

# IDEX GENERAL TERMS AND CONDITIONS

for

## Purchase Orders for Goods and Services

(United States)

(Effective April 30, 2016)

Unless and except to the extent expressly agreed otherwise in writing by the party that is identified in the Purchase Order as Buyer, these General Terms and Conditions shall apply to all Purchase Orders for Goods and/or Services issued by IDEX Corporation and its Units located in the United States.

### 1. AGREEMENT.

(a) Purchase Order. A Purchase Order may be issued in writing, electronically, orally or otherwise. Purchase Orders shall include, at a minimum:

(i) Buyer's Purchase Order Number; and

(ii) information sufficient to identify the party issuing the Purchase Order ("**Buyer**"), the party to whom the Purchase Order is issued ("**Supplier**"), the particular goods ("**Goods**") and/or services ("**Services**") ordered (including, in the case of Goods, the quantity ordered), and the price ("**Price**") payable for the Goods and/or Services ordered.

Buyer and Supplier are sometimes referred to individually as a "**Party**" and together as the "**Parties**".

(b) Purchase Agreement. For the purpose of each Purchase Order, the "**Purchase Agreement**" consists of (i) any supply, purchase, services or other similar written agreement between Buyer and Supplier relating to the Goods and/or Services ordered under the Purchase Order ("**Supply Agreement**"); (ii) the Purchase Order, (iii) these General Terms and Conditions, (iv) any Exceptions to these General Terms and Conditions set forth in, attached to, or identified or referenced in the Supply Agreement (if any), the Purchase Order or otherwise agreed to in writing by Buyer ("**Exceptions**"), (v) any Special Terms and Conditions set forth in, attached to, or identified or referenced in the Supply Agreement (if any), the Purchase Order or otherwise agreed to in writing by Buyer ("**Special Terms and Conditions**"), (vi) any other agreements or documents attached to or identified or referenced in the Purchase Order, these General Terms and Conditions, any Exceptions or any Special Terms and Conditions ("**Other Agreements and Documents**"), and (vii) any Change Orders (defined in Section 10).

(c) Exceptions. Exceptions must identify the specific Sections of these General Terms and Conditions to which the Exceptions apply and shall apply only to the specific Sections so identified.

(d) Entire Agreement. The Purchase Agreement forms the entire agreement and understanding between Buyer and Supplier relating to the Goods and/or Services ordered, and the Purchase Agreement supersedes all prior negotiations, representations, proposals, quotations, agreements, understandings and dealings with respect to the Goods and/or Services ordered. Buyer and Supplier are sometimes referred to individually as a "**Party**" and together as the "**Parties**".

(e) Buyer. For the avoidance of doubt: (i) the only party that is Buyer and the only party that will have any responsibility, liability or obligation under or in connection with the Purchase Agreement as Buyer is the party identified in the Purchase Order as Buyer; (ii) IDEX Corporation shall have no responsibility, liability or obligation of any kind under or in connection with the Purchase Agreement unless it is specifically identified in the Purchase Order as Buyer (For the further avoidance of doubt, if Buyer is referred to as "IDEX" or using any other name that includes "IDEX" other than "IDEX Corporation" or the Buyer is identified as being a Subsidiary, Division, Group, Platform or Unit of IDEX Corporation, the Buyer shall not be deemed to be IDEX Corporation, and IDEX

Corporation shall have no responsibility, liability or obligation of any kind under or in connection with the Purchase Agreement); and (iii) no Unit of IDEX Corporation other than the particular Unit identified in the Purchase Order as Buyer shall have any responsibility, liability or obligation of any kind under or in connection with the Purchase Agreement.

(f) Affiliate. An “**Affiliate**” in reference to either Party includes any other entity that directly or indirectly controls, is controlled by or is under common control with such Party, where "control" means the possession, directly or indirectly, of the power to elect a majority of the directors or managers or otherwise direct the management or policies of an entity through the ownership of securities or partnership, membership or other ownership interests, by contract or otherwise.

(g) Supplier Party. A “**Supplier Party**” includes Supplier, any of its Affiliates, any service center, distributor, sales agent, sales representative, contractor or subcontractor of Supplier or any of its Affiliates of any tier, any of their respective directors, officers, managers, employees, agents, representatives, contractors and subcontractors of any tier, and any other person or entity who may be designated, authorized or approved by Supplier or one of its Affiliates to take any action or do any thing in any capacity in connection with any part of the Purchase Agreement and/or any of the Goods and/or Services ordered.

## 2. INTERPRETATION.

Unless and except to the extent expressly stated otherwise the Supply Agreement (if any), if there is any difference, inconsistency or ambiguity among the provisions of the Purchase Agreement, precedence shall be given, **first**, to any Change Orders; **second**, to the Supply Agreement (if any); **third**, to the Purchase Order; **fourth**, to any Special Terms and Conditions; **fifth**, to any Exceptions; **sixth**, to these General Terms and Conditions; and **seventh**, to any Other Agreements and Documents. Unless specified otherwise in a Change Order, the Supply Agreement (if any), the Purchase Order, any Exceptions, any Special Terms and Conditions or any Other Agreement and Document, any term which has a meaning assigned to it in these General Terms and Conditions shall have such meaning in all parts of the Purchase Agreement.

## 3. SUPPLIER'S ACCEPTANCE OF PURCHASE ORDER.

Supplier's acceptance of the Purchase Order shall occur upon the earlier of: (i) Supplier commencing any work in respect of any of the ordered Goods and/or Services (including, but not limited to, any design or engineering work, ordering any materials, parts or components, or any manufacture, assembly or preparation work); (ii) Supplier shipping any of the ordered Goods or commencing performance of any of the ordered Services; or (iii) Supplier acknowledging or confirming its acceptance of the Purchase Order to Buyer in writing (which may include email or fax).

Acceptance of the Purchase Order by Supplier is limited to acceptance of all terms and conditions contained in the Purchase Agreement. Any different or additional terms and conditions, amendments, modifications or qualifications proposed by Supplier in an order acknowledgement or acceptance or otherwise shall apply and form part of the agreement and understanding of the Parties relating to the Goods and/or Services only if and to the extent they are included in the Purchase Agreement by way of a Change Order issued by Buyer and accepted by Supplier. Nothing in any invoice, shipping document or other similar document that differs from or conflicts with the Purchase Agreement shall apply or form part of the agreement and understanding of the Parties relating to the Goods and/or Services.

## 4. PRICES.

(a) Goods and/or Services. The prices payable by Buyer for the Goods and/or Services ordered shall be the prices stated in the Purchase Order. All prices are in United States Dollars (US\$) and, except for any adjustments that may be provided for in the Supply Agreement (if any), the Purchase Order or any Special Terms and Conditions, are fixed and firm.

(b) Goods. In the case of all Goods, prices include and cover all design and engineering work, tooling, dies, equipment, materials, parts and components, testing, certifications, packaging, packing, crating, labeling, handling, storage and services related to such Goods.

(c) Services. In the case of all Services, Buyer shall only be required to pay the fixed fee stated in the Purchase Order for such Services or, subject to any cap on amount or time specified in the Purchase Order, the applicable hourly, daily, weekly, monthly, quarterly or yearly rate(s) stated in the Purchase Order for the actual hours, days, weeks, months, quarters or years spent in performing such Services, and Buyer shall not be responsible for or be required to pay any other costs, expenses or amounts, including, but not limited to, any costs, expenses or amounts in respect of equipment, tools, supplies, meals, lodging, transportation, mileage, telephone, internet, photocopying, travel time, stand-by time (such as weekend or holiday layovers), overtime or holiday rates.

## 5. INVOICING AND PAYMENT.

(a) Invoices. Supplier shall submit invoices to Buyer within thirty (30) days following the end of each calendar month for all Goods delivered and/or Services performed in the preceding month.

Each invoice shall clearly indicate:

- (i) the Purchase Order Number;
- (ii) a description of the Goods and/or Services for which the invoice is being submitted and their corresponding Purchase Order Line Item Numbers;
- (iii) the price for the Goods (including unit price, number of units and total price) and/or Services (including, if applicable, hours, days or weeks worked, hourly, daily or weekly rate, and total amount charged for each person performing the Services) for which the invoice is being submitted;
- (iv) whether the billing is "Partial" or "Final" (unless indicated as being "Partial", the billing shall be deemed to be "Final");
- (v) any amounts being invoiced for design or engineering work, special tooling, dies or equipment, packaging, packing, crating, labeling, freight, delivery, storage, handling, insurance, taxes, customs duties, tariffs and other similar charges (shown separately for each item);
- (vi) the Harmonized Tariff Schedule (HTS) number (to the sixth digit), Export Classification Control Number (ECCN) or other applicable export control classification, and country of origin for all Goods; and
- (vii) such other information as Buyer may reasonably request.

All amounts invoiced for value added or other taxes, customs duties, tariffs and other similar charges that may be recoverable by Buyer through refund or otherwise shall be invoiced and identified in a manner that complies with all rules and formalities required for Buyer to recover such value added or other taxes, customs duties, tariffs and other similar charges.

(b) Payment. Payment for all Goods and Services shall be in accordance with the payment term specified in the Supply Agreement (if any), the Purchase Order or any Special Terms and Conditions, or, if and to the extent no payment term is specified for all or a part of the Goods or Services, the payment term shall be 2%10, net 45. In all cases, the payment date shall be calculated from the date of Buyer's receipt of a proper invoice from Supplier or Buyer's acceptance of the applicable Goods and Services in accordance with Section 8, whichever is later.

(c) Disputes. If Buyer is disputing an invoiced amount, Buyer may withhold payment of the disputed amount until the dispute is resolved. If Supplier is ultimately determined to be entitled to payment of the disputed amount, Buyer will pay Supplier interest on the disputed amount at an annual rate equal to the one month LIBOR rate plus 2%, from the date such amount was originally due until the date such amount is paid.

(d) Lien Waiver. Buyer may request and condition payment upon receipt of liens waivers from Supplier and its subcontractors and vendors.

(e) Withholding and Holdback. Buyer may withhold and hold back from any payment (i) any amount required to be withheld or held back under by any Applicable Law (defined in Section 13) and (ii) any amount for which it has not received a requested lien waiver.

(f) Deduction and Set-Off. All amounts due or to become due from Buyer to Supplier shall be subject to deduction or set-off by Buyer by reason of any claim or counterclaim it or any of its Affiliates may have arising out of the Purchase Agreement or any other purchase order, agreement or transaction with Supplier or any of its Affiliates

(g) No Deemed Acceptance. Neither payment for nor use or inspection of Goods and/or Services by Buyer or any of its Affiliates shall be deemed to be acceptance by Buyer of such Goods and/or Services by Buyer. Payment to Supplier shall not release or relieve Supplier of any of its liabilities and obligations under the Purchase Agreement. Payment of an invoice shall not prejudice Buyer's right to dispute such invoice at any time thereafter.

(h) Final Invoice. Supplier shall submit to Buyer a final invoice for all amounts payable with respect to any Goods and/or Services no later than sixty (60) days after Buyer's acceptance of such Goods and/or Services in accordance with Section 8.

