

TERMS AND CONDITIONS OF PURCHASE

1. **APPLICABILITY.** This Terms and Conditions of Purchase constitutes the entire agreement between DBR Industries a Pennsylvania Corporation (“Buyer”) and the seller (“Seller”) for the purchase products (the “Products”) described in the purchase order (each, an “Order”). Except to the extent expressly agreed to by Buyer in a writing signed by an authorized officer of Buyer, any different, conflicting or additional terms contained in the Order, Order acknowledgment, sales agreement or other document shall be void. Buyer shall not be deemed to have waived any provision of this Terms and Conditions of Purchase by failing to object to provisions that may appear on, be incorporated by reference in, or attached to the Order. Any revised and follow-on orders shall be deemed to be an Order and subject to this Terms and Conditions of Purchase.

2. **CERTAIN DEFINED TERMS.** Wherever used in this Order, the term “Provision” or “Provisions” shall mean any and all items, drawings, specifications, formulae or other provisions contained in this Order or in any document referred to herein. Wherever used in this Order, the word “Article” or “Articles” shall mean any and at material, equipment, service or other supplies ordered hereunder.)

3. PRICING.

(a) The prices for the Articles are Seller’s lowest prices currently in effect for such Articles. Should any lower price for any Article or any better terms be quoted to any of Seller’s customers prior to completion of this Order, Seller shall promptly notify Buyer and thereupon, such lower price or better terms will apply to this Order, except to the extent that the granting of such lower price to Buyer would be in violation of applicable law.

(b) The prices for the Articles include all federal, state and total taxes from which Seller cannot obtain exemption. The amounts of any such taxes shall be shown separately on Seller’s Invoice.

(c) Buyer shall not be responsible for any charges relating to the transportation, boxing, crating or other packaging of the Articles or any labor related thereto except to the extent set forth in this Order.

4. **MODIFICATIONS.** No change, modification, or rescission of this Order or of any Provision shall be effective except by writing signed by duly authorized representatives of Seller and Buyer, provided, however, that Buyer shall have the right, by providing written notice to Seller signed by an authorized purchasing representative, to change, modify, rescind, or to terminate on reasonable notice, this order or any Provision. Upon receipt of any such notice, Seller shall proceed to perform under this Order as altered by said notice and shall deliver to Buyer, within fifteen (15) days of receipt of said notice, a statement showing the effect, if any, of said notice upon the cost, or the time required for, performance of this Order as so modified, and an equitable adjustment in the contract price or delivery schedule, or both, shall be made for any such modification.

5. **OBSOLETE PRODUCTS.** Seller acknowledges that Buyer designs and sells products to end-users which incorporate or otherwise use the Products, and that alteration, modification or discontinuation of Product without adequate notice may cause undue harm to Buyer. As such, Seller shall provide Buyer ninety (90) days written notice of its intent to modify, alter or discontinue production or sale of any model of Product sold to Buyer within the prior five (5) year period. In the event Buyer so requests, Seller will continue to make such modified, altered or discontinued Product available in the form prior to such modification, alteration or discontinuation, for an additional period of one (1) calendar year, and shall provide Buyer with an appropriate recommendation to substitute for the Product.

6. **INDEMNIFICATION.** Seller will Indemnify and hold harmless Buyer, Its successors, assigns, customers, and users from any and all loss or damage of any nature (including reasonable attorneys fees) on account of any claim, suit action or proceeding for (1) infringement or violation of trademark, copyright or patent and (2) violation of any applicable federal or state law or regulation, in each case relating to the manufacture, sale, or use of any Article. If this Order requires performance by Seller, in whole or in part, upon Buyer’s premises, Seller will indemnify and hold harmless Buyer from any and all loss,

damage, injury, liability, claim suit costs and expenses (including reasonable attorney's fees) of any nature arising or claimed to arise, out of such performance by Seller.

