

## TERMS AND CONDITIONS

These terms and conditions, together with the item, quantity, delivery, and similar terms and any specifications, details, and instructions specified or specifically incorporated by reference on the face of each accepted purchase order ("Order") issued pursuant hereto, constitute the entire agreement ("Contract") between Alpha Technologies ("Alpha" or the "Buyer") and the seller, lessor, or licensor named in the Order ("Seller") for the sale, lease, license, or provision of seller's tangible and intangible goods, services, or other items ("Goods"), superseding all prior communications and agreements.

**1. Offer And Acceptance.** This Order, whether or not issued with reference to a quotation or proposal of Seller, shall constitute an offer. Acceptance by Seller is expressly limited to the terms and conditions hereof and may be evidenced by acknowledgment of the Purchase Order or by commencement of performance. Any proposals for different or additional terms shall be set forth on the Purchase Order. No changes or modifications in this Order shall be valid unless confirmed in writing by Buyer.

**2. Shipping Instructions.** All Goods shall be delivered DAP (Delivery at Place) to the Buyer's designated location as specified on the Purchase Order. The Seller shall be responsible for arranging and paying for all transportation and insurance costs associated with the delivery. The Buyer reserves the right to specify the carrier and shipping instructions. The Seller shall comply with these instructions and bear any additional costs resulting from non-compliance. The Seller shall provide the Buyer with a detailed invoice and shipping documents within one day of shipment. Early shipments will be held at the Seller's risk and expense until the scheduled delivery date. The Buyer reserves the right to reject early shipments or delay the processing of invoices until the scheduled delivery date. All shipments must be accompanied by detailed packing lists specifying quantities, part numbers, and purchase order numbers. The Seller shall provide the Buyer with proof of delivery upon completion of the shipment. The Buyer's count of Goods received shall be final, unless the Seller can provide clear and verifiable evidence to the contrary.<sup>1</sup>

**3. Payment.** Unless otherwise stated herein, invoices shall be paid at net **90** days from the date of Seller's shipment. Buyer will only accept Seller's discount terms as an alternative to the Net **90** terms. The Buyer will not accept terms other than Net **90** days unless agreed to in writing by both parties.<sup>2</sup>

**4. Taxes.** Except as may be otherwise provided in this purchase order, the contract price does not include sale, use, excise and similar taxes applicable to the Goods furnished hereunder or the material used in the manufacture thereof or services rendered hereunder. All such taxes and charges shall be shown separately on Seller's invoices.

**5. Delays.** Time is of the essence. If Seller fails or refuses to proceed with this purchase order, or if Seller fails to make delivery, the Buyer may cancel the then remaining balance of the order and order from another Seller unless the delay is an excusable delay as hereinafter defined. The original Seller is responsible for any costs resulting from the cancellation and the reorder. An excusable delay shall not constitute a default hereunder. "Excusable Delay" as used in the paragraph means any delay in making or accepting deliveries which results without fault or negligence on the part of the party involved and which is due to causes beyond its control including, without being limited to, acts of God or of the public enemy, any preference priority or allocation order issued by the government, or any other act of the government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, and delays of a supplier due to such causes. Seller shall promptly notify Buyer of any such delay and the cause thereof.

**6. Cancellation.** Buyer may at any time cancel this order, in whole or in part, for its convenience or for cause, by written notice, for which email shall be acceptable. If Buyer cancels the order, any claim of Seller arising therefrom shall be limited to the costs or raw materials and finished goods on hand at the time of cancellation. Seller shall give written notice to Buyer of any claim made hereunder without delay, but in no case more than thirty (30) days following cancellation. In the event of a claim by Seller hereunder, Buyer shall have the right to: (1) pay such costs, less the greater of the salvage value or resale price of such goods and/or materials; (2) purchase such raw materials upon payment of such costs for the same; (3) purchase such finished goods for the purchase order price of the same; (4) require Seller to process such raw materials into finished goods and purchase such finished goods for the purchase order price of the same; or (5) exercise its rights under any combination of (1), (2), (3), or (4).

**7. Assignment.** Seller shall not delegate any duties, nor assign any rights or claims under this purchase order, or for breach thereof, without prior written consent of Buyer. Any such attempted delegation or assignment shall be void. All claims for monies due or to become due from Buyer shall be subject to deduction by Buyer of any setoff or counterclaim arising out of this or any other purchase orders of Buyer with Seller, whether such setoff or counterclaim arose before or after any such assignments by Seller. Buyer may assign this order and its interest therein to any affiliated entity or to any legal entity succeeding to Purchaser's business without the consent of Seller.

**8. Changes.** Buyer shall have the right to make from time to time and without notice to any sureties or assignees, changes as to packing, testing, destinations, specifications, designs and delivery schedules.

