



Terms and Conditions of Sale

1.0 Acceptance and Agreement

Sale of any Products and/or Services is expressly conditioned on Buyer's assent to these Terms and Conditions. Any additional or different terms proposed by Buyer are expressly objected to and will not be binding upon Seller unless agreed to in writing by Seller. No pre-printed facility entry form shall modify these Terms and Conditions even if signed by Seller's representative. Any oral or written representation, warranty, course of dealing or trade usage not contained in these Terms and Conditions or the Contract shall not be binding on either party. Any order to perform work and Seller's performance of work shall constitute assent to these Terms and Conditions. In the case of any conflict between the terms and/or conditions of Buyer's order and these Terms and Conditions as expressed herein, these Terms and Conditions shall apply.

2.0 Definitions

Unless otherwise agreed to by Seller, the following terms shall be defined as follows:

"Buyer" means the individual or entity to which Seller is providing Products and Services under the Contract, and/or the individual or entity ultimately using the Products and Services provided by the Seller.

"Contract" means the documents that comprise the agreement between Buyer and Seller for the sale of Products and/or Services, including without limitation these Terms and Conditions, the final quotation, the agreed scope(s) of work, and Seller's order acknowledgement.

"Products" means all equipment, parts, materials, supplies, software, firmware and other goods Seller has agreed to supply to Buyer under the Contract.

"Seller" means the entity providing Products or performing Services under the Contract. In these Terms and Conditions, Seller refers to Metrix Instrument Co., L.P., a Delaware limited partnership.

"Services" means all services Seller has agreed to perform for Buyer under the Contract.

"Site" means the premises where Products are delivered and/or Services are performed.

"Terms and Conditions" means these Terms and Conditions for Sale of Products and Services.

3.0 Terms of Sale

3.1 Acceptance. The sale of Products and Services is expressly conditional on Buyer's acceptance of Seller's terms and conditions as stated herein and on the typed portion of the attendant quotation. Provided that these Terms and Conditions have not been previously accepted by Buyer, Buyer's receipt of Products or Services shipped under the Contract constitutes acceptance of these Terms and Conditions.

3.2 Prices. Unless otherwise specified in writing and notwithstanding anything to the contrary contained in this Section, all quoted prices for Products or Services shall be valid for thirty (30) days from the date of offer by Seller. Seller reserves the right to change the price quotation for a Product to Seller's price in effect for the Product at the time an order is released to final manufacture. Prices for Products not manufactured by Seller will be the price of such Product at the time the Product is shipped to Buyer. Copies of data or documentation to be sent with a Product will be identified in the quotation of Seller. Buyer may order additional copies of such data or documentation at the prices in effect at the time of such order. Seller is

not responsible for errors of its employees or contractors with respect to the verbal pricing or quotation of Product or Services and Seller will not be bound by the terms of such errors.

3.3 Taxes; Costs; Insurance. Quoted prices are exclusive of all city, state and federal sales, use, excise or similar taxes payable with respect to the sale, purchase, delivery, storage, processing, use, consumption or transportation of any of the Products or Services, as applicable. Quoted prices exclude shipping or transportation costs or insurance costs. Prices include standard packaging only. Any special handling or packaging requests will result in additional charges to Buyer. Seller will accept valid tax exemption certificates from Buyer. However, Buyer will reimburse Seller for any taxes incurred by it on the sale of a Product or Services to the extent such tax exemption certificate proves to be insufficient to the applicable taxing authority for any reason. Such reimbursement must occur within ten (10) days from the date Seller becomes aware of the invalidity of such tax exemption certificate.

3.4 Payment. Invoices will be issued by Seller as of the date of shipment and shall become due and payable within thirty (30) days (NET 30) of the issuance thereof, unless otherwise agreed upon in writing. Terms must be stated on the Purchase Order. Payments due Seller for Products shipped, Services performed and any other amounts due Seller by Buyer will be paid to Seller at its principal office in Houston, Harris County, Texas and must be in U.S. Dollars.

3.5 Suspended Delivery. Seller may suspend or discontinue delivery of any further Products or Services to Buyer if Buyer fails to make a payment to Seller for either the Product or Services to be delivered or any Products or Services previously delivered. Suspended or discontinued delivery will continue until Seller receives full payment from Buyer or if Seller receives assurances adequate to Seller of performance from Buyer.

