



ASSEMBLY AND TEST CORP.

**KUKA ASSEMBLY AND TEST CORPORATION
PURCHASE ORDER TERMS & CONDITIONS**

1. **ACCEPTANCE/AGREEMENT:** This Purchase Order ("Order") shall be accepted by Seller by shipment of goods (the term "goods" throughout this Order includes, without limitation, raw materials, components, intermediate assemblies, and end goods), performance of services, commencement of work on goods, written acknowledgement, or any other conduct of Seller which recognizes the existence of a contract pertaining to the subject matter hereof. NOTWITHSTANDING KUKA ASSEMBLY AND TEST'S ACCEPTANCE OR PAYMENT FOR ANY SHIPMENT OF GOODS OR SIMILAR ACT OF KUKA ASSEMBLY AND TEST, NO PURPORTED ACCEPTANCE OF THIS ORDER ON TERMS AND CONDITIONS WHICH MODIFY, SUPERSEDE, OR OTHERWISE ALTER THESE TERMS AND CONDITIONS SHALL BE BINDING UPON KUKA ASSEMBLY AND TEST UNLESS THEY ARE ACCEPTED IN WRITING BY AN AUTHORIZED PURCHASING REPRESENTATIVE OF KUKA ASSEMBLY AND TEST. ACCEPTANCE OF ANY ORDER IS EXPRESSLY LIMITED TO THE TERMS HEREOF AND ANY ADDITIONAL OR DIFFERENT TERMS ARE REJECTED WITHOUT FURTHER APPROVAL BY KUKA ASSEMBLY AND TEST. Unless otherwise stated on the face of this Order, this Order is KUKA ASSEMBLY AND TEST's offer to Seller and does not constitute an acceptance by KUKA ASSEMBLY AND TEST of any offer to sell or proposal by Seller. Any reference herein to any such offer or proposal by Seller is solely for the purpose of incorporating the description and specification of the subject matter thereof into this Order and then only to the extent that such description and specifications are on the face of the Order.
2. **DELIVERY:** Seller acknowledges that all terms as to quantity, quality, specifications, and time of delivery are material elements of this Order and must be strictly complied with. Time is of the essence with respect to delivery of goods covered by this Order. Delivery must be in strict compliance with the schedule contained in this Order and shall be made by Seller at such times and places and of such items and quantities as may be specified by KUKA ASSEMBLY AND TEST. KUKA ASSEMBLY AND TEST shall have no liability to Seller for goods delivered to KUKA ASSEMBLY AND TEST either later than the time, or in excess of the quantities, specified which goods may be returned by KUKA ASSEMBLY AND TEST to Seller at Seller's cost. Goods fabricated in excess or in advance of KUKA ASSEMBLY AND TEST's release are at Seller's sole risk. If Seller encounters or anticipates difficulty in meeting the delivery schedule, Seller must immediately notify KUKA ASSEMBLY AND TEST in writing, giving pertinent details; provided, however, that the receipt of such data shall be for information purposes only and shall not be construed as a waiver by KUKA ASSEMBLY AND TEST of any scheduled delivery date or of any other rights or remedies provided by law or this Order. If Seller fails to make timely delivery of all or any portion of the goods covered by any Purchase Order, or if any of the goods delivered to KUKA ASSEMBLY AND TEST are defective or not in conformity with any Purchase Order, then KUKA ASSEMBLY AND TEST may retain all or any portion of the goods delivered and return, at Seller's sole cost and expense, those goods not retained- all without waiver of any claim KUKA ASSEMBLY AND TEST may have against Seller for Seller's breach including, without limitation, the right to damages and the right to cancel any Purchase Order. A breach of either these Terms and Conditions or any Purchase Order by Seller will also constitute a breach by Seller of any other Purchase Order between Seller and KUKA ASSEMBLY AND TEST entitling KUKA ASSEMBLY AND TEST, in addition to any other remedies it may have, at law or in equity, to cancel such other Purchase Orders.
3. **SHIPPING INSTRUCTIONS:** Seller agrees to prepare and properly box or crate goods for shipment so as to prevent damage in transit, to comply with KUKA ASSEMBLY AND TEST's shipping instructions and/or routings, and to describe the goods on the bill of lading in conformity with appropriate freight classifications. No charge will be allowed for packing, boxing or cartage, unless agreed upon at the time of purchase, but damage of any goods not packed to insure protection will be the sole responsibility of Seller. Packing lists and certifications, when applicable, must accompany each shipment and must have only one (1) Order per Seller packing sheet. The location of the packing list must be clearly marked on the container. When multiple containers are used, the packing list will show the items in each container. Multiple containers will be numbered consecutively, for example, 1 of 4, 2 of 4, etc. KUKA ASSEMBLY AND TEST's Order number and plant location must appear on all invoices, packing sheets, delivery tickets, shipping orders, and bills of lading. KUKA ASSEMBLY AND TEST assumes no obligation for materials shipped in excess of quantity as shown on this Order. When prepaid transportation charges are for KUKA ASSEMBLY AND TEST's account, the invoice must be supported by a prepaid receipted transportation bill. All such prepaid transportation charges must be separately itemized. KUKA ASSEMBLY AND TEST may, in its sole discretion, change delivery schedules or direct temporary suspension of scheduled shipments.
4. **PRICING, INVOICING AND PAYMENT:** Seller represents and warrants that the prices charged for the goods are not higher than those charged to any other customer for goods of like grade and quality in similar or less

