



## **Terms and Conditions**

Terms and Conditions are applicable to all Purchase Orders.

1. Acceptance of Purchase Order Agreement by Seller to furnish the materials, products or services hereby ordered, or its commencement of such performance, or acceptance of any payment, shall constitute acceptance by Seller of the Purchase Order subject to these terms and conditions. In the event that the Purchase Order does not state price or delivery, Buyer will not be bound to any prices or delivery to which it has not specifically agreed in writing. Any terms or conditions proposed by Seller inconsistent with or in addition to the terms and conditions herein contained shall be void and of no effect unless specifically agreed to by Buyer in writing. These Standard Terms and Conditions, together with any referenced exhibits, attachments or other documents appended hereto, constitute the entire agreement between the parties with respect to the subject matter of the Purchase Order and supersede any prior or contemporaneous written or oral agreements pertaining thereto.

2. Definitions Words used in the Purchase Order shall have their normally accepted meanings unless otherwise specifically defined in the Purchase Order.

(a) "Buyer" shall mean Flotron in the Purchase Order.

(b) "Seller" shall mean the party identified as the Seller in the Purchase Order.

(c) "Purchase Order" shall mean the Purchase Order, Subcontract or Contract, these Standard Terms and Conditions, and any special conditions appended hereto, or documents incorporated herein.

(d) "Work" shall mean the goods and/or services identified and defined in the Purchase Order, which may be changed, from time to time by the mutual written agreement of the parties.

(e) "Customer" shall mean Buyer's customer(s) and shall include Buyer's direct and indirect customers such as direct sale end-users, higher-tier subcontractors, prime contractors, and the ultimate user under relevant prime contract(s).

3. Compliance with Quality Requirements - As applicable to our customers, compliance to a Quality Management System such as ISO 9001, Mil-I-45208, AS9100, or other inspection processes are in place.

4. Delivery; Notice of Delay

(a) Time is of the essence and failure to deliver in accordance with the delivery schedule under the Purchase Order, if unexcused, shall be considered a material breach of the Purchase Order. No acts of Buyer, including without limitation modifications of the Purchase Order or acceptance of late deliveries, shall constitute waiver of this provision. Buyer also reserves the right to refuse or return at Seller's risk and expense shipments made in excess of Buyer's orders or in advance of required schedules, and/or to defer payment on advance deliveries until scheduled delivery dates.

(b) Seller shall immediately notify Buyer in writing of any actual or potential delay to the performance of the Purchase Order. Such notice shall include a proposed revised schedule but such notice and proposal or Buyer's receipt or acceptance thereof shall not constitute a waiver to Buyer's rights and remedies hereunder.

5. Termination for Convenience

(a) Buyer may, by notice to Seller in writing, terminate the Purchase Order or Work under the Purchase Order for convenience and without cause, in whole or in part, at any time, and such termination shall not constitute default. In the event of partial termination, Seller is not excused from performance of the non-terminated portion of Work under the Purchase Order.

(b) In the event of termination for convenience by Buyer, Seller shall be reimbursed for actual, reasonable, substantiated, and allocable costs, plus a reasonable profit for Work performed up to the date of termination. In no event shall Buyer be liable for lost or anticipated profits, unabsorbed indirect costs or overhead, or for any sum in excess of the total Purchase Order value. Any termination settlement proposal shall be submitted to Buyer promptly, but no later than ninety (90) days from the effective date of the termination. Buyer may take immediate possession of all Work performed upon written notice of termination to Seller.

6. Cancellation for Default

(a) Buyer may, by written notice to Seller, cancel all or part of this contract if (i) Seller fails to deliver the Goods within the time specified by this contract or any written extension; (ii) Seller fails to perform any other provision of this contract or fails to make progress, so as to endanger performance of this contract, and, in either of these two circumstances, does not cure the failure within 10 days after receipt of notice from Buyer specifying the failure; or (iii) in the event of Seller's suspension of business, insolvency, appointment of a receiver for Seller's property or business, or any assignment, reorganization or arrangement by Seller for the benefit of its creditors.