3.6 Setoff. Seller will have the right to setoff and apply any funds received from Buyer for the benefit of any other overdue accounts or amounts owed to Seller by Buyer.

3.7 Service Charge. All invoiced amounts unpaid and outstanding will be subject to a service charge of one and one half percent (1 ½%) per month (18% per annum) from the date due. If any overdue amounts have been handed over to an attorney for their collection, Buyer will reimburse Seller for all costs of collection and associated attorneys' fees (with such costs and fees being not less than thirty percent (30%) of the total overdue amount payable).

3.8 Buyer's Credit. To the extent Seller permits Buyer to purchase Products or Services on credit, Buyer shall provide Seller with such financial and business information Seller from time to time requests for the purpose of establishing and/or monitoring Buyer's creditworthiness. If the credit or financial responsibility of Buyer becomes impaired or otherwise unsatisfactory to Seller, or Buyer shall fail to keep or perform any terms or conditions of this or any other agreement with Seller on its part to be kept or performed, Seller may, at its option, require advance cash payment for Products or Services, specify other credit terms or demand satisfactory security be given by Buyer. Should Buyer fail to make such advance payment, refuse to agree to other credit terms specified by Seller or fail to provide security upon demand therefore, Seller may withhold or cancel further delivery of Products or Services to Buyer in accordance with Section 3.5.

4.0 Title; Risk of Loss

4.1 Title. Unless otherwise stated in Seller's quotation to Buyer, title and risk of loss for all Products pass Ex Works (pursuant to Incoterms 2000), that is, at the location of Seller upon the loading of the Products for shipment. If other Incoterms, for example "FCA-Origin", are required they must be agreed to by Seller in writing, and then included in the Purchase Order.

4.2 Security Interest. Buyer grants to Seller a security interest in all Products being purchased by Buyer. The security interest granted by Buyer is given to secure payment of the full purchase price and all other charges due and owing Seller by Buyer. This security interest constitutes a "purchase money security interest" pursuant to the Uniform Commercial Code. These Terms and Conditions constitute a contract and security agreement, and Buyer hereby authorizes and appoints Seller as its attorney-in-fact to sign on Buyer's behalf appropriate financing statements and to file those financing statements with the

appropriate agency to perfect the security interest herein granted.

4.3 Software/Firmware Licenses. Seller retains exclusive title to all software and firmware incorporated into the Products and Buyer will have no right, title or interest with respect to the software or its associated source code, except for the licenses described below. Buyer will retain a nonexclusive, royalty-free license to use the firmware and software incorporated into the Products only when operating the Products in the configuration in which the Products are sold by Seller or subsequently upgraded by Seller or its authorized service persons. Seller reserves the right to require an additional license and fee for use of software on updated, upgraded or otherwise enhanced computers, processors or controllers. Buyer may not duplicate, decompile, disassemble or in any fashion reverse engineer software object code or firmware and may not duplicate or store on any electronic media software source code. Buyer shall have no rights to software source code and any such stored source code shall either be permanently deleted from Buyer's storage or immediately returned to Seller upon Buyer's or Seller's discovery of same.

4.4 Third Party Licenses. Certain of the Products incorporate third party firmware or software. As a result, license terms other than those of Seller will govern the terms of such firmware or software and such terms may be materially different from those set forth in Section 4.3.

5.0 Delivery; Inspection; Acceptance

5.1 In General. Buyer is solely responsible for receiving, storing, installing, starting up and maintaining all Products. Seller will provide Buyer with appropriate price quotations should Buyer request Seller to perform Services other than sale and delivery of the Products.

5.2 Cancellation. Buyer may not cancel any purchase order for Products or Services placed with and accepted by Seller without Seller's prior written consent, unless such cancellation is provided to Seller within three (3) U.S. business days (the "Cancellation Period") from the date the order was placed with and accepted by Seller. To the extent Buyer cancels an order after the Cancellation Period, Buyer will reimburse Seller for any direct or indirect cancellation charges incurred by Seller, including without limitation reasonable profits and all costs and expenses incurred by Seller to prepare the Products for shipping or the scheduling of Services. Further, all orders for Products cancelled after the Cancellation Period will be subject to a restocking fee to be determined by Seller in its sole discretion, but in no event will such fee be less than twenty five percent (25%) of the purchase price of the Product. For custom orders, Seller reserves the right to charge Buyer a non-cancellation fee equal to up to one hundred percent (100%) of the purchase price of the Product, with the specific amount of such non cancellation fee to be determined in the sole discretion of Seller. Any non-cancellation fee will be communicated to Buyer prior to its effectiveness and Seller will have the right to keep the non-cancellation fee (in addition to any other remedies it may have pursuant to this Section) in the event Buyer cancels such custom order.