## **6. DELIVERY OF GOODS AND PERFORMANCE OF SERVICES.**

(a) Delivery of Goods. Delivery of all Goods shall be in accordance with the Incoterm (as defined in Incoterms 2010 published by the International Chamber of Commerce) specified in the Supply Agreement (if any), the Purchase Order or any Special Terms and Conditions, or, if and to the extent no Incoterm is specified for all or a part of the Goods, the Incoterm shall be DDP Destination (Delivered Duty Paid to the Destination). Delivery of all Goods shall in accordance with the delivery schedule specified in the Supply Agreement (if any), the Purchase Order or any Special Terms and Conditions, or, if and to the extent no delivery schedule is specified for all or a part of the Goods, delivery of such Goods shall be in accordance with the delivery schedule provided by Buyer ("**Delivery Schedule**"). Unless the Delivery Schedule indicates otherwise, a date and quantity specified in the Delivery Schedule is the date on which such quantity of Goods is to arrive at the Destination (defined in Section 6(c)), and Buyer may refuse to take delivery of Goods on a date and/or in a quantity other than the date and quantity specified in the Delivery Schedule and return to Supplier at its sole risk, cost and expense any Goods delivered on a date and/or in a quantity other than the date and quantity specified in the Delivery Schedule. All Goods shall be complete when delivered and, unless and except to the extent provided to Buyer in advance of delivery, shall be accompanied by all manuals, instructions, directions, warnings, information and data necessary for their safe and proper transport, storage, handling, installation, use, operation, maintenance and repair, including all relevant material safety datasheets (MSDS), safety data sheets (SDS), and product safety data sheet (PSDS).

(b) Performance of Services. Performance of all Services shall be in accordance with the performance schedule specified in the Supply Agreement (if any), the Purchase Order or any Special Terms and Conditions, or, if and to the extent no performance schedule is specified for all or a part of the Services, performance of such Services shall be in accordance with the performance schedule provided by Buyer ("**Performance Schedule**").

(c) Shipping Instructions. Shipment of all Goods shall be to the destination specified in the Supply Agreement (if any), the Purchase Order or any Special Terms and Conditions, or, if and to the extent no destination is specified for all or a part of the Goods, shipment of such Goods shall be to the destination provided by Buyer ("**Destination**"). A packing list indicating the Purchase Order Number and describing all Goods and their corresponding Purchase Order Line Item Numbers shall accompany each shipment of Goods. All Goods must be appropriately packaged, packed and crated to protect them from damage or destruction during transit and in accordance with any other packaging, packing or crating directions or instructions included in the Purchase Agreement. Export symbols, country of origin, serial numbers, weights, measurements and other identification must be clearly marked on each shipment.

(d) Responsibilities and Liabilities. Subject in the case of taxes and duties to Section 7, the responsibilities and liabilities of the Parties in connection with delivery of Goods, including, but not limited to, responsibility and liability for export licenses, freight forwarder charges, freight charges, terminal charges, and loading and unloading charges, shall be in accordance with the applicable Incoterm.

(e) Title and Risk. Title and risk of loss or damage to each Good shall pass to Buyer upon delivery in accordance with the applicable Incoterm; provided, however, (i) if Buyer issues a notice of rejection for a Good pursuant to Section 8, then notwithstanding the applicable Incoterm, title and risk of loss or damage to such Good shall revert to Supplier; (ii) if and to the extent Buyer makes any payment for a Good prior to delivery in accordance with the applicable Incoterm, title to such Good shall vest in Buyer at the time of payment (but risk of loss or damage shall remain with Supplier); and (iii) notwithstanding the applicable Incoterm, Supplier shall bear all risk or loss or damage to a Good due to improper or inadequate packaging, packing, crating or marking or to errors in shipping documents unless and except to the extent attributable to acts, errors or omissions of Buyer.

(f) Personnel used to Provide Services. At Buyer's request, Supplier shall promptly re-assign, remove and replace any personnel being used to provide Services who, in Buyer's reasonable opinion, do not have the experience, skills and ability necessary to properly perform such Services, are or have been under the influence of drugs or alcohol while performing such Services, are or have been acting in an improper manner (including, but not limited to, acting in a violent, threatening, unstable, discriminatory or harassing manner and not complying with site, security or other applicable requirements of Buyer), or are otherwise not fit or appropriate to perform such Services, and, unless and until such personnel are re-assigned, removed and replaced, Buyer may wholly or partially suspend the performance of the Services. Supplier shall not be entitled to recover from Buyer any additional cost or expenses (including, but not limited to, costs and expenses of demobilization or reactivation) and the Performance Schedule shall not be extended in connection with any such requested re-assignment, removal or replacement of personnel or suspension of performance of the Services.

(g) Delay. Supplier will promptly notify Buyer of any actual or potential delay in delivery of any ordered Goods or performance of any ordered Services. Notification of a delay in delivery of Goods or performance of Services shall not relieve Supplier from its obligation to deliver Goods in accordance with the Delivery Schedule and perform Services in accordance with the Performance Schedule or diminish any liability Supplier may have for late delivery of Goods or late performance of Services. Supplier shall take any and all actions that Buyer may reasonably request to avoid or minimize a delay in delivery of any ordered Goods or performance of any ordered Services: provided, however, if no Supplier Party is wholly or primarily responsible for the delay and, prior to taking such actions, Supplier advises Buyer that taking such actions will cause Supplier to incur incremental costs or expenses and, if requested by Buyer, Supplier provides Buyer with its best estimate of such incremental costs or expenses, Buyer will reimburse Supplier for any incremental costs and expenses it may incur as a result of taking such actions, subject to any cap on such incremental costs and expenses to which the parties may mutually agree.

(h) Inspection and Testing. Buyer shall have the right to inspect and test all Goods prior to shipment. Supplier shall not refuse any reasonable request by Buyer to inspect or test, or allow a representative of Buyer to inspect or test, any Goods prior to shipment, including during manufacture or assembly, and Supplier shall make available to Buyer and any such representative such facilities and personnel as may be reasonably required for such inspection or testing. In addition, if requested by Buyer, Supplier shall provide Buyer with copies of any and all inspection and testing reports and data prepared by any Supplier Party in relation to any Goods. If any such inspection or testing or inspection or testing reports and data indicates that any of the Goods do not or will not comply with the requirements of the Purchase Agreement, Buyer shall have the right to require Supplier to take corrective action. No such inspection, testing or corrective action shall relieve Supplier of any liability or obligation in respect of any Goods or imply or constitute acceptance of any Goods.

(i) Notification of Non-Compliance. If any time prior to or after delivery of any Goods or prior to or after performance of any Services, a Supplier Party determines that any Goods or Services do not or may not comply with the requirements of the Purchase Agreement, Supplier shall give Buyer prompt notice of the actual or potential non-compliance, including the nature thereof.

## 7. TAXES AND DUTIES.

(a) Taxes. Buyer will pay and Supplier may invoice to and collect from Buyer any United States federal, state or local sales and/or service taxes that are payable in respect of the sale of the Goods and/or Services to Buyer. Supplier shall remit any and all such taxes it collects from Buyer to the appropriate governmental authorities on or prior to the date the same are due and payable. If Buyer provides Supplier with a tax exemption certificate or other appropriate evidence that a sales and/or service tax is not payable by Buyer in respect of the sale of the Goods and/or Services to Buyer, Supplier will not require Buyer to pay and will not invoice Buyer for or seek to collect from Buyer any such tax. Any refund that Supplier may receive for any sales and/or service tax paid by or collected from Buyer will be promptly remitted to Buyer. The prices include and cover and Supplier shall bear and pay all taxes other than any United States federal, state or local sales and/or service taxes that are payable in respect of the sale of the Goods and/or Services to Buyer.

(b) Duties. If Supplier's address set forth on the face of the Purchase Order is in the United States, Supplier will be the importer of record and pay any and all duties required to be paid in connection with the importation of Goods into the United States. If Supplier's address set forth on the face of the Purchase Order is outside the United States, Buyer will be the importer of record and pay any and all duties required to be paid in connection with the importation of Goods into the United States, unless the applicable Incoterm is DDP (Delivered Duty Paid Destination) and the place of delivery is in the United States, in which case Supplier will be the importer of record and pay any and all duties required to be paid to import Goods into the United States. If Supplier is the importer of record in connection with the importation of a Good into the United States, Supplier and each other Supplier Party shall, if and when requested by Buyer, provide all such certificates and other documentation, information and data, make all such filings, and take any and all such other actions that Buyer may reasonably request for duty drawback purposes. If Buyer is the importer of record in connection with the importation of a Good into the United States, Supplier and each other Supplier Party shall, if and when requested by Buyer, provide all such documents, information and data, make all such filings, and take any and all such other actions that Buyer may reasonably request to minimize and/or avoid the imposition of antidumping duties (AD) and/or countervailing duties (CVD) in connection with the importation of such Good into the United States.

(c) Trade Agreements. Supplier and each other Supplier Party shall, if and when requested by Buyer, reasonably cooperate with Buyer to enable Buyer to obtain the benefits of preferential or special trade or customs programs and agreements (including, but not limited to, NAFTA) that would allow Goods or parts or components thereof to enter the United States or another destination country at a reduced duty rate or duty free or enable Buyer to obtain countertrade, offset or other credits, including, but not limited to, providing all such certificates and other documentation, information and data, making all such filings, and take any and all such other actions that Buyer may reasonably request to obtain such benefits and credits.

## 8. REJECTION/ACCEPTANCE OF GOODS OR SERVICES.

(a) Rejection Period. Buyer shall have the period specified in the Supply Agreement (if any), the Purchase Order or any Special Terms and Conditions or, if no period for rejection is specified for all or a part of the Goods or Services, a period of thirty (30) days) after delivery and receipt of a Good at the Destination or completion of a Service, as the case may be ("**Rejection Period**"), to reject such Good or Service as not meeting the requirements of the Purchase Agreement; provided, however, if a Good is equipment intended to be installed and used at a facility owned, leased or operated by Buyer or one of its Affiliates and the Purchase Agreement specifies one or more performance requirements that such equipment is to satisfy, unless a different period is specified for such Good in the Supply Agreement (if any), the Purchase Order or any Special Terms and Conditions, the Rejection Period shall be shall be six (6) months after delivery and receipt of such Good at the Destination or, if Supplier is to install such Good, the Rejection Period shall be shall be six (6) months after installation of such Good at the Destination. If Buyer does not issue a notice of rejection with respect to a Good or Service within the Rejection Period, such Good or Service will be deemed accepted upon the expiration of the Rejection Period; provided, however, if Buyer issues a notice of acceptance with respect to a Good or Service prior to the expiration of the Rejection Period, such Good or Service will be deemed accepted upon the issuance of such notice of acceptance.

(b) Rejected Goods. Goods properly rejected by Buyer may be returned to Supplier at Supplier's sole cost, expense, liability and risk. Supplier will be requested to provide instructions for the return shipment, but if Supplier does not provide such instructions within ten (10) days after being requested to do so, Buyer may return the Goods to Supplier freight collect or otherwise dispose of the Goods as it deems appropriate without liability to Supplier. Buyer shall not be liable for any restocking or other charges for Goods properly rejected by Buyer. Buyer shall be relieved of all liabilities and obligations in respect of properly rejected Goods and be entitled to a full refund of all amounts previously paid and full reimbursement for all charges, costs and expenses incurred for properly rejected Goods that are not properly and timely remediated by Supplier as provided in Section 8(d).

(c) Rejected Services. Buyer shall be relieved of all liabilities and obligations in respect of properly rejected Services and be entitled to a full refund of all amounts previously paid and full reimbursement for all charges, costs and expenses incurred for properly rejected Services that are not properly and timely remediated by Supplier as provided in Section 8(d).