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quantities. No additional charges of any type may be added by Seller without KUKA ASSEMBLY AND TEST's prior written consent. All prices set forth in any Order accepted by Seller will remain firm for the goods ordered under such Order and may not be increased for any reason whatsoever, including, without limitation, any changes in currency rates, revenue laws, treasury regulations or tariffs or increases in the appraisal of the value of the goods by the customs authorities of any country. Except as otherwise required by law, Seller will not include as a portion of the price of the goods, or otherwise charge KUKA ASSEMBLY AND TEST, any sales, use, excise, import or other local or foreign taxes, duties or assessments of federal, state or local jurisdictions on the goods or the sale thereof. If Seller is required by law to include any such taxes in the price, Seller will separately detail such taxes on Seller's invoices. Seller and KUKA ASSEMBLY AND TEST will provide each other with any and all necessary certificates or other documentation evidencing the inapplicability of, or exemption from, any sales, excise, use or other taxes to which either KUKA ASSEMBLY AND TEST or Seller may be entitled. Individual invoices showing Purchase Order number and Purchase Order item number must be issued for each shipment applying against the Order. One (1) copy of each invoice must be rendered with prices and extensions to appear on all copies. Rejections, delays in delivery or delivery in advance of required delivery date, errors and/or omissions will be considered just cause for withholding payment without loss of cash discount privileges.

5. **INSPECTION:** Seller will inspect and test all goods furnished in performance of this Order to ensure compliance with warranty provisions, the specifications, and other requirements of the Order. Test reports and/or certifications shall be retained by Seller. Seller agrees to permit inspections and testing by KUKA ASSEMBLY AND TEST, KUKA ASSEMBLY AND TEST's third-party agents and/or by KUKA ASSEMBLY AND TEST's customer, of all goods furnished in performance of this Order during manufacturing, where practical and at any reasonable time and place. The goods covered by this Order shall be subject to inspection and acceptance or rejection by KUKA ASSEMBLY AND TEST after delivery, notwithstanding prior payment, it being understood and agreed that payment by KUKA ASSEMBLY AND TEST shall not constitute acceptance by KUKA ASSEMBLY AND TEST. KUKA ASSEMBLY AND TEST may charge Seller the expense of unpacking, examining, repacking, storing and reshipping any goods found defective or not in conformity with the warranty provisions of these Terms & Conditions, specifications or any other requirements of this Order. If such goods are rejected, KUKA ASSEMBLY AND TEST shall in writing so notify Seller and KUKA ASSEMBLY AND TEST, at its sole option and at the expense and risk of Seller, may either, in addition to any other rights under these Terms and Conditions including, without limitation, any right to damages: (a) require Seller to replace any item which KUKA ASSEMBLY AND TEST is entitled to reject or grant a full refund or credit to KUKA ASSEMBLY AND TEST in lieu thereof; or (b) return such rejected goods to Seller or hold them for such disposal as Seller shall indicate; or (c) have the defective or non-conforming item corrected or replaced at Seller's expense and deduct the cost thereof from any monies due Seller. Any payments made on such rejected goods shall be immediately refunded to KUKA ASSEMBLY AND TEST. Acceptance of any goods by KUKA ASSEMBLY AND TEST does not relieve Seller of liability for latent defects, fraud, or such gross errors or defects as amount to fraud. KUKA ASSEMBLY AND TEST shall have the right, at any time, to reject any goods found not compliant with the warranty provisions, the specifications or other requirements of this order.
6. **WARRANTY:** Seller warrants that the goods will: (i) strictly conform with the Order and all specifications, drawings, descriptions or samples furnished, specified or adopted by KUKA ASSEMBLY AND TEST; (ii) be new and otherwise of merchantable quality; (iii) be free from liens, encumbrances or any defects in title; (iv) be free from defects in material and workmanship; (v) be fit and sufficient for the usual and ordinary purposes for which they are intended; (vi) comply with all applicable federal, state and local laws, rules, regulations, agency standards, orders and ordinances including, but not limited to OSHA; and (vii) be free from defects in design. Seller, will, if requested by KUKA ASSEMBLY AND TEST, at its sole expense, execute and furnish KUKA ASSEMBLY AND TEST with appropriate written certificates of compliance with such laws, rules, regulations, orders and ordinances. Seller further warrants that it will perform all work specified in any Purchase Order in a competent and workmanlike manner, in accordance with sound practice and state of the art in the industry and with professional standards of skill, care and diligence. All of the aforementioned warranties shall remain in effect for a period of eighteen (18) months from acceptance of goods by KUKA ASSEMBLY AND TEST. Seller also warrants that: (i) on delivery KUKA ASSEMBLY AND TEST will receive good title to the goods, free and clear of any and all liens and encumbrances of any kind; (ii) will be free from any actual or claimed patent, copyright or trademark infringement; (iii) the execution, delivery, and performance of any Order by Seller has been duly authorized by all necessary corporate action and is enforceable in accordance with its terms; and (iv) the execution and delivery of any Order by Seller does not, and the consummation of the transactions contemplated will not, except as otherwise noted in these Terms and Conditions, any Order or its schedules: (a) result in a material breach of any provision of, or constitute a material default under, the articles of incorporation or bylaws of Seller, or any agreement or instrument to which Seller is a party or by which it is bound; or (b) require the consent or approval of any other person or governmental agency or authority. All warranties set forth in this Paragraph 6 given by Seller shall be non-exclusive and are in addition to any other



