



## Purchase Order Terms and Conditions

- 1. Acceptance of Agreement:** These Purchase Order Terms and Conditions, the purchase order(s), the product supply agreement (if any), and any exhibits and/or schedules attached to such documents constitute the entire agreement (the "Agreement") between the parties and supersede all prior negotiations and communications. Seller's acknowledgment of or delivery under Buyer's purchase order for goods, materials, tooling, supplies, services and/or work, as described on the purchase order (collectively, "Goods"), will be deemed Seller's acceptance of this Agreement, and this Agreement expressly limits Seller's acceptance to the terms hereof. Buyer and its "Affiliates", defined as those entities that control, are controlled by, or are under common control with Buyer, may purchase Goods under this Agreement.
- 2. Delivery:** Deliveries must be made in the quantities and at the time specified on the purchase order. Buyer has no liability for payment for Goods delivered to Buyer that are in excess of the specified quantities or outside the required delivery dates. All settlements will be based on Buyer's weights or counts. Time is of the essence for Seller's performance of all of its obligations under this Agreement. If at anytime Seller has reason to believe that deliveries will not be made as scheduled, Seller will immediately notify Buyer of the cause and duration of the anticipated delay.
- 3. Shipping:** Unless the purchase order states otherwise, Seller will ship all Goods DDP (Incoterms® 2010) Buyer's selected destination, at which point title transfers to Buyer. Seller must pack, mark and ship all Goods in strict accordance with the Supplier Requirements Manual found at <https://gsn.gates.com/gsn>. Seller will comply with all export regulations of the country of manufacture and all regulations of the customs agency or department of the importing country. All packing slips, invoices and/or bills of lading must display the purchase order number and shipper's package numbers. All original bills of lading or express receipts must be immediately sent to Buyer upon shipment. Buyer reserves the right to reject any C.O.D. shipments, Goods sent on a sight draft basis and those not accompanied by appropriate documentation.
- 4. Payment, Invoices and Taxes:** Unless the Agreement states otherwise, (a) Buyer agrees to pay for the Goods within 90 days following the date that a correct and valid invoice for the Goods is received by Buyer, or within 30 days following the end of the calendar month in which a correct and valid invoice is received if Seller elects to participate in Company's Vcard payment program, and (b) Buyer will apply a 1.5% discount to all invoices that are paid within 30 days following the end of the calendar month in which a correct and valid invoice for the Goods is received by Buyer. Invoices may not be dated prior to the shipping date. Seller will include the purchase order number on all invoices. Seller's price includes all sovereign, state and local sales, use, excise, value added, privilege, payroll, occupational and any other taxes, fees or duties applicable to the Goods. All taxes will be separately stated on the invoice, and to the extent the invoice includes both taxable and nontaxable amounts, any taxable amounts shall be separately stated on the invoice. Seller shall ensure that if any value-added or similar tax is applicable, that it is invoiced in accordance with the applicable rules so as to allow Buyer to reclaim that value-added or similar tax from the appropriate government authority. Neither party is responsible for taxes on the other party's income. 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 a minimum of 30 days prior to payment being due. Without prejudice to any other right or remedy, Buyer reserves the right to set-off or deduct any amount owing at any time from Seller against any amount payable by Buyer to Seller under this Agreement.
