

TERMS AND CONDITIONS OF PURCHASE

IMPORTANT! THIS IS A LEGAL AGREEMENT. BY PROVIDING THE GOODS, SOFTWARE AND/OR SERVICES DESCRIBED ON THE FRONT OF THIS PURCHASE ORDER, YOU (AS THE VENDOR) ARE BECOMING A PARTY TO THIS AGREEMENT AND HEREBY CONSENT TO BE BOUND BY ALL THE TERMS AND CONDITIONS OF PURCHASE AS SET FORTH BELOW:

Section 1. Order. The terms and conditions of this purchase order, including the information contained on the reverse side hereof, together with any lease or license schedule incorporated herein ("Order") is the agreement between Vendor and Buyer to sell and purchase or, if set forth on the reverse side hereof, lease or license (collectively, as the case may be, to "Purchase"). Vendor's products, software or services (collectively, "Products"), subject to any additional terms and conditions set forth in any previously negotiated reference materials or agreement (collectively "Reference Agreement"), if applicable. This Order incorporates the minimum specifications and requirements set forth in any request for quote or similar request of Buyer to which Vendor responded to induce Buyer to issue this Order. Any acknowledgement, other agreement, invoices or correspondence from Vendor, whether before or after the date hereof (collectively, "Vendor Forms"), containing terms and conditions of sale, payment, lease or license shall not modify the terms and conditions hereof, and Buyer expressly objects to any additional or inconsistent terms contained in any Vendor Forms. If a conflict exists between this Order and a Reference Agreement, the terms of the Reference Agreement shall control.

Section 2. Shipping. Buyer may, without additional charge, modify or cancel this Order prior to shipment of the Products described herein (or, in the case of services, prior to commencement of performance thereof). Products shall be delivered to, or provided at, the ship-to location, by the specified delivery dates, without disruption to Buyer's business. TIME IS OF THE ESSENCE IN FULFILLMENT OF VENDOR'S OBLIGATIONS SET FORTH IN THIS ORDER. Vendor will make shipments at Vendor's cost, freight and insurance prepaid, in accordance with shipping instructions provided by Buyer. Vendor shall, under all circumstances, bear the risk of loss of or damage to all Products until the Products are delivered to and accepted by Buyer. No changes or substitutions shall be made in this Order without the prior written consent of Buyer.

Section 3. Payment. Vendor shall invoice Buyer for Products upon Buyer's acceptance. Invoices shall contain the Order number and such supporting documentation as Buyer reasonably requires and shall be sent to the bill-to address. Vendor acknowledges and agrees that only Buyer is liable for payment hereunder. All sales, use, excise or similar taxes must be itemized and will be paid by Buyer. All other taxes shall be the responsibility of Vendor and Buyer shall have no obligation to Vendor with respect thereto. Payment of invoices is due 45 days after Buyer's receipt of an undisputed invoice. No invoice shall be considered received by Buyer prior to Buyer's acceptance of the applicable Products, unless this Order specifically calls for delivery in installments. Installment invoices will not be considered received until Buyer's acceptance of the Products in the applicable installments is in compliance with this Order. If a bona fide dispute exists regarding amounts due on an invoice, Buyer shall pay the undisputed items and promptly report the disputed items to Vendor. Buyer shall pay the amount, if any, mutually agreed to be due with respect to any disputed items after resolution.

Section 4. Warranties. Vendor warrants that (i) it has good and marketable title to the Products free and clear of liens, security interests, claims and other encumbrances, and shall transfer good title to Buyer upon delivery (unless this Order is for a lease or license which has been properly scheduled); (ii) services provided by Vendor shall be completed by qualified personnel in a professional and workmanlike manner and in accordance with Buyer's requirements, current industry standards and reasonable care; (iii) Products and the packaging therefor shall (A) be merchantable, of good quality, free from defects in material and workmanship and fit for the purposes intended; and (B) conform to and perform in accordance with any user documentation (which documentation shall be provided to Buyer in connection with each Product at no additional cost, and shall be complete, correct and accurate), samples provided to Buyer and any descriptions set forth in this Order (including any specifications incorporated therein) and/or in the Vendor's Forms or in Vendor's proposals, sales, ordering or other literature; (iv) it has disaster recovery arrangements in place to prevent any disaster affecting Vendor from adversely affecting Vendor's performance obligations hereunder; (v) all Products have been manufactured and sold in compliance with the requirements of all applicable federal, state and municipal laws, rules and regulations; (vi) if this Order is for a license, Vendor has the right and shall retain the right to grant such license hereunder; and (vii) it, and each of its owners, directors, employees, and every other person working on its behalf, has not and will not, in connection with this Order or in connection with any other business transactions involving Buyer, make, offer or promise to make any payment or transfer anything of value, directly or indirectly, to any (A) governmental official or employee (including employees of government-owned and government-controlled corporations and public international organizations); (B) political party, official of a political party, or candidate; (C) intermediary for payment to any of the foregoing; or (D) any other person or entity if such payment or transfer would violate the laws of the country in which made or the laws of the United States. The warranties set forth herein are in addition to any warranties that Vendor may make to Buyer in the Reference Agreement or which may exist by operation of law. If the Products are manufactured, licensed, leased, or provided by a third party, Vendor hereby assigns and agrees to assist Buyer, at no additional cost, in obtaining the benefit of all warranties of such third party, which warranties shall be in addition to the warranties given by Vendor.