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warranties implied by law or otherwise made by Seller. Such warranties shall survive inspection, testing, acceptance of, and payment for the goods and shall run to KUKA ASSEMBLY AND TEST, its successors, assigns, customers at any tier, and ultimate user and joint users of the goods.

7. **PATENTS:** Seller warrants that the goods do not infringe on any United States or Foreign Letters patent and do not, otherwise, infringe on the intellectual property rights of any third party. Seller agrees that it will, at its own expense, including payment of court costs and attorney fees, defend any claims or lawsuits instituted by any party against KUKA ASSEMBLY AND TEST or KUKA ASSEMBLY AND TEST's customer for alleged infringement of any patent, trademark, or similar right related to goods manufactured by or for Seller and furnished to KUKA ASSEMBLY AND TEST in the performance of this Order, or relating to the use of such goods in combination with other articles of its manufacture as is recommended by Seller, except where such goods are furnished by Seller pursuant to KUKA ASSEMBLY AND TEST's drawings or designs, provided KUKA ASSEMBLY AND TEST gives Seller prompt notice in writing of any such charges, and of the institution of any such suit of which it has knowledge Seller further agrees that in case of a final award of damages (or settlement) in any such suit, it will pay such award (or settlement) and will, to the fullest extent permitted by law, indemnify and hold harmless KUKA ASSEMBLY AND TEST and its customers, from and against any such award, court costs, attorney fees., and expenses incurred by reason thereof. Seller shall promptly notify KUKA ASSEMBLY AND TEST in writing of each such notice or claim of which Seller has knowledge.
8. **FORCE MAJEURE:** Neither party shall be responsible for failure to perform under a Purchase Order as a result of any cause beyond its reasonable control, including but not limited to acts of God, fires, civil disobedience, war, riots, acts of terrorism, acts of terrorism, floods, unavailability of suitable transport, changes in laws or other governmental requirements, unforeseeable local conditions, or inadequate site preparation. Subject to KUKA ASSEMBLY AND TEST's absolute right to terminate all or any part of the affected Purchase Order, in the event of delay lasting more than thirty (30) days due to any such cause, the time for performance will be extended by a period of time equal to the time lost by reason of such delay and other affected contract provisions shall be equitably adjusted.
9. **COMPLIANCE WITH LAWS:**
 - a) Seller agrees in accepting this Order it shall comply with all applicable local, state, and federal laws, orders, directives, and regulations heretofore or hereafter promulgated with respect to the goods covered by the Order. If Seller fails to comply with the provisions of this Paragraph 9, KUKA ASSEMBLY AND TEST may, by written notice to Seller, terminate any Order it has with Seller, without any further obligation to Seller. All materials used in goods manufactured by Seller shall satisfy current governmental and safety regulations regarding restricted, toxic, and hazardous materials; as well as environmental, electrical, and electromagnetic considerations applicable to the country of manufacture or sale.
 - b) In performing its work to fulfill an order, the seller must observe all rules, norms, laws, regulations, statutes and all other applicable legal requirements including, but not limited to: regulations with respect to Environmental Protection; Hazardous Substances and Goods; Safety (including OSHA and MIOSHA); Accident Prevention; Technical Safety Regulations as well as any applicable KUKA ASSEMBLY AND TEST CORP. standards.
10. **TERMINATION AND SETTLEMENT:**
 - a) In the event of the institution of any proceedings by or against Seller in bankruptcy or insolvency or under any provision of any applicable bankruptcy legislation or the appointment of a receiver or trustee or an assignment of the benefit of creditors of Seller, or the institution of any similar proceedings, KUKA ASSEMBLY AND TEST may terminate this Order or any other Order it has with Seller.
 - b) KUKA ASSEMBLY AND TEST may, at any time by written notice, terminate all or any part of this Order for KUKA ASSEMBLY AND TEST's convenience, in which event Seller agrees to immediately stop work on the Order and to immediately notify subcontractor(s) to stop work, and to protect and preserve property in its possession. If this Order is terminated, in whole or in part for KUKA ASSEMBLY AND TEST's convenience, Seller shall be paid an amount, in KUKA ASSEMBLY AND TEST's reasonable discretion, which shall be adequate to cover the reasonable cost of Seller's actual performance of work under this Order to the effective date of termination.
 - c) If an Order is terminated as provided in either Paragraph 10 (a) or (b) above, KUKA ASSEMBLY AND TEST, in addition to any other rights or remedies provided in this Order, or at law or in equity, may require Seller to transfer title and deliver to KUKA ASSEMBLY AND TEST, in the manner and to the extent directed by the KUKA ASSEMBLY AND TEST: (1) any completed goods; and (2) such partially completed goods and materials, parts, tools, dies, jigs, fixtures, drawings, information, and contract rights ("Manufacturing Materials") as Seller has specifically produced or specifically acquired for the performance of such part of this Order as has been terminated. Seller shall also protect and preserve property in its possession in