7. **CONFIDENTIALITY.** Seller shall not disclose or permit to be disclosed this Order, any Information concerning it or the contents of any Provision to any person to whom such disclosure is not necessary in connection with the performance of this Order without Buyer's prior written approval. All property, including artwork, furnished hereunder by Buyer shall be confidential, shall remain Buyer's property and together with all copies thereof, shall be returned to Buyer or destroyed as directed by Buyer.

8. **ASSIGNMENT.** No right or obligation under this order shall be assigned by Seller without the prior written consent of Buyer.

9. **SPECIFICATIONS.** The Articles and all parts, material, work and workmanship relating to performance of this Order shall be subject to inspections, tests and accounting by Buyer at all reasonable times and places, whether during or after manufacture or delivery. If, in any way, an Article or the Articles shall be defective or shall not conform to the Provisions, or with standards, specifications, or other standards set forth in the Provisions, Buyer, in addition to any and all other rights and remedies it may have, may revoke its acceptance of or may reject any or all of the Articles. Upon such revocation or rejection, Buyer may return, at Seller's expense, any or all of the Articles or require prompt correction or replacement at Seller's expense.

10. **WARRANTY.** Seller expressly warrants that all Articles and all materials, parts, work and workmanship relating to performance of this order will conform to the Provisions, and that the Articles will be merchantable, of good workmanship and material, and free from defect. Such warranties shall survive inspection, test, acceptance and payment. Seller warrants that the manufacture and use of the Articles complies with all applicable Federal and State laws and regulations.

11. **COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS.** Seller warrants that in the fulfillment of this Order and in the production of the Articles, no federal, state, city or municipal law, ordinance, rule or regulation applicable thereto was or will be violated and that the Articles covered hereby were or will be produced in compliance with all applicable requirements of Sections 6.7 and 12 of the Fair Labor Standards Act, as amended, and of regulations and orders of the United States Department of Labor Issued under Section 14 thereunder, and the Occupational Safety and Health Act of 1970 and all applicable terms, regulations and standards issued pursuant thereto.

12. **HAZARDOUS SUBSTANCES.** Seller warrants that all Articles which constitute or are comprised in whole or in part of chemical substances, shall be, at the time of sale and the Buyer's receipt, listed on the then current list of chemical substances published by the Administrator of the Environmental Protection Agency pursuant to Section 8 of the Toxic Substances Control Act, and that material safety data sheets shall be supplied in compliance with applicable laws.

13. **DELAYS, FAILURE TO DELIVER.** If any delivery is, or is threatened to be, delayed, Seller shall promptly give notice to Buyer's purchasing department of such delay or threatened delay, together with any relevant information with respect thereto. No such notice shall relieve Seller of any duty hereunder. In the event Seller (1) fails to make any delivery within the time specified, or (2) fails to perform or so fails to make progress as to endanger performance in accordance with the Provisions, or (3) becomes insolvent or the subject of proceedings under any law relating to bankruptcy or relief of debtors, then, in any such case, Buyer may cancel the whole or any part of this Order without prejudice to any rights it may have against Seller under law and without liability on its part for such termination or cancellation. To the extent not so terminated or cancelled, Seller shall continue performance of this Order. Seller's time of delivery and performance in accordance with the Provisions are of the essence under this Order.

14. **WAIVER.** No waiver by Buyer of any Provision or of any obligation of Seller shall constitute a waiver of any other Provision or of any other of Seller's obligations or any part thereof. No delay or failure on the part of Buyer in exercising any rights under this order and no partial or single exercise thereof shall constitute a waiver of such rights.

15. **SHIPMENT, RISK OF LOSS.** All Articles shall be shipped FOB Buyer's place of business. Seller assumes all risk of loss or damage (1) to all Articles, work in process materials and other property of Buyer or Seller entering into performance of this order and to third persons and their property, until the acceptance by Buyer of all the Articles; (2) to any property received by Seller from or held by Seller or its supplier for the account of Buyer and (3) to any Articles or part thereof rejected by Buyer or as to which Buyer has revoked its acceptance, from the time of such rejection or revocation.