(b) Seller shall continue work not canceled. If Buyer cancels all or part of this contract, Seller shall be liable for Buyer's excess re-procurement costs.

(c) Buyer may require Seller to transfer title (to the extent Buyer does not already have title) and deliver to Buyer, as directed by Buyer, any (i) completed Goods, and (ii) any partially completed Goods and materials, parts, tools; dies, jigs, fixtures, plans, drawings, information, contract rights and other materials (collectively, "Manufacturing Materials") that Seller has specifically produced or acquired for the canceled portion of this contract. Upon direction from Buyer, Seller shall also protect and preserve property in its possession in which Buyer or any customer of Buyer has an interest.

(d) Buyer shall pay the contract price for Goods accepted. Payment for Manufacturing Materials accepted by Buyer and for the protection and preservation of property shall be at a price determined in accordance with the "Termination for Convenience" article of this contract, except that Seller shall not be entitled to profit. Buyer may withhold from any amount due under this contract any sum Buyer determines to be necessary to protect Buyer or Buyer's customer against loss because of outstanding liens or claims of former lien holders of Seller or its subcontractors.

(e) If, after cancellation, it is determined that Seller was not in default, the rights and remedies of the parties shall be as if the contract had been terminated according to the "Termination for Convenience" article of this contract.

(f) All intellectual property, including, but not limited to, drawings, software, and models, required to finish the project shall be delivered to Buyer.

## 7. Disputes and Governing Law

(a) Pending resolution or settlement of any dispute arising under the Purchase Order, Seller will proceed diligently as directed by Buyer with the performance of the Purchase Order.

(b) The Purchase Order shall be governed by and subject to the laws of the State of California without reference to the conflicts of law principles thereof. Notwithstanding the foregoing, in the event any provision of the Purchase Order is incorporated in full text or by reference from the Federal Acquisition Regulation (FAR), or from any agency regulation that implements or supplements the FAR, or that is substantially based on any such agency regulation or FAR provision, shall be construed and interpreted according to the federal common law of government contracts as enunciated and applied by federal judicial bodies, boards of contracts appeals and quasi-judicial agencies of the federal Government. This contract excludes the application of the 1980 United Nations Convention on Contracts for the International Sale of Goods.

(c) Seller: (i) consents to the jurisdiction of the courts of the State of California and the courts of the United States located in the State of California, in connection with any lawsuit, action or proceeding arising out of or relating to the Purchase Order; (ii) waives any objection that it might now or hereafter have to the venue of any such lawsuit, action or proceeding; (iii) irrevocably submits to the jurisdiction of any such court in any such lawsuit, action or proceeding; and (iv) waives any claim or defense of inconvenient forum.

(d) Buyer and Seller shall each bear its own costs of processing any dispute hereunder. In no event shall Seller acquire any direct claim or direct course of action against the U.S. Government. The rights and remedies of Buyer are cumulative and in addition to any other rights and remedies provided by law or in equity.

## 8. Packing and Shipping

(a) Seller shall pack the Goods to prevent damage and deterioration. Seller shall comply with carrier tariffs. Buyer may charge Seller, and Seller shall be responsible, for damage to or deterioration of any Goods resulting from improper packing or packaging. Unless this contract specifies otherwise, the price includes shipping charges for Goods sold F.O.B. destination. Unless otherwise specified in this contract, Goods sold F.O.B. place of shipment shall be forwarded collect. Seller shall make no declaration concerning the value of the Goods shipped except on Goods where the tariff rating is dependent upon released or declared value. In such event, Seller shall release or declare such value at the maximum value within the lowest rating.