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which KUKA ASSEMBLY AND TEST has any interest. Payment for Manufacturing Materials delivered to and accepted by KUKA ASSEMBLY AND TEST, and for the protection and preservation of property, shall be in the amount mutually agreed to by KUKA ASSEMBLY AND TEST and Seller. KUKA ASSEMBLY AND TEST may withhold from amounts otherwise due Seller for such completed goods or manufacturing materials, such sum as KUKA ASSEMBLY AND TEST determines, in its sole discretion, necessary to protect KUKA ASSEMBLY AND TEST against loss because of outstanding liens or claims of former lien holders.

- d) KUKA ASSEMBLY AND TEST may, at any time, for any reason, whether or not Seller is in default, cancel an Order in whole or in part by written or electronically issued notice to Seller. Upon receipt of such cancellation notice, Seller will immediately stop work on the date, and to the extent, specified in such notice and cancel all orders and subcontracts that relate to the cancelled Order. KUKA ASSEMBLY AND TEST will pay Seller for all finished goods accepted by KUKA ASSEMBLY AND TEST, as well as for the verified, documented costs to Seller of work in process and material allocated to the cancelled order that is not in excess of any prior authorization by KUKA ASSEMBLY AND TEST. This provision shall not apply to items that are otherwise saleable, standard items. Except as provided in this Paragraph 10 (d), KUKA ASSEMBLY AND TEST shall not be liable for and shall not be required to make payments to Seller, directly or on account of claims by Seller's subcontractors, for loss of anticipated profit, unabsorbed overhead, interest on claims, product development and engineering costs, facilities and equipment rearrangement costs or rental, unamortized depreciation costs, or general and administrative burden charges from termination of any Order. Within 60 days from the effective date of any termination, Seller shall submit a comprehensive termination claim to KUKA ASSEMBLY AND TEST, with sufficient supporting data to permit KUKA ASSEMBLY AND TEST's audit and shall thereafter promptly furnish such supplemental and supporting information as KUKA ASSEMBLY AND TEST shall request. KUKA ASSEMBLY AND TEST or its agents shall have the right to audit and examine all books, records, facilities, work, material, inventories and other items relating to any termination claim of Seller. Payment made under this paragraph shall constitute KUKA ASSEMBLY AND TEST's only liability to Seller for cancellation of an Order with title and right of possession to all delivered goods vesting in KUKA ASSEMBLY AND TEST immediately upon KUKA ASSEMBLY AND TEST's tender of such payment. The provisions of this paragraph will not apply to any cancellation by KUKA ASSEMBLY AND TEST based upon Seller's default, or in the event Seller becomes insolvent or makes a transfer for the benefit of creditors or if bankruptcy or any other insolvency proceedings are instituted by or against Seller. In such cases, KUKA ASSEMBLY AND TEST shall have the right to immediately terminate any Order, with no obligation to Seller. KUKA ASSEMBLY AND TEST shall also retain the right to proceed against Seller under any other cause recognized by law, in equity, or specified in any Order.
11. **KUKA ASSEMBLY AND TEST RIGHT OF SETOFF:** KUKA ASSEMBLY AND TEST may, at its option, set off any and all sums which Seller owes to KUKA ASSEMBLY AND TEST under any Order or otherwise against any and all sums which KUKA ASSEMBLY AND TEST owes to Seller under any other Order. In addition, to secure Seller's obligation to KUKA ASSEMBLY AND TEST under any Order, including, without limitation, damages for breach, KUKA ASSEMBLY AND TEST shall have, and Seller hereby grants to KUKA ASSEMBLY AND TEST, a security interest in any goods rejected by KUKA ASSEMBLY AND TEST.
12. **INDEMNIFICATION /INSURANCE:** If the accomplishment of this Order requires Seller to sell goods, perform services, or provide labor on the premise of KUKA ASSEMBLY AND TEST:
- a) Seller agrees to take all precautions necessary to prevent the occurrence of any accident, injury, death, or loss to any persons or property. Seller further agrees to be solely responsible for any accident, injuries, death, or loss to any persons or property which arise out of its performance under this Order. Seller further agrees that:
- (i) Seller will keep the premises and work area safe and free and clear of all hazards.
 - (ii) The work will remain at Seller's sole risk prior to written acceptance by KUKA ASSEMBLY AND TEST and Seller will replace at its own expense all work damaged or destroyed as a result of the acts, omissions or negligence of Seller.
 - (iii) Seller will, to the fullest extent permitted by law, indemnify, save harmless and defend KUKA ASSEMBLY AND TEST from and against any and all claims, demands or suits made or brought against Seller or KUKA ASSEMBLY AND TEST on account of any of the terms or provisions of any applicable worker's compensation law and/or unemployment insurance law, or other breach of an Order or these Terms and Conditions.
 - (iv) Seller shall maintain public liability insurance with limits that are at least the equivalent of a combined bodily injury and property damage single limit of \$1,500,000 per occurrence, including contractual coverage with respect to the indemnity provisions of these Terms and Conditions and shall have KUKA ASSEMBLY AND TEST named as an additional insured thereon. Such insurance shall be

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deemed to be the primary liability coverage and Seller shall furnish KUKA ASSEMBLY AND TEST acceptable evidence of such insurance before commencing work.

