

Buyer reserves the right to inspect Seller's Security and Crisis Management Policy and to conduct on-site audits of Seller's facility and practices to determine whether such policy and Seller's implementation of such policy are reasonably sufficient to protect Buyer's interests. If Buyer reasonably determines that Seller's Security and Crisis Management Policy and/or such policy implementation is/are insufficient to protect Buyer's property and interests, Buyer may give Seller notice of such determination. Upon receiving such notice, Seller shall have forty-five (45) days thereafter to make such policy changes and take the implementation actions reasonably requested by Buyer. Seller's failure to take such actions shall give Buyer the right to terminate this Order immediately without further compensation to Seller.

**18.2 C-TPAT Compliance.** The Customs-Trade Partnership Against Terrorism ("C-TPAT") program of the United States Customs and Border Protection is designed to improve the security of shipments to the United States. This section applies only to Sellers with non-U.S. locations that are involved in the manufacture, warehousing or shipment of goods to Buyer or to a customer or supplier of Buyer located in the United States. Seller agrees that it will review the C-TPAT requirements for foreign manufacturers and that it will maintain a written plan for security procedures in accordance with the recommendations of U.S. Customs and Border Protection as outlined at [http://www.customs.gov/xp/cgov/import/commercial\\_enforcement/ctpat/criteria\\_importers/ctpat\\_importer\\_criteria.xml](http://www.customs.gov/xp/cgov/import/commercial_enforcement/ctpat/criteria_importers/ctpat_importer_criteria.xml) ("Security Plan"). The Security Plan shall address security criteria such as: container security and inspection, physical access controls, personnel security, procedural security, security training and threat awareness and information technology security. Note: The C-TPAT recommendations are similar to the Security and Crisis Management Policy requirements in Section 18.1 above, and Seller's Security and Crisis Management Policy may meet the recommendations of C-TPAT. Upon request of Buyer, Seller shall:

- (a) certify to Buyer in writing that it has read the C-TPAT security criteria, maintains a written Security Plan consistent with the C-TPAT security criteria and has implemented appropriate procedures pursuant to such plan;
- (b) identify an individual contact responsible for Seller's facility, personnel and shipment security measures and provide such individual's name, title, address, email address and telephone and fax numbers; and
- (c) inform Buyer of its C-TPAT membership status.

Where Seller does not exercise control of manufacturing or transportation of goods destined for delivery to Buyer or its customers in the U.S., Seller agrees to communicate the C-TPAT recommendations to its suppliers and transportation providers and to use commercially reasonable efforts to



ensure that such suppliers and transportation providers implement such recommendations. Further, upon advance notice by Buyer to Seller and during Seller's normal business hours, Seller shall make its facility available for inspection by Buyer's representative for the purpose of reviewing Seller's compliance with the C-TPAT security recommendations and with Seller's Security Plan. Each party shall bear its own costs in relation to such inspection and review. All other costs associated with development and implementation of Seller's Security Plan and C-TPAT compliance shall be borne by the Seller.

## 19. Packing, preservation and marking

Packing, preservation and marking will be in accordance with the specification drawing or as specified on the Order, or if not specified, the best commercially accepted practice will be used, and at a minimum consistent with applicable law. In addition, Seller shall include the following information on each shipment under this Order: Buyer's Order number, case number, routing center number (if provided by Buyer's routing center), country of manufacture, destination shipping address, commodity description, gross/net weight in kilograms and pounds, dimensions in centimeters and inches, center of gravity for items greater than one (1) ton and precautionary marks (e.g., fragile, glass, air ride only, do not stack, etc.), loading hook/lifting points and chain/securing locations where applicable to avoid damage and improper handling. Seller shall place all markings in a conspicuous location as legibly, indelibly and permanently as the nature of the article or container will permit. All goods shall be packed in an appropriate manner, giving due consideration to the nature of the goods, with packaging suitable to protect the goods during transport from damage and otherwise to guarantee the integrity of the goods to destination. Goods that cannot be packed due to size or weight shall be loaded into suitable containers, pallets or crossbars thick enough to allow safe lifting and unloading. Vehicles that reach their destination and present unloading difficulties will be sent back to their point of departure.

## 20. Governing law

This Order shall in all respects be governed by and interpreted in accordance with the substantive law of the State of New York, U.S.A., excluding its conflicts of law provisions. The parties exclude application of the United Nations Convention on Contracts for the International Sale of Goods.