(b) Unless this contract specifies otherwise, Seller will ship the Goods in accordance with all of the following instructions:

i. Shipments by Seller or its subcontractors must include packing sheets containing Buyer's contract number, line-item number, work order number or job ID number, Purchase Order number, description and quantity of Goods shipped, part number or size, if applicable, and appropriate evidence of inspections. A shipment containing hazardous and nonhazardous materials must have separate packing sheets for the hazardous and nonhazardous materials. Seller shall not include vermiculite or other hazardous substance in any packing material included with the Goods. Items shipped on the same day will be consolidated on one bill of lading or air bill unless otherwise authorized in writing by Buyer's Authorized Procurement Representative. The shipping documents must describe the material according to the applicable classification and/or tariff. The total number of shipping containers will be referenced on all shipping documents. Originals of all Government bills of lading will be surrendered to the origin carrier at the time of shipment.

ii. Seller will not insure any FOB origin shipment unless authorized, in writing, by Buyer.



- iii. Seller will label each shipping container with the contract number and the number that each container represents of the total number being shipped (e.g., box 1 of 2, box 2 of 2).
- iv. Buyer will select the carrier and mode of transportation for all shipments where freight costs will be charged to Buyer.
- v. Seller will include copies of documentation supporting prepaid freight charges (e.g., carrier invoices or UPS shipping log/manifest), if any, with its invoices.
- vi. If Seller is unable to comply with the shipping instructions in this contract, Seller will contact Buyer, in writing, for instruction or information.

#### **9. Quality Control**

Seller shall establish and maintain a quality control system acceptable to Buyer for the Goods purchased under this contract. Seller shall permit Buyer, at its election, to review procedures, practices, processes and related documents to determine such acceptability. Seller shall have a continuing obligation to promptly notify Buyer, in writing, of any violation of or deviation from Seller's approved inspection/quality control system and to advise Buyer, in writing, of the quantity and specific identity of any Goods delivered to Buyer during the period of any such violation or deviation.

#### **10. Seller's Notice of Discrepancies**

Seller shall notify Buyer in writing when discrepancies in Seller's process or Goods are discovered or suspected regarding Goods delivered or to be delivered under this contract.

#### **11. Warranty**

Seller warrants that all Goods furnished under this contract shall conform to all designs, specifications and requirements of this contract and shall be free from defects in materials and workmanship. To the extent Goods are not manufactured pursuant to designs, specifications and requirements furnished by Buyer, the Goods shall be free from design and specification defects. This warranty shall survive inspection, test and acceptance of, and payment for, the Goods. This warranty shall run to Buyer and its successors, assigns and customers. Such warranty shall begin after Buyer's final acceptance. Buyer may, at its option, either return for credit or refund, or require prompt correction or replacement of the defective or non-conforming Goods. Return to Seller of defective or nonconforming Goods and redelivery to Buyer of corrected or replaced Goods shall be at Seller's expense. Goods required to be corrected or replaced shall be subject to this article and the "Inspection" article of this contract in the same manner and to the same extent as Goods originally delivered under this contract, but only as to the corrected or replaced part or parts thereof. Even if the parties disagree about the existence of a breach of this warranty, Seller shall promptly comply with Buyer's direction to: (i) repair, rework or replace the Goods, and/or (ii) furnish any materials or parts and installation instructions required to successfully correct the defect or nonconformance. If the parties later determine that Seller did not breach this warranty, the parties shall equitably adjust the contract price.