- 5. Warranties:** Seller warrants that the Goods: conform to applicable standards, specifications and drawings; are merchantable; are fit for the particular purpose for which such Goods are to be employed; are free from defects in materials and workmanship; and conform to any other express warranties Seller has made to Buyer. If Seller is responsible for the design of the Goods, Seller warrants that they will be suitable for use by Buyer, including installation by Buyer in its ultimate products. Buyer's written approval of designs furnished by Seller will not relieve Seller of its obligations under this warranty and Seller waives all defenses of lack of reliance. Seller is liable for all damages to Buyer and any third party as a result of any breach of these warranties. The foregoing warranties are in addition to any other warranties customarily made by Seller and any implied warranties available by law.
- 6. Quality Control:** Seller must meet the requirements of TS16949, ISO9001, all provisions of Buyer's Supplier Requirements Manual, Supplier Code of Conduct, and Buyer's quality and other specifications stated on the purchase order for Goods. Seller agrees to provide and maintain inspection and quality control systems covering the Goods that are acceptable to Buyer. Buyer and Seller agree to maintain records of all inspection work and make them available to the other party upon request. Goods which do not conform to the purchase order ("Nonconforming Goods") and Goods which do not meet warranty requirements or are otherwise defective ("Defective Goods") will be returned for credit to Seller at the Seller's expense and risk. Payment for Goods on any purchase order will not constitute Buyer's acceptance thereof, nor will acceptance be deemed a waiver of Seller's liability for defects or nonconformance.
- 7. Intellectual Property:** Buyer shall own, and hereby exclusively owns, all rights in ideas, discoveries, inventions, original works of authorship, strategies, plans and data created in or resulting from Seller's performance under any Buyer purchase order, including all patent rights, copyrights, moral rights, rights in proprietary information and trade secrets, database rights, trademark rights, mask works and other intellectual property rights. All such intellectual property that is protectable by copyright will be considered work(s) made for hire for Buyer (as the phrase "work(s) made for hire" is defined in the United States Copyright Act (17 U.S.C. § 101)) or will give Buyer "first owner" status related to the work(s) under local copyright law where the work(s) was created. Seller agrees to disclose all such intellectual property promptly to Buyer upon creation. If by operation of law any of 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.
- 8. Confidential Information:** Seller understands that Buyer considers all information delivered to Seller by Buyer, in any form, to be confidential and proprietary ("Confidential Information"). All Confidential Information, which includes intellectual property, remains the property of Buyer, and must be returned to Buyer (or destroyed with written confirmation of such destruction) promptly upon Buyer's request. Seller agrees to maintain the confidentiality of such information indefinitely unless such information: (a) is or becomes public knowledge other than through the unauthorized disclosure by Seller; (b) is received legally without restriction on disclosure from a third party who has the right to make such disclosure; or (c) is required to be disclosed to comply with a judicial order or decree. Confidential Information may only be used by those employees of Seller who have a need to receive it in order to fulfill Seller's obligations under this Agreement. Seller is prohibited from filing a patent