## 21. Dispute resolution

**21.1** If Seller is a permanent resident of the U.S., or a corporation or partnership existing under the laws of the U.S., Buyer and Seller shall attempt amicably to resolve any controversy, dispute or difference arising out of this Order, failing which either party may initiate litigation. Litigation may be brought only in the U.S.



District Court for the Southern District of New York or, if such court lacks subject matter jurisdiction, in the Supreme Court of the State of New York in and for New York County. The parties submit to the jurisdiction of said courts and waive any defense of forum non conveniens.

**21.2** If Seller is a permanent resident of a country other than the U.S., or is a corporation or partnership existing under the laws of any country other than the U.S., the parties agree to attempt to submit any controversy, dispute or difference arising out of this Order to settlement proceedings under the Alternative Dispute Resolution Rules (the “ADR Rules”) of the International Chamber of Commerce (“ICC”). If the dispute has not been settled pursuant to the ADR Rules within forty-five (45) days following the filing of a request for ADR or within such other period as the parties may agree in writing, such dispute shall be finally settled under the Rules of Arbitration of the ICC (the “ICC Rules”) by one or more arbitrators appointed in accordance with such ICC Rules. The place for arbitration shall be New York City, New York, U.S.A. and proceedings shall be conducted in the English language, unless otherwise stated in this Order. The award shall be final and binding on both Buyer and Seller, and the parties hereby waive the right of appeal to any court for amendment or modification of the arbitrators’ award.

## **22. Compliance with date processing requirements**

**22.1** Seller represents and warrants that all goods and/or services and any enhancements, upgrades, customizations, modifications, maintenance and the like (the “goods/services”) shall at delivery and all times thereafter, and in all subsequent updates or revisions of any kind, accurately process, provide and/or receive date data, including without limitation, calculating, comparing, sequencing and performance of leap year calculations. In particular, Seller represents and warrants that: a) no value for current date will cause any error, interruption or decreased functionality or performance of such goods/services; and b) all manipulations of date-related data by or through such goods/services (including calculating, comparing, sequencing, processing and outputting) will produce correct results, without human intervention, for all valid dates, including when goods/services are used in combination with other products. As used in this paragraph, the words “date” and “dates” shall be deemed to include “time”.

**22.2** If at any time the goods and/or services are found by Buyer or its customers to fail the foregoing warranty, then, in addition to any other available remedies, Seller shall at Buyer’s option repair or replace any non-conforming goods/services, including, without limitation, installation of corrective changes or repairs, all at no cost to Buyer. Seller shall not require Buyer to make any changes to the goods/services (except for installation of corrective changes provided), shall not require or cause to be made any changes to Buyer’s data, unless Buyer in its sole discretion approves such changes and shall not require or cause to be made any changes to any other good, product or service used by Buyer.

## 23. Waiver

No claim or right arising out of a breach of this Order can be discharged in whole or in part by a waiver or renunciation unless supported by consideration and made in writing signed by the aggrieved party. Either party's failure to enforce any provisions hereof shall not be construed a waiver of a party's right thereafter to enforce each and every such provision.

## 24. Electronic commerce

Seller agrees to participate in all of Buyer's current and future electronic commerce applications and initiatives upon Buyer's request. For contract formation, administration, changes and all other purposes, each electronic message sent between the parties within such applications or initiatives will be deemed: a) "written" and a "writing"; b) "signed" (in the manner below); and c) an original business record when printed from electronic files or records established and maintained in the normal course of business. The parties expressly waive any right to object to the validity, effectiveness or enforceability of any such electronic message on the ground that a "statute of frauds" or any other law requires written, signed agreements. Between the parties, any such electronic documents may be introduced as evidence in any proceedings as business records originated and maintained in paper form. Neither party shall object to the admission of any such electronic document under either the best evidence rule or the business records exception to the hearsay rule. By placing a name or other identifier on any such electronic message, the party doing so intends to sign the message with his/her signature attributed to the message content. The effect of each such message will be determined by the electronic message content and by New York law, excluding any such law requiring signed agreements or otherwise in conflict with this paragraph.

## 25. Personal data protection

**25.1** "Personal Data" includes any information relating to an identified or identifiable natural person; "Buyer Personal Data" includes any Personal Data obtained by Seller from Buyer; and "Processing" includes any operation or set of operations performed upon Personal Data, such as collection, recording, organization, storage, adaptation or alteration, retrieval, accessing, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction.