Seller further warrants that none of the Work supplied by Seller hereunder is counterfeit. Seller's warranty against counterfeit items shall survive any termination or expiration of the Purchase Order. All parts used in the Work shall be purchased directly from the original equipment manufacturer (OEM) or original component manufacturer (OCM), or through an OEM/OCM-franchised distributor. Documentation must be available that authenticates traceability to the applicable OEM/OCM. Independent distributors (brokers) shall not be used without written consent from Buyer. A "counterfeit" item is an item, or any component thereof, produced, altered, or otherwise misrepresented to resemble another item, or any part thereof, without authority or right to do so, including without limitation any item that is produced or altered to result in Buyer being misled or defrauded through the presentation to Buyer of such item as original, new, genuine or otherwise from a source other than the actual source of such item. Counterfeit items also include items that have been re-worked, re-marked, re-labeled, repaired, refurbished, or otherwise modified from the OEM design but are represented as OEM authentic or as new, or any parts that are designated as suspect by the U.S. Government. Documentation must be available that authenticates traceability to the applicable OEM including but not limited to Certificates of Conformance and/or Material Certifications that provide the manufacturer's name, part number, date codes, lot codes, serializations, and/or any other batch identifications. If Buyer, in its sole discretion, determines that any items or components received from Seller are, or may be, counterfeit ("Suspected Counterfeit Parts"), Buyer shall notify Seller in writing of such determination. Seller agrees that within ten (10) days after Seller's receipt of such notice, Seller shall remit to Buyer all payments previously made to Seller for such Suspected Counterfeit Parts. Alternatively, Buyer may elect to have Seller offer a replacement item in lieu of remitting all previous payments associated with Suspected Counterfeit Parts.

#### **12. Invoices and Payments**

Unless otherwise authorized by Buyer's Authorized Procurement Representative, Seller shall issue a separate original invoice for each delivery that shall include Buyer's contract number, line item number, work order or job ID number, item number, description, and quantity. Seller shall forward its invoice to the address specified on the Purchase Order. Unless freight or other



charges are itemized, Buyer may take any offered discount on the full amount of the invoice. Unless authorized in writing from Buyer, payment terms are Net 30 days. Payment due date, including discount periods, shall be computed from the later of the scheduled delivery date, the actual delivery date or the date of receipt of a correct invoice. Payment shall be deemed made on the date Buyer's check is mailed or payment is otherwise tendered. Seller shall promptly repay Buyer any amounts paid in excess of amounts due Seller.

### 13. Changes

(a) Buyer's Authorized Procurement Representative may, without notice to sureties and in writing, direct changes within the general scope of this contract in any of the following: (i) technical requirements and descriptions, specifications, statement of work, drawings or designs; (ii) shipment or packing methods; (iii) place of delivery, inspection or acceptance; (iv) reasonable adjustments in quantities or delivery schedules or both; (v) amount of Buyer-furnished property; and, if this contract includes services, (vi) description of services to be performed; (vii) time of performance (e.g., hours of the day, days of the week); (viii) place of performance, and (ix) terms and conditions of this contract required to meet Buyer's obligations under Government prime contracts or subcontracts. Seller shall comply immediately with such direction.

(b) If any such change increases or decreases the cost or time required to perform this contract, Buyer and Seller shall negotiate an equitable adjustment in the price or schedule, or both, to reflect the increase or decrease. Buyer shall modify this contract in writing accordingly. Unless otherwise agreed in writing, Seller must assert any claim for adjustment to Buyer's Authorized Procurement Representative in writing within ten (10) days, and deliver a fully supported proposal to Buyer's Authorized Procurement Representative within 30 days, after Seller's receipt of such direction. Buyer may, at its sole discretion, consider any claim regardless of when asserted. If Seller's proposal includes the cost of property made obsolete or excess by the change, Buyer may direct the disposition of the property. Buyer may examine Seller's pertinent books and records to verify the amount of Seller's claim. Failure of the parties to agree upon any adjustment shall not excuse Seller from performing in accordance with Buyer's direction.

(c) If Seller considers that Buyer's conduct constitutes a change, Seller shall notify Buyer's Authorized Procurement Representative immediately in writing as to the nature of such conduct and its effect upon Seller's performance. Pending direction from Buyer's Authorized Procurement Representative, Seller shall take no action to implement any such change.

### 14. Force Majeure

Except for defaults of Seller's subcontractors at any tier, Seller shall not be liable for excess re-procurement costs pursuant to the "Cancellation for Default" of the Purchase Order incurred by Buyer because of any failure to perform due to any cause beyond Seller's reasonable control and without Seller fault or negligence. Likewise, Buyer shall not be liable for any failure to perform due to any cause beyond its reasonable control and without its fault or negligence. Such causes include, but are not limited to, acts of God or of the public enemy, acts of the Government in its sovereign or contractual capacity (including without limitation curfews mandated by local, state or federal entities), fires, floods, epidemics, terrorism, quarantine restrictions, strikes, freight embargoes and unusually severe weather. In the event that performance of the Purchase Order is hindered, delayed or adversely affected by causes of the type described above ("Force Majeure"), then the party whose performance is so affected shall so notify the other party's authorized representative in writing within ten (10) days after the beginning of any such cause(s) and, at Buyer's option, the Purchase Order shall be completed with such adjustments as are reasonably required by the existence of Force Majeure or the Purchase Order may be terminated for convenience.

### 15. Assignment, Delegation and Subcontracting

(a) SELLER shall not assign (whether voluntary, involuntary, by merger, change of control, consolidation, dissolution, operation of law, transfer, or any other manner) any of its rights or interest in this Contract or subcontract for all or substantially all of its performance of this Contract without Flotron's prior written consent. SELLER shall not delegate any of its duties or obligations under this Contract. SELLER may assign its right to monies due or to become due. Any attempt to assign or delegate in violation of this article is void. No assignment, delegation or subcontracting by SELLER, with or without Flotron's consent, shall relieve SELLER of any of its obligations under this Contract or prejudice any of Flotron's rights against SELLER whether arising before or after the date of any assignment. This article does not limit SELLER'S ability to purchase standard commercial supplies or raw materials.

### 16. Publicity

(a) Without Buyer's prior written approval, Seller shall not, and shall require that its subcontractors at any tier shall not, release any publicity, advertisement, news release or denial or confirmation of same regarding this contract or the Goods or program to which it pertains.

(b) Any labeling or marking of equipment by Seller must be approved by Buyer prior to being incorporated.



#### 17. Buyer's Property

(a) Seller shall clearly mark, maintain an inventory of, and keep segregated or identifiable all of Buyer's property and all property to which Buyer acquires an interest by virtue of this contract. Seller assumes all risk of loss, destruction or damage of such property while in Seller's possession, custody or control, including any transfer to Seller's subcontractors. Upon request, Seller shall provide Buyer with adequate proof of insurance against such risk of loss. Seller shall not use such property other than in performance of this contract without Buyer's prior written consent. Seller shall notify Buyer's Authorized Procurement Representative if Buyer's property is lost, damaged, destroyed or otherwise compromised. As directed by Buyer, upon completion, termination or cancellation of this contract, Seller shall deliver such property, to the extent not incorporated in delivered Goods, to Buyer in good condition subject to ordinary wear and tear and normal manufacturing losses.

(b) All items designated paid for by a pre-set milestone payment plan become the property of the Buyer immediately upon payment. This includes, but is not limited to, all items procured by Seller that are listed on the invoice.

#### 18. Patent, Trademark and Copyright Indemnity

Seller will indemnify, defend and hold harmless Buyer and its customers from all claims, suits, actions, awards (including, but not limited to, awards based on intentional infringement of patents known at the time of such infringement, awards exceeding actual damages and/or attorneys' fees and/or costs), liabilities, damages, costs and attorneys' fees related to or arising out of the actual or alleged infringement of any United States or foreign intellectual property right (including, but not limited to, any right in a patent, copyright, industrial design or semiconductor mask work, or based on misappropriation or wrongful use of information or documents) and arising out of the manufacture, sale or use of Goods by either Buyer or its customers (collectively, "Indemnitees"). Buyer and/or its customers will duly notify Seller of any such claim, suit or action; and Seller will, at its own expense, fully defend such claim, suit or action on behalf of Indemnitees. Seller will have no obligation under this article with regard to any infringement arising from (a) Seller's compliance with formal specifications issued by Buyer where infringement could not be avoided in complying with such specifications or (b) use or sale of Goods in combination with other items when such infringement would not have occurred from the use or sale of those Goods solely for the purpose for which they were designed or sold by Seller. For purposes of this article only, the term Buyer will include Buyer and all of its subsidiaries and all officers, agents and employees of Buyer or any Buyer subsidiary.

#### 19. Confidential, Proprietary and Trade Secret Information and Materials

(a) Flotron and SELLER shall each keep confidential and protect from unauthorized use and disclosure all (i) confidential, proprietary and/or trade secret information; (ii) tangible items and software containing, conveying or embodying such information; and (iii) tooling identified as being subject to this article that is obtained, directly or indirectly, from the other in connection with this Contract or other agreement referencing this Contract, including Flotron's contract with its customer, if any, (collectively referred to as "Proprietary Information and Materials"). Flotron and SELLER shall each use Proprietary Information and Materials of the other only in the performance of and for the purpose of this Contract and/or any other agreement referencing this Contract, including Flotron's contract with its customer, if any. However, despite any other obligations or restrictions imposed by this article, Flotron shall have the right to use, disclose and reproduce SELLER'S Proprietary Information and Materials, and make derivative works thereof, to fulfill Flotron's obligations under contract and for the purposes of testing, certification, use, sale or support of any goods delivered under this Contract or any other agreement referencing this Contract, including Flotron's contract with its customer, if any. Any such use, disclosure, reproduction or derivative work by Flotron shall, whenever appropriate, include a restrictive legend suitable for the particular circumstances. The restrictions on disclosure or use of Proprietary Information and Materials by SELLER shall apply to all materials derived by SELLER or others from Flotron's Proprietary Information and Materials.

i. Upon Flotron's request at any time, and in any event upon the completion, termination or cancellation of this Contract, SELLER shall return to Flotron all of Flotron's Proprietary Information and Materials and all materials derived there from, unless specifically directed otherwise in writing by Flotron. SELLER shall not, without the prior written authorization of Flotron, sell or otherwise dispose of (as scrap or otherwise) any goods, parts or other materials containing, conveying, embodying or made in accordance with or by reference to any Proprietary Information and Materials of Flotron. Prior to disposing of such goods, parts or other materials as scrap, SELLER shall render them unusable. Flotron shall have the right to audit SELLER'S compliance with this article.

ii. SELLER may disclose Proprietary Information and Materials of Flotron to its subcontractors as required for the performance of this Contract, provided that each such subcontractor first agrees in writing to the same obligations imposed upon SELLER under this article. SELLER shall be liable to Flotron for any breach of such obligation by such subcontractor.

iii. The provisions of this article are effective notwithstanding the application of any restrictive legends or notices to Proprietary Information and Materials. The provisions of this article shall survive the performance, completion, termination or cancellation of this Contract.





## **20. Indemnity**

Seller hereby agrees to indemnify Buyer and hold Buyer harmless against all proceedings, claims, losses, costs (including reasonable professional fees), damages and expenses that may be incurred or suffered by Buyer as a result of any claims of third parties arising from Seller's acts or omissions, or any breach or alleged breach by Seller of any of the provisions stated in this contract or any failure to perform the services contemplated by this contract, except to the extent said breach or failure is directly caused by Buyer.

## **21. Records and Audit**

Seller shall retain all records and documents pertaining to the Goods for a period of no less than ten (10) years after final payment by Buyer. Such records and documents shall date back to the time this contract was issued and shall include without limitation, catalogs, price lists, invoices and inventory records for purposes of verification of prices or rates charged by Seller for Goods procured by Buyer. Buyer shall have the right to examine, reproduce and audit, from time to the time upon reasonable notice, all such records related to pricing and performance to evaluate the accuracy, completeness and currency of cost and pricing data submitted with Seller's bid or offer to sell.

## **22. Rights of Buyer's Customers and Regulators to Perform Inspection, Surveillance and Testing**

Buyer's rights to perform inspections, surveillance, and tests and to review procedures, practices, processes and related documents related to quality assurance, quality control shall extend to the customers of Buyer. Buyer may also, at Buyer's option, by prior written notice from Buyer's Authorized Procurement Representative, extend such rights to other customers of Buyer.

## **23. Gratuities/Kickbacks**

(a) Seller warrants and certifies that neither it nor any of its Seller personnel has offered or given any gratuities of any kind, nature or amount, to Flotron employees, agents, or representatives for the purposes of securing the Agreement or securing favorable treatment with respect thereto.

(b) By accepting the Agreement, Seller warrants and certifies that it has not and will not make or solicit kickbacks in violation of FAR 52.203-7, "Anti-Kickback Procedures", or the Anti-Kickback Act of 1986 (41 U.S.C. §§ 51-58), both of which are incorporated herein by reference if this Agreement exceeds \$150,000, except that paragraph (c)(1) of FAR 52.203-7 shall not apply.

## **24. Government Clauses**

The FAR and DFAR therein, where applicable by their terms, are incorporated herein by reference as if set forth in full text. The full text of all clauses incorporated by reference is also available at <http://www.acquisition.gov/>. The effective version of each FAR or DFAR clause shall be the same version as that which appears in Buyer's prime contract, or higher-tier subcontract under which this Agreement is a subcontract. In such clauses, unless otherwise specifically stated, the term "Contractor" means Seller except in the term "prime contractor", "subcontractor" means Seller's Subcontractor, "Contract" means "this Purchase Order" (for purposes of this Article 30, "this Purchase Order" is agreed and understood to include this contract), and both "Contracting Officer" and "Government, mean "Buyer" except in the terms "Government Property", "Government-Furnished Information", "Government-Owned Property", "Former Government Surplus Property", or as otherwise indicated.

## **25. Conflict Minerals**

Seller agrees that it will be compliant with Section 1502 the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Conflict Materials Rule") when required by Buyer.

## **26. Access to Plants and Properties**

Seller shall comply with all the rules and regulations established by Buyer for access to and activities in and around premises controlled by Buyer or any customer of Buyer.

## **27. Notices**

Any notice under this contract will be in writing and will be deemed to have been duly given (i) when delivered personally, (ii) five (5) business days after such notice is deposited in the United States mail, registered, postage prepaid, and addressed, to Buyer, at its principal office, or to Seller at Seller's address as shown on the signature page to this contract, and (iii) when return receipt is activated if sent by email.

## **28. Seller Review**

Seller acknowledges that Seller has read and is fully familiar with the terms of this contract, that Seller has had a reasonable opportunity to consider this contract, and that after such review, Seller finds that the promises and considerations provided by



Seller in this contract are not greater than necessary for the protection of Buyer's goodwill and legitimate business interests and do not create undue hardship for Seller or the public.

### **29. Certificate of Conformance**

A Certificate of Conformance is required for all product provided to Flotron and must include the following information: Supplier name and address; Flotron job number, part number and PO number; a statement that product conforms to all requirements.

### **30. Order of Precedence**

(a) Any inconsistency among the Purchase Order components shall be resolved by giving precedence in descending order:

- i. The International Traffic In Arms Regulations (ITAR) or any other applicable law;
- ii. The FAR (or any agency regulation that implements or supplements the FAR);
- iii. The principal Purchase Order, as amended (excluding any attachments);
- iv. These Standard Terms and Conditions, as amended.
- v. Any other attachments to the Purchase Order not identified herein (the order of precedence among such attachments, if any, shall be set forth in the Purchase Order).

Further, any modification to a provision or provisions of the Purchase Order as required shall be to the extent (but only to the extent) necessary to remove any such conflict and permit compliance with such laws, terms and restrictions, and as so modified the Purchase Order shall continue in full force and effect.

(b) In the event of conflict among specifications, drawings, samples, designated type, part number or catalog description, the specifications shall govern over drawings, drawings over samples, whether or not approved by Buyer, and samples over designated type, part number or catalog description. In cases of ambiguity in the specifications, drawings or other requirements of the Purchase Order, Seller must, before proceeding, consult Buyer, whose written interpretation shall be final.

### **31. Inspection, Acceptance and Rejection**

(a) All material and workmanship shall be subject to inspection and test at mutually agreed-to dates and times during the course of the Purchase Order by Buyer or Buyer's Customer before, during and up to sixty (60) days after delivery. The Buyer may require Seller to repair, replace or reimburse the purchase price of rejected material or Buyer may accept any materials and upon discovery of nonconformance, may reject or keep and rework, or obtain replacement materials from another source for any such materials not so conforming. Cost of repair, rework, replacement, replacement from another supplier, inspection, transportation, repackaging and/or reinspection by Buyer shall be at Seller's expense. Buyer's acceptance of work and services shall not be deemed to diminish Buyer's rights or be final or binding on Buyer if latent defects, fraud or misrepresentation on the part of Seller exists. Seller shall disclose any corrective action taken. Repair, replacement and other correction and redelivery shall be completed as Buyer's authorized representative may reasonably direct.

(b) If inspection and test are made on the premises of Seller or Seller's lower-tier subcontractors, Seller shall furnish without additional charge all reasonable facilities, information and assistance necessary for the safe and convenient inspection and tests required by the inspectors in the performance of their duty.

(c) Buyer's failure to inspect does not relieve Seller of any responsibility to perform according to the terms of the Purchase Order. No payment, prior test, inspection, passage of title, any failure or delay in performing any of the foregoing, or failure to discover any defect or other nonconformance shall relieve Seller of any obligations under this Purchase Order or impair any rights or remedies of Buyer, including revocation of acceptance.

(d) Seller and its suppliers shall establish and maintain a quality control and inspection program that complies with all requirements under the Purchase Order (the "Quality Control Program"). Buyer shall have the right of access, on a non-interference basis, to any area of Seller's or Seller's supply chain sub-tier premises where any part of the Work is being performed. Seller shall flow this requirement down to its sub-tier supply chain suppliers as a condition of the Purchase Order. Seller shall, without additional costs to Buyer, provide all reasonable in-plant accommodations, facilities and assistance for the safety and convenience of Buyer in the performance of its duties.

(e) Seller shall keep and maintain inspection, test and related records (including without limitation calibration records of any test and measurement equipment used in the performance of the Purchase Order), which shall be available to Buyer. All records related to the above shall be retained for a period of seven (7) years following the final payment on the subject Purchase Order unless otherwise notified in writing by Buyer.

### **32. Export Compliance**

(a) Seller is advised that its performance under the Purchase Order may involve the use of or access to articles, technical data or software that is subject to export controls under 22 U.S.C. 2751-2796 (Arms Export Control Act) and 22 CFR 120-130 (International Traffic in Arms Regulations [ITAR]) or 50 U.S.C. 2401-2420 (Export Administration Act) and 15 CFR 768-799 (Export Administration Regulations [EAR]) and their successor and supplemental laws and regulations (collectively



hereinafter referred to as the "Export Laws and Regulations"). Seller represents and warrants that it is either (i) a U.S. person as that term is defined in the Export Laws and Regulations, or (ii) that it has disclosed to Buyer in writing the country in which it is incorporated or otherwise organized to do business, or if a natural person, all citizenships and U.S. immigration status. Seller shall comply with any and all Export Laws and Regulations, and any license(s) issued thereunder.

(b) Seller shall indemnify Buyer for all liabilities, penalties, losses, damages, costs or expenses (including attorneys' fees) that may be imposed on or incurred by Buyer in connection with any violations by Seller of Export Laws and Regulations, and any license(s) issued thereunder.

(c) Buyer's obligations under the Purchase Order are subject to and shall be modified if and to the extent required to conform to applicable Export Laws and Regulations, and any license(s) issued thereunder.

### **33. Release of Information**

(a) Except as required by law, no public release of any information, or confirmation or denial of same, with respect to this Contract or the subject matter hereof, will be made by SELLER or its subcontractors without the prior written approval of Flotron. SELLER shall not use "Flotron" or any other trademark or logo owned by Flotron, in whatever shape or form, without the prior written consent of Flotron.