**9. Manufacturing Changes.** Seller shall give the Buyer advance notice in writing of all changes made in specifications, designs, part numbers and other identification changes, as well as major changes process procedures or changes in the location of the manufacturing plant, applying to Goods covered by this purchase order.

**10. Excess Goods.** Except for customary quantity variations recognized by trade practice, Goods in excess of those specified will not be accepted, and such Goods will be held at Seller's risk. Buyer may, and at Seller's direction shall, return such goods at Seller's risk, and all transportation charges, both to and from the original destination, shall be paid by Seller.

**11. Defective Goods.** If any of the Goods fail to meet the warranties contained in Paragraph 13, Seller, upon notice thereof from Buyer, shall promptly correct or replace the same at Seller's expense. If Seller shall fail so to do within a reasonable time, not to exceed thirty (30) days, Buyer may cancel this Order as to all such Goods, and in addition, may cancel the then remaining balance of this order. After notice to Seller, all such Goods will be held at Seller's risk. Buyer may, and at Seller's direction shall, return such goods to Seller at Seller's risk, and all transportation charges, both to and from the original destination, shall be paid by Seller. Seller shall refund any payment for such Goods

**12. Fabrication and Material Commitments.** Unless otherwise authorized in writing by Buyer, Seller shall not make commitments for materials nor fabricate in advance of time necessary to permit shipment on delivery dates.

**13. Warranty.** Seller expressly warrants all the articles, materials, work and services delivered hereunder or covered by this purchase order, including any special tools, dies, jigs, patterns, machinery and equipment obtained at Buyer's expense by Seller for the performance of this purchase order which are to be the property of Buyer, to be free from defects in materials and workmanship and to conform strictly to the specifications, drawings, samples or other descriptions furnished, adopted or specified by Buyer. If the Goods are not manufactured to Buyer's specifications, Seller further warrants that they will be merchantable and fit and sufficient for the particular purpose for which they are intended. These warranties shall survive any inspection, deliver acceptance, or payment by the Buyer for the materials or services.

Buyer may, at its option, inspect and test the materials and Goods at Seller's plant and/or the point of destination. The Buyer may make a surveillance of the Seller's inspection and quality control procedures as well as the data supporting the same. Seller agrees to warrant all Goods, which become components of Buyer goods to be free from defects for a period of twelve (12) months from the date of sale of Buyer's goods to an end-user or such longer time set forth in Seller's warranty.

**14. Indemnification.** To the fullest extent permitted by law, Seller shall indemnify, defend, and hold harmless Buyer, its subsidiaries or affiliated companies, and its successors and assigns against any and all third-party claims, causes of action, suits, proceedings, or demands ("Claim") arising out of or related to (i) a breach or alleged breach of this Agreement by Seller; (ii) personal injury or property damage, including the loss of use of property, resulting from a defect in any material or Goods delivered hereunder; or (iii) an allegation that any of the Goods infringe or misappropriate any intellectual property right of a third party, except to the extent same results from Seller's compliance with any specifications or design supplied by Buyer. . If any Goods furnished to Buyer become the subject of a claim of infringement or misappropriation of third party rights, Seller, at its expense, will either procure for Buyer and its customers the right to continue using the Goods, replace or modify them so that they are non-infringing, or refund Buyer's full purchase price.

Indemnified party shall use commercially reasonable efforts to promptly notify the indemnifying party of a Claim and reasonable cooperate in the defense of a Claim. The indemnifying party shall not confess any judgment, enter into any settlement or compromise of a Claim without the prior written consent of the indemnified party. The indemnified party shall have the right to participate in the defense of the Claim with counsel of its choice at its sole expense. Indemnification shall not be required if any Claim is settlement without the indemnifying party's consent, which shall not be unreasonably withheld. This Section 14 shall survive termination or expiration of the Order.

**15. Applicable Laws.** Seller shall comply with all federal, state, and international laws, and regulations, rules, codes, and requirements which govern Seller's performance hereunder, including all design, production, packaging, labeling, transportation and furnishing of services. Such compliance shall include, but not be limited to, all applicable (i) labor and employment laws, (ii) payment and withholding of income and other taxes, (iii) export control and regulations, including without limitation the requirements of the International Traffic in Arms Regulations and the U.S. Export Administration Act, (iv) the U.S. Foreign Corrupt Practices Act ("FCPA"), the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, and similar anti-bribery laws and requirements, and (v) applicable health, safety and environmental standards and requirements.