**25.2** Seller, including its officers, directors, employees and/or agents, shall view and Process Buyer Personal Data only on a need-to-know basis and only to the extent necessary to perform this Order or to carry out Buyer's further written instructions.

**25.3** Seller shall use reasonable technical and organizational measures to ensure the security and confidentiality of Buyer Personal Data in order to prevent, among other things, accidental, unauthorized or unlawful destruction, modification, disclosure, access or loss. Seller shall immediately inform Buyer of any Security Breach involving Buyer Personal Data, where “Security Breach” means any event involving an actual, potential or threatened compromise of the security, confidentiality or integrity of the data, including but not limited to any unauthorized access or use. Seller shall also provide Buyer with a detailed description of the Security Breach, the type of data that was the subject of the Security Breach, the identity of each affected person and any other information Buyer may request concerning such affected persons and the details of the breach, as soon as such information can be collected or otherwise becomes available. Seller agrees to take action immediately, at its own expense, to investigate the Security Breach and to identify, prevent and mitigate the effects of any such Security Breach and to carry out any recovery necessary to remedy the impact. Buyer must first approve the content of any filings, communications, notices, press releases or reports related to any Security Breach (“Notices”) prior to any publication or communication thereof to any third party. Seller

**25.4** Upon termination of this Order, for whatever reason, Seller shall stop the Processing of Buyer Personal Data, unless instructed otherwise by Buyer, and these undertakings shall remain in force until such time as Seller no longer possesses Buyer Personal Data.

**25.5** Seller understands and agrees that Buyer may require Seller to provide certain Personal Data (“Seller Personal Data”) such as the name, address, telephone number and e-mail address of Seller’s representatives in transactions and that Buyer and its Affiliates and its or their contractors may store such data in databases located and accessible globally by their personnel and use it for purposes reasonably related to the performance of this Order, including but not limited to supplier and payment administration. Seller agrees that it will comply with all legal requirements associated with transferring any Seller Personal Data to Buyer. Buyer will be the Controller of this data for legal purposes and agrees not to share Seller Personal Data beyond Buyer, its Affiliates and its or their contractors, and to use reasonable technical and organizational measures to ensure that Seller Personal Data is processed in conformity with applicable data protection laws. “Controller” shall mean the legal entity which alone or jointly with others determines the purposes and means of the processing of Personal Data. By written notice to Buyer, Seller may obtain a copy of the Seller Personal Data and submit updates and corrections to it.



## 26. Entire agreement

This Order, with documents as are expressly incorporated by reference, is intended as a complete, exclusive and final expression of the parties' agreement with respect to the subject matter herein and supercedes any prior or contemporaneous agreements, whether written or oral, between the parties. This Order may be executed in one or more counterparts, each of which shall for all purposes be deemed an original and all of which shall constitute the same instrument. Facsimile signatures on such counterparts are deemed originals. No course of prior dealings and no usage of the trade shall be relevant to determine the meaning of this Order even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. The term "including" shall mean and be construed as "including, but not limited to", unless expressly stated to the contrary. The invalidity, in whole or in part, of any of the foregoing articles or paragraphs of this Order shall not affect the remainder of such article or paragraphs or any other article or paragraphs of this Order, which shall continue in full force and effect. All provisions or obligations contained in this Order, which by their nature or effect are required or intended to be observed, kept or performed after termination or expiration of an Order will survive and remain binding upon and for the benefit of the parties, their successors (including without limitation successors by merger) and permitted assigns including, without limitation, Sections 4, 5, 8, 9, 12, 15, 16, 17, 22 and 25.