5.3 Inspection. Unless otherwise specified in Seller's invoice or packing slip, Buyer will be entitled to inspect all Products for their substantial conformity to the terms of Buyer's purchase order after the arrival of the Products at Buyer's facility; provided, however, the failure of Buyer to exercise its post-arrival inspection rights within ten (10) days following arrival of the Products, and to advise Seller in writing of all defects in or objections to the Products which may be disclosed by such inspection within that same ten (10) days, shall constitute full, final and complete acceptance of the Products, and Buyer shall not thereafter be entitled to reject the Products (or any portion thereof) or to revoke its acceptance thereof with respect to any defects which could have been discovered by such inspection.

5.4 Rejection/Product Damage. Buyer may reject Products it inspects in accordance with Section 5.4 only to the extent it discovers a defect materially impairing the value of the Products. Any claims regarding material defects must be made within thirty (30) days from the date of Buyer's receipt of the Products or Buyer will be deemed to have waived such claims. Any lesser defects are governed by the terms of Seller's applicable standard limited warranties, each of which are as set forth in Article 6. To the extent any damage to the Products has occurred during shipping, Buyer's exclusive remedy will be to file a claim with the carrier.

6.0 Warranty

6.1 Limited Warranty – Products. Seller offers a limited warranty on each of its Products and their parts against failure due to defects in material and workmanship or for failure of its Products and their parts to operate in accordance with Seller-published specifications for a period ending the earlier of (i) thirty-six (36) months from the date of the invoice relating to the sale of the Product (the “Initial Warranty”).

During the Initial Warranty, Seller offers a limited warranty against failure due to defects in material and workmanship on each part of a Product repaired or replaced by a Seller authorized service person for a period ending the later of (a) the remaining term of the Initial Warranty of the Product and (b) ninety (90) days from the date of such repair or replacement.

The foregoing limited warranties cover parts and labor only and Buyer shall promptly reimburse Seller for any costs relating to access by service persons of Seller to the Product at issue. The foregoing limited warranties cover only the repair or replacement of defective parts and such determination will be in the sole discretion of Seller. In its sole discretion, Seller may make repairs or replacements under these limited warranties with either new or refurbished parts. To the extent Buyer’s Product cannot be remedied, as determined in Seller’s sole discretion, under these limited warranties through repair or replacement of parts, Buyer may return the Product for a refund of the purchase price, less a reasonable reduction, as determined in Seller’s sole discretion, in such purchase price equal to the depreciation expense incurred by Buyer relating to such Product. Return for credits are limited to within 6 months from the shipping date. The limited warranties of this Section 6.1 are further subject to those warranty exclusions set forth below in Section 6.3.

6.2 Limited Warranty – Services. Seller agrees to perform service pursuant to this warranty for Buyer on the express condition that Seller’s sole obligation will be that the Service will be performed in a professional and competent manner and will be of the kind and quality described in the final quotation. If there is a specific problem with the quality of the Service performed, Seller should be notified immediately and the Service will be repeated at no additional charge. Seller offers a 90 day limited warranty against failure due to defects in material and workmanship on the Services performed by Seller and/or its authorized service persons. In the event Seller performs Services hereunder, Buyer must provide adequate access to the Products requiring Services to allow Seller and/or its authorized service persons to perform the Services. Buyer shall promptly reimburse Seller for any costs relating to such access by Seller or authorized service persons of Seller to the Product requiring such Services. The limited warranties of this Section 6.2 are further subject to those warranty exclusions set forth below in Section 6.3.