**16. Hazardous Substances.** Seller certifies that Goods will not be or include any misbranded or banned hazardous substance within the meaning of the Federal Hazardous Substances Act, that all chemical substances therein will be reported in compliance with all applicable inventory reporting requirements under the Toxic Substances Control Act, and that Seller will comply with the Federal Clean Air Act in regard to ozone depleting chemicals including, without limitation, appropriate marking of any part of Items in which CFC Class I ozone depleting chemicals are used. Seller will notify Buyer whenever it has reason to be aware of any harmful ingredients or defects within or involving the Items and, when required by applicable law, will provide material safety data sheets covering the Goods. Upon request, or whenever normally provided by Seller, Seller will provide certificates of analysis covering the

Goods. Seller shall, upon request, furnish Buyer a certificate as to the warranties and certifications set forth in this Section.

**17. Remedies.** No remedy herein provided shall be deemed exclusive of any other remedy allowed by law. Except for each party's indemnification obligations, damages arising out of breach of confidentiality, damages arising out of a party's gross negligence, willful misconduct, or violation of law, neither party shall be liable for any special, incidental, consequential, punitive, exemplary, or other indirect losses or damages, however caused, whether or not foreseeable, and even if advised of the possibility thereof. Except for each party's indemnification obligations, damages arising out of breach of confidentiality, damages arising out of a party's gross negligence, willful misconduct, or violation of law, and to the maximum extent permitted by law, each party's liability in damages or otherwise for any and all causes shall not exceed three (3) times the amount paid or payable by Buyer to Seller for the applicable Order. These limitations shall apply regardless of the form of action, whether contract, tort, strict liability, or otherwise, notwithstanding the failure of the essential purpose of any limited remedy.

**18. Purchaser's Design.** Buyer shall at all times have title to all drawings, specifications and models furnished by Buyer to Seller and intended for use in connection with the purchase order. Seller shall use such drawings, specifications and models only in connection with the purchase order and shall not use or disclose them in connection with goods or services furnished to others. Seller shall, upon Buyer's request or upon completion of this purchase order, promptly return all drawings, specifications and models to Purchaser.

**19. Buyer's Property.** All confidential and/or proprietary information regarding Buyer, its business, products, customers, and requirements; all designs, drawings, Specifications, software, molds, dies, tooling, equipment, processes, materials, and technical, engineering, or other data and/or information that are furnished to Seller by Buyer or developed at Buyer's expense; and all related intellectual property and proprietary rights (collectively, "Buyer Property") are and will be the exclusive property of Buyer and may not be reproduced, copied, or used except as strictly required to fulfill Buyer's Orders. Standard goods manufactured by Seller and sold to Buyer without being designed, customized, or modified for Buyer and related standard designs, Specifications, software, processes, and tooling do not constitute Buyer Property. Buyer Property and any product or service purchased hereunder shall be deemed to be work-for-hire made pursuant to a written instrument exclusively for Buyer. To the extent that any Buyer Property, product or service purchased hereunder is not considered a work-for-hire or Seller retains any rights therein, Seller agrees to and hereby grants, assigns and conveys to Buyer all of its right, title and interest, if any, and in all copyrights and other intellectual property rights, including the sole right to sue for infringement thereof. Seller irrevocably waives any claim or rights to any Buyer Property and agrees to protect and hold the same in trust for the benefit of Buyer, to limit access thereto to its representatives having a need therefor to fulfill Buyer's Orders, and to protect and safeguard the same against loss, damage, or unauthorized use or disclosure, and to deliver the same to Buyer at any time upon its request. Seller agrees to take any actions or execute any documentation reasonably requested to confirm and perfect Buyer's rights in Buyer Property or to seek protection therefor. To the extent Seller fails to do so, Seller hereby appoints the officers and counsel of Buyer as its attorney in fact to execute documents and take actions on behalf of such party and its representatives, successors and assigns for such limited purposes, which appointment is a power coupled with an interest. All Buyer Property, and all products, parts, or other items manufactured, developed, or produced utilizing Buyer Property, will be supplied and used solely for the benefit of Buyer and not for the benefit of Seller or third parties. Seller acknowledges that any breach of this Section may cause Buyer irreparable harm for which recovery of damages would be inadequate, and that immediate injunctive or other equitable relief is appropriate and available to Buyer to prevent any violation.

**20. Supplementary Information.** Any specifications, drawings, notes, instructions, engineering notices or technical data referred to in this purchase order shall be deemed to be incorporated herein by reference as fully set forth. In case of any discrepancies or questions, Seller shall refer to Buyer for instructions or interpretation.

**21. Inspection And Acceptance.** Inspection and test of the Goods by Buyer may at Buyer's option be made at Seller's plant and/or the point of destination. At the Buyer's option the Buyer may make a surveillance of the Seller's inspection, quality and reliability procedures as well as the data supporting same. Acceptance of the goods by Buyer shall not relieve Seller from any of its obligations and warranties hereunder. In no event shall payment be deemed to constitute acceptance.