For more information contact your local GE Sales Representative  
or visit our website at [www.prolec.energy/prolecge](http://www.prolec.energy/prolecge)  
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# Guide of integrity for Suppliers, Contractors and Advisors of Prolec GE

# PGE's Code of Conduct

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The commitment of PGE to total and incessant integrity can be found in the Manual of Company Allegiance. Integrity: The Spirit and Emblem of Our Commitment. The policies described in the Spirit and Emblem govern the conduct of all the employees at PGE and are found supplemented by procedures of submission and guidelines adopted by every element at PGE. All the employees at PGE should not only comply with the “emblem” of the allegiance to PGE’s company policies, but also with its “spirit”. The “spirit” of commitment to PGE’s integrity can be found in PGE’s Code of Conduct, which each of the employees at PGE has turned into a personal commitment to comply with:

- Obey the applicable rules and the norms which govern our business conduct throughout the world.
- Be honest, fair and dignified in all activities and relationships of PGE.
- Avoid all types of conflicts of interests relating to work and to personal issues.
- Promote an environment in which fair hiring practices are extended to every member of PGE’s diverse community.
- Strive to create a safe work environment and protect the surroundings.
- Through leadership in all levels, maintain a culture in which the ethical conduct can be recognized, valued and illustrated by all the employees.



It does not matter how large the benefit, or how important the matter may seem, PGE will only do business in a legal and ethical manner. In working with clients and suppliers in all aspects of our business, we will not compromise our commitment with integrity.

#### **Obligations in order to achieve satisfaction in PGE**

Every PGE employee is obligated to comply with the requirements of the "emblem", of the Company conformity policies, implied in the Spirit and the Emblem. These policies implement the code of conduct of PGE which can be found supplemented by procedures of conformity and guidelines adopted by every member and/or business of PGE are the following:

#### **Inappropriate Payment**

- Always keep to the highest standards of honesty and integrity with every contact made in representation of PGE. Never offer bribes, retributions, or illegal political contributions or other inappropriate payment to any client, government official or third party. Comply with the laws set by Mexico and the United States as well as by other countries where participation is present, in relation to other issues.
- Do not give gifts of significant value or offer any extravagant entertainment to a client or supplier without the authorization of PGE's management. Ensure that all business entertainment and gifts be within ethical and are revealed to the superiors of the other party.
- Hire only accredited personnel and companies to represent PGE, and understand and obey each and every requirement that governs the representation by third parties.

#### **International Commercial Controls**

- Understand and follow all the controls, trade laws and norms of international trade that apply, including those that are related with licensing, the sending and documentation of importing, as well as the reporting and registration of the requirements of retention.
- Never participate in boycotts or other restrictive trade practices that are prohibited or penalized by applicable laws, whether they be Mexican or local.



- Ensure that all transactions have been submitted to review and that they comply with the applicable requirements of import/export and that any apparent conflict between Mexico and the requirements of the local applicable laws, such as the laws that obstruct certain Mexican restrictions set by Canada, United States and Members of European Economic Community, are revealed to the PGE counsel.

#### **Prevention of Money Laundering**

- Comply with all the applicable laws that prohibit money laundering and that require that all suspicious use of cash or other suspicious transactions be reported.
- Learn to identify the warning signs or indications that money is being laundered or that other illegal activities or violations to PGE's policies is occurring. Mention any concerns the PGE counsel or management.

#### **Privacy**

- Never acquire, use or reveal individual consumer information in a manner that would be inconsistent with PGE's privacy policy or with the law, or applicable privacy treaties and data protection.
- Keep your individual consumer business records protected, including the information that can be found in the data base of your computer.

#### **Relationships with the Suppliers**

- Only conduct business matters with suppliers who comply with the local and legal laws and with the additional standards set by PGE in relation with workpolicies, environment, health and safety, the rights of intellectual property and improper payments.
- Comply with the applicable laws and governmental norms that are related with the relationships with the suppliers.
- Promote a competitive opportunity that enables the suppliers the opportunity to obtain a substantial portion of PGE's business, including small businesses and businesses whose owners are disable, are minorities or are women.

#### **Working with the government**

- Comply with the applicable laws and the norms associated with the contracts and transactions with the government.
- Request that any supplier that is supplying goods or services for PGE in a governmental project or contract that they commit to comply with intentions of PGE's policies in reference to working with the government.



- Be honest and precise when working with government officials and agencies.

#### **Complying with competitive laws**

- Never propose or reach an agreement with any of PGE's competitors to fix pricing, sales terms or conditions, costs, earning margins or any other aspect of the competition for sales to third parties.
- Do not propose or reach any agreement or understanding with PGE's clients restricting resale prices.
- Do not propose or reach any agreement or understanding with suppliers restricting prices or other terms with which PGE can resale or lease a product or service to a third party.