(d) Remedial Work. If requested by Buyer, Supplier shall repair, replace or correct Goods properly rejected by Buyer and re-perform Services properly rejected by Buyer or perform such additional services as are necessary to remedy any defects or deficiencies in and correct Services rejected by Buyer ("**Remedial Work**"). All Remedial Work in respect of properly rejected Goods or Services (and any freight, delivery, packing, crating, labeling, storage, insurance, taxes, customs duties, or tariffs payable in respect of properly rejected Goods or Services or Remedial Work in respect thereof) shall be at the sole, cost, expense, liability and risk of Supplier and completed within such time period as Buyer may reasonably specify. Upon completion of the Remedial Work, Supplier shall notify Buyer in writing of such completion and, in the case of rejected Goods which have been returned to Supplier for such Remedial Work, promptly deliver the remediated Goods to Buyer at Supplier's sole cost, expense, liability and risk. If Remedial Work can be done by Buyer, Buyer, may, at its sole option and discretion, do the Remedial Work itself and charge Supplier the cost of the Remedial Work or deduct and set-off the cost of the Remedial Work against amounts payable under the Purchase Agreement or any other purchase order, agreement or transaction with Supplier or any of its Affiliates; provided, however, that Buyer will not undertake any Remedial Work without the consent or authorization of Supplier unless (i) such Remedial Work is necessary to prevent a shutdown or work stoppage by Buyer or any of its Affiliates or any of their respective customers or to avoid the imposition of or minimize late delivery penalties or damages against Buyer or any of its Affiliates, or (ii) Supplier has failed to complete such Remedial Work to Buyer's reasonable satisfaction within thirty (30) days after being requested by Buyer.

(e) Remediated Goods and Services. All remediated Goods and Services shall be warranted by Supplier to the same extent and in the same manner as the rejected Goods or Services, and Supplier shall be subject to the same liabilities and obligations with respect to all remediated Goods and Services as it is with respect to the rejected Goods or Services. Without in any way limiting the foregoing, Section 8(a) shall apply to all remediated Goods and Services, and, if a remediated Good or Service is rejected, Sections 8(b) and (c) shall apply to the remediated Good or Service that is rejected.

(f) Supplier's Obligations. Acceptance by Buyer of any Goods or Services shall not relieve Supplier of any of its obligations or liabilities under the Purchase Agreement, including, but not limited to, its warranty obligations and its indemnification obligations.

(g) Disputes. If Supplier disputes Buyer's rejection of any Goods or Services and it is ultimately determined that the rejection was improper as to all or any part of the rejected Goods or Services, Buyer shall bear the cost of all Remedial Work in respect of the Goods or Services or part thereof that were improperly rejected and shall reimburse Supplier for the expenses it incurred in doing such Remedial Work and, if and to the extent such Remedial Work was done by Buyer and then charged to Supplier or deducted and set-off against amounts payable under the Purchase Agreement or any other purchase order, agreement or transaction with Supplier or any of its Affiliates, Supplier shall be entitled to recover from Buyer the amount so charged (if paid by Supplier to Buyer) or so deducted and set-off.

## 9. WARRANTIES.

(a) Goods. Subject to Section 9(f), Supplier warrants that:

(i) when delivered, each Good will (A) be new, (B) not be made with any used, rebuilt or refurbished material, part or component, (C) be of the grade specified in the Purchase Agreement, (D) if samples or first articles have been provided, with conform to such samples or first articles, (E) meet, satisfy and comply with all Applicable Licenses (defined in Section 13), all Applicable Laws (defined in Section 13) and all applicable industry requirements and standards, including health, safety and environmental requirements and standards, (F) be properly and correctly marked and labeled, including country of origin and manufacture, (G) not be marked or labeled as having any certification or meeting, satisfying or complying with any law, rule, regulation, requirement or standard that it does not have, meet or satisfy or with which it does not comply, and (H) unless and except to the extent provided to Buyer in advance of delivery, be accompanied by all manuals, instructions, directions, warnings, information and data necessary for its safe and proper transport, storage, handling, installation, use, operation, maintenance and repair, including all relevant material safety datasheets (MSDS), safety data sheets (SDS), and product safety data sheets (PSDS);

(ii) Supplier will convey to Buyer, and, when delivered, Buyer will have, good and marketable title to each Good free and clear of all liens, security interests, claims, charges, and encumbrances of any kind;

(iii) each Good in the form delivered will (A) be free of defects in design, materials and workmanship, (B) conform to and satisfy all specifications set forth or referenced in the Purchase Agreement and any other specifications provided, published or communicated by Supplier or any of its Affiliates in any product literature, on its website or otherwise, and (C) conform to and satisfy any applicable performance requirements set forth or referenced in the Purchase Agreement and any other performance characteristics provided, published or communicated by Supplier or any of its Affiliates in any product literature, on its website or otherwise;

(iv) if the Purchase Agreement indicates an intended use, purpose or application for a Good or Supplier or any of its Affiliates indicates on its website, in product literature or otherwise a use, purpose or application for a Good, such Good in the form delivered will be fit and appropriate for such use, purpose or application;

(v) if the Purchase Agreement indicates that a Good is to be manufactured, assembled, tested, handled or stored in compliance with a manufacturing, assembly, testing, handling or storage requirement or standard or following or using a manufacturing, assembly, testing, handling or storage method, practice, process, procedure or protocol and/or Supplier or any of its Affiliates indicates on its website, in product literature or otherwise that a Good will be manufactured, assembled, tested, handled or stored in compliance with a manufacturing, assembly, testing, handling or storage requirement or standard or following or using a manufacturing, assembly, testing, handling or storage method, practice, process, procedure or protocol, when delivered, such Good will have been manufactured, assembled, tested, handled and stored in accordance with such requirement, standard, method, practice, process, procedure or protocol;

(vi) no Good in the form delivered will (A) infringe or make unauthorized use of any patent, trademark, copyright, trade secret or other intellectual, industrial or proprietary right, (B) be counterfeit or include or make use of any counterfeit material, part or component, (C) require any license or approval under the United States International Traffic in Arms Regulations (ITAR), the United States Export Administration Regulations (EAR), or any other defense, military or commercial export licensing or approval requirement as a condition to being exported or re-exported or include or make use of any material, part, component or technology that would require any such license or approval as a condition to being exported or re-exported, or (D) include, make use of or be made from any material, part or component that would result in the imposition of antidumping duties (AD) and/or countervailing duties (CVD) in connection with the importation of such Good into the United States;

(vii) Supplier will not provide to Buyer any Good that Supplier knows or has reason to suspect contains (or includes, makes use of or was made from any material, part or component that contains) any gold, tin,



tantalum or tungsten (or derivative thereof) from any conflict mine in and around the Democratic Republic of the Congo, including mines in Angola, Burundi, Central African Republic, Congo Republic, Rwanda, Sudan, Tanzania, Uganda and Zambia (“**Conflict Mineral**”);

(viii) if the Purchase Agreement indicates that a Good is to have a certification or meet, satisfy or comply with a health, safety, environmental, country of origin or manufacture, or other law, rule, regulation, requirement or standard and/or Supplier or any of its Affiliates indicates on its website, in product literature or otherwise that a Good has a certification or will meet, satisfy or comply with a health, safety, environmental, country of origin or manufacture, or other law, rule, regulation, requirement or standard, when delivered, such Good will have such certification and meet, satisfy and comply with such health, safety, environmental, country of origin or manufacture, or other law, rule, regulation requirement or standard;

(ix) if a Good is an item for which the United States Occupational Safety and Health Administration (OSHA) requires testing and certification by a Nationally Recognized Testing Laboratory (NRTL), when delivered, such Good will have been properly tested and certified by Underwriters Laboratory, Inc. (UL) or another NRTL under the applicable safety standards; and

(x) no change will be made in or to a Good, any material, part or component used in or for a Good, the source of any material, part or component used in or for a Good, any manufacturing, assembly, testing, handling or storage equipment, method, practice, process, procedure or protocol for a Good, or the location where a Good or any material, part or component used in or for a Good is manufactured, assembled, tested, handled or stored (A) without reasonable prior written notice to Buyer and (B) if the change could affect the form, fit, function, quality or performance of a Good, change the country of origin or manufacture of a Good, or cause a Good not to fail to conform to any of the warranties made by Supplier in the Purchase Agreement, without the prior written approval of Buyer.

(b) Services. Supplier warrants that (i) it has the resources, capacity, personnel, experience, skills and ability to properly and timely perform all Services; (ii) Supplier shall properly and timely perform each Service in a professional and workmanlike manner in accordance with the Purchase Agreement, all Applicable Licenses, all Applicable Laws, and all applicable industry requirements and standards, including health, safety and environmental requirements and standards; and (iii) in performing the Services, neither Supplier nor any other Supplier Party will infringe or make unauthorized use of any patent, trademark, copyright, trade secret or other intellectual, industrial or proprietary right.

(c) Warranty Period. Subject to Section 9(e), the “**Warranty Period**” for a Good for the purpose of the warranties made in Section 9(a)(iii) shall be the greater of (i) eighteen (18) months after acceptance of such Good by Buyer in accordance with Section 8, (ii) Supplier’s standard warranty period for such Good, or (iii) if such Good is intended to be included or used as a material, part or component in a product manufactured or assembled by Buyer or one of its Affiliates, the warranty period for such product. Subject to Section 9(e), the “**Warranty Period**” for a Service for the purpose of Section 9(b)(i) and 9(b)(ii) shall be the greater of (i) eighteen (18) months after acceptance of such Service by Buyer in accordance with Section 8, or (ii) Supplier’s standard warranty period for such Service. The “**Warranty Period**” for the purpose of all other warranties made by Supplier in this Section 9 shall be unlimited and indefinite. Unless and except to the extent expressly stated otherwise in the Supply Agreement (if any), the Purchase Order or any Special Terms and Conditions, any warranty period specified in the Supply Agreement (if any), the Purchase Order or any Special Terms and Conditions shall apply only for the purpose of the warranties made in Section 9(a)(iii) and/or Section 9(b).

(d) Warranty Work. If requested by Buyer, Supplier shall promptly repair, replace or correct the nonconformity with respect to Goods that fail to conform to any of the warranties made by Supplier in the Purchase Agreement and re-perform Services that fail to conform any of the warranties made by Supplier in the Purchase Agreement or perform such additional services as are necessary to remedy any defects or deficiencies in and correct Services that fail to conform any of the warranties made by Supplier in the Purchase Agreement (“**Warranty Work**”). All Warranty Work in respect of nonconforming Goods or Services (and any freight, delivery, packing, crating, labeling, storage, insurance, taxes, customs duties, or tariffs payable in respect of nonconforming Goods or Services or Warranty Work in respect thereof) shall be at the sole cost, expense, liability and risk of Supplier.

All repaired, replaced or corrected Goods and all re-performed Services and additional services shall be warranted by Supplier to the same extent and in the same manner as the nonconforming Goods or Services, and Supplier shall be subject to the same liabilities and obligations with respect to all repaired, replaced or corrected Goods and all re-performed Services and additional services as it is with respect to the nonconforming Goods or Services. If Warranty Work can be done by Buyer, Buyer, may, at its sole option and discretion, do the Warranty Work itself and charge Supplier the cost of the Warranty Work or deduct and set-off the cost of the Warranty Work against amounts payable under the Purchase Agreement or any other purchase order, agreement or transaction with Supplier or any of its Affiliates; provided, however, that Buyer will not undertake any Warranty Work without the consent or authorization of Supplier unless (i) such Warranty Work is necessary to prevent a shutdown or work stoppage at by Buyer or any of its Affiliates or any of their respective customers or to avoid the imposition of or minimize late delivery penalties or damages against Buyer or any of its Affiliates, or (ii) Supplier fails to complete such Warranty Work to Buyer's reasonable satisfaction within thirty (30) days after being requested by Buyer. If Supplier fails to complete any Warranty Work to Buyer's reasonable satisfaction within thirty (30) days after being requested by Buyer, Buyer will have the same rights and remedies and Supplier will have the same liabilities and obligations with respect to the nonconforming Goods or Services as they have with respect to properly rejected Goods or Services under Section 8(b) or 8(c), as the case may be.