- b) Seller will, to the fullest extent permitted by law, indemnify, defend, and hold harmless KUKA ASSEMBLY AND TEST from and against any liability, lawsuit, claim or action (regardless of the merits thereof) ("Claim"), and pay any loss, damage, judgment, cost or expense associated therewith (including, without limitation, attorneys fees) arising out of any death or injury to any person, or damage to or destruction of any property, or any other actual or alleged damage or loss whatsoever, of whatever kind or nature, foreseeable or unforeseeable, suffered by any individual or entity, resulting or alleged to result in whole or in part from: (a) any actual or alleged defect in any goods covered by any Order, whether latent or patent, including, without limitation, any actual or alleged failure by such goods or the manufacture, possession, use or sale thereof to comply with any law, rule, regulation, ordinance or order, unless such death, injury or damages were caused, in their entirety, by the sole negligence of KUKA ASSEMBLY AND TEST; (b) Seller's failure to comply with any provision of these Terms and Conditions or any Order or the act or omission of either Seller, Seller's vendors, subcontractors or anyone acting directly or indirectly under Seller's direction, control or on Seller's behalf; (c) any misrepresentation or breach of any representation, agreement or covenant by Seller; or (d) alleged infringement of any patent, copyright, trademark or other intellectual property rights of a third party. KUKA ASSEMBLY AND TEST's indemnification damages will include, without limitation, the cost to replace the goods covered by the Order and any consequential damages, including, but not limited to, loss of profits and any other claims made by KUKA ASSEMBLY AND TEST, its employees, agents or customers. To the extent that these Terms and Conditions provide that Seller will indemnify, save harmless and defend KUKA ASSEMBLY AND TEST from liability, claims, demands or suits, it is the intention of Seller that such indemnity shall apply, to the fullest extent permitted by law, unless the Claim was caused by the sole negligence of KUKA ASSEMBLY AND TEST.
- c) Seller shall maintain such liability insurance, including product liability, completed operations, contractor's liability, automobile liability, comprehensive general liability, and workers' compensation and employer's liability as will adequately protect Seller and KUKA ASSEMBLY AND TEST against such Claims and all other claims, losses, damages, liabilities, fines, and expenses but not less than \$1,000,000 per occurrence. All such insurance shall be placed with reputable companies acceptable to KUKA ASSEMBLY AND TEST, with policy language in form and content acceptable to KUKA ASSEMBLY AND TEST, and naming KUKA ASSEMBLY AND TEST as an additional insured in all such policies. Seller shall furnish KUKA ASSEMBLY AND TEST Certificates of Insurance evidencing all such coverage.
13. **GRATUITIES, POLICIES, AND PROCEDURES:** If it is found that the gratuities (in the form of entertainment, gifts, or otherwise) are offered by Seller, or any employees, agents or representative of Seller, to any employee of KUKA ASSEMBLY AND TEST with a view toward securing favorable treatment with respect to the awarding or performing of any Order, KUKA ASSEMBLY AND TEST may, by written notice to Seller, terminate this Order.
14. **APPLICABLE LAW:** This Order shall be deemed to be a contract entered into in the State of Michigan, U.S.A., and shall be construed and governed in all respects, and the legal relationships between the parties shall be determined in accordance with applicable commercial law of the State of Michigan, U.S.A., including but not limited to, the Uniform Commercial Code, as the same may be enacted and in force from time to time in that jurisdiction. The parties agree that the United States Convention for the International Sale of goods (CISG) shall not apply to the sale of goods hereunder and expressly waive same with respect to any Order.
15. **AMENDMENT BY LAW:** This Order shall be deemed to contain all provisions required to be included any applicable local, state, and federal laws, order, regulations, or directives heretofore or hereafter promulgated without the subsequent amendment of this Order specifically incorporating such provisions. This Order may not be subcontracted by the Seller without prior written consent of KUKA ASSEMBLY AND TEST.
16. **ASSIGNMENT:** Seller shall not assign the performance, or any part, of this Order without the prior written consent of KUKA ASSEMBLY AND TEST. Proceeds due or to become due under this Order may be assigned by Seller only with the prior written consent of KUKA ASSEMBLY AND TEST and provided that payment to an assignee of any claim related to this Order shall be subject to all applicable defenses, reductions, and setoffs.
17. **NOTICES:** All notices required or permitted to be given hereunder shall be deemed to be properly given if delivered in writing personally, or sent by United States certified or registered mail, or sent by private overnight delivery service and by the United States first class mail, addressed to Seller or KUKA ASSEMBLY AND TEST, as the case may be, at the addresses set forth on the face of this Order, with postage thereon fully prepaid. Releases, estimates, changes in specifications, and shipments notifications may be sent by confirming telex, facsimile, or e-mail, and shall be confirmed by mail as described above. The effective time notice shall be at the



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time of such sending, mailing, or personal delivery.