#### **Environment, Health and Safety**

- Learn to carry out your activities according to all the relevant laws and norms of the environment, health of the worker and safety.
- Ensure that all the designs of new products or changes or the proposal of any service be reviewed and that it be verified that they follow PGE's guidelines.
- Be careful with the management of dangerous material, in order to prevent releasing it into the work area or environment.
- Report all spills of dangerous material to PGE management; any concerns that any of PGE's products are unsafe or any potential environmental, health or safety violations of the laws or norms, or if practices or petitions of the company violate procedures established by EHS.

#### **Fair Employment Practices**

- Extend fair opportunity, fair treatment and a work environment free from harassment for all employees, colleagues, advisors and all others associated with the business, overlooking race, color, religion, nationality, sex (including women who are pregnant), sexual orientation, age, disabilities, veteran status, or any other characteristic protected by law.

#### **Conflict of Interests**

- Financial or business activities, or any other activity not related with the job should be within the law and free from conflict with one's responsibilities in PGE.



- Report all family or personal relationships, including all others who you consider important to you, who are current or prospective suppliers that you select, manage, or evaluate.
- Do not use equipment, information or any other property belonging to PGE (including office equipment, e-mail, or other computer applications) to conduct personal business that does not pertain to PGE without having prior permission from the indicated PGE manager.

#### **Control**

- Keep and report all documentation belonging to PGE, including any documents that may contain times, in a precise, punctual, complete and confidential manner. Only reveal documents belonging to PGE to third parties when authorized to do so by PGE.
- Comply with the General Accounting Procedures of PGE, as well as all other principles, standards, laws and norms or accounting and financial reports of transactions, accounting estimates and forecasts that are generally accepted.
- Financial declarations and reports prepared for or by any part of PGE (including any of its components or businesses) should fairly present the financial position, the operational results, and/or other financial data of the specified periods and/or dates.

#### **Trading or Negotiations on Behalf of Inside Parties or Stock Information**

- Never buy, sell or suggest that another person should buy or sell stock or other goods of a company (including PGE) while you are aware of the significant information or material that is not readily available to the general public (inside information) pertaining to this company. Information and/or material is considered significant when it is probable that an ordinary investor would consider the information important in order to make an investment decision.
- Do not pass on or reveal inside information unless it is necessary to conduct PGE businesses and never pass on or reveal any information if you suspect that this information could be used for any kind of inappropriate trading.

#### **Intellectual Property**

- Lawfully identify and protect the intellectual property of PGE that is commercially meaningful.
- Consult with PGE counsel before petitioning, accepting or using information that is intellectual property of external parties. Do not reveal information that is PGE's property to external parties or before allowing third parties to use intellectual property belonging to PGE.

- Respect valid patents, materials that are copy-written and other protected properties that belong to other people and consult with PGE counsel for the expedition of licenses, or for the approvals of the use of such intellectual property.

## Responsibilities of the PGE's Suppliers

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PGE will only do business with those suppliers who comply with the applicable legal requirements. It is expected of the suppliers that they carry out business with PGE that not only complies with the obligations established in their contract related to any sales order or any agreement that has been reached with PGE, but that they also adhere to the standards of business conduct that are consistent with PGE's obligations that are stated in the "Obligations of Compliance with PGE" section of the Guide and with the standard guidelines in this section of the Guide. The commitment of the supplier to follow these standards is the foundation of a business relationship of mutual benefits with PGE.

PGE requires of and expects from each of PGE's suppliers compliance with all of the applicable legal requirements. Unacceptable practices on the supplier's behalf include:

- **Minimum Age:** Employing staff who are younger than the stipulated minimum age for employment.
- **Forced Work:** The use of forced work, of the reos or work by forced hiring or the use of workers subjected to any type of constrain or force.
- **Docility with the Environment:** The lack of commitment with the compliance of the laws or norms of the environment that are applicable. Actions that PGE considers as evidence of the lack of commitment with the compliance of the laws or norms of the environment that are applicable include:
  - The lack of maintenance and the imposition of a comprehensive program and put in writing for the handling of the environment that is subject to constant auditing.
  - The lack of maintenance and compliance of all the permits of the environment that are required.
  - Allowing any discharge into the environment in violation of the law, given or required permits or in any other way would have an inverse impact on the environment.

