TERMS AND CONDITIONS OF SALE

Except as otherwise agreed by ATL Technology LLC or its affiliates and/or subsidiaries ("ATL") in writing, the following terms and conditions ("Agreement") will apply to all proposals, statements of work and other purchase orders (together with any and all appendices, and/or exhibits attached hereto or otherwise issued in connection with sales made by ATL, collectively, known hereunder as this "Purchase Order") submitted by Buyer and accepted by ATL, and all sales made by ATL.

1. **GENERAL**: These terms and conditions constitute the sole and entire agreement between ATL and the Buyer for the sale of the goods and/or services as described in the Purchase Order with respect to the goods or services purchased by the Buyer (the "Buyer"). These terms and conditions are incorporated by reference into, and form an integral part of, every quotation, proposal, order acknowledgment, invoice, and other document issued by ATL. These terms and conditions shall apply to and govern every sale of Products and/or services by ATL to Buyer. ATL's acceptance of any order from Buyer, including any acceptance by conduct such as shipment of Products or performance of services, is expressly made conditional on Buyer's assent to the terms and conditions set forth herein. Any terms or conditions contained in any document issued by Buyer, including but not limited to any order, purchase order, confirmation, acknowledgment or other correspondence, which are inconsistent with, in addition to, or different from the terms and conditions contained in this Agreement shall be expressly rejected by ATL and not form part of the agreement between the parties unless expressly accepted by ATL in a separate writing signed by a duly authorized representative of ATL. For the avoidance of doubt, ATL's shipment of Products, performance of services, acceptance of any purchase order, commencement of work, or any other act of performance shall not constitute acceptance of any terms or conditions proposed by Buyer that are inconsistent with, in addition to, or different from those set forth herein, and any such conflicting terms are hereby objected to. Buyer shall be deemed to have assented to these terms and conditions by accepting any goods or services from ATL, making any payment, placing any order, or ordering any goods or services having previously received or been provided access to these terms and conditions. In the event of any conflict between the terms and conditions of this Agreement and any terms contained in Buyer's Purchase Order or other document, the terms and conditions of this Agreement shall prevail regardless of the order or sequence in which such documents are exchanged between the parties.

2. **TAXES:** Except as otherwise expressly stated herein, the prices do not include any federal, state or local sales, use, goods and services, excise or other similar taxes applicable to goods or services involved in this transaction. All such taxes shall be paid by Buyer, unless Buyer provides ATL with evidence satisfactory to ATL of exemption from such taxes. When ATL is required by law or regulation to collect such taxes, ATL will add such taxes to the sale price of the goods or services.

3. **PRICES:** The sale price(s) for goods delivered hereunder ("Products") is stated on the Purchase Order. Any design, development, engineering, consulting, testing, or other services to be performed by ATL hereunder ("**Services**") shall be as described in the applicable Purchase Order or statement of work. All quotations of ATL expire thirty (30) calendar days from the date thereof. All prices are subject to change without notice although ATL will honor prices on Purchase Orders that have been expressly accepted by ATL, unless the Parties agree otherwise in writing. Price adjustments may be made by ATL to reflect documented increases in the cost of raw materials, components, labor, regulatory compliance, or other manufacturing inputs. Non-recurring engineering ("NRE") charges, tooling costs, and other development-related fees shall be set forth in the applicable Purchase Order or statement of work, including payment milestones, and shall be payable in accordance with the schedule specified therein regardless of whether production orders are subsequently placed. Unless otherwise specified in the Purchase Order, all tooling shall remain the sole property of ATL.

4. **DELIVERY, TITLE PASSAGE AND INSURANCE:**

4.1 **Delivery.** Delivery or shipping dates are approximate only and merely represent ATL's best estimate of the time required to make delivery or shipment. Time is not of the essence with respect to the transaction(s) covered by this Agreement, except with respect to Buyer's obligation to make all related payments. ATL shall not be liable for any failure to meet any specific shipping or delivery date. ATL will not be liable for any loss or expense (incidental, indirect, economic, consequential or otherwise) incurred by Buyer as a result of any delay or failure in delivery for any reason. ATL reserves the right to make partial deliveries and ship approximately ten (10) calendar days in advance of shipping date. ATL is not responsible for any charges, fees or damages relating to ATL's decision to hold shipment due to an issue with the Buyer's credit rating. Any prepaid freight will be invoiced to Buyer at published rates.

4.2 **Title.** Except as where otherwise agreed and expressly stated in the Purchase Order, all deliveries hereunder will be FCA ATL's plant via a carrier selected by Buyer at its option, or otherwise by ATL, freight collect, to Buyer and will be packed in ATL's standard commercial shipping packages. Delivery is made and title and risk of loss pass to Buyer at ATL's shipping point upon tender of products to shipping carrier. In all such cases title and risk of loss will pass to Buyer in accordance with the ICC INCOTERMS 2020. Buyer shall reimburse ATL for any and all costs of storage incurred by ATL after the date that ATL is prepared to make shipment. ATL may ship orders in installments.