6.3 LIMITED WARRANTY EXCLUSIONS. EXCLUDING THE WARRANTIES PROVIDED FOR IN SECTION 6.1, SELLER PROVIDES ALL PRODUCTS TO BUYER “AS-IS” AND WITH ALL FAULTS, WITHOUT ANY OTHER WARRANTY OF ANY KIND. SELLER DISCLAIMS ANY AND ALL WARRANTIES OR REPRESENTATIONS WITH RESPECT TO THE PRODUCTS AND/OR SERVICES PROVIDED HEREUNDER, WHETHER EXPRESS OR IMPLIED, ARISING BY LAW, CUSTOM, ORAL OR WRITTEN STATEMENTS OR OTHERWISE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, FREEDOM OF INTERFERENCE WITH ENJOYMENT, QUALITY, ACCURACY, COMPLETENESS, FITNESS OF RESULTING WORK PRODUCT, USE AND NON INFRINGEMENT OF THE INTELLECTUAL PROPERTY OF OTHERS, OR THAT THE PRODUCTS OR SERVICES WILL GENERATE CERTAIN RESULTS, WORK IN COMBINATION WITH OTHER COMPONENTS OR AS AN INTEGRATED SYSTEM OR WILL FULFILL ANY OF BUYER’S PARTICULAR PURPOSES OR NEEDS. SELLER MAKES NO WARRANTY, EXPRESS OR IMPLIED, AS TO THE DESIGN, SALE, INSTALLATION OR USE OF ITS PRODUCTS. SELLER DOES NOT WARRANT THE FITNESS, SUITABILITY OR CONDITION OF BUYER’S MACHINERY UPON WHICH THE SERVICES ARE PERFORMED. SELLER’S WARRANTIES WILL NOT BE ENLARGED BY, NOR WILL ANY OBLIGATION OR LIABILITY OF SELLER ARISE DUE TO SELLER PROVIDING TECHNICAL DIRECTION, FACILITIES OR SERVICE IN CONNECTION WITH ANY PRODUCT.

There is no warranty by Seller with respect to any Product’s: (i) uninterrupted or error-free operation; (ii) actual performance, other than the Product’s capability to meet Seller’s specifications therefor; (iii) removal or installation from a worksite or process, or failure to provide a suitable installation environment; (iv) electronic components or associated accessories (including without limitation circuit boards and integrated circuits); (v) maintenance (including without limitation

gasket and seal replacements, adjustments, minor repairs and other inspection requirements, preventative or otherwise); (vi) use under inappropriate conditions or not in accordance with operating instructions; or (vii) use in connection with the operation of a nuclear facility. AMETEK's Nuclear Defense and Indemnification Terms (NDIT) are effective for all Metrix products and services provided to a nuclear facility. There is no warranty for labor expenses associated with field repairs or the repair or replacement of defective parts in the engine or power unit of any Product if such Product has been in the possession of the Buyer for greater than twelve (12) months. There is no warranty for Products determined to be, in Seller's sole discretion, damaged as a result of (a) misuse, neglect or accident; (b) improper application, installation, storage or use; (c) improper or inadequate maintenance or calibration; (d) operation outside of the published environmental specification; (e) damage caused by disasters such as fire, flood, wind and lightning (f) improper site preparation or maintenance; (g) unauthorized repairs or replacements; (h) modifications negligently or otherwise improperly made or performed by persons other than Seller; (i) Buyer supplied software or supplies; (j) use in conjunction with or interfacing with unapproved accessory equipment or attachments; or (k) use of ABC-style or dry powder fire suppression agents. Seller provides no warranty on the oral representations made by its personnel while they are attempting to assist Buyer in the operation of a Product. The limited warranties contained in this Article 6 do not apply to items consumed by the Products during their ordinary use, including but not limited to fuses, lamps and batteries.

6.4 Non-Seller Products. Seller does not in any way warrant Products it does not manufacture except to the extent the warranty of the manufacturer of the Product at issue passes through or is otherwise assigned to Seller. If a manufacturer warranty is so assigned to Seller, Seller will only be bound to comply with the length of time associated with such warranty. Buyer agrees and accepts such limitations and further agrees to hold Seller harmless for any claims or damages beyond such limitation.

6.5 Expenses on Non-Warranty Work. All repairs or replacements by Seller after the expiration of any applicable limited warranty period will be performed in accordance with Seller's standard rate for parts and labor. Further, if upon Seller's inspection and review, Seller determines the condition of the Products is not caused by a defect in Seller's material and workmanship, but is the result of some other condition, including but not limited to damage caused by any of the events or conditions set forth in Section 6.3, Buyer shall be liable for all direct expenses incurred by Seller to conduct the inspection and review of the Product.