- **Health and Safety:** Not providing the employees a work area that complies with all the applicable health and safety standards.
- **Code of conduct:** The lack of maintenance and the imposition of the company policies that require cohesion to legal business practices, including the prohibition of bribing government officials.
- **Business Practices and Negotiations with PGE:** Direct or indirect offering or supplying of any valuable good, including cash, bribes or retribution to any PGE employee, representative, client or government official that is related to any procedure, transaction or negotiation of PGE. Said prohibition includes the offering or supplying of advising, employing, or any similar action on behalf of a supplier to any employee of PGE (or to any member of their family or any other person connected to those mentioned) involved in any of the procedures of PGE. PGE also requires that the PGE's suppliers not offer or provide the employees or representatives of PGE's gifts above those of formal value, with the objective of commemorating or recognizing any transaction or activity in particular from the supplier of PGE. Above all, a supplier of PGE should not offer, invite or allow PGE's employees or representatives to participate in any course, game or promotion offered or sponsored by the supplier.
- **Business Entertainment for PGE's Employees and Representatives:** The lack of respect and breach of the business entertainment policies (including trips and housing) established by PGE and the employees and representatives of PGE that are in command. It is expected that the supplier of PGE understand the business entertainment policies applicable to the business or components of PGE before offering or providing any of PGE's employees or representatives business entertainment. Business entertainment should never be offered to a PGE employee or representative by a supplier in circumstances that could appear inappropriate.
- **Above-Mentioned Conduct and PGE Procedures:** At the moment of sharing or trading a price, cost or other competitive information or the performance of any other above-mentioned conduct with any other third party being a supplier for PGE in relation to any PGE procedure that is proposed, pending or current.
- **Intellectual Rights and Other Property Rights:** The lack of respect towards the intellectual rights and the property right of others, especially this of PGE. In this aspect the supplier should:
  - Only use the information and property of PGE (including tools, and specifications) for the purpose which they were supplied and not for any other purpose.



- Take appropriate measures in order to safeguard and maintain the confidentiality of the information belonging to PGE, including keeping it in a safe and trustworthy work area that is not to be revealed to third parties (including other clients, subcontractors, etc) without previous written authorization from PGE.
- In the case it be required by PGE, only send PGE information via internet in encrypted form.
- Observe and respect all of PGE's patents, trade marks and copy writes, and comply with the necessary restrictions and prohibitions that PGE can at any given time establish.

• **Controls of Export and Customs Matters:** The transfer of technical information of PGE to any third party, without the precise written consent from PGE. The incompliance of the norms and applicable laws of export control of PGE's technical information, including any access restriction and the applicable use of the nationalities not being Mexican and the incompliance to ensure that all the invoices or documents of all kinds submitted to PGE or to governmental authorities in connection to the transactions that involve PGE describe the goods or services in a precise manner that have been supplied or turned in as well as the prices of such items.

• **The use of subsuppliers or third parties for avoiding requirements:** The use of subsuppliers or third parties for avoiding legal requirements applicable to the supplier and any other standard mentioned in this Guide.

The standards previously mentioned are subject to change at PGE's discretion. Please contact a manager at PGE with whom you work or with some Resource of Conformity of PGE if you have any questions on these standards and/or their application to particular circumstances. Each supplier of PGE is responsible for ensuring that the supplier as well as their employees and representatives understand and comply with these standards. PGE will only do business with those suppliers who comply with the applicable legal requirements. PGE reserves the right, based on the evaluation of the information available to PGE at the moment, without finding fault in PGE, to cancel any sales order or pending contract, with any supplier who does not comply with the standards mentioned in this section of the Guide.

# How to Address Concerns About Integrity

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It is expected of each of PGE's suppliers to opportunistically inform PGE of any concerns about the integrity that involves or affects PGE, whether this concerns involves the supplier or not, as soon as the supplier has any knowledge of said concern of integrity. A PGE supplier should take the necessary measures in case PGE needs reasonable assistance in the investigation of any questionable acts of integrity involving PGE and the supplier. Concerns of integrity can be addressed by a PGE supplier with the indicated PGE management, Company or PGE Support Lines, or with another Resource of Conformity (for example the legal representative of the company or an auditor).

**I. Define your concern:** Who or what is the concern? When did it happen?  
What are the relevant events?

**II. Address the concern - the opportune report is crucial:**

- Speak with PGE's Director of Administration and Finances or with PGE's Stock Manager.
- A recourse of Conformity from PGE or the Company will opportunistically review and investigate your concern.



For more information contact your local GE Sales Representative  
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