**22. Insurance:** Seller will maintain at all times workers' compensation, comprehensive general liability (including products/completed operations and contractual liability), automobile, public liability, professional errors and omissions (if applicable), property damage and other appropriate insurance in accordance with good industry practice and in amounts sufficient to cover its activities and obligations under this Order (in amounts not less than \$2,000,000 (or higher amounts as required by law) unless lower levels are agreed to by Buyer) with carriers acceptable to Buyer and rated by A.M. Best at or above A-. Upon Buyer's request, Seller will name Buyer as an additional insured. All such insurance will be primary coverage and Seller waives, and will cause its insurers to waive, all rights of subrogation against Buyer. Seller shall provide certificates of insurance showing such coverage prior to performing any work at Buyer's premises or promptly upon Buyer's request. All certificates of insurance will provide for 30 days' notice to Buyer if the described policies are cancelled or materially modified before the expiration date stated on the certificate.

**23. Supplier Code of Conduct.** Seller acknowledges that conducting business in accordance with the highest ethical standards is fundamental to Buyer. As a condition of Buyer purchasing Goods from Seller, Seller agrees to adhere to the standards set forth in Buyer's Supplier Code of Conduct, available at [https://cdn.prod.website-files.com/662bbd91614b207854e22419/6710d2edc4cfa114000b0e30\\_Indicor%20Supplier%20Code%20of%20Conduct%20Policy\\_4Q2024.pdf](https://cdn.prod.website-files.com/662bbd91614b207854e22419/6710d2edc4cfa114000b0e30_Indicor%20Supplier%20Code%20of%20Conduct%20Policy_4Q2024.pdf), as amended from time to time, which are hereby incorporated by reference.

**24. Publicity.** Neither party may publicly identify the other party as a customer or supplier, as applicable, using the other party's name and logo, including in marketing materials and on website and social media without the prior written approval of the other party. Either party may issue a press release announcing Buyer's selection of the Seller's offerings, the text of which will be subject to the Seller's prior written approval, not to be unreasonably withheld or delayed.

**25. Severability.** If any provision of the Order is declared invalid or unenforceable by judicial determination or otherwise, such provision shall not invalidate or render unenforceable the entire Order; rather, the Order shall be construed as if not containing the particular invalid or unenforceable provision or provisions and the rights and obligations of the parties shall be construed and enforced accordingly.

**26. Governing Law.** These terms and conditions and all Orders to which they may apply, including without limitation any disputes arising out of deliveries from Seller to Buyer, shall be governed by and construed and enforced in accordance with the laws of the State of Ohio<sup>3</sup> and the United States of America, without giving effect to any conflict of law provision that would cause the application of the laws of any other jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Law on the Formation of Contracts for the International Sale of Goods shall not be applicable to any transactions hereunder, and any applicable international discovery and service of process conventions will be inapplicable.

**27. Government Contracts.** If the Goods covered by an Order are in pursuance of fulfilling a contract with the U.S. Government, Seller agrees that the Order and Seller's provision of Goods (and all subcontracts issued by Seller with respect thereto) will be subject to the provisions of the Renegotiation Act of 1951 and regulations enacted thereunder, as applicable, including all provisions and regulations with respect to elimination of excessive profits through negotiation, and Seller will ensure compliance with all applicable Government laws and regulations relating to non-discriminatory hiring, wage rates and other subjects pertinent to Seller's subcontract goods or services, and all terms and regulations associated with such acts, as well as all applicable flow-downs as specified in the Order. To the extent applicable, Seller incorporates by reference 29 CFR Part 471, Appendix A to Subpart A, as well as any E-Verify obligations described in FAR 52.222-54. Seller certifies that it maintains no segregated employee facilities as provided in 41 C.F.R. Section 60-1.8 and will comply with all applicable requirements of 38 U.S. Code 4212, Executive Orders 11246, 11375, 11758 and 12086, amended and other applicable laws and Executive Orders relating to equal opportunity for employment on government contracts. The Seller shall provide evidence of the foregoing compliance upon request. If the Government should terminate the contract work, Buyer reserves the right to cancel Order by written notice to Seller. All claims and demands of Seller arising from such cancellation shall be adjusted and paid upon the same terms, conditions and settlements as the claims and demands of Buyer are adjusted and paid by the Government following such termination. Seller agrees that the Comptroller General of the United States shall, until the expiration of three years after final payment under the prime contract with the Government, have access to and the right to examine any pertinent books, papers and records of Seller invoicing the performance of or transactions relating to this Order.

December 6, 2024