



## GLOBAL PURCHASE ORDER TERMS AND CONDITIONS

These Terms and Conditions ("Terms") govern the purchase of Goods and/or Services sold or supplied to Buyer on its Purchase Order ("Order"). "Supplier" means the Party selling the applicable Goods and/or Services as identified on the Order. The Parties agree that these Terms shall govern all purchases made by Buyer until such time as new Terms are provided by Buyer to Supplier. Supplier agrees to flow all applicable legal and order requirements down to its suppliers and to require their suppliers to do the same to the point of manufacture.

None of the Terms contained in this Order may be added to, modified, superseded or otherwise altered except by a writing signed by an authorized representative of Buyer, and each shipment received by Buyer shall be deemed to be only upon these Terms, notwithstanding any Terms in any acknowledgment, acceptance, invoice or other Supplier forms, and notwithstanding Buyer's act of accepting or paying for any shipment or similar act of Buyer.

1. **DOCUMENTS.** The following documents are incorporated herein by reference and made a binding part of these Terms and may be found at: [donaldson.com/en-us/about-us/suppliers](https://donaldson.com/en-us/about-us/suppliers)
  - A. Supplier Quality Manual
  - B. Logistics & Global Trade Compliance Handbook
  - C. Parts and Process Change Process and Form
  - D. Supplier Code of Conduct
2. **ACCEPTANCE.** Supplier must acknowledge the Order within one (1) business day of receipt date by submitting preferably via Oracle iSupplier® Portal, or another mutually agreed method, either: a) full acceptance/rejection or; b) a change request. In the event Supplier requests to deliver a different quantity vs. the one on the Order, a written approval from the relevant Donaldson buyer or an approval via Oracle iSupplier Portal® is required. If Supplier fails to either fully accept/reject or issue a change request within five (5) business days of receipt, the Order will be deemed fully accepted. Regardless of whether Supplier has done so, Supplier has accepted an Order (including these Terms) if Supplier gives a verbal, written or electronic acknowledgement of, or initiates its performance under that Order. No additional or conflicting Term in any Supplier acknowledgement, invoice, bid, proposal or other documentation is binding on Buyer, unless Buyer specifically agreed to such in a signed writing. All Goods and Services will be delivered to Buyer in strict conformance with any packaging, specifications, statements of work, standards and other requirements provided by Buyer.
3. **INFORMATION REQUIRED.** Unless specified otherwise in writing by Buyer, all invoices, bill of ladings, packing slips, and packages must include: Supplier name, Buyer sold to/ship to addresses, invoice number and date, purchase order number, purchase order line number, part number and description, quantity shipped, price per unit, total price, country of origin, harmonized system (HS) code (first 6-digits), currency, remit to address, applicable discounts and taxes.
4. **PRICES AND PAYMENT.** Goods and Services will be delivered to Buyer for the price stated in the Order per written agreement between the Parties. However, Supplier agrees that any price decrease in effect at the time of shipment or performance will apply. All price change notifications must be submitted minimum 60 days prior to effective date. All price increase requests must be justified with clear explanation including but not limited to open calculation of cost drivers including labor, material, overhead, processing and transport costs. No additional charges shall be allowed for cartage, boxing or crating unless otherwise agreed between the Parties. Payment terms shall be as stated in the applicable Order and the days shall be counted from the receipt of Goods and/or Services at Buyer's facility or receipt of invoice by Buyer, whichever is later unless otherwise specified in the Order. If payment terms are not stated in the applicable Order, to the extent allowed by local legislation payment terms will be Net 60. Payments are in the currency listed on the Order. To the extend allowed by local legislation,

- Buyer's payments may be adjusted for Supplier's errors, defects or non-compliance with the Order (including these Terms);
- Where invoice price does not match Order price, the Buyer will automatically pay whichever is the best price for the Buyer;
- Buyer reserves the right to set-off any amount Supplier or any affiliate of Supplier owes Buyer at any time.

Incomplete invoices may be returned to Supplier. If Buyer so requires, Supplier shall furnish lien waivers from Supplier and its suppliers and subcontractors as a condition of payment. Supplier warrants that the prices being paid by Buyer are not affected by collusion or any other anti-competitive activity.