16. **GOVERNING LAW.** This Order and its performance shall be construed in accordance with and governed by the law of the Commonwealth of Massachusetts as if this Order were executed and performed entirely within the Commonwealth of Massachusetts, without reference to the United Nations Convention on Contracts for the International Sale of Goods except that Articles 46 through 52 of said Convention shall apply to this order.

17. **GOVERNMENT CONTRACTOR.** Buyer may from time to time be considered a government contractor subject to the federal regulations referenced below, therefore, any Seller which is a subcontractor to Buyer, as defined in and for purposes of the relevant federal regulations ("Subcontractor"), agrees at any time Buyer is a government contractor during the performance of this order, as follows:

E.O. 11246

(a) The equal opportunity clause ("E.O. Clause") required of government contractors and subcontractors, and as set forth in Federal Regulations promulgated under Executive Order No. 11246 of September 24, 1965, as amended ("E.O. 11246") (41 C.F.R. Section 60-1.4), is incorporated by reference in this order as provided by 41 C.F.R. Section 60-

1.4(d). The E.O. Clause includes Subcontractor's commitments of non-discrimination and affirmative action regarding employment decisions; posting of notices; certain statements in advertisements; notice to unions; compliance with E.O. 11246 and its implementing regulations, and penalties for noncompliance; furnishing information and reports; and inclusion by Subcontractor of these E.O. Clause commitments in its subcontracts or purchase orders.

(b) Subcontractor will certify upon request that it requires its own subcontractors to comply with the E.O. Clause unless the value of its subcontract or purchase order is exempt under the rules, Regulations, or orders of the Secretary of Labor.

(c) Subcontractor shall file complete and timely reports on Standard Form 100 (550.1), as required by Federal regulations.

(d) Subcontractor certifies, as required by Federal regulations (41 C.F.R. Section 60-1.8), that it does not and will not maintain or provide for its employees any segregated facilities.

Rehabilitation and Veteran's Acts

(e) The affirmative action clauses required pursuant to regulations issued under Section 503 of the Rehabilitation Act of 1973 (regarding persons with disabilities), 29

U.S.C. Section 793, and Section 402 of the Vietnam Era Veteran's Readjustment Assistance Act of 1974 (regarding veterans), 38 U.S.C. Section 2012, are incorporated herein by reference as provided by those regulations. These clauses include Subcontractor's commitments of non-discrimination, affirmative action, compliance with law and penalties for noncompliance, posting of notices, notification to unions, and inclusion of the clauses in subcontracts and, in the case of veterans, to listing of openings and reporting requirements. Small Business Act

(f) It is the policy of the United States, as expressed in the Small Business Act (15 U.S.C. Section 637(d)), that small business concerns ("SBC") and small business concerns owned and controlled by socially and economically disadvantaged Individuals ("SBCO") shall have the reasonable and practicable opportunity to participate in performing contracts let by the Federal agency.

(g) Subcontractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. In such circumstance, Subcontractor further agrees to cooperate in any studies or surveys as may be

conducted by the United States Small Business Administration or other awarding agency of the United States as may be necessary to determine the extent of compliance with the clause.

(h) Subcontractor acting in good faith may rely on written representations by one of its subcontractors regarding its status as either an SBC or an SBCO.

(i) Subcontractor agrees to require all subcontractors (except SBC's) that receive subcontracts in excess of \$500,000 to adopt a subcontracting plan similar to the plan required by the clause at 48 C.F.R. Section 52.219-9.

General

(j) To the extent required as a result of United States government contracts, Subcontractor agrees to file with Buyer an executed copy of Buyer's Certificate of Compliance, which fully sets forth the various clauses referred to above as being part of this order.

(k) Buyer shall be permitted access to Seller's facilities in connection with work under this agreement and while on Seller's premises, shall comply with all plant rules & regulations, and where required by government regulations, submit satisfactory clearance from the U.S. Department of Defense and other Federal authorities concerned. No charge will be made for such visits.

18. **SAMPLES.** Unless otherwise stated herein, each Article must comply in all respects with any sample thereof shown to Buyer.