Section 5. Audit. Buyer shall have the right during regular business hours to inspect, copy, review and audit Vendor's books and records (or portions thereof) in connection with the prices, discounts, credits and other performance obligations due hereunder.

Section 6. Confidentiality. Vendor shall keep confidential all information that it obtains from Buyer ("Confidential Information") by employing procedures and practices no less restrictive than the strictest procedure used by Vendor to protect its own confidential and proprietary information, but in no event less than reasonable security measures. Information shall not be considered Confidential Information to the extent it (i) now or subsequently comes in the public domain without breach of this Order; (ii) was already in the Vendor's possession free from any obligation of confidence prior to its receipt hereunder; (iii) was rightfully communicated by a third party to the Vendor free from any obligation of confidence prior to receipt hereunder; (iv) is independently developed by the Vendor without breach of this Order; or (v) is required to be disclosed by law. Confidential Information disclosed to the Vendor remains the property of Buyer. All Confidential Information and any copies shall be promptly destroyed or returned to Buyer upon the earlier of termination of this Order or upon Buyer's request. Buyer shall be entitled to all remedies of law or in equity for any breach or threatened breach by Vendor of its obligations relative to the Confidential Information.

Section 7. Work Product Ownership. All materials and copies of materials developed, generated or produced in connection with Vendor's services to Buyer under this Order (collectively, "Work Product") shall be Buyer's sole and exclusive property. Vendor hereby grants, assigns and conveys to Buyer all right, title, and interest in and to all Work Product. Vendor shall have no proprietary interest in the Work Product, and will not seek, and will require its employees, agents or subcontractors ("Vendor's Personnel") not to seek patent, copyright, trademark, registered design, or other protection for any rights in any Work Product. Vendor agrees that the Work Product is a "work made for hire" under U.S. Copyright Law.

Section 8. Acceptance; Nonconforming Products. Buyer may refuse to accept or may return, at Vendor's expense, any Products that fail to conform to this Order and may also cancel this Order with respect thereto, in which event Buyer shall be entitled to a refund of any amounts previously paid to Vendor for such Products. If Buyer chooses not to return a nonconforming Product, Vendor shall, at Vendor's sole cost and expense, correct, repair or replace (or, in the case of services, reperform) any such nonconforming Products in a manner reasonably acceptable to Buyer. Any such correction, repair, replacement, or reperformance shall be completed as soon as reasonably possible, but in no event later than 10 days after Buyer notifies Vendor of the nonconformity.

Section 9. Default; Remedies. If Vendor does not perform each and every of Vendor's obligations under this Order, Vendor shall be in default hereunder, and Buyer may suspend its performance hereunder until such default is cured. If Vendor fails to cure the default within 10 days after notice, Buyer may, at Buyer's election, (i) terminate this Order and cancel any or all outstanding unfulfilled Purchases, (ii) deduct from any amounts due to Vendor by Buyer hereunder amounts reasonably determined by Buyer to provide cover or a replacement from any other source, (iii) receive a refund of any amounts paid for Products which have not been provided or which have not been accepted or which have been returned by Buyer, and (iv) take any action permitted at law or in equity, including, without limitation, to seek any remedy available under the Uniform Commercial Code (the "UCC"). The remedies set forth herein are cumulative and in addition to and not in lieu of other rights and remedies of the parties at law or in equity (including, without limitation, under the UCC).

Section 10. Liability Limitation. Buyer's cumulative liability to Vendor for any loss or damage, for any cause whatsoever (including, but not limited to, those arising out of or related to this Order) and regardless of the form of action, shall be limited to the total amount payable for Products by Buyer under this Order. IN NO EVENT SHALL BUYER OR ITS AFFILIATES BE LIABLE UNDER ANY THEORY OF TORT, CONTRACT, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY LOST PROFITS, EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, EACH OF WHICH IS HEREBY EXCLUDED BY AGREEMENT OF THE PARTIES REGARDLESS OF WHETHER OR NOT BUYER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