In the event Buyer has to pay a down payment, the Supplier must issue an irrevocable stand-by letter of credit or a bond that guarantees the correct application of such payment. In the case of a bond, the Buyer must first approve the terms of the bond and the bonding company to be used.

- 5. INVOICES.** Supplier may submit invoices through e-mail, unless local legislation requires submission of invoices through mail, according to the Buyer's information listed in the Order. Buyer is not responsible for paying any invoice submitted by Supplier more than 120 days after Goods and/or Services have been delivered. Invoices may not be sent prior to the ship date of any Goods or the completion of any Services unless agreed otherwise in a signed writing between the Parties. International commercial invoices that accompany import shipments to Buyer must contain all necessary information required for customs' clearance, including but not limited to, customs description, customs price, country of origin for each line item and Harmonized System (HS) codes, supplier address and the export control classification.
- 6. PACKING SLIPS.** Itemized packing slips must accompany each shipment. Buyer's count will be final on all shipments not accompanied with a packing slip.
- 7. TERMINATION.** Buyer reserves the right to terminate all or any part of this Order for any reason upon written notice to Supplier. In case of termination by Buyer after an Order for Goods has been manufactured or shipped by Supplier, Buyer will make an allowance for customary and reasonable, direct and verifiable expenses incurred by Supplier prior to and as a direct result of the termination. However, Buyer shall not be liable for any charges or expenses Supplier may have incurred before the normal or reasonable lead time that was necessary to fulfill an Order, nor for any expenses, charges, or liabilities incurred or arising subsequent to Buyer's notice of termination; all without prejudice to any other Buyer rights.
- 8. WARRANTIES AND REMEDIES.** In addition to all implied and express warranties available under the applicable legislation and/or these Terms, Supplier warrants that: (a) all Goods and Services will be free from any encumbrance and conform to all Buyer requirements and the applicable Order; (b) all Goods will be without any defect in design (except to the extent designed by Buyer), processing, materials and manufacture; (c) all Goods will be made or processed and all Services will be performed, in compliance with all laws applicable to Goods, Services, Supplier and its business and with sound environmental, health and safety practices consistent with all requirements and documents referenced herein or in any Order. Supplier also warrants that: (x) Supplier has the expertise, and the resources to perform its obligations under any Order (including these Terms); (y) no Good or Service infringes any third Party's intellectual property rights; and (z) Supplier has no third-Party obligations that conflict in any way with Supplier's obligations under these Terms.

All representations, statements of warranties made or given by Seller, its servants and agents (whether orally or in writing or in any of Seller's brochures catalogues and advertisements) regarding the quality and fitness for purpose of the Goods shall be deemed to be express terms and conditions of the contract.

In addition to all available remedies, Buyer may reject Goods and/or Services not meeting Supplier's warranties, and (a) obtain substitutes and offset, or require Supplier to reimburse Buyer for all additional costs associated with the substitutes; or (b) require Supplier, at Buyer's option, to either replace the affected Goods or re-perform the affected Services without charge, or to reimburse Buyer that Good's or Service's price. Buyer may, but is not obligated to, inspect or test Goods and Services at Buyer's premises, Supplier's premises or those of any Supplier subcontractor under an Order. Buyer's acceptance of delivery, inspection, or payment for any Good or Service does not waive any of Supplier's warranties or other obligations. Supplier will use its best efforts to assist Buyer in investigation of, and corrective action for, Buyer's customer complaints related to the Goods and/or Services. With the exception of off the shelf or unmodified catalog Goods Supplier sells to other customers besides Buyer, Supplier shall have no right to resell any Goods subject of this Order in the event of a wrongful rejection, revocation of acceptance, failure to make payment or repudiation by Buyer. It is the intent of the

Parties, by this paragraph, to negate any Supplier's right to resell such Goods, unless otherwise agreed in a writing signed by an authorized representative of Buyer.