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application based on Confidential Information. Seller is responsible for any disclosure of Confidential Information by its employees.

**9. Cancellation:** Buyer reserves the right to cancel all or any part of a purchase order without payment or further liability if Seller breaches any of the terms of this Agreement, or if, in Buyer's reasonable discretion Buyer determines that timely delivery in accordance with the purchase order is endangered. Buyer reserves the right to cancel all or any part of a purchase order for convenience upon written notice to Seller. When cancellation is for convenience, Buyer will pay Seller's verified claims for: (a) previously delivered unpaid Goods conforming to the purchase order; (b) any outstanding balance on Buyer's Property; (c) undelivered finished Goods conforming to the purchase order and produced in accordance with Buyer's delivery or release schedules; and (d) actual costs incurred for work-in-process and raw materials ordered in accordance with Buyer's delivery or release schedules which Seller cannot use to produce goods for itself or other customers. Payment under this paragraph is conditional upon Buyer's receipt of (i) all verified Seller documentation within 30 days of the cancellation, (ii) the finished and unfinished Goods, (iii) Buyer's Property and (iv) work-in-process and raw materials. Any cancellation of this Agreement does not excuse Seller from its performance of any obligations that accrued prior to such cancellation.

**10. Buyer's Property:** Any property, including but not limited to equipment, tools, fixtures, dies, jigs, patterns, gauges or materials, furnished either directly or indirectly by Buyer to Seller in connection with this Agreement, or which Buyer buys from, or gives reimbursement to, Seller in whole or in part (collectively, "Buyer's Property") is the sole property of Buyer and will be held by Seller on a bailment basis. Seller agrees that Buyer has the right, at any time, to retake possession of Buyer's Property. While in Seller's custody or control, Seller bears the risk of loss, theft and damage to Buyer's Property. Seller agrees to keep Buyer's Property free from all liens and encumbrances and insure Buyer's Property against loss or destruction. Seller must permanently mark all Buyer's Property as "Property of Buyer". Seller will: (a) use Buyer's Property only for the performance of this Agreement, (b) not deem Buyer's Property to be personal, (c) not move Buyer's Property from the address designated on the purchase order without prior written approval from Buyer, and (d) not sell, transfer or otherwise dispose of Buyer's Property without the prior written consent of Buyer. Buyer has the right to enter Seller's premises at all reasonable times to inspect Buyer's Property and Seller's related records.

**11. Production Equipment:** Seller at its own expense must furnish, keep in good condition and replace when necessary, all equipment, dies, tools, gauges, jigs, fixtures, patterns or other items necessary for the production of the Goods (the "Production Equipment"). Buyer reserves the right to take possession of and title to any Production Equipment that is special for the production of the Goods, unless the Goods are standard products of Seller, or if substantial quantities of like Goods are being sold by Seller to others.

**12. Change in Specifications:** Buyer reserves the right to make changes in the design and specifications for any Goods. The difference in price or time for performance resulting from such changes will be equitably adjusted and the purchase order will be amended accordingly.

**13. Indemnity:** Seller will indemnify, defend and hold Buyer and its Affiliates, and such entities' officers, directors, employees and customers (collectively "Indemnified Parties") harmless from any and all demands, claims (including claims for bodily injury and/or death), damages, actions, judgments, fines, penalties, losses, expenses, costs (including reasonable attorney fees and court costs) and fees (including import and export customs fees) which may be asserted against any one or more of the Indemnified Parties or for which any one or more of the Indemnified Parties might become liable as a result of: (a) any negligent or willful act or omission of Seller, its employees, agents or subcontractors; (b) Seller's performance or nonperformance under this Agreement; (c) Defective Goods; (d) Seller's failure to affix required safety warnings to the Goods or to provide adequate use instructions; (e) the Indemnified Parties' use of the Goods; and (f) actual or alleged infringement of, or inducement to infringe, any patent, trademark, copyright, mask work or other intellectual property right by reason of the manufacture, use, offer for sale, sale or importation of the Goods. This paragraph does not obligate Seller to indemnify the Indemnified Parties for injuries or damages caused solely by the negligence of the Indemnified Party.

**14. Insurance:** Seller represents that it has the following insurance policies in effect: (a) commercial general liability and product liability insurance, with carriers acceptable to Buyer, in a minimum amount of two million dollars (U.S. \$2,000,000) per occurrence per year with a minimum aggregate amount per year of five million dollars (U.S. \$5,000,000); and (b) workers compensation insurance or other similar compensation insurance in the amounts required by law. Seller's purchase of any insurance coverage or furnishing of the certificates does not in any manner limit Seller's liability hereunder or in any way modify Seller's obligations to Buyer or any of the Indemnified Parties. Seller shall provide Buyer with certificates of insurance that (x) indicate that the policies shall not change or terminate without at least 30 days prior written notice to Buyer, (y) name Buyer as an additional named insured on the commercial general liability and product liability policies and (z) indicate that the insurer waives all subrogation rights against Buyer.

**15. Remedies:** Seller will pay or reimburse to Buyer all damages, losses, expenses, out of pocket costs, penalties and administrative costs and any other charges which Buyer incurs arising from or in connection with: (a) any Nonconforming or Defective Goods; (b) any product which incorporates any Nonconforming or Defective Goods which Buyer sells to any customer, including repair and replacement of any incorporating product; (c) Seller's inability to meet delivery schedules or requirements; and (d) Seller's failure to comply with each and every term of this Agreement. Upon request from Buyer, Seller will assign any warranty or indemnity rights that Seller's has in place with Seller's suppliers and/or manufacturers. The remedies provided in this Agreement are cumulative and additional to any remedies provided at law or in equity.