6.6 Exclusive Remedy. THE FOREGOING LIMITED WARRANTY CONSTITUTES BUYER'S EXCLUSIVE REMEDY WITH RESPECT TO PRODUCTS AND SERVICES SOLD BY SELLER AND SELLER'S LIABILITY SHALL BE EXCLUSIVELY LIMITED TO THE WRITTEN LIMITED WARRANTIES SPECIFIED HEREIN. No employee, representative or agent of Seller is authorized to either expressly or impliedly modify, extend, alter or change any of the limited warranties expressed herein to Buyer.

6.7 Procedure and Costs. All limited warranty claims must be made in writing promptly following discovery of any defect. Buyer must hold defective Products for inspection by Seller. No Products will be sent to Seller for inspection unless Seller has authorized Buyer to do so. All returned merchandise must be sent freight prepaid by Buyer, properly boxed to prevent damage in transit, to Seller's service office. Any returns by Buyer will be at Buyer's expense and Buyer will remain liable for any loss of or damage to the Product during its transportation to Seller. After repair or replacement, Seller will return the part or component, freight prepaid, to Buyer. Alternatively, Buyer may desire on-site work, in which case Buyer shall promptly notify Seller and Seller shall arrange a service call to the facilities of Buyer at Seller's earliest convenience. In connection with such service call, Buyer will be required to pay time, travel and per diem for service personnel to travel to Buyer's facility, where the actual warranty service will be performed at no charge.

6.8 Extended Warranties Available. Seller offers extended warranties for many of the Products according to a current Seller published extended warranty schedule. Renewals of this basic warranty will be available on selected Products. Products must be re certified or repaired to original specifications by Seller or its authorized service persons before any warranty for such Product can be renewed.

7.0 Limitation of Liability

7.1 In General. SELLER SHALL NOT BE LIABLE FOR DAMAGES CAUSED BY DELAY IN PERFORMANCE. THE SOLE AND EXCLUSIVE REMEDY FOR BREACH OF WARRANTY HEREUNDER SHALL BE LIMITED TO REPAIR, CORRECTION OR REPLACEMENT OR REFUND OF PURCHASE PRICE, SUBJECT TO OFFSET FOR BUYER'S USE, UNDER THE LIMITED WARRANTY CLAUSE IN SECTION 6.1. IN NO EVENT, REGARDLESS OF THE FORM OF THE CLAIM OR CAUSE OF ACTION (WHETHER BASED IN CONTRACT, INFRINGEMENT, NEGLIGENCE, STRICT LIABILITY, OTHER TORT OR OTHERWISE), INCLUDING REASONS ATTRIBUTABLE TO SELLER, SHALL SELLER'S LIABILITY TO BUYER EXCEED THE PRICE PAID TO SELLER BY BUYER FOR THE SPECIFIC PRODUCTS MANUFACTURED OR SERVICES PROVIDED BY SELLER GIVING RISE TO THE CLAIM OR CAUSE OF ACTION. BUYER AGREES THAT IN NO EVENT SHALL SELLER'S LIABILITY TO BUYER AND/OR ITS CUSTOMERS EXTEND TO INCLUDE INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES. THE TERM "CONSEQUENTIAL DAMAGES" SHALL INCLUDE BUT NOT BE LIMITED TO LOSS OF ANTICIPATED PROFITS, LOSS OF USE, LOSS OF SAVINGS, LOSS OF REVENUE AND COST OF CAPITAL. BUYER INDEMNIFIES SELLER OF INJURY, DEATH, OR PROPERTY DAMAGE CAUSED BY BUYER'S (OR ITS AGENTS'/SUBCONTRACTORS') FAULT, NEGLIGENCE, OR STRICT LIABILITY. Buyer agrees these limitations on Seller's liability are reasonable and reflected in the amounts charged by Seller for its Products or Services.

7.2 Force Majeure. Seller shall not be liable for either direct or Consequential Damages caused, either directly or indirectly, as a result of: (i) any act of God, including but not limited to natural disasters such as floods, earthquakes or tornadoes; (ii) failure of supplies or transportation, or governmental action; (iii) damages resulting from or under the conditions of labor disputes, strikes, riot, insurrection, civil commotion or war; (iv) damages or improper operation due to intermittent power line voltage, frequency, electrical spikes or surges, unusual shock or electrical damage; (v) accident, fire or water damage, neglect, corrosive atmosphere or causes other than ordinary use; or (vi) any other causes beyond Seller's reasonable control.