- 9. SPECIFICATIONS AND INSPECTION.** Items furnished under this Order shall be equal to samples approved by Buyer and shall conform strictly to drawings and specifications specified in this Order. Material and workmanship may be inspected and tested by Buyer at all times and places, before, during, or after manufacture. Such inspection and testing shall not relieve Supplier of its obligation to furnish all items in strict accordance with this Order. In case of rejection of any items by Buyer for failure to comply with this Order, Buyer, in addition to any other available rights at law and equity, may require credit therefor, or replacement or correction thereof by Supplier and at Supplier's expense, and; all risk on rejected shipments shall be Supplier's. By paying for items prior to receipt, Buyer does not waive the right to inspect and reject any items in accordance with the foregoing.
- 10. AUDIT RIGHTS.** Buyer shall have the right at any reasonable time to send its authorized representatives to examine all pertinent documents and materials in the possession or under the control of Supplier relating to any of Supplier's obligations under an Order or any payments requested by Supplier pursuant to an Order. Supplier shall maintain all pertinent books and records relating to an Order for a period of two years after completion of services or delivery of Supplies pursuant to that Order.
- 11. CHANGES.** Buyer may make changes from time to time relating to the Goods and/or Services to be performed by Supplier and submit such change(s) via a "Change Order." Should such changes cause an adjustment in the price, quantity of items to be furnished, or the time for performance; an equitable adjustment will be made by Buyer. Supplier shall submit any claims against such adjustments prior to shipment or within 30 days of change, whichever comes first. Otherwise, Supplier waives any right to claim against such adjustment.

The Supplier must inform the Buyer in advance of any changes made to their manufacturing processes or to any part or raw material supplied to the Buyer using the Part, Process and/or Point of Manufacturing Change Request Form located at [donaldson.com/en-us/about-us/suppliers](http://donaldson.com/en-us/about-us/suppliers). All part and process change requests should be officially and exclusively communicated to the Buyer. Upon receipt of the Supplier's notification, the Buyer will evaluate the change request and notify the Supplier of any specific requirements such as sampling, testing etc. Before the change can take place, the Supplier must receive formal written authorization from the Buyer. The Buyer reserves the right to charge all costs associated with quality problems due to a non-authorized change.

- 12. DELIVERY.** Unless otherwise stated on the Order, (a) if Supplier is responsible for shipping Goods, Supplier will ship Goods via the most economical route and in a single shipment; (b) all Goods will be shipped using Buyer Approved Incoterms as outlined in the Logistics & Global Trade Compliance Handbook. All Goods and Services will be delivered or performed in strict accordance with the agreed-upon delivery or performance schedule and the Order. Substitutions will not be accepted. Goods must be shipped complete by the date requested but must not be shipped more than 1 week in advance without Buyer's prior approval. Supplier shall notify Buyer immediately of any delay. Supplier shall pay, or reimburse Buyer, for all excess transportation charges arising from Supplier's failure to meet the delivery dates, unless such failure is solely due to Buyer. Buyer shall have the right to reject any and/or all shipments, which do not conform thereto, regardless of the Order. Buyer shall have the right to cancel this Order by notice to Supplier in the event any delay by Supplier for any reason, including force majeure.

The Supplier acknowledges that due to the fact that the Goods and/or Services are of vital importance to Buyer, the delivery and/or performance period of the Goods and/or Services is essential and the delay in delivery and/or performance thereof, as well as its delivery and/or performance under conditions other than those agreed upon constitutes a breach by the Supplier that may generate liability for damages in favor of the Buyer as established by the applicable legislation.

All risks of loss or damage to the Goods shall be the Supplier's responsibility until the receipt thereof is confirmed in writing by an authorized Buyer representative at the address indicated in the Order unless the Incoterm in the Order indicates different.

- 13. FORCE MAJEURE.** In the event either Party is unable to perform its obligations under these Terms because of acts of God, acts of war or terrorism, shortage of supply, breakdowns or other events reasonably beyond the affected Party's control, such Party shall not be liable to the other for any damages resulting from such failure to perform or otherwise from such causes.
- 14. BUYER SUPPLIED MATERIAL & EQUIPMENT.** Buyer owns any materials Buyer provides to Supplier, including without limitation, all raw materials, components, databases or documents ("Buyer Materials") and any tooling or other equipment that Buyer provides to Supplier or for which Buyer reimburses Supplier ("Buyer Equipment"). Supplier authorizes Buyer