(e) Extension of Warranty Period. The Warranty Period for a Good or Service shall be extended by a period equal to the sum of all periods during the Warranty Period during which such Good or Service could not be used for the purpose for which it intended by reason of a failure or such Good or Service to conform to any of the warranties made by Supplier in the Purchase Agreement. If the same or substantially the same nonconformity is occurring during the applicable Warranty Period with respect to more than five percent (5%) of the units of the same type of Good delivered during any three (3) month period, the Warranty Period for such nonconformity shall be extended for such type of Good until twelve (12) months after the issue causing such nonconformity is fully corrected and eliminated by Supplier.

(f) Exclusions and Exceptions. The warranties made in Section 9(a) are subject to the following exclusions and exceptions:

(i) If Buyer provides the design for a Good, Supplier will have no liability or obligation under such warranties for: (A) any defect in such design; (B) the failure of such Good to meet, satisfy and comply with Applicable Permits, Applicable Laws and applicable industry requirements and standards, including health, safety and environmental requirements and standards, to the extent attributable to compliance with such design; (C) the failure of such Good to be fit and appropriate for a use, purpose or application to the extent attributable to compliance with such design; (D) any infringement or unauthorized use of any patent, copyright, trade secret or other intellectual, industrial or proprietary right to the extent attributable to compliance with such design; or (E) any requirement for any license or approval under the United States International Traffic in Arms Regulations (ITAR) or the United States Export Administration Regulations (EAR) to the extent attributable to use of or compliance with such design;

(ii) If Buyer provides a material, part or component for a Good, Supplier will have no liability or obligation under such warranties for: (A) any latent defect existing in such material, part or component when it was provided by Buyer; (B) the failure of such Good to meet, satisfy and comply with Applicable Permits, Applicable Laws and applicable industry requirements and standards, including health, safety and environmental requirements and standards to the extent attributable to use in such Good of such material, part or component in the form provided by Buyer; (C) the failure of such Good to be fit and appropriate for a use, purpose or application to the extent attributable to use in such Good of such material, part or component in the form provided by Buyer; (D) any infringement or unauthorized use of any patent, copyright, trade secret or other intellectual, industrial or proprietary right to the extent attributable to use in such Good of such material, part or component in the form provided by Buyer; (E) any requirement for any license or approval under the United States International Traffic in Arms Regulations (ITAR) or the United States Export Administration Regulations (EAR) to the extent attributable to the use in such Good of such material, part or component in the form provided by Buyer; or (F) any antidumping or countervailing duty to the extent attributable to the use in such Good of such material, part or component in the form provided by Buyer;

(iii) Supplier will have no liability or obligation under such warranties for any issue with a Good to the extent attributable to: (A) a change, alteration or modification to such Good made by anyone other than a Supplier Party, unless in accordance with directions or instructions provided by or with the authorization or approval of a Supplier Party; (B) improper installation, use, operation, repair or maintenance of such Good by anyone other than a Supplier Party, unless in accordance with directions or instructions provided by or with the authorization or approval of a Supplier Party (a direction or instruction in a manual or instruction booklet provided with or for a Good shall be deemed a direction or instruction provided by a Supplier Party); or (C) use of such Good for a purpose or application for which it is not fit or appropriate, unless the Purchase Agreement indicates such Good is intended to be used for such purpose or application or Buyer indicates on its website, in product literature, in a proposal or quotation, or otherwise that such Good may be used for such purpose or application;

(iv) Supplier will have no liability or obligation under such warranties for normal wear of a Good or a part or component thereof that is normally expected to wear during proper use and operation; and

(v) Supplier will have no liability or obligation under such warranties for any infringement or unauthorized use of any patent, copyright, trade secret or other intellectual, industrial or proprietary right to the extent attributable to the particular purpose or application for which a Good is used or the use of a Good with an item not provided by a Supplier Party, unless the Purchase Agreement indicates such Good is intended to be used for such purpose or application or with such item or Supplier or any of its Affiliates indicates on its website, in product literature or otherwise that such Good may be used for such purpose or application or with such item.

(g) No Implied Warranties. SUPPLIER MAKES NO IMPLIED WARRANTIES, AND ALL IMPLIED WARRANTIES, INCLUDING, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE DISCLAIMED.

(h) Other Warranties. Any other warranties that Supplier may make in the Purchase Agreement, in any warranty statement accompanying or provided for a Good or Service, in any manual or other documents accompanying or provided for a Good or Services, in any separate agreement, or otherwise shall be in addition to and not in lieu of the warranties made in his Section 9.

(i) Pass Throughs. To the maximum extent permissible, Supplier shall pass through and assign to Buyer any and all warranties that Supplier may receive from any of its subcontractors or suppliers with respect to any Good or Service or any aspect thereof, and, if and to the extent requested by Buyer, Supplier shall enforce on behalf and for the benefit of Buyer any and all warranties that Supplier may receive from any of its subcontractors or suppliers with respect to any Good or Service or any aspect thereof that it is unable to pass through and assign to Buyer. Buyer shall have the right to pass through and assign any and all warranties that Supplier may make with respect to any Goods or Services to subsequent purchasers and users of such Goods or Services (or products that incorporate or make use of such Goods or Services). Any warranties that Supplier may pass through and assign to Buyer shall be in addition to and not in lieu of the warranties made in his Section 9.

(j) Certification. Supplier shall, if and when requested by Buyer, provide Buyer with compliance certifications and/or other evidence satisfactory to Buyer of compliance with the warranties made in this Section 9.

(k) Quality Assurance Agreement. If Supplier or any of any of its Affiliates has entered into or is subject to a Quality Assurance Agreement with Buyer or any of its Affiliates that would apply with respect to any Good or Service, the provisions of the Purchase Agreement will be in addition to and not in lieu of or substitution for the provisions of such Quality Assurance Agreement.

## **10. CHANGES.**

Any and all changes to the Goods and/or Services and any amendments, modifications or qualifications with respect to the Purchase Agreement shall be set forth in a written change order, amendment, modification or revision to the Purchase Agreement issued to Supplier by Buyer in writing (which may include email or fax) and accepted by Supplier (a "**Change Order**").

Supplier's acceptance of a Change Order shall occur upon the earlier of: (i) Supplier commencing any work in respect of any of the changed Goods and/or Services (including any design or engineering work, ordering any materials, parts or components, or any manufacture, assembly or preparation work); (ii) Supplier shipping any of the changed Goods and/or performing any of the changed Services; or (iii) Supplier acknowledging or confirming its acceptance of the Change Order to Buyer in writing (which may include email or fax).

## 11. TERMINATION AND SUSPENSION.

(a) Termination or Suspension for Cause. If Supplier breaches the Purchase Agreement, Buyer may, at its option, provide notice to Supplier specifying the breach and requiring Supplier to remedy the same ("**Default Notice**"). If Supplier does not commence remedying the breach within five (5) days following receipt of the Default Notice (or such longer period as may be agreed to by Buyer in writing at its sole option and discretion) and fully remedy the breach within fifteen (15) days following receipt of the Default Notice (or such longer period as may be agreed to by Buyer in writing at its sole option and discretion), then Buyer may, at its option, by providing notice thereof to Supplier, terminate or suspend the Purchase Order as to all or any part of the Goods and/or the Services ordered that have not been accepted ("**Cause Notice**"). The Purchase Order shall terminate or be suspended to the extent set forth in the Cause Notice, and, unless and except to the extent specified otherwise in the Cause Notice, Supplier shall stop all work on and cease delivery of the Goods and cease performance of the Services as to which the Purchase Order is terminated or suspended and shall cause its suppliers or subcontractors who are involved in the provision of such terminated or suspended Goods and/or Services to promptly cease all work in relation thereto. Except with respect to the Goods and/or Services as to which the Purchase Order is terminated or suspended, the Purchase Agreement will remain in full force and effect in accordance with its terms. Buyer may, at any time at its option, by providing notice thereof to Supplier, subsequently terminate the Purchase Order as to all or any part of the Goods and/or Services as to which the Purchase Order is suspended or revoke the suspension as to all or any part of such the Goods and/or Services as to which the Purchase Order is suspended. If Buyer revokes the suspension of the Purchase Order, then, except to the extent the Parties may mutually agree otherwise: (i) Supplier shall promptly resume performance of the Purchase Order with respect to the Goods and/or Services as to which the suspension is revoked, and (ii) the Delivery Schedule and/or Performance Schedule, as the case may be, for the Goods and/or Services as to which the suspension is revoked shall be extended by a period equal to the period of suspension. Buyer shall have no liability or obligation with respect to any Goods and/or Services as to which the Purchase Order is terminated or suspended.

(b) Termination for Force Majeure. If an Event of Force Majeure prevents Supplier from delivering Goods for more than thirty (30) days beyond the scheduled delivery date or performing Services for more than thirty (30) days beyond the scheduled performance date, Buyer may, at its option, by providing notice to Supplier, terminate the Purchase Order as to all or any part of the Goods that have not been delivered and/or the Services that have not been performed ("**Force Majeure Notice**"). The Purchase Order shall terminate to the extent set forth in the Force Majeure Notice, and Supplier shall stop all work on and cease delivery of the Goods and cease performance of the Services as to which the Purchase Order is terminated for an Event of Force Majeure and shall cause its suppliers or subcontractors who are involved in the provision of such terminated Goods and/or Services to promptly cease all work in relation thereto. Except with respect to the Goods and/or Services as to which the Purchase Order is terminated for an Event of Force Majeure, the Purchase Agreement will remain in full force and effect in accordance with its terms. Buyer shall have no liability or obligation with respect to any Goods and/or Services as to which the Purchase Order is terminated.

(c) Termination or Suspension for Convenience. Buyer may, at any time at its option, by providing notice thereof to Supplier, terminate or suspend the Purchase Order for convenience as to all or any part of the Goods that have not been delivered and/or the Services that have not been performed ("**Convenience Notice**"). The Purchase Order shall terminate or be suspended to the extent set forth in the Convenience Notice, and, unless and except to the extent specified otherwise in the Convenience Notice, Supplier shall stop all work on and cease delivery of the Goods and cease performance of the Services as to which the Purchase Order is terminated or suspended and shall cause its suppliers or subcontractors who or involved in the provision of such Goods and/or Services to promptly cease all work in relation thereto. Except with respect to the Goods and/or Services as to which the Purchase Order is terminated or suspended, the Purchase Agreement will remain in full force and effect in

accordance with its terms. Buyer may, at any time at its option, by providing notice thereof to Supplier, subsequently terminate the Purchase Order as to all or any part of the Goods and/or Services as to which the Purchase Order is suspended or revoke the suspension as to all or any part of the Goods and/or Services as to which the Purchase Order is suspended for convenience. If Buyer revokes the suspension of the Purchase Order, then, except to the extent the Parties may mutually agree otherwise: (i) Supplier shall promptly resume performance of the Purchase Order with respect to the Goods and/or Services as to which the suspension is revoked, and (ii) the Delivery Schedule and/or Performance Schedule, as the case may be, for the Goods and/or Services as to which the suspension is revoked shall be extended by a period equal to the period of suspension.

With respect to the Goods and/or Services as to which the Purchase Order is terminated by Buyer for convenience, the Parties shall have the following liabilities and obligations:

(i) Supplier shall take all commercially reasonable actions and do all commercially reasonable things to mitigate and minimize Buyer's liabilities and obligations in connection with the termination, including, but only if and to the extent authorized in writing by Buyer: (A) selling to third parties completed Goods as to which the Purchase Order is terminated; (B) selling or completing and selling to third parties Goods in process as to which the Purchase Order is terminated; and (C) selling, returning for credit, cancelling orders for, or using for other purposes materials, parts and components purchased or ordered for Goods as to which the Purchase Order is terminated; and

(ii) After Supplier has taken all commercially reasonable actions and done all commercially reasonable things to mitigate and minimize Buyer's liabilities and obligations in connection with the termination, Buyer shall reimburse Supplier for its unrecovered costs in respect of the Goods and/or Services as to which the Purchase Order is terminated; provided, however, that (A) Buyer shall have no liability for anticipated profits that are not realized; (B) Buyer's liability shall not exceed the total price for the Goods and/or Services as to which the Purchase Order is terminated; and (C) Buyer shall have no liability for completed Goods that Supplier manufactures or assembles or materials, parts or components that Supplier purchases or commits to purchase at times in advance or in quantities in excess of the times and quantities reasonably required to enable Supplier to deliver Goods in accordance with the Delivery Schedule.