**16. On-Site Services:** While working on Buyer's premises, Seller's workers will adhere to all of Buyer's company policies, rules and safety regulations, and Seller will cause Seller's workers to sign whatever forms are required by Buyer for confidentiality, security and administrative reasons. If approved in writing in advance by Buyer in connection with any services, Buyer will reimburse Seller for actual and reasonable expenses incurred (without mark-up) by Seller directly in connection with Seller's performance of the services.

**17. Compliance with Laws:** Seller represents and warrants that it is in compliance, and that all Goods are in compliance with, all Applicable Laws. The term "Applicable Laws" includes laws related to labor and employment (including wage and child labor laws), worker safety, data privacy, consumer protection, environmental protection, business operations, licensing, and authorization, zoning, import/export, shipment, non-discrimination and anti-corruption laws, including the United States Foreign Corrupt Practices Act of 1977 and the U.K. Bribery Act of 2010. Upon request, Seller agrees to supply Buyer with proof of such compliance in such form as may be required by any Applicable Law and as Buyer may deem necessary. If Goods are delivered to or produced in the United States of America, Section 202 of Executive Order 11246, as amended, is



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incorporated by this reference. *For Québec residents only:* It is by the express intention of the parties hereto that the present Agreement and all its related documents be drafted in English. *Il est de l'intention expresse des parties à la présente Convention (connaissance, bon de commande, bon de conditionnement ou facture) et tout document s'y rattachant soient écrit en langue anglaise.*

**18. Environmental Compliance:** Without limiting its obligations under Section 17, Seller will conduct its operations in an environmentally responsible manner and in adherence to all applicable national, regional, state and local laws, regulations and standards in the (i) manufacture or provisioning of Goods, (ii) the shipping and distribution of Goods and (iii) the configuration or content of Goods for the intended use. Without limiting the foregoing, Seller will comply with all applicable laws and regulations of any country or jurisdiction in the world which prohibits or restricts specific chemical substances to ensure the restriction does not prevent the sale or transport of the Goods and that all such Goods are appropriately labeled and have been pre-registered and/or authorized under EU Registration Evaluation, Authorization and Restriction of Chemicals regulation ("REACH") or similar regulations if required.

**19. Conflicts Minerals:** Without limiting its obligations under Section 17, Seller will have a policy and exercise due diligence to reasonably assure that the tantalum, tin, tungsten, gold and other mineral identified as conflict minerals in the Goods they manufacture or supply do not directly or indirectly finance or benefit armed groups that are perpetrators of serious human rights abuses in the Democratic Republic of the Congo or any adjoining country.

**20. Supply Chain Security:** If the Goods are delivered across international borders, Seller agrees to be compliant and maintain compliance with the guidelines of the applicable supply chain security programs of the importing country, e.g., for U.S. shipments, U.S. Customs and Border Protection's Customs-Trade Partnership Against Terrorism (C-TPAT); for Canadian shipments, Partners in Protection (PIP).

**21. Privacy Notice:** Buyer, acting as controller, collects certain personal data regarding Seller, its employees and its representatives as required for the purposes described below, including name, title, email address, phone number and mailing address ("Personal Data"). Such Personal Data will need to be provided in order for Buyer to be able to manage Seller's supply of Goods to Buyer. Buyer may share Personal Data with its affiliates around the world. Buyer and its affiliates will collect and use Personal Data in accordance with applicable privacy and data protection laws, solely to communicate with Seller regarding pending and potential supply activities, for supplier management purposes and other legitimate business purposes concerning Buyer's and Seller's business relationship. Personal Data may be transferred to Buyer's global headquarters in the United States and may be shared with Buyer's affiliates in the United States and other locations where Buyer has offices. Personal Data may also be shared with third party suppliers of Buyer and its affiliates (including hosting service providers) who will process the Personal Data on Buyer's and its affiliates' behalf, and may be located in the United States or elsewhere. Seller will inform its employees and representatives of the information set out in this clause. SELLER CONSENTS AND WILL SECURE THE CONSENT OF ITS EMPLOYEES AND REPRESENTATIVES, TO THE TRANSFER TO AND PROCESSING OF ANY PERSONAL DATA TO BUYER AND ITS AFFILIATES WHETHER LOCATED IN THE UNITED STATES OR ANY OTHER COUNTRIES FOR THE PURPOSES DESCRIBED IN THIS PARAGRAPH OR FOR ANY OTHER PURPOSE TO WHICH BUYER CONSENTS. Seller will indemnify, defend and hold harmless Buyer and its affiliates from and against any claim arising out of or in connection with Seller's failure to comply with this clause or any privacy and data protection laws applicable to Seller.