to file financing statements and other documentation without Supplier's signature to acknowledge Buyer's ownership of Buyer Materials and Buyer Equipment. Supplier will not sell, pledge, transfer or remove from Supplier's facility any Buyer Materials or Buyer Equipment. Supplier will use all Buyer Materials and Buyer Equipment solely to perform its obligations under Orders and for no other purpose. Supplier will not alter any Buyer Equipment. Supplier will use its best efforts to maintain the security and confidentiality of all Buyer Materials and Buyer Equipment. Supplier bears all risk of loss or damage to Buyer Materials and Buyer Equipment and will, at Buyer's request, immediately restore or replace any damaged or lost items with an equivalent item. Promptly upon Buyer's request, Supplier will return to Buyer all Buyer Equipment and unused Buyer Materials in their original condition, except for reasonable wear. Supplier will maintain all Buyer Equipment in a safe and proper condition and indemnify Buyer for, and defend it against, all claims arising out of Supplier's use of Buyer Equipment. If the Parties establish Buyer Materials loss allowances, Supplier will reimburse Buyer for any excess losses, at Buyer's delivered cost to Supplier. Supplier will inspect Buyer Materials that will be incorporated into Goods and promptly inform Buyer of any non-compliance with the Requirements.

Where tooling (including patterns, dies, molds, jigs and fixtures and the like) is manufactured or acquired by the Supplier specifically for the purpose of an Order, title to it shall pass to the Buyer upon its creation or acquisition. The Seller shall deliver up such tooling to the Buyer on demand. All tooling (including patterns, dies, molds, jigs and fixtures and the like) owned by Buyer used in the manufacturing of the Goods or in the performance of the Services, must carry a tag indicating the asset number and Buyer's ownership.

- 15. REWORK AND WORK ON BUYER'S PREMISES.** If rework or sorting is necessary due to non-conformity of specification by Supplier and/or other faults of the Supplier, at the Buyer's discretion the Supplier must rework or sort the Goods delivered. In such event the Supplier is liable for any additional expenditure incurred. In the event that Supplier has to perform any service or work at Buyer's premises under the Order, Supplier shall have all insurance policies as may be required by the Buyer in connection with the same. Supplier shall fully indemnify Buyer against all claims, demands, actions and legal proceedings whatsoever made upon Buyer in respect of any damage, loss or injury to any person or property whatsoever caused by or through Supplier's activities on such premises.
- 16. SUPPLIER WAIVER OF DAMAGES.** BUYER WILL NOT, UNDER ANY CIRCUMSTANCES, BE LIABLE TO SUPPLIER FOR SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO, LOSS OF PROFITS) IN ANY WAY RELATED TO GOODS, SERVICES, AN ORDER, OR ITS TERMINATION, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY ON WHICH THE DAMAGES ARE SOUGHT.
- 17. COMPLIANCE WITH LAWS AND PRODUCT CONTENTS.** Supplier agrees to comply with all applicable laws and regulations relating to the Goods and/or Services provided in any Order. Supplier shall, at its expense, obtain and comply with the requirements of all permits, licenses, approvals, consents and other regulatory clearances necessary to manufacture and sell the Goods under this Order, and to perform its obligations in accordance with the Terms. Supplier agrees to comply with laws applicable to its business, interstate commerce, any and all applicable import and export control laws, and/or the manufacture and production of Goods for commerce, such as the provisions of antitrust and trade practice laws, anti-corruption and anti-bribery, labor laws and environmental laws, and any other applicable federal, state, and local laws, rules and regulations.

Before or at shipment of any Good that requires a Safety Data Sheet ("SDS"), Supplier will deliver a current and complete SDS to Buyer. Supplier warrants that each Good is in compliance with, or exempt from, all applicable global chemical control laws. Supplier will promptly inform Buyer in writing of any change in a Good's regulatory status under any chemical control law.