With respect to the Goods and/or Services as to which the Purchase Order is suspended by Buyer for convenience, the Parties shall have the following liabilities and obligations:

(i) Buyer shall have no liability or obligation with respect to any Goods and/or Services as to which the Purchase Order is suspended for convenience unless the period of suspension exceeds thirty (30) days;

(ii) If the period of suspension exceeds thirty (30) days, Buyer shall reimburse Supplier for its commercially reasonable incremental costs that result from the suspension; provided, however, that (A) Buyer shall have no liability for anticipated profits that are not realized, and (B) Buyer's liability shall not exceed the total price for the Goods and/or Services as to which the Purchase Order is suspended; and

(iii) If the period of suspension exceeds ninety (90) days, Supplier may treat the suspension as a termination for convenience, in which event, the Parties will have the same liabilities and obligations they would have if the Purchase Order had been terminated for convenience with respect to the Goods and/or Services as to which the Purchase Order is suspended for convenience.

If the Purchase Order is suspended for convenience and, after the Purchase Order is suspended for convenience, an event or circumstance should occur or arise that would permit Buyer to suspend the Purchase Order for cause under Section 11(a), then, from and after the date such event or circumstance occurs or arises, such suspension shall be treated as a suspension for cause under Section 11(a); and, if the Purchase Order is suspended for convenience and, after the Purchase Order is suspended for convenience, an event or circumstance should occur or arise that would permit Buyer to terminate the Purchase Order for cause under Section 11(a) or for an Event of Force Majeure under Section 11(b), then, any subsequent termination of the Purchase Order shall be treated as a termination for cause under Section 11(a) or a termination for an Event of Force Majeure under Section 11(b), as the case may be.

(d) Effect on Other Goods and Services. The termination or suspension of the Purchase Order, whether for cause, for an Event of Force Majeure or for convenience, shall not affect the rights, liabilities and obligations of the Parties with respect to any breach of the Purchase Agreement prior to the termination or suspension or any Goods or Services ordered as to which the Purchase Order is not terminated or suspended, and all of the provisions of the Purchase Agreement shall continue to apply with respect to all Goods and Services ordered as to which the Purchase Order is not terminated or suspended.

(e) Provisions Surviving Expiration or Termination. The provisions of Sections 1, 2, 3, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33 and 34 shall continue in full force and effect following any termination or suspension of the Purchase Order, whether for cause or for convenience and whether respect to all or only a part of the Goods and/or Services ordered.

## **12. TIME OF THE ESSENCE.**

Time is of the essence in all matters related to the Purchase Agreement.

## **13. COMPLIANCE.**

(a) Licenses and Laws. Supplier and all other Supplier Parties shall: (i) obtain, maintain in good standing and comply with all licenses, registrations, permits, approvals, authorizations and consents necessary to provide the Goods and Services and otherwise perform and carry out any aspect of the Purchase Agreement, including, but not limited to, memberships in professional associations and work permits and visas ("**Applicable Licenses**"); (ii) comply with any and all laws, codes, statutes, ordinances, rules, regulations, orders and directives of any court or governmental, regulatory or administrative body, agency, board or authority that has jurisdiction, authority or oversight over the Supplier, any of the other Supplier Parties, any of the Goods, any of the Services, and/or any other aspect of the Purchase Agreement ("**Applicable Laws**"); and (iii) satisfy any and all other similar requirements for performing and carrying out the Purchase Agreement, including, but not limited to, any pre-qualification requirements of which Buyer has advised Supplier prior to issuance of the Purchase Order.

(b) Conflict Minerals. As a public company, IDEX Corporation is required to comply with Section 1502 of the United States Dodd-Frank Wall Street Reform and Consumer Protection Act, and, among other things, such act requires that IDEX Corporation make certain disclosures related to the use of Conflict Minerals in filings it makes with the United States Securities and Exchange Commission. Supplier will source and track the chain of custody of all Conflict Minerals that may be contained in any Goods in accordance with the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas or such other internationally recognized due diligence standard as IDEX Corporation may approve. Supplier shall, if and whenever requested by Buyer or IDEX Corporation, provide IDEX Corporation with a declaration in the form of the EICC-GESI Conflict Minerals Reporting Template as adopted by EICC-GESI with respect to all Goods and any and all such other information and data related to the use of Conflict Minerals in Goods that Supplier may reasonably request. Supplier will not provide to Buyer a Good that Supplier knows or has reason to suspect contains or includes or makes use of a material, part or component that that contains a Conflict Mineral. If Buyer believes that a Good contains (or includes, makes use of or was made from a material, part or component that that contains) a Conflict Mineral: (i) Buyer may, at its option, by providing notice thereof to Supplier, suspend the Purchase Order as to such Good until Supplier is able to confirm to the reasonable satisfaction of Buyer whether or not such Good contains any Conflict Mineral; and (ii) if it is determined that such Good contains any Conflict Mineral or if Supplier is not able to confirm to the reasonable satisfaction of Buyer whether or not such Good contains any Conflict Mineral within 90 days after being requested to do so by Buyer, Buyer may, at its option, by providing notice thereof to Supplier, terminate the Purchase Order as to such Good. Buyer shall have no liability or obligation with respect to any Goods as to which the Purchase Order is terminated or suspended pursuant to this Section 13(b).

(c) Equal Employment Opportunity Clause. Supplier and its covered subcontractors shall abide by the Equal Employment Opportunity Clause in Section 202 of Executive Order 11246, as amended, and the implementing rules and regulation of the Office of Federal Contract Compliance including the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals on the

basis of protected veteran status or disability, prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity or national origin, protected veteran status or disability. Likewise, when applicable, Supplier and its covered subcontractors agree to comply with the provisions of 29 CFR Part 471, Appendix A to Subpart A.

(d) ECCN and Schedule B Nos. Supplier shall, if and when requested by Buyer, provide Buyer with: (i) the appropriate ECCN numbers appearing in the Export Administration Regulations administered by the U.S. Department of Commerce for a Good, and (ii) the appropriate commodity numbers appearing in the current edition of the Bureau of the Census publication, Schedule B, Statistical Classification of Domestic and Foreign Commodities Exported from the United States (Schedule B numbers) for a Good.

(e) No Exclusion, Debarment, etc. Supplier warrants that neither Supplier nor any other Supplier Party has ever been or is currently excluded, debarred, suspended or otherwise declared ineligible by any governmental, regulatory or administrative body, agency, board or authority from providing any good and/or supplying any service of the type included in the Goods and/or Services ordered or is the subject of an investigation, action or proceeding that could lead to such party being excluded, debarred, suspended or otherwise declared ineligible by any governmental, regulatory or administrative body, agency, board or authority from providing any good and/or supplying any service of the type included in the Goods and/or Services ordered. Supplier will promptly notify Buyer if and whenever Supplier or any other Supplier Party should be excluded, debarred, suspended or otherwise declared ineligible by any governmental, regulatory or administrative body, agency, board or authority from providing any good and/or supplying any service of the type included in the Goods and/or Services ordered or become the subject of an investigation, action or proceeding that could lead to such party being excluded, debarred, suspended or otherwise declared ineligible by any governmental, regulatory or administrative body, agency, board or authority from providing any good and/or supplying any service of the type included in the Goods and/or Services ordered. If Buyer believes that Supplier or any other Supplier Party is or is about to be excluded, debarred, suspended or otherwise declared ineligible by any governmental, regulatory or administrative body, agency, board or authority from providing any ordered Good and/or performing any ordered Service: (i) Buyer may, at its option, by providing notice thereof to Supplier, suspend the Purchase Order as to such Good and/or Service until Supplier is able to confirm to the reasonable satisfaction of Buyer whether or not Supplier or any other Supplier Party is or is about to be excluded, debarred, suspended or otherwise declared ineligible; and (ii) if it is determined that Supplier or any other Supplier Party is or is about to be excluded, debarred, suspended or otherwise declared ineligible or if Supplier is able to confirm to the reasonable satisfaction of Buyer whether or not Supplier or any other Supplier Party is or is about to be excluded, debarred, suspended or otherwise declared ineligible within 90 days after being requested to do so by Buyer, Buyer may, at its option, by providing notice thereof to Supplier, terminate the Purchase Order as to such Good and/or Service. Buyer shall have no liability or obligation with respect to any Goods and/or Services as to which the Purchase Order is terminated or suspended pursuant to this Section 13(d).

(f) Certification. Supplier and each other Supplier Party shall, if and when requested by Buyer, provide Buyer with a compliance certification and/or other evidence of compliance with this Section 13.

#### **14. SITE WORK.**

If the provision of any Goods and/or Services and/or the performance or carrying out of any aspect of the Purchase Agreement results in Supplier or any other Supplier Party entering upon or performing work at any site or premises owned, leased, occupied or controlled by Buyer or any of its Affiliates ("**Site Work**"), the following provisions shall apply in addition to all other provisions of the Purchase Agreement:

(a) Condition. All Site Work shall be confined to the specific areas designated by Buyer for such Site Work. Supplier shall ensure that the areas where any Site Work is being performed are at all times kept tidy and clean and free from waste and debris attributable to such Site Work, and, upon completion or termination of any Site Work, Supplier shall promptly remove any and all remaining waste and debris attributable to such Site Work and leave the area where such Site Work was being performed in a tidy and clean condition. Supplier shall ensure that (i) no Supplier Party brings any gun or other weapon, illegal drug or alcoholic beverage to the site or

premises where any Site Work is being performed; (ii) no Supplier Party who is involved in the performance of any Site Work is inebriated, under the influence of illegal drugs, or taking any other drug or medication or otherwise suffering or under a condition that could impair the judgment or actions of such Supplier Party or endanger the health or safety of such Supplier Party or any other person at the site or premises where such Site Work is being performed; and (iii) all Supplier Parties who are involved in the performance of any Site Work are legally in the country where the Site Work is being performed and have any and all documentation, work permits and visas necessary for them to perform such Site Work.

(b) Injury or Death. Supplier shall be solely responsible and liable for (i) the health, safety and protection of all Supplier Parties in connection with Site Work, (ii) any injury to or death of any Supplier Party in connection with Site Work, whether or not directly or indirectly attributable to any act, error or omission of such Supplier Party or another Supplier Party, and (iii) any injury to or death of any other person at the site or premises where Site Work is being performed that is directly or indirectly attributable to any act, error or omission of any Supplier Party.

(c) Damage. Supplier shall be solely responsible and liable for any damage to the site or premises where Site Work is being performed or to any property located thereon or in the vicinity thereof that is directly or indirectly attributable to any act, error or omission of any Supplier Party, and Supplier shall at its sole cost, expense, liability and risk repair fully and promptly all damage to the site or premises where Site Work is being performed and repair or replace all damaged property located thereon or in the vicinity thereof to the extent such damage is directly or indirectly attributable to any act, error or omission of any Supplier Party, all in accordance with Applicable Permits and Applicable Laws and to the reasonable satisfaction of Buyer.