7.3 Limitation on Claims. Any litigation proceedings with respect to defective or nonconforming Products or any other claim, whether based in contract, tort, warranty, strict liability, negligence or otherwise, must be filed by Buyer within twelve (12) months from the date of shipment of the Products or such claim will be precluded by limitations.

7.4 Limitation on Warranty Claims. Prior to any obligation of Seller to perform any limited warranty service as set forth herein, Buyer must have (i) paid all invoices to Seller in full, whether or not they are specifically related to the Product at issue and (ii) notified Seller of the limited warranty claim within thirty (30) days from the date Buyer knew or had reason to know of the defect.

8.0 INDEMNIFICATION

8.1 In General. Seller will not be responsible for losses of Buyer resulting from the installation or use of Products or the performance of Services. Buyer will unconditionally release, indemnify, defend and hold Seller harmless from and against any and all claims, demands, suits, losses, liabilities, judgments, damages, costs and expenses (including without limitation court costs, litigation expenses and attorneys' fees) and causes of action for injury, death or property damage caused by the fault, strict liability, gross negligence, negligence or any act or omission of Buyer, its subcontractors, or any of their respective employees, agents or invitees, asserted by any third party or other person or entity, including without limitation Buyer, its subcontractors, or any of their respective employees, agents or invitees, as a result of, arising directly or indirectly from, or incidental to the sale, delivery, installation or use of the Products or Services sold by Seller to Buyer.

8.2 Buyer's Intellectual Property Infringement. Buyer will unconditionally release, indemnify, defend and hold Seller harmless from and against any and all claims, demands, suits, losses, liabilities, judgments, damages, costs and expenses (including without limitation court costs, litigation expenses and attorneys' fees) asserted by or arising in favor of any person or entity for or as a result of infringement or alleged infringement of any patents, copyrights or trademarks, or misappropriation or misuse of any trade secrets or other confidential information, based on or related to the use or application by Buyer, its subcontractors, or any of their respective employees, agents or invitees, of any processes,

compositions, equipment, machines, articles of manufacture or computer software that are combined with Products or are integrated with Products by Buyer in the practice of a process.

9.0 Electronic Data Interchange

Buyer and Seller may execute an order acknowledgement by transmitting and receiving the data contained in the order acknowledgement electronically rather than in paper form. To provide the legal validity and enforceability of such order acknowledgement, Buyer and Seller further agree the data transmitted herein will be considered "in writing" and to have been "signed." Buyer and Seller agree not to contest the validity or enforceability of an order acknowledgement because of the electronic origination, transmission, storage or handling of such order acknowledgement. Any computer printout of the data contained in the order acknowledgement will be considered an "original" when maintained in the ordinary course of business and will be admissible as between Buyer and Seller to the same extent and under the same conditions as other business records maintained in documentary form. Buyer and Seller agree to properly use those security procedures which are reasonably sufficient to ensure that a transmission of the data contained in an order acknowledgement is authorized and to protect its business records and data from improper sources.

10.0 General Provisions

10.1 Product Changes. Seller, in its sole discretion, may modify the design and construction of its Products and will have no obligation to retrofit previously sold Products.

10.2 Stenographic Errors. Any stenographic or clerical errors will be subject to correction and will not be binding upon either Seller or Buyer.

10.3 Buyer Data. If any data supplied by Buyer, whether in the form of Buyer specifications or pursuant to any purchase order or other documentation, proves to be inaccurate, any warranties or other related obligations of Seller relying thereon will be void.

10.4 Governmental Procurement. No governmental procurement regulations or contractual clauses will be binding upon either Seller or Buyer unless such regulations or clauses are required by law or are mutually agreed to by Seller and Buyer.

10.5 Export. Buyer agrees to comply with all applicable export and re-export control laws and regulations, including the Export Administration Regulations ("EAR") maintained by the U.S. Department of Commerce, trade and economic sanctions regulations maintained by the Treasury Department's Office of Foreign Assets Control ("OFAC") and the International Traffic in Arms Regulations ("ITAR") maintained by the Department of State. Buyer will be responsible for obtaining any license required under EAR, OFAC regulations or ITAR. Buyer will identify in writing to Seller those items, technology and software for which an export license is required and provide export classification and licensing information necessary for export documents, including but not limited to the appropriate Export Control Classification Number from the Commerce Control List, the applicability of license exceptions, license numbers and copies of licenses. Buyer agrees to indemnify Seller for any fines, penalties, claims, losses, damages, costs (including legal costs), expenses and liabilities that may arise as a result of Buyer's breach of this Section.