4.3 **Insurance.** During the term of the Purchase Order and one (1) year thereafter, Buyer will pay, or reimburse ATL for, all insurance on the Products shipped in accordance with the applicable ICC INCOTERM, Buyer shall pay transportation expenses and maintain, at its expense, insurance, in an amount that is reasonable and customary for the industry and adequate to cover Buyer's obligations under this Agreement, on the Products from time of tender until ATL's receipt of payment in full for such Products, naming ATL as an additional named insured. Buyer must file any claims for shipping shortages directly with shipping carrier. Buyer will provide ATL with certificates of insurance upon written request.

4.4 **Re-export of Products**; **Duty Drawback**. Any or all Products may be subject to US export or resale restrictions or regulations, and Buyer acknowledges that it will comply with all applicable regulations or restrictions. Country of Origin information provided to ATL is subject to information provided by its suppliers. All drawback of duties and rights thereto related to duties paid by ATL or Buyer upon importation of the Products into the customs territory of the United States that enter into the manufacture of goods or are otherwise subsequently exported from the United States shall accrue to the exclusive benefit of ATL. Buyer agrees to provide ATL with all documents, records, and other supporting information necessary to obtain any such duty drawback and agrees to reasonably cooperate with ATL to obtain such payment.

5. **PAYMENT TERMS:**

5.1 Orders, shipments and deliveries shall at all times be subject to the approval of ATL's credit department, which may at any time decline to accept, ship or deliver any order or perform any work except upon receipt of payment or security or upon other terms and conditions satisfactory to ATL's credit department, in its sole discretion. Where satisfactory account credit has been established, ATL shall invoice Buyer at the time of shipment of each installment, and payment terms shall be net thirty (30) calendar days from date of shipment, unless otherwise agreed. All payments shall be in U.S. Dollars. Buyer shall make all payments as provided herein without regard to whether Buyer has made or may make any inspection or use of any Products. No discounts or setoffs shall be made by Buyer against any invoices unless approved in writing in advance by ATL. Any invoiced amount which is not paid when due shall bear interest at the rate of one and one-half percent (1.5%) per month or the highest rate then permitted by law, whichever is less, until paid in full. Accrued and unpaid service charges shall be added monthly to the outstanding invoice balance (and service charges shall accrue on the service charges so added), to the maximum extent permitted by applicable law. No payment by Buyer or receipt by ATL of an amount less than the entire amount of an invoice will be deemed to be other than on account of the earliest due amount, nor will any endorsement or statement on any check or letter accompanying any check or payment be deemed an accord and satisfaction, and ATL may accept such check or payment without prejudice to ATL's right to recover the balance of any amount due or pursue any other remedy provided for in these Terms and Conditions of Sale. ATL reserves the right to modify terms prior to shipment, require payment in advance, or delay or cancel any shipment or order by reason of customer's creditworthiness or should customer fail to fulfill any obligation when due. ATL reserves the right to exercise any of its lawful remedies if Buyer does not make payments when due. Buyer shall promptly reimburse ATL for all costs and expenses, including reasonable attorneys' fees, incurred by ATL in collecting sums due it hereunder.

5.2 ATL is authorized to apply toward any monies due ATL hereunder any sums now or hereafter owed by ATL or any affiliate of ATL to Buyer or any affiliate of Buyer.

6. FORCE MAJEURE: ATL shall not be liable for delay in performance or nonperformance of any of its obligations hereunder, in whole or in part, if such performance is rendered impracticable by the occurrence of any condition beyond the reasonable control of either ATL or ATL's suppliers, including without limitation war, sabotage, embargo, riot, terrorism, or other civil commotion, failure or delay in transportation, utilities, act of any government or any court or administrative agency thereof (whether or not such action proves to be invalid), labor dispute (whether or not involving ATL's employees), accident, fire, explosion, flood, earthquake or other casualty, shortage of labor, fuel, energy, raw materials or machinery or technical failure. If any such contingency or condition occurs, ATL may allocate production and deliveries in any reasonable manner in its sole discretion. If, as a result of any such contingency, ATL's performance is delayed by more than thirty (30) days, ATL reserves the right to cancel any order, without liability.

7. LIMITED WARRANTY

7.1 ATL warrants to Buyer that the Products (1) shall be free of defects in materials and workmanship for twelve (12) months from the date of manufacture (the "Warranty Period"); and (2) shall be free of liens and encumbrances (other than ATL's lien) when shipped to Buyer.

7.2 ATL warrants those Products designed and assembled by it against defects in material and workmanship occurring under normal use caused solely by faulty assembly or customization for the Warranty Period. All other products, and the components and materials utilized in any assembled or customized Products, are covered by, and subject to, the terms, conditions, and limitations of the respective manufacturer's standard warranty, which warranty is expressly in lieu of any other warranty, express or implied. ATL shall not be liable for any conditions attributable to (i) improper installation or testing, (ii) inadequate or improper maintenance or storage, (iii) normal wear and tear, (iv) failure to provide a suitable operating environment, (v) use of the Product for purposes other than that for which it was designed, (vi) failure to monitor or operate the Product in accordance with applicable ATL specifications and good industry practice, (vii) unauthorized attachment, removal or alteration of any part of the Product, (viii) unusual mechanical, physical stress, extreme