(d) Contamination. Supplier shall be solely responsible and liable for any contamination at or in the vicinity the site or premises where Site Work is being performed that is directly or indirectly attributable to any act, error or omission of any Supplier Party, and Supplier shall fully and promptly at its sole cost, expense, liability and risk remedy all contamination at or in the vicinity of the site or premises where Site Work is being performed to the extent such contamination is directly or indirectly attributable to any act, error or omission of any Supplier Party, all in accordance with all Applicable Permits and Applicable Laws and to the reasonable satisfaction of Buyer.

(e) Toxic and Hazardous Materials. No toxic or hazardous materials of any kind may be brought onto or used at the site or premises where any Site Work is being performed unless Supplier has first supplied Buyer with Material Safety Data Sheets in respect of such toxic or hazardous materials and obtained its written approval for such toxic or hazardous materials to be brought onto and used at such site or premises. Whether or not brought onto or used at the site or premises where Site Work is being performed Supplier with the approval by Buyer: (i) Supplier shall ensure that all Supplier Parties involved in the performance of such Site Work are properly educated and trained and comply with Applicable Permits and Applicable Laws, including, but not limited to, all Applicable Permits and Applicable Laws relating to the generation, storage, handling, transportation, release, abatement or disposal of such toxic and hazardous materials, and all site, security and other requirements of Buyer; and (ii) Supplier shall at its sole cost, expense, liability and risk dispose of all toxic and hazardous materials brought onto or used at such site or premises by any Supplier Party, all in accordance with Applicable Permits and Applicable Laws and to the reasonable satisfaction of Buyer.

(f) Labor and Collective Bargaining Agreements. If Buyer advises Supplier of any labor or collective bargaining agreements which may pertain to or affect the Site Work, the Site Work shall be performed in a manner consistent with the requirements of such labor or collective bargaining agreements.

(g) Cooperation. Supplier Parties shall cooperate with Buyer and its Affiliates and other persons who are involved in work or activities at the site or premises where any Site Work is being performed to minimize any conflict, hindrance, interference, delay or disruption of Buyer's and its Affiliate's operations and other work and activities being carried out at such site or premises.

(h) Site Work Agreement. If requested by Buyer in connection with any Site Work, Supplier shall enter into a Site Work Agreement on the standard form of Site Work Agreement used by IDEX Corporation and its Units located in the United States. If Supplier has entered into a Site Work Agreement, the provisions of the Purchase Agreement will be in addition to and not in lieu of or substitution for the provisions of such Site Work Agreement in connection any Site Work under the Purchase Agreement



(i) Liens. Supplier shall keep the site or premises where Site Work is being performed and all property located thereon free and clear of all liens or claims arising from the performance of the Site Work.

## **15. DESIGNS, ETC.**

(a) Ownership. Any and all designs, drawings, schematics, plans, specifications, photographs, information and data which are furnished or provided by or through Buyer in connection with the Purchase Agreement are and shall remain the sole property of Buyer, and any and all designs, drawings, schematics, plans, specifications, photographs, information and data, including, but not limited to technical and testing reports, which are produced, written, prepared, developed or created by Supplier or another Supplier Party and furnished or provided (or required to be furnished or provided) to Buyer in connection with the Purchase Agreement shall be deemed to be works made for hire and, when produced, written, prepared, developed or created, all copyright and other right, title and interest therein and thereto shall vest in and be assigned and transferred to Buyer and the same shall thereafter be the sole property of Buyer; provided, however, that to the extent any pre-existing design, drawing, schematic, plan, specification, photograph, information or data or pre-existing patent, copyright, trade secret or other intellectual, industrial or proprietary right of Supplier or another Supplier Party is incorporated in or used by Supplier or such other Supplier Party to produce, write, prepare, develop or create any such design, drawing, schematic, plan, specification, photograph, information or data which is furnished or provided (or required to be furnished or provided) to Buyer in connection with the Purchase Agreement, Supplier or such other Supplier Party shall retain ownership thereof, but Buyer and its Affiliates shall have and be granted an irrevocable, perpetual, non-exclusive, fully paid, royalty-free, world-wide license (with right of sublicense) to use, distribute, sell, resell, reproduce, support and modify such design, drawing, schematic, plan, specification, photograph, information or data as and to the extent Buyer or any of its Affiliates may in their sole discretion determine to be necessary, desirable or appropriate in connection with any Goods or Services or to exercise any rights, enforce any liabilities and obligations or otherwise carry out the Purchase Agreement.

(b) Protection and Use. All designs, drawings, schematics, plans, specifications, photographs, information and data which are the property of Buyer under the provisions of Section 15(a) shall (i) be treated by each Supplier Party as confidential and proprietary with respect to Buyer, (ii) be protected by each Supplier Party against unauthorized disclosure or use with the same level and degree of care and security that they use to protect its own comparable designs, drawings, information and data designs, drawings, schematics, plans, specifications, photographs, information and data, but not less than a reasonable level and degree of care and security, (iii) not be disclosed or made available by any Supplier Party to any person or entity other than (A) another Supplier Party who has a need to know or have the use of the same in order to provide Goods or Services to Buyer or otherwise perform and carry out the Purchase Agreement and is obligated and required to treat the same as confidential and proprietary with respect to Buyer, protect the same against unauthorized disclosure and use, and otherwise deal with the same in accordance with the provisions of the Purchase Agreement, or (B) a person or entity other than a Supplier Party to whom the same is required to be disclosed under any Applicable Permit or Applicable Law, provided that, to the extent feasible and practical and legally permitted, such other person is obligated and required to treat the same as confidential and proprietary with respect to Buyer, protect the same against unauthorized disclosure and use, and otherwise deal with the same in accordance with the provisions of the Purchase Agreement; (iv) not be used by any Supplier Party for any purpose other than providing Goods and Services to Buyer or otherwise performing and carrying out the Purchase Agreement, and (v) if requested by Buyer, be promptly turned over and delivered to Buyer or destroyed; provided that a Supplier Party may retain copies thereof to the extent retention thereof is required for it to comply with an Applicable Permit or Applicable Law or is required for it to exercise rights or perform liabilities and obligations in connection with the Purchase Agreement; provided further, that all such retained copies shall remain subject to the provisions of clauses (i) through (iv) above.

(c) Injunctive and Other Equitable Relief. Any failure to comply with the provisions of this Section 15 would cause Buyer irreparable injury for which it could not be adequately compensated through an award of damages, and Buyer shall be entitled to seek and obtain injunctive and other equitable relief to enforce and require performance with this Section 15 in the event of any actual or threatened breach thereof.

(d) Development, Confidentiality or Non-Disclosure Agreement. If Supplier or any of any of its Affiliates has entered into or is subject to a Development, Confidentiality or Non-Disclosure Agreement with the Buyer or any of its Affiliates that would apply in connection with the Purchase Agreement, the provisions of the Purchase Agreement will be in addition to and not in lieu of or substitution for the provisions of such Development, Confidentiality or Non-Disclosure Agreement.

## **16. TOOLING, ETC.**

(a) Ownership. Any and all tooling, tools, dies, molds, gages, devices and equipment which are furnished or provided by or through Buyer in connection with the Purchase Agreement are and shall remain the sole property of Buyer, and any and all tooling, tools, dies, molds, gages, devices and equipment which are produced, purchased, developed or created by Supplier or another Supplier Party but the cost of which is paid or reimbursed by Buyer in connection with the Purchase Agreement shall be and become the sole property of Buyer.

(b) Protection and Use. All tooling, tools, dies, molds, gages, devices and equipment which are the property of Buyer under the provisions of Section 16(a) shall (i) be protected by each Supplier Party against loss, damage and unauthorized use with the same level and degree of care and security that it uses to protect its own comparable tooling, tools, dies, molds, gages, devices and equipment, but not less than a reasonable level and degree of care and security, (ii) not be made available by any Supplier Party to any person or entity other than another Supplier Party who has a need to have use of the same in order to provide Goods or Services to Buyer or otherwise perform and carry out the Purchase Agreement and is obligated and required to protect the same against loss, damage and unauthorized and otherwise deal with the same in accordance with the provisions of the Purchase Agreement, (iii) not be used by any Supplier Party for any purpose other than providing Goods and Services to Buyer or otherwise performing and carrying out the Purchase Agreement, and (iv) if requested by Buyer, be promptly turned over and delivered to Buyer.

(c) Liens. Supplier shall keep all tooling, tools, dies, molds, gages, devices and equipment which are the property of Buyer under the provisions of Section 16(a) free and clear of all liens or claims arising from performance of the Site Work.

(d) Injunctive and Other Equitable Relief. Any failure to comply with the provisions of this Section 16 would cause Buyer irreparable injury for which it could not be adequately compensated through an award of damages, and Buyer shall be entitled to seek and obtain injunctive and other equitable relief to enforce and require performance with this Section 16 in the event of any actual or threatened breach thereof.

(e) Tooling Agreements. If requested by Buyer, Supplier and other Supplier Parties who may possess or be using tooling, tools, dies, molds, gages, devices and equipment which are the property of Buyer under the provisions of Section 16(a) shall enter into a Tooling Loan Agreement on the standard form of Tooling Loan Agreement used by IDEX Corporation and its Units located in the United States. If Supplier or another Supplier Party has entered into a Tooling Loan Agreement that would apply in connection with the Purchase Agreement, the provisions of the Purchase Agreement will be in addition to and not in lieu of or substitution for the provisions of such Tooling Loan Agreement.

## **17. INTELLECTUAL PROPERTY**

(a) License. To the extent any Good or Service incorporates or makes use of any patent, copyright, trade secret or other intellectual, industrial or proprietary right of Supplier or another Supplier Party, Buyer, each of its Affiliates, each of its and their respective customers, and each other user, distributor, seller or reseller of such Good or Service shall have and be granted an irrevocable, perpetual, non-exclusive, fully paid, royalty-free, world-wide right and license (with right of sublicense) under such patent, copyright, trade secret or other intellectual, industrial or proprietary right to use, distribute, sell, resell, reproduce, support and modify such Good or Service as and to the extent Buyer, any of its Affiliates, any of its or their respective customers, or any other user, distributor, seller or reseller of such Good or Service may in its sole discretion determine to be necessary, desirable or appropriate.

(b) Firmware or Other Software. To the extent any Good or Service is provided with or contains or incorporates any firmware or other software, Buyer, each of its Affiliates, each of its and their respective customers, and each other user, distributor, seller or reseller of such Good or Service shall (i) be provided with all user documentation for such firmware or other software at no additional charge, (ii) be provided with all fixes, updates, upgrades and revisions to such firmware or other software and user documentation at no additional charge, and (iii) have and be granted an irrevocable, perpetual, non-exclusive, fully paid, royalty-free, world-wide right and license (with right of sublicense) to use, distribute, sell, resell, reproduce, support and modify such firmware or other software and user documentation (including fixes, updates, upgrades and revisions thereto) as and to the extent Buyer, any of its Affiliates, any of its or their respective customers, or any other user, distributor, seller or reseller of such Good or Service may in its sole discretion determine to be necessary, desirable or appropriate in connection with the use, distribution, sale or resale of such Good or Service.

(c) License Agreement. If either Party or any of any of its Affiliates has entered into or is subject to a License Agreement with the other Party or any of its Affiliates that would apply in connection with any Goods or Services, the provisions of the Purchase Agreement will be in addition to and not in lieu of or substitution for the provisions of such License Agreement with respect to such Goods or Services, except that, in the case of license or usage terms and conditions (including, but not limited to, "click-wrap", "click-through", "browse-wrap" or "shrink-wrap" license or usage terms and conditions") that are required to be "accepted" in order to access or use firmware or other software provided with or contained or incorporated in any Good or Service, the provisions of the Purchase Agreement shall control over and be in lieu of and substitution for such license or usage terms and conditions even though they may be "accepted" in order to access or use such firmware or other software.