**22. Buyer's Liabilities:** In no event will Buyer's liability for any breach, alleged breach or cancellation of this Agreement exceed the total price shown on the applicable purchase order, nor will Buyer be liable for any punitive, special, indirect, incidental or consequential damages resulting from any such breach, alleged breach or cancellation.

**23. Advertising:** Seller may not advertise or publish in any manner the existence or terms of this Agreement, the relationship between the parties or materials associated with the Buyer without first obtaining the written consent of Buyer.

**24. Force Majeure:** Each party shall be excused from liability for the failure or delay in performance of any obligation under this Agreement by reason of any event beyond such party's reasonable control, including weather, civil disturbances, acts of civil or military authorities or Acts of God. Such excuse from liability shall be effective only to the extent and duration of the event(s) causing the failure or delay in performance and provided that the party has not caused such event(s) to occur. Notice of a party's failure or delay in performance due to force majeure must be given to the other party within 3 calendar days after its occurrence. In the event of a shortage or other constraint on Seller's ability to meet demand for Goods (e.g., facility shutdown, transportation problems, etc.), Seller agrees to allocate Seller's total available supply of Goods among Buyer and Seller's other customers on a fair and equitable basis.

**25. Assignment:** Seller may not assign this Agreement, in whole or in part, without Buyer's prior written consent. Buyer may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under this Agreement.

**26. Independent Contractor Relationship:** Each party is acting as an independent contractor to the other, and neither party is entitled to unemployment insurance benefits under this Agreement. Neither party is granted any right or authority to assume or to create any obligation or responsibility, express or implied, on behalf of or in the name of the other party.

**27. Survival:** In addition to any other term whose context may so require, the terms contained in sections 5, 6, 7, 8, 9, 10, 13, 15, 22, 27, 28, 29, and 30 will survive any cancellation of a purchase order or termination of this Agreement.

**28. Severability:** If any provision of this Agreement or any purchase order is held by an arbitrator or a court of competent jurisdiction to be unenforceable, such provision shall be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under Applicable Law and the remaining provisions of this Agreement shall continue in full force and effect.

**29. Interpretation of Agreement:** Except as otherwise provided in this Agreement, this Agreement may only be modified or cancelled in a written document signed by authorized representatives of both parties. The terms of this Agreement control over any terms in any Seller acknowledgment, invoice, proposal, quote, time card or other document issued in the performance of this Agreement. No waiver of any of the provisions of this Agreement will constitute a waiver of any other provision, whether or not similar, nor will any waiver constitute a continuing waiver.

**30. Governing Law and Dispute Resolution:** The United Nations Convention on Contracts for the International Sale of Goods does not apply



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to this Agreement. Any dispute, controversy or claim arising out of or relating to this Agreement including any question regarding its existence, interpretation, validity, breach or termination shall be referred to and finally resolved by arbitration in accordance with the law of Ontario. The place of the arbitration shall be Brantford, Ontario. The number of arbitrators shall be 3. The language of the arbitration shall be English. If the parties fail to agree on an arbitrator(s), the appointing authority shall be ADR Chambers, Ontario.

**31. Audit Rights:** At its discretion and expense, Buyer or its designated representative may audit, inspect and test: the Goods; relevant records; Seller's inventory, delivery, quality and production processes, including at the Seller's premises; Seller's ability to fulfill its obligations under this Agreement; Seller's compliance with Applicable Laws; and its actual performance under this Agreement.