10.6 Governmental Compliance. Buyer acknowledges and certifies that to the extent required by law, rule or regulation, Buyer, its subcontractors, and their respective employees and agents, shall be required to comply with the following: The Foreign Corrupt Practices Act, 15 U.S.C. §78dd-1 et seq.; The Immigration Reform and Control Act of 1986 and related regulations; the Equal Opportunity Clause prescribed in 41 CFR 60-1.4 (race, color, sex, national origin); the Affirmative Action Clause prescribed in 41 CFR 60-250-4 (veterans); the Affirmative Action Clause prescribed in 41 CFR 60 741.4 (handicapped workers); 43 CFR Chapter 1, Subpart 19.7 (Small Business and Small Disadvantaged Business Concerns); 48 CFR Chapter 1, Subpart 20.3 (Utilization of Labor Surplus Area Concerns); Executive Order 12138 (women-owned businesses); 41 CFR 60 1.40 (establishment of a written affirmative action program); 41 CFR 60 1.7 (filing the Employer Information report

annually); 41 CFR 60 1.8 (non-segregated facilities); the Fair Labor Standards Act of 1938; and all relevant amendments of such laws, rules and regulations.

10.7 Disclaimer of UN Conventions. In accordance with Article 6 of the United Nations Convention on Contracts for the International Sale of Goods, Seller and Buyer exclude the application of such convention to these Terms and Conditions, including all terms, obligations, requirements and duties that may be said to exist or arise from such convention. In accordance with Article 3(2) of the Convention on the Limitation Period in the International Sale of Goods, Seller and Buyer exclude the application of such convention from these Terms and Conditions, including all terms, obligations, requirements and duties that may be said to exist or arise from such convention.

10.8 Assignment. Neither Seller nor Buyer will be able to assign the rights, benefits or obligations resulting from these Terms and Conditions without the prior written consent of the other.

10.9 Entire Agreement. These Terms and Conditions represent the entire agreement and understanding relating to the sale of Products as between Seller and Buyer. No parol evidence, outside understandings or literature, or prior, present or future course of dealings may vary these Terms and Conditions.

10.10 Survival. Each of the representations, warranties, covenants and obligations set forth in these Terms and Conditions shall survive the sale of the Products from Seller to Buyer for an indefinite period and each of Seller and Buyer will continue to be bound by these Terms and Conditions.

10.11 Non-waiver of Default. Any failure by Seller at any time, or from time to time, to enforce or require the strict keeping and performance of any of the terms or conditions of these Terms and Conditions or to exercise a right hereunder, shall not operate or be construed as a waiver of such terms, conditions or rights, and shall not affect or impair Seller's right at any time to enforce same.

10.12 Governing Law; Venue. Any and all claims or disputes in any way arising out of or relate to these Terms and Conditions, their interpretation, construction or performance, or the breach or enforcement thereof, or any claims or disputes in any way concerning the conduct of Buyer or Seller in connection with these Terms and Conditions or otherwise (whether sounding in contract, in tort or based on statute or regulation) shall be governed exclusively by the laws of the State of Pennsylvania, except for any rule of law of the State of Pennsylvania that would make the law of another jurisdiction apply. Venue for any disputes under these Terms and Conditions will be in Chester County, Pennsylvania and Buyer and Seller hereby subject themselves to the jurisdiction of the Pennsylvania courts. The parties hereto irrevocably agree that any legal proceeding arising out of or in connection with these Terms and Conditions shall be brought in the state district courts of Chester County, Pennsylvania. Buyer and Seller each voluntarily agree Berwyn, Chester County, Pennsylvania is the most convenient forum and understand the choice of forum and jurisdiction is an integral and vital part of these Terms and Conditions. By agreeing to venue in Berwyn, Chester County, Pennsylvania, Buyer and Seller fully intend to waive their rights, if any, to venue in any place other than Berwyn, Chester County, Pennsylvania. Buyer and Seller deem these Terms and Conditions performable in Berwyn, Chester County, Pennsylvania, whether or not any part of these Terms and Conditions is actually performed in Berwyn, Chester County, Texas. In addition, Buyer agrees the price it is agreeing to pay for the Products reflect an analysis of the elimination of uncertainty regarding the jurisdiction and venue for any dispute.