## **18. AVAILABILITY OF GOODS, PARTS AND COMPONENTS**

Supplier shall give Buyer notice of any actual, planned or anticipated suspension or discontinuance of production or supply of any Good or any material, part or component required for any Good promptly after obtaining knowledge thereof; provided, however, that providing such notice shall not affect any obligation that Supplier has to provide Goods (or make available repair and replacement parts and components therefor) and/or perform Services under the Purchase Agreement and/or relieve, release or diminish any liability Supplier may have if it fails to provide any Goods (or make available repair and replacement parts and components therefor) and/or perform any Services that it is required to provide (or make available) or perform under the provisions of the Purchase Agreement

Supplier will make available (or arrange for a third party to make available) for purchase by Buyer at commercially reasonable prices and on commercially reasonable terms and conditions repair and replacement parts and components for each Good for the useful life of such Good.

## **19. INDEPENDENT CONTRACTOR.**

(a) Relationship. The relationship of Supplier to Buyer shall be that of an independent contractor and not that of an employee, partner, joint venturer, fiduciary, agent or representative.

(b) Obligations. Supplier is not authorized to and shall not enter into any contract, make any agreement, commitment or undertaking or incur any liability in the name or on behalf of Buyer or otherwise purport to bind or obligate Buyer in any way or manner, and no employee-related benefits of any kind shall be receivable by any Supplier Party from Buyer in connection with the provision of any Goods or Services to Buyer or otherwise in connection with the Purchase Agreement. Supplier is solely responsible and liable for all aspects of its contractual and other relationships with Supplier Parties, including, but not limited to, salaries, bonuses, overtime, fees, cost reimbursements, contributions for unemployment insurance, workers' compensation, pension and retirement benefits, employee income tax, FICA and Medicare deductions, and insurance premiums, and any and all other compensation, benefits, withholdings, contributions, taxes, and compliance with immigration and citizenship requirements.

(c) Subcontracting. Supplier shall not subcontract or otherwise assign or transfer any of the work it is to carry out or any of the liabilities or obligations it is to perform under the Purchase Agreement without the prior written consent of Buyer. Supplier shall obtain from each subcontractor and other person or entity to whom any such

work, liabilities or obligations are to be subcontracted or otherwise assigned or transferred a written agreement to be bound by, subject to and comply with the provisions of the Purchase Agreement in respect of such work, liabilities and obligations. No subcontracting, assignment or transfer by Supplier shall relieve or release Supplier from or diminish in any way Supplier's responsibility for any of its liabilities or obligations under the Purchase Agreement, and Supplier shall remain primarily responsible and liable for the full, complete, timely and proper performance, satisfaction and discharge of all work, liabilities and obligations that are subcontracted or otherwise assigned or transferred.

## **20. INFRINGEMENT.**

(a) Indemnification. Supplier shall indemnify and hold harmless Buyer, its Affiliates, and subsequent purchasers and users of Goods and Services (or products that incorporate or make use of Goods or Services) from and against any and all damage awards, judgments, settlements, indemnification payments, costs and expenses suffered or incurred in connection with any claim that any Good or the manufacture or use thereof or any Service or the performance or use thereof infringes or makes unauthorized use of any patent, trademark, copyright, trade secret or other intellectual, industrial or proprietary right, including, but not limited to, attorneys' fees, experts' fees and other costs and expenses incurred in connection with the investigation, defense or settlement of such claim or any action, lawsuit, proceeding or demand related thereto; provided, however, that (i) if Buyer provides the design for a Good, Supplier will have no liability or obligation for any infringement or unauthorized use of any patent, copyright, trade secret or other intellectual, industrial or proprietary right to the extent attributable to compliance with such design; (ii) if Buyer provides a material, part or component for a Good, Supplier will have no liability or obligation for any infringement or unauthorized use of any patent, copyright, trade secret or other intellectual, industrial or proprietary right to the extent attributable to use in such Good of such material, part or component in the form provided by Buyer; and (iii) Supplier will have no liability or obligation for any infringement or unauthorized use of any patent, copyright, trade secret or other intellectual, industrial or proprietary right to the extent attributable to: (A) a change, alteration or modification to a Good made by anyone other than a Supplier Party, unless in accordance with directions or instructions provided by or with the authorization or approval of a Supplier Party; or (B) the particular purpose or application for which a Good is used or the use of a Good with an item not provided by a Supplier Party, unless the Purchase Agreement indicates such Good is intended to be used for such purpose or application or with such item or Supplier or one of its Affiliates indicates on its website, in product literature or otherwise that such Good may be used for such purpose or application or with such item.

(b) Other Actions. If in connection with a claim for which Supplier is obligated to provide indemnification under Section 20(a), a Good or Service or its use is held (or, in Buyer's reasonable opinion, is likely to be held) to infringe or make unauthorized use of any patent, trademark, copyright, trade secret or other intellectual, industrial or proprietary right, or the use of a Good or Service is enjoined on the basis that it infringes or makes unauthorized use of any patent, trademark, copyright, trade secret or other intellectual, industrial or proprietary right, then, in addition to its indemnification obligation, at the request of Buyer, Supplier shall, at its sole cost, expense, liability and risk:

(i) procure for Buyer, its Affiliates, and subsequent purchasers and users of Goods and Services (or products that incorporate or make use of Goods or Services) the perpetual right to use such Good or Service without infringing or making unauthorized use of any patent, trademark, copyright, trade secret or other intellectual, industrial or proprietary right;

(ii) replace such Good or Service with a substitute Good or Service reasonably acceptable to Buyer that does not infringe or make unauthorized use of any patent, trademark, copyright, trade secret or other intellectual, industrial or proprietary right;

(iii) modify such Good or Service in a manner reasonably acceptable to Buyer so that it does not infringe or make unauthorized use of any patent, trademark, copyright, trade secret or other intellectual, industrial or proprietary right; or

(iv) if none of the actions described in clause (i), (ii) or (iii) is feasible or practical or Supplier fails to take an action described in clause (i), (ii) or (iii) within thirty (30) days after being requested by Buyer, Buyer will have the same rights and remedies and Supplier will have the same liabilities and obligations with

respect to the such Good or Service as they have with respect to properly rejected Goods or Services under Section 8(b) or 8(c), as the case may be.

## 21. OTHER INDEMNIFICATION

Subject to Section 22:

(a) Supplier Indemnification. Supplier be liable for and indemnify and hold harmless Buyer and its Affiliates from and against any and all Losses (defined in Section 21(c)) which they, or any of them, may suffer, sustain, become subject to, pay or incur to the extent the same arise out of or in connection with or are attributable to (i) any breach of the Purchase Agreement by Supplier or another Supplier Party or resulting from any act, error or omission (whether or not negligent) on the part of Supplier or another Supplier Party, (ii) any negligent act, error or omission, willful or intentional misconduct, or noncompliance with any Applicable License or Applicable Law on the part of Supplier or another Supplier Party in connection with any Good or Service or the Purchase Agreement, or (iii) any claim, action, lawsuit, proceeding or demand any third party may assert against Buyer or any of its Affiliates that arises out of or in connection with or is attributable to any matter referred to in clause (i) or (ii) above; provided, however, that Supplier shall have no liability or obligation for Losses to the extent the same arise out of or in connection with or are attributable to any (A) any breach of the Purchase Agreement by Buyer or resulting from any act, error or omission (whether or not negligent) on the part of Buyer or any of its Affiliates, or (B) any negligent act, error or omission, willful or intentional misconduct, or noncompliance with any Applicable License or Applicable Law on the part of Buyer or any of its Affiliates in connection with a Good or Service or the Purchase Agreement.

(b) Buyer Indemnification. Buyer be liable for and indemnify and hold harmless Supplier and its Affiliates from and against any and all Losses which they, or any of them, may suffer, sustain, become subject to, pay or incur to the extent the same arise out of or in connection with or are attributable to (i) any breach of the Purchase Agreement by Buyer or resulting from any act, error or omission (whether or not negligent) on the part of Buyer or any of its Affiliates, (ii) any negligent act, error or omission, willful or intentional misconduct, or noncompliance with any Applicable License or Applicable Law on the part of Buyer or any of its Affiliates in connection with a Good or Service or the Purchase Agreement, or (iii) any claim, action, lawsuit, proceeding or demand any third party may assert against Supplier or any of its Affiliates that arises out of or in connection with or is attributable to an matter referred to in clause (i) or (ii) above; provided, however, that Buyer shall have no liability or obligation for Losses to the extent the same arise out of or in connection with or are attributable to (A) any breach of the Purchase Agreement by Supplier or another Supplier Party or resulting from any act, error or omission (whether or not negligent) on the part of Supplier or another Supplier Party, or (B) any negligent act, error or omission, willful or intentional misconduct, or noncompliance with any Applicable License or Applicable Law on the part of Supplier or another Supplier Party in connection with any Good or Service or the Purchase Agreement.

(c) Losses. “Losses” include losses, liabilities, damages, damage awards, judgments, settlements, indemnification payments, charges, fines, penalties, taxes, duties, costs and expenses of any kind, including, but not limited to, attorneys’ fees’, experts fees and other legal costs and expenses in connection with investigating, defending and settling claims and, actions, lawsuits, proceedings and demands related thereto.

## 22. LIMITATION OF LIABILITY.

Supplier shall not be liable to Buyer or any of its Affiliates in connection with any Good or Service or the Purchase Agreement and Buyer shall not be liable to any Supplier Party in connection with any Good or Services or the Purchase Agreement for any Losses of an indirect, incidental, contingent, special, consequential or punitive nature, including any loss of profit or anticipated business; provided, however, that the foregoing shall not apply to or limit or restrict in any way: (i) the liability of Supplier for or in connection with a breach of Section 9(a)(vi), 9(a)(vii), 15, 16, 19(b)) or 24; (ii) the liability of Supplier for any late delivery or other penalties or liquidated damages that may be provided for in the Purchase Agreement; (iii) the indemnification obligations of Supplier under Section 21(a)(iii); (iv) the liability of Supplier for or in connection with any negligent act, error or omission, willful or intentional misconduct, or noncompliance with any Applicable License or Applicable Law on the part of Supplier or another Supplier Party; (v) the indemnification obligations of Buyer under Section 21(b)(iii); or (vi) the

liability of Buyer for or in connection with any negligent act, error or omission, willful or intentional misconduct, or noncompliance with any Applicable License or Applicable Law on the part of Buyer or any of its Affiliates.

### **23. BUYER RIGHTS AND REMEDIES.**

All rights and remedies of Buyer and its Affiliates under the Purchase Agreement or existing at law or in equity shall be cumulative and may be exercised concurrently and independently.

### **24. INSURANCE REQUIREMENTS.**

(a) Goods. If Supplier is providing Goods, with or without any Services, Supplier shall procure and maintain, at its own cost and expense, Products Liability Insurance with bodily injury/death and property damage limits of not less than US\$2,500,000 per occurrence and US\$5,000,000 in the aggregate, naming Buyer and its Affiliates as additional insureds through appropriate endorsements.