Goods and the Goods' packaging must comply with all applicable global laws that restrict, regulate, or require disclosure of product content (the "Substance Laws"). The Substance Laws include but are not limited to the following: the European Union directives known as "RoHS" and "REACH" relating to Substances of Very High Concern (SVHC), Waste of Electronics and Electrical Equipment (WEEE), Stockholm Convention, South Korea REACH, China RoHS, EU Waste Framework Direction (WFD), EU Classification, Labeling and Packaging (CLP), EU End-of-Life Vehicles (ELV), EU Food Contact Materials (FCM), Toxic Substances Control Act (TSCA), California Safe Drinking Water and Toxic Enforcement Act of 1986 (California Proposition 65), Global Automotive Declarable Substance List (GADSL), Aerospace and Defense Declarable Substance List (AD-DSL) and the U.S. Lacey Act. No EU REACH SVHC's are allowed to be included in Goods or Goods' packaging unless prompt notice before inclusion of such SVHC is supplied to Buyer via email at [substancesofconcern@donaldson.com](mailto:substancesofconcern@donaldson.com).

If Goods contain any conflict minerals as defined in any applicable legislation, Supplier must: (a) assure that those conflict minerals are "conflict-free" as defined in applicable legislation; (b) provide upon request information on conflict mineral smelters in the relevant supply chains; (c) provide upon request such other information as Buyer may reasonably require to

determine the conflict-free status of conflict minerals used in Goods; (d) adopt policies and management systems consistent with Buyer's conflict minerals policy; and (e) require its suppliers to adopt similar policies and systems.

Supplier agrees to comply with all applicable laws and regulations, including but not limited to cross-border movement of Goods, including compliance with import and export licensing, reporting, valuation, classification, origin determination and marking, and similar requirements. To the extent that the Terms of a particular sale place compliance obligations with Buyer, Supplier agrees to promptly provide commercially reasonable assistance, documentation and information as necessary to support Buyer's compliance.

Supplier agrees to comply with all applicable taxation laws and regulations in respect of its supply of Goods and/or Services under this Order. Supplier shall pay in full all applicable taxes due in relation to its performance of this Order and shall not criminally facilitate the evasion by any Party of applicable taxes.

**18. GOVERNMENT CONTRACTORS.** Supplier acknowledges that as a government contractor, Buyer is subject to various laws, executive orders, and regulations regarding equal opportunity and affirmative action which may also be applicable to Supplier. Accordingly, Supplier shall, to the extent they apply, abide by the requirements these regulations establish, such as but not limited to, prohibition of discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibition of discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin. Moreover, usually these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.

**19. INTELLECTUAL PROPERTY RIGHTS AND PATENTS.** All information and know-how including drawings, specifications, instructions, samples, tools, designs and other data (oral, written or otherwise) provided by the Buyer in connection with the contract ("Know-How") shall remain at all times the Buyer's property and may be used by the Supplier only for the purpose of performing this Order.

Any inventions, patents, copyrights, design rights and other intellectual property rights resulting from the execution and performance of this Order shall become the property of the Buyer. The Supplier agrees to do all things and execute such documents as may be necessary to assign such property to the Buyer.

Supplier warrants that the manufacture, sale or use of items furnished in an Order will not infringe any third Party's patent, copyright or similar intellectual property rights. Supplier hereby agrees, at its sole expense, to defend, protect, indemnify, and hold Buyer, its subsidiaries, affiliates, directors, officers, agents, shareholders, or customers, harmless against any and all loss, cost, expense, damage, claim, demand, or any liability, including reasonable attorneys' and professional fees and costs incurred by or demanded, arising out of, resulting from, or occurring in connection with the manufacture, sale or use of any Goods, Services, or items provided by Supplier under this Order, that relate to any alleged: (a) patent, copyright, or trademark infringement; (b) violation of any other published third Party intellectual property right, or (c) disclosure of any controlled technology contrary to US and/or local export regulations, as well as; from expenses incurred by Buyer in defense of such suit, claim, or proceeding in the event that Supplier does not undertake the defense thereof.

**20. PUBLICITY.** Supplier shall not use or display any of Buyer's patents, trademarks, service marks, trade names, copyrights or other tangible or intangible intellectual property right for which Buyer has not granted any license to use, without first obtaining Buyer's prior written consent. Supplier shall not release any publicity of any kind (including but not limited to, press releases, articles, brochures, advertising, promotional pieces, and speeches) related to this Order and/or the Goods and/or Services that Supplier is performing under this Order without Buyer's prior written authorization.