Section 11. Indemnification. Vendor agrees to defend, indemnify and hold Buyer, its affiliates and customers harmless from and against any and all claims, demands, causes of action, damages, costs and/or expenses (including, without limitation, reasonable attorneys' fees) arising out of or related to (a) acts or omissions of Vendor or Vendor's Personnel; (b) any failure by Vendor to perform its obligations hereunder; (c) claims under worker's compensation or similar acts made by Vendor's Personnel or for injuries to such persons for which Buyer would be responsible under such acts if such persons were Buyer's employees; and (d) any allegation that the possession, distribution or use by Buyer of the Products or any other material supplied hereunder infringes any patent, copyright, trademark, trade secret, or other similar proprietary right of any other person. If any such claim or proceeding arises, Buyer shall give written notice of the claim to Vendor in a timely manner after it receives actual notice of its existence. Vendor shall have the right at its expense to defend against or to compromise, settle or otherwise dispose of the claim, provided that no compromise or settlement of any claim admitting liability of or imposing duties of performance upon Buyer may be effected without the prior written consent of Buyer. If Vendor does not undertake the defense of any such claim within 20 days after notice from Buyer, Buyer shall be free to investigate, defend or otherwise incur costs in connection therewith for the account and at the expense of Vendor in such manner as Buyer deems in Buyer's best interest. Vendor shall also, in the event of an alleged infringement, (i) modify the Product to be non-infringing or (ii) obtain for Buyer a license to continue using the Product; or if neither (i) nor (ii) can be attained, Vendor will refund all amounts paid by Buyer in connection with such Product.

Section 12. Insurance. During the term of this Order, Vendor shall, at its own cost and expense, obtain and maintain in full force and effect, the following insurance coverage: (a) workers' compensation and disability insurance in statutory amounts; (b) employer's liability insurance with a minimum limit of \$500,000; (c) automobile liability insurance with a combined single minimum limit of \$1,000,000 for bodily injury and property damage; and (d) general comprehensive liability insurance or suitable umbrella insurance with minimum single limit coverage of \$5,000,000.

Section 13. Excusable Delays. In no event shall either party be liable to the other for any delay or failure to perform due to causes beyond the control and without the fault or negligence of the party claiming excusable delay ("Excusable Delay"). Each party shall immediately notify the other party of any Excusable Delay that it anticipates will delay its full performance. Anything to the contrary notwithstanding, if the Excusable Delay extends Vendor's performance ten (10) or more days beyond the Delivery Date, Vendor acknowledges that Buyer may terminate this Order without penalty or financial obligation of any type or kind.

Section 14. Miscellaneous. This Order shall be interpreted and enforced in accordance with the laws of the state of the ship-to location for this Order, and Vendor hereby consents to the personal jurisdiction of the state and federal courts of such state. All actions or litigation arising from or related to this Order shall be commenced only in the state and federal courts located in the state of the ship-to location. Vendor shall not assign or subcontract this Order or any part of Vendor's duties. Buyer may assign or transfer the rights granted herein to Buyer's parent or to an affiliate of Buyer. Vendor shall be responsible for the acts of Vendor's Personnel and for payment of all unemployment, social security and other payroll taxes required by law. If Vendor's Personnel are on site at Buyer's premises during the course of this Order, Vendor (i) is responsible for assuring that all Vendor's Personnel conduct themselves in a professional manner, without disruption, abuse or harassment of Buyer's employees, customers or others; and (ii) agrees to cause all Vendor's Personnel to observe and comply with Buyer's workplace rules and regulations and Buyer's standard security procedures. Buyer may cancel this Order in whole or in part by notice to Vendor if Vendor becomes insolvent or makes a general assignment for the benefit of creditors or if any action is taken by or against Vendor for relief under bankruptcy or insolvency laws. Vendor agrees to provide Buyer, without charge, such training, assistance and other services and benefits as may be useful or necessary for Buyer to use the Products in the manner for which they were intended. All notices to be given pursuant to this Order shall be addressed to the parties at their respective addresses set forth on the reverse side hereof and shall be given by certified mail, return receipt requested, or by a nationally recognized overnight delivery service. Sections 4, 6, 9, 10, 11, 12, 13 and 14 shall survive the consummation or termination of this Order. Vendor shall not use Buyer or any of its affiliates' names in any publicity release nor divulge any information pertaining to this Order without Buyer's prior written approval. VENDOR AND BUYER AGREE THAT GENERAL CONTRACT LAW AND APPLICABLE PROVISIONS OF THE UCC SHALL GOVERN THIS ORDER, AND EXCEPT TO THE EXTENT PROHIBITED BY APPLICABLE LAW, THE UNIFORM COMPUTER INFORMATION TRANSACTIONS ACT, AS ADOPTED IN ANY FORM, IN ANY STATE, SHALL NOT APPLY TO THIS ORDER.