(b) Services. If Supplier is providing Services, with or without Goods, or performing any Site Work, Supplier shall procure and maintain at its own cost and expense for itself (and either procure and maintain at its own cost and expense for all other Supplier Parties involved in the provision of the Services or the performance of the Site Work or ensure that such other Supplier Parties procure and maintain at their own cost and expense), the following minimum insurance coverages:

(i) Workers' Compensation or Equivalent Insurance to the full extent required in the jurisdictions in (A) which the Services are being provided or the Site Work is being performed and (B) the contracts of employment for employees of Supplier or another Supplier Parties involved in the provision of the Services or performance of the Site Work are made or stated as being made;

(ii) If Supplier or another Supplier Party involved in the provision of the Services or performance of the Site Work is located or domiciled in the United States, Employers' Liability Insurance (including Occupational Disease) in an amount of not less than US\$2,500,000 per occurrence, naming Buyer and its Affiliates as additional insureds through appropriate endorsements;

(iii) Automobile Liability Insurance covering all motor vehicles owned, operated or licensed by Supplier or another Supplier Party involved in the provision of the Services or performance of the Site Work with a bodily injury/death and property damage limits of not less than US\$2,500,000 per occurrence, naming Buyer and its Affiliates as additional insureds through appropriate endorsements;

(iv) Comprehensive/Commercial General Liability Insurance with bodily injury/ death and property damage limits of not less than US\$2,500,000 per occurrence and US\$5,000,000 in the aggregate, naming Buyer and its Affiliates as additional insureds through appropriate endorsements (without in any way limiting the required insurance coverages, the coverages provided under Comprehensive/Commercial General Liability Insurance shall include Cross Liability, Blanket Contractual, Products and Completed Operations, Personal Injury, Non-Owned Automobile Liability, and, if Supplier or another Supplier Party involved in the provision of the Services or performance of the Site Work is located or domiciled in the United States, Company Owners' and Contractors' Protective);

(v) All Risk Property Insurance covering all risks of physical loss or damage to property owned by Supplier or another Supplier Party, or with respect to which Supplier or another Supplier Party is responsible or liable for loss or damage, for an amount not less than the replacement value of such property; and

(vi) If the Services or Site Work includes any professional services, Professional Errors and Omissions Insurance in an amount not less than US\$2,500,000.

(c) Policy Requirements. All insurers must be rated A-VII or better by A.M. Best Company. All insurance procured and maintained by Supplier and other Supplier Parties will be primary, and all insurance policies must include a waiver of subrogation and rights of contribution against Buyer and its Affiliates and their respective

directors, officers, managers, employees, agents, representatives, contractors and subcontractors. All insurance policies must contain a severability of interests clause. All insurance policies must require that Buyer be given thirty (30) days written notice prior to cancellation, except in the event of non-payment, in which event the notice period may be ten (10) days. Required insurance amounts may be achieved through a combination of primary and excess insurance. Supplier will be solely responsible and liable for all deductibles.

(d) Certificates and Endorsements. Within ten (10) days after accepting the Purchase Order or prior providing any Goods or Services or commencing any Site Work (whichever is earlier), and thereafter within ten (10) days after a request by Buyer, Supplier shall provide Buyer with (i) a certificate or certificates of insurance confirming that all insurance coverages required under this Section 24 have been procured and are being maintained (including copies of appropriate additional insured and waiver of subrogation and rights of contribution endorsements) or (ii) in the case of Workers' Compensation or Equivalent Insurance, a certificate or certificates from the appropriate workers' compensation board or commission showing that Supplier or the relevant Supplier Party has registered and is in good standing with such board or commission in lieu of a certificate or certificates of insurance. All certificates and endorsements must be in form and substance reasonably satisfactory to Buyer. Buyer shall have the right to withhold any or all payments to Supplier unless and until the insurance coverages required under this Section 24 have been procured and are being maintained and the certificates and endorsements required under this Section 24 have been provided to Buyer.

## **25. IDEX SUPPLIER CODE OF CONDUCT AND IDEX CONFLICT MINERALS POLICY**

Supplier shall comply with the IDEX Supplier Code of Conduct and the "Expectations for Suppliers" under the IDEX Conflict Minerals Policy. The IDEX Supplier Code of Conduct and the IDEX Conflicts Minerals Policy are posted on the IDEX Corporation website at <http://idexcorp.com/segments/sourcing/index.asp>, and copies of the IDEX Supplier Code of Conduct and the IDEX Conflicts Minerals Policy may be obtained from Buyer upon request.

## **26. FEDERAL ACQUISITION REGULATIONS**

(a) FARs/DFARs. The Purchase Agreement is subject to and includes and incorporates all applicable provisions of the United States Federal Acquisition Regulations (FAR) and Defense Federal Acquisition Regulation Supplement (DFARS), including, but not limited to, the following FAR provisions to the extent applicable:

- (i) 48 C.F.R. § 52.222-26, Equal Opportunity (E.O. 11246);
- (ii) 48 C.F.R. § 52.222-35, Affirmative Action for Disabled and Vietnam Era Veterans (38 U.S.C. § 4212(a));
- (iii) 48 C.F.R. § 52.222-36, Affirmative Action for Workers with Disabilities (29 U.S.C. § 793);
- (iv) 48 C.F.R. § 52.203-6, Restrictions on Subcontractor Sales to the Government, as amended by Alternate I (41 U.S.C. § 253(g) and 10 U.S.C. § 2402);
- (v) 48 C.F.R. § 52.219-8, Utilization of Small Business Concerns and Small Disadvantaged Business Concerns (15 U.S.C. § 637(d)(2) and (3));
- (vi) 48 C.F.R. § 52.219-9, Small Business Subcontracting Plan (15 U.S.C. § 637(d)(4));
- (vii) 48 C.F.R. § 52.222-37, Employment Reports on Disabled Veterans and Veterans of the Vietnam Era (38 U.S.C. § 4212); and
- (viii) 48 C.F.R. § 52.222-41, Service Contract Act of 1965, as Amended (41 U.S.C. § 351, et seq.).

(b) Assignments and Subcontracts. Supplier shall include a provision equivalent to this Section 26 in all assignments and subcontracts relating to the Purchase Agreement or any Goods or Services.

## **27. RECORDS, INSPECTION AND AUDIT**

(a) Supplier shall create and maintain at its own cost and expense (and cause all other Supplier Parties involved in the provision of Goods and/or Services to create and maintain at their own cost and expense) and retain at its own cost and expense (and cause all other Supplier Parties involved in the provision of Goods and/or Services to retain at their own cost and expense) for the period specified in the Supply Agreement (if any), the Purchase Order or any Special Terms and Conditions, or, if and to the extent no period is specified for all or part of the Goods or Services, for a period of at least ten years, accurate and complete records with respect to all Goods and Services provided under the Purchase Agreement and such other records as may be required to document and verify the compliance by Supplier and other Supplier Parties with the provisions of the Purchase Agreement, including, but not limited to, in the case of Goods, design, production, testing and inspection records and, in the case of both Goods and Services, such other records as may be specified in the Supply Agreement (if any), the Purchase Order or any Special Terms and Conditions.

(b) Supplier shall, if and when requested by Buyer, permit (and cause all other all other Supplier Parties involved in the provision of Goods and/or Services to permit) Buyer, its Affiliates, prospective or subsequent purchasers and users of Goods and Services (or products that incorporate or make use of Goods or Services), and third parties designated by any of them to: (i) inspect any Good and any material, part or component therefor, (ii) inspect the premises and facilities where any Good or any material, part or component therefor may be designed, produced, tested, inspected or stored, (iii) observe the production, testing or inspection of any Good and any material, part or component therefor, and (iv) inspect, audit and copy records related to Goods and Services provided under the Purchase Agreement and such other records as may be required to document and verify the compliance by Supplier and other Supplier Parties with the provisions of the Purchase Agreement.

## **28. GOVERNING LAWS AND JURISDICTION.**

The Purchase Agreement shall be governed by and construed and enforced in accordance with, and the rights, liabilities and obligations of the Parties in respect of the Goods and Services, any Site Work, and this Agreement shall be determined in accordance with, the laws of the State of the United States in which the Buyer's address set forth on the face of the Purchase Order is located, without regard to any conflict of laws principles. EACH PARTY SUBMITS TO THE EXCLUSIVE JURISDICTION AND VENUE OF THE FEDERAL COURTS AND STATE COURTS OF SUCH STATE FOR ALL MATTERS RELATED TO OR ARISING OUT OF THE GOODS OR SERVICES, ANY SITE WORK OR THE PURCHASE AGREEMENT AND WAIVES ANY AND ALL OBJECTIONS THERETO. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.

## **29. ASSIGNMENT.**

Supplier shall not assign the Purchase Agreement or any of its rights, liabilities or obligations thereunder without Buyer's prior written consent, which consent will not be unreasonably withheld or delayed. No assignment by Supplier shall relieve or release Supplier from or diminish in any way Supplier's responsibility for any of its liabilities or obligations under the Purchase Agreement, and, following any assignment, Supplier shall remain primarily responsible and liable for the full, complete, timely and proper performance, satisfaction and discharge of all of its liabilities and obligations under the Purchase Agreement.

## **30. FORCE MAJEURE.**

(a) Event of Force Majeure. If either Party is wholly or partially unable to perform an obligation under the Purchase Agreement by reason of an event beyond its reasonable control (an "**Event of Force Majeure**"), such Party shall be relieved of such obligations to the extent and for the period that the Event of Force Majeure prevents it from performing such obligation; provided that (i) the affected Party gives the other Party prompt notice of its inability to perform and the nature, cause and expected duration of its inability to perform, and (ii) if requested by the other Party, to the extent feasible and practical and legally permitted, the affected Party uses commercially reasonable efforts to remove or overcome the cause of its inability to perform and mitigate the adverse effects of its nonperformance on the other Party. An Event of Force Majeure may include, but is not limited to, fire, flood, earthquake, civil disturbance, acts of terrorism, war, rationing, embargoes, acts of God, and



governmental rationing, but shall not include the affected Party's lack of financial resources or the affected Party's own acts, errors or omissions or, in the case of Supplier, another Supplier Party's lack of financial resources or another Supplier Party's acts, errors or omissions. The affected Party shall give prompt notice to the other Party as and when it is able to resume performance of an obligation that it was wholly or partially unable to perform by reason of an Event of Force Majeure.

(b) Termination for Event of Force Majeure. If an Event of Force Majeure prevents Supplier from delivering Goods for more than thirty (30) days beyond the scheduled delivery date or performing Services for more than thirty (30) days beyond the scheduled performance date, Buyer may, at its option, by providing notice to Supplier, terminate the Purchase Order as to all or any part of the Goods that have not been delivered and/or the Services that have not been performed. Buyer shall have no liability or obligation with respect to any Goods and/or Services as to which the Purchase Order is terminated for an Event of Force Majeure.

### **31. NOTICES.**

Any demand, notice or other communication ("**Notice**") required or permitted to be given by either Party to the other Party in connection with the Purchase Agreement shall be given in writing by personal delivery, courier service, fax or email (with proof of delivery and read receipt) addressed to the other Party's contact person and delivered to the other Party's address, fax number or email address, as the case may be, set forth on the face of the Purchase Order. A Party may from time to time change its contact person, address, fax number or email address by Notice to the other party. All Notices shall be deemed given when delivered if delivered in person or by courier service or on the next business day of the receiving Party if sent by fax or email.

### **32. WAIVER.**

No failure on the part of either Party in exercising any right or remedy under the Purchase Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy under the Purchase Agreement, in law or in equity, conferred by statute, or otherwise. A waiver by or on behalf of a Party of any breach of the Purchase Agreement shall not be binding upon such Party unless it is in writing executed by such Party. A waiver shall not operate as a waiver of any future breach, whether of a like or different character, except to the extent specifically provided in such waiver.

### **33. SEVERABILITY.**

If any provision of the Purchase Agreement is invalid, illegal or unenforceable, in whole or in part, such invalidity, illegality or unenforceability will apply only to such provision or part thereof and the remaining part of such provision and all other provisions of the Purchase Agreement will continue in full force and effect in accordance with their terms.

### **34. SUCCESSORS AND ASSIGNS.**

Subject to Section 29, the Purchase Agreement shall inure to the benefit of and be enforceable by and be binding upon and enforceable against (i) Supplier and its successors and assigns, (ii) Buyer and its successors and assigns, and (iii) to the extent provide herein, Buyer's Affiliates and Supplier Parties.