**21. CONFIDENTIALITY.** "Buyer Confidential Information" means all information or tangible materials, whether or not designated by Buyer as confidential, pertaining to: (a) product development, design, drawings, formulation, composition, research and development, or specifications; (b) product manufacturing techniques, rates or quantities; (c) equipment used to make Goods; (d) Buyer's customer information and any confidential information of Buyer's customer; (e) any other aspects of Buyer's business relating to Goods and Services, including without limitation marketing, sales, customers and non-public financial data; (f) Orders placed by Buyer and (g) the Parties' relationship. Supplier will: (a) keep all Buyer Confidential Information confidential and use Buyer Confidential Information only as necessary to perform Supplier's obligations under the Order and assure that its employees, agents and approved subcontractors abide by these confidentiality obligations. Supplier will return Buyer Confidential Information upon Buyer's request. Buyer Confidential information does not include information that is: (a) available to the public in any publication; (b) known to Supplier prior to its receipt from Buyer as evidenced by Supplier's written records; or (c) available to Supplier from another source without breach of any agreement

or violation of law. If required by judicial or administrative process to disclose Buyer Confidential Information, Supplier agrees to promptly give Buyer notice, allow Buyer reasonable time to oppose such process, and seek to have the third Party treat the information confidentially to the extent legally permissible.

- 22. INDEMNIFICATION AND INSURANCE.** Supplier shall indemnify, defend and hold harmless Buyer and its affiliates and subsidiaries, and their successors, assigns, officers, directors, employees, and agents for, from and against any claim, liability, loss, damage, lien, judgment, duty, fine, expense, civil penalty and cost, including, but not limited to, reasonable attorneys' fees and litigation expenses, arising out of or relating to: (a) Supplier's failure to comply with any of its obligations under an Order (including these Terms), which may include, without limitation, those relating to a resulting recall or other reasonable action Buyer may take regarding any such failure; and (b) claims arising out of handling, packaging, labeling, storage, treatment, removal, transportation, and disposal of any waste material at any Supplier site related to the Goods under any laws, without limitation, or any other future laws. Supplier's obligation to indemnify shall not apply to the extent caused by Buyer's own gross negligence, willful misconduct or fraud. These indemnities do not affect any other Buyer remedies. Supplier will at all times maintain liability, property damage and other insurance to protect Buyer from all the foregoing risks, and will, on request, supply certificates evidencing this coverage.
- 23. DISPUTE RESOLUTION.** Any dispute arising from the performance of this Order shall be resolved by negotiation between the Parties. In case no settlement is reached through negotiation, this Order and its construction, and any disputes related to or arising out of it, will be governed by the laws of the jurisdiction in which the Goods and/or Services are delivered or performed (if the Goods and/or Services are delivered or performed in multiple jurisdictions, the jurisdiction in which Buyer is incorporated) without regard to its conflicts of laws principles. The courts in such jurisdiction will exclusively adjudicate any such disputes. The United Nations Convention on Contracts for the International Sale of Goods will not apply and is expressly disclaimed. However, if the claim or dispute is filed in the United States of America, it shall be governed by the laws of the State of Minnesota, without regard to its conflicts of laws provisions, and must only be litigated in a federal or state court of competent jurisdiction in Hennepin County, Minnesota. In this case, each Party consents to the Minnesota courts' personal jurisdiction. All negotiations will be conducted in English, and all documents, including Orders, will be written in English.
- 24. BAILMENT.** Where Buyer has furnished, or for which Supplier has been at least partially reimbursed by Buyer, and Supplier has accepted, equipment, component parts, documents, or tooling to Supplier for the exclusive purpose of assembling, integrating, or providing the manufacturing, production, assembly, repair, purchase, packaging, warehousing, labeling, finishing, design, development, planning, processing, use and application of all kind of work on components and accessories, or any other products, components or activities similar or related thereto to the Buyer ("Bailed Property"), such Bailed Property is and will at all times remain the property of Buyer and be held by Supplier on a bailment-at-will basis. Only Buyer has any right, title or interest in and to Bailed Property, except for Supplier's limited right to use the Bailed Property in the performance of Supplier's obligations under the Order. Supplier shall not commingle Bailed Property with the property of Supplier or with that of a Person other than Buyer or Supplier, shall mark the Bailed Property with Buyer's name as indicia of Buyer ownership, and shall not move any Bailed Property from Supplier's premises without the prior written approval by Buyer. Buyer may, at any time and for any reason, retake possession of any Bailed Property without the necessity of payment or notice to Supplier, or a hearing or a court order, which rights, if any, are waived by Supplier. Upon Buyer's request, Bailed Property will be immediately released to Buyer or delivered to Buyer by Supplier. Supplier shall not allow any encumbrance to be imposed on or attach to the Bailed Property through Supplier, and Supplier hereby waives any encumbrance that it may have or acquire in the Bailed Property and Supplier hereby indemnifies Buyer for any such encumbrance on Bailed Property. Supplier, at its sole expense, shall indemnify; defend; save and hold harmless Buyer, its subsidiaries, affiliates, directors, officers, employees, representatives, agents, successors, and assigns, from and against any and all claims; losses; damages; liabilities; penalties; actions; proceedings; interest awards; demands; suits and judgments, including all costs and expenses in connection with amounts paid in settlement, attorneys' fees and court costs, arising out of, related to or resulting from the leasing; possession; rental; use; condition; maintenance; operation; transportation or return of the Bailed Property or any breach of this Agreement. Supplier acknowledges and agrees that BUYER HAS NOT MADE AND DOES NOT MAKE ANY REPRESENTATION OR WARRANTY WHATSOEVER, EITHER EXPRESS OR IMPLIED, AS TO THE FITNESS, CONDITION, MERCHANTABILITY, DESIGN OR OPERATION OF THE BAILED PROPERTY OR ITS FITNESS FOR ANY PARTICULAR PURPOSE. Notwithstanding the foregoing, if the bailment relationship is deemed to be a secured financing transaction, Seller grants to Buyer a continuing security interest in any rights or interests it may have in the Bailed Property. Supplier agrees that in the event a bankruptcy petition under the Bankruptcy Code is filed by or against Supplier at any time, Buyer will be entitled (upon filing the appropriate motion) to the immediate entry of an order from the Bankruptcy Court granting Buyer complete relief from the automatic stay imposed under the Bankruptcy Code to permit

Buyer to exercise its right to remove Bailed Property from Supplier's facility. Upon Buyer filing such a motion, Buyer shall be entitled to relief from the automatic stay without the necessity of a hearing and without having to prove the value of the Bailed Property, the lack of adequate protection of Buyer interest in the Bailed Property or lack of Supplier's equity in the Bailed Property. Supplier agrees that the lifting of the automatic stay is deemed to be "for cause" and Supplier will not directly or indirectly oppose or otherwise defend against Buyer's efforts to gain relief from the automatic stay.

- 25. SEVERABILITY.** If any provision of these Terms shall be held, to any extent, illegal or unenforceable by a court of competent jurisdiction, that provision shall to that extent be deemed not part of these Terms and the enforceability of the remainder of these Terms shall not be affected.
- 26. GENERAL TERMS.** References in these Terms to laws includes all federal, state, provincial, regional, territorial and local laws, statutes, regulations, rules, ordinances and directives of any government. Each Order (including these Terms) is the Parties' final and complete agreement, and it terminates all their prior written or oral agreements and understanding as to that Order's subject matter except; (a) for any additional Supplier obligations in a RFP or business agreement; and (b) no Order is intended to terminate or supersede any existing confidentiality or intellectual property agreement that is duly signed by the Parties. All these Terms, including, without limitation, those relating to safety, compliance, warranty, insurance, indemnification, and confidentiality, will survive an Order's end and be fully enforceable thereafter to the full extent necessary to protect the Party in whose favor they run. All rights and remedies under an Order are cumulative, and in addition to any other rights and remedies provided in law or equity. Supplier may not assign an Order of any of its rights or obligations under an Order, without Buyer's prior written consent. Except as otherwise provided in these Terms, an Order may only be modified by a written document signed by the Parties' authorized representatives.