18. **AUTHORIZATIONS:** All authorizations of KUKA ASSEMBLY AND TEST required or permitted to be given herein shall be deemed properly given only if given in writing by two (2) authorized representatives of KUKA ASSEMBLY AND TEST.
19. **DISPUTES:** Pending resolution of any dispute hereunder, Seller shall proceed diligently with the performance of work, including the delivery of goods in accordance with KUKA ASSEMBLY AND TEST's direction.
20. **WAIVER:** Any waiver of strict compliance with any of these Terms and Conditions or any Order by KUKA ASSEMBLY AND TEST must be in writing and signed by KUKA ASSEMBLY AND TEST, and any such waiver shall not constitute a waiver of KUKA ASSEMBLY AND TEST's rights under any other provision of these Terms and Conditions, any Order, or any subsequent breach by Seller. Any patentable idea developed or produced by Seller in the performance of any Order will be the exclusive property of KUKA ASSEMBLY AND TEST. Seller shall fully cooperate with KUKA ASSEMBLY AND TEST with regard to filing appropriate applications for patents for such items developed or produced by Seller during performance of any Order.
21. **DATA:** All purchasing documents, i.e. Orders and any other documents referenced in the Order, shall completely and uniquely identify the goods and quantities specified, as well as any applicable standard and specifications. These documents are subject to review and approval by KUKA ASSEMBLY AND TEST for adequacy. All drawings and specifications furnished or paid for by KUKA ASSEMBLY AND TEST shall be the property of KUKA ASSEMBLY AND TEST, subject to removal at any time upon demand by KUKA ASSEMBLY AND TEST (without additional cost) shall be used only in filling orders from KUKA ASSEMBLY AND TEST, shall be kept separate from other drawing and specifications, and shall be identified as the property of the KUKA ASSEMBLY AND TEST.
22. **CONFIDENTIALITY AND DISCLOSURE:** Any unpatented knowledge or information concerning Seller's goods, methods or manufacturing processes which Seller may disclose to KUKA ASSEMBLY AND TEST incident to the manufacture or purchase of the goods covered by this Purchase shall, unless otherwise specifically agreed in writing, be deemed to have been disclosed as a part of the consideration for a Purchase, and Seller agrees not to assert any claim against KUKA ASSEMBLY AND TEST by reason of KUKA ASSEMBLY AND TEST's use or alleged use thereof. The information contained in reports, drawings, documents, or other records which are furnished to Seller by KUKA ASSEMBLY AND TEST relative to this Order shall be considered the exclusive property of KUKA ASSEMBLY AND TEST to the extent that such information is not in the public domain. Seller will not, without KUKA ASSEMBLY AND TEST's prior written consent, disclose, divulge or otherwise make available to any other person, or use, either directly or indirectly, except during the performance of an Order, any information relating to KUKA ASSEMBLY AND TEST or its business, operations, goods, or any other intellectual property, including but not limited to patents, trademarks, copyrights, processes, techniques, procedures, designs, writings, documents, models, films, blocks, die-cuts, drawings, plans, specifications, blue prints, equipment, systems, know-how, trade secrets, project information, policies or agreements, including these Terms and Conditions or any Order ("Confidential Information"). Seller will take all steps which may be necessary or appropriate in order to assure that Seller's employees and Seller's subcontractors and the employees of such subcontractor's adhere to this Paragraph 22. All subcontracts, purchase orders, and other agreements that Seller enters into pursuant to the performance of any Order shall include appropriate clauses to carry out the purpose and intent of this provision. Seller shall not use any such Confidential Information for its own use or for any purpose whatsoever except in the performance of an Order. Upon completion, termination, or cancellation of this Order, Seller shall return all drawings and specifications (including copies) to KUKA ASSEMBLY AND TEST in the event KUKA ASSEMBLY AND TEST requests returns of any such items, within thirty (30) days after the effective date of completion, termination, or cancellation. Any such data of KUKA ASSEMBLY AND TEST retained by Seller shall remain subject to the restrictions on use, reproduction, and disclosure contained within this Order which shall survive the cancellation, termination, or completion of this Order. Upon termination of this Order, KUKA ASSEMBLY AND TEST may, at KUKA ASSEMBLY AND TEST's option, use on a nonexclusive basis, all drawings, documents, or other records related to this Order whether created by KUKA ASSEMBLY AND TEST or Seller without further compensation to Seller. Seller may not disclose the existence of this Order or the items to be supplied hereunder without KUKA ASSEMBLY AND TEST's prior consent except to permitted subcontractors who shall have the same responsibility.
23. **SALE OF PARTS:** Seller is prohibited from using KUKA ASSEMBLY AND TEST's data, as identified in Paragraph 22, in the manufacturing, distribution, sale or otherwise disposing of any part(s) which are subject of this Order, to any third party without the express written consent of KUKA ASSEMBLY AND TEST. The restriction on Seller in the manufacturing, distribution, sale, or otherwise disposing of any part(s) shall survive the cancellation, termination, or completion of this Order. Where an Order specifies that goods shall bear KUKA



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ASSEMBLY AND TEST's trade name, trademark or other KUKA ASSEMBLY AND TEST identification, and Seller produces any goods bearing KUKA ASSEMBLY AND TEST's trade name, trademarks or other KUKA ASSEMBLY AND TEST identification in excess of the quantity indicated on the Purchase Order and KUKA ASSEMBLY AND TEST does not accept such excess, Seller agrees that the use by Seller or the sale or disposition to third parties of any such excess goods bearing KUKA ASSEMBLY AND TEST's trade name, trademark or other KUKA ASSEMBLY AND TEST identification will result in an infringement of KUKA ASSEMBLY AND TEST's property rights and Seller agrees to pay KUKA ASSEMBLY AND TEST liquidated damages calculated at three times the "vendor unit price" of any such item used, sold or disposed of (such liquidated damages being a reasonable estimate of damages to be sustained by KUKA ASSEMBLY AND TEST in such a case). Seller agrees that any returned or rejected Product bearing KUKA ASSEMBLY AND TEST's trade name, trademark or other KUKA ASSEMBLY AND TEST identification will be destroyed or alternatively said trade name, trademark or other KUKA ASSEMBLY AND TEST identification will be so completely obliterated as to be unrecognizable as KUKA ASSEMBLY AND TEST's trade name, trademark or other identification before Seller makes any disposition whatsoever of the rejected goods other than total destruction. Seller further agrees not to advertise or hold out to the public that any such rejected goods are rejected goods of KUKA ASSEMBLY AND TEST or are second line goods or any such similar terminology that would reflect such goods were connected in any manner with KUKA ASSEMBLY AND TEST.

24. **INCORPORATED DOCUMENTS:** All documents attached to this Order are incorporated herein by reference and made a part of this Order as if fully set forth herein.
25. **ENTIRE AGREEMENT, AMENDMENTS:** The Order and these Terms and Conditions and any additional terms on the face of the Order or in any attachments thereto and incorporated therein, constitute the entire understanding and agreement between KUKA ASSEMBLY AND TEST and Seller and their respective heirs, devisees, administrators, executors, successors, and permitted assigns. No change to the Order, the Terms and Conditions, or any attachments hereto and incorporated herein shall be valid and binding on either party unless reduced to writing and signed by authorized representatives of both parties. In the event of any inconsistency between these Terms and Conditions and the provisions on the face of any Order or supplement attached hereto, the provision contained on the Order or on the supplement shall control.
26. **DEFAULT:** Unless excused under Paragraph 8 (Force Majeure), the failure of Seller to perform any term, condition, or covenant made or undertaken by it, or the violation of any warranty or representation in any Order or these Terms and Conditions, shall be deemed a default by Seller. If a default occurs, KUKA ASSEMBLY AND TEST shall provide a notice of default to Seller, and KUKA ASSEMBLY AND TEST shall then have the right to: (a) terminate any Order with Seller; or (b) enforce specific performance; or (c) charge Seller for any damages or losses KUKA ASSEMBLY AND TEST sustains as a result of Seller's default. These rights shall be cumulative and in addition to any and all other rights and remedies available to KUKA ASSEMBLY AND TEST either in equity or law.
27. **RETURN OF MATERIALS:** If the goods to be manufactured for KUKA ASSEMBLY AND TEST by Seller hereunder are to be made pursuant to specifications, designs, drawings, plans, or blue prints (including all electronic copies of same) furnished by KUKA ASSEMBLY AND TEST, Seller shall return the same to KUKA ASSEMBLY AND TEST immediately upon KUKA ASSEMBLY AND TEST's request upon completion, termination, or cancellation of an Order, and Seller shall not, without the express written consent of KUKA ASSEMBLY AND TEST, use the same in the production of any goods or material for any party other than KUKA ASSEMBLY AND TEST.
28. **EQUIPMENT:** Seller shall be responsible for all materials, equipment, tools, dies, and other property of KUKA ASSEMBLY AND TEST while the same are in the possession, control or custody of Seller. Seller shall use such property at its own risk, shall be responsible for all loss of or damage to same, shall, at its own cost, maintain such property in the same condition as supplied, ordinary wear and tear excepted, and shall return or otherwise dispose of same in accordance with the instructions of KUKA ASSEMBLY AND TEST. Seller shall not, without the express written consent of KUKA ASSEMBLY AND TEST, use any such materials, equipment, tools, dies or other property of KUKA ASSEMBLY AND TEST in the manufacture of any goods or material for any party other than KUKA ASSEMBLY AND TEST.
29. **TITLE, HEADINGS AND INVALIDITY:** Whenever possible, each pronoun used in these Terms and Conditions and any Order shall be interpreted in such a way to be effective and valid under applicable law. The invalidity or unenforceability of any provision of these Terms and Conditions and any Order under any present or future law, rule, regulation or ordinance will not affect any other provision of these Terms and Conditions or any Order, and the remaining provisions of these Terms and Conditions and any Order shall continue with the same force and effect as if such invalid or unenforceable provision had not been inserted in these Terms and Conditions or



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any Order. Titles and headings to articles, sections or paragraphs in these Terms and Conditions are inserted for convenience of reference only and are not intended to affect the interpretation or construction of these Terms and Conditions.

30. **BENEFIT:** These Terms and Conditions will be binding upon and inure to the benefit of the parties hereto and their successors and permitted assigns. The Parties do not intend to confer any benefits on any person, firm, or corporation other than Seller and KUKA ASSEMBLY AND TEST, as a result of any Order.
31. **RELATIONSHIP/STATUS:** Seller agrees that all services are to be rendered by Seller as an independent contractor. KUKA ASSEMBLY AND TEST and Seller are neither partners nor joint venturers. There is no agency relationship between the parties, therefore, neither party has any authority to legally bind the other party. Under no circumstance will any individual performing services under a Purchase Order be considered a KUKA ASSEMBLY AND TEST employee or agent. No contractual relationship will exist between KUKA ASSEMBLY AND TEST and any subcontractor or vendor of Seller. Seller will be responsible for the management of any subcontractor in the performance of its work under any Purchase Order.
32. **REMEDIES:** The rights, remedies and warranties set forth in these Terms and Conditions are non- exclusive as KUKA ASSEMBLY AND TEST shall have the right to enforce against Seller any and all other rights, remedies and warranties available to a KUKA ASSEMBLY AND TEST of goods, either in law or in equity.
33. **OEM REQUIREMENTS:** Where the goods under this order are or will be sold , or incorporated into goods or services that are or will be sold, by KUKA ASSEMBLY AND TEST to a third party ("OEM Customer") in respect of an OEM Customer's program, Seller shall take such steps, provide such disclosure, comply with such requirements and do all other things as may be reasonably necessary and within its control to enable KUKA ASSEMBLY AND TEST to meet KUKA ASSEMBLY AND TEST's obligations under the terms and conditions of any purchase order or other document that may be applicable to KUKA ASSEMBLY AND TEST from time to time in respect of its supply of such goods or services to OEM Customer in respect of the program, including without limitation: delivery, packaging and labeling requirements; intellectual property rights and confidentiality; access to facilities and records.
34. **PAYMENT:** Unless otherwise agreed or otherwise stated on the face of this Order, net invoices (subject to applicable withholding taxes, if any) shall be paid within sixty (60) days of receipt of the invoice by KUKA ASSEMBLY AND TEST.
35. **CERTIFICATE OF ORIGIN, ETC:** Upon request, Seller shall furnish immediately to KUKA ASSEMBLY AND TEST certificates of origin or domestic value-added and all other information relating to the costs and places of origin of goods and the materials contained therein or used in the performance thereof , as may be required by KUKA ASSEMBLY AND TEST to comply fully with all customs, tariff or other applicable governmental regulations. Seller shall comply with all such regulations. Seller shall indemnify KUKA ASSEMBLY AND TEST affiliates and its customers against all losses, costs or damages (including any fines or penalties) resulting directly or indirectly from Seller's delay in furnishing such certificates or other information to KUKA ASSEMBLY AND TEST and from any errors or omissions contained therein and from any non-compliance by Seller with the aforesaid regulations.
36. **RIGHT OF BUYER TO PERFORM:** If Seller fails to perform any of its obligations under this Order, and Seller has not remedied such failure to perform within ten (10) days (or such shorter period of time as KUKA ASSEMBLY AND TEST may determine, if commercially reasonable under the Circumstances) of written notice from KUKA ASSEMBLY AND TEST (except in the event of a delay in the delivery date or the final acceptance date, in which case such notice and cure period shall not apply), then KUKA ASSEMBLY AND TEST and its agents may without limiting or affecting its other rights and remedies hereunder or at law (but shall not be obligated to) perform the obligation without waiving or releasing Seller from the obligation. Where applicable, KUKA ASSEMBLY AND TEST and its agents shall be entitled to enter upon Seller's premises to perform or remove the goods and related tooling and materials necessary to perform such obligations. All costs, damages and expenses incurred directly or indirectly by KUKA ASSEMBLY AND TEST in connection with the foregoing shall be paid by Seller to KUKA ASSEMBLY AND TEST on demand or, at KUKA ASSEMBLY AND TEST's sole option, may be set off against and deducted from any amounts then owing by KUKA ASSEMBLY AND TEST to Seller.
37. **RIGHT TO AUDIT:** Seller grants to KUKA ASSEMBLY AND TEST and to KUKA ASSEMBLY AND TEST's authorized agents and representatives, reasonable access to all pertinent information, including, but not limited to, books, records, payroll data, receipts, correspondence and other documents for the purpose of auditing Seller's charges under this Order. Seller will preserve these documents for a period of two (2) years after the



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final payment under this Order. In addition, all work, materials, inventories and other items provided for under this Order must be accessible to KUKA ASSEMBLY AND TEST and to KUKA ASSEMBLY AND TEST's authorized agents and representatives, including, but not limited to, parts, tools, fixtures, gauges and models, at all times. Seller will segregate its records and otherwise co-operate with KUKA ASSEMBLY AND TEST so as to facilitate any audit pursuant to this paragraph.

38. **SEVERABILITY:** If any term of this Order is invalid or unenforceable under any statute , regulation, ordinance, executive order or other rule of law, such term shall be deemed reformed or deleted, as the case may be, but only to the extent necessary to comply with such statute, regulation, ordinance , order or rule, and the remaining provisions of this Order shall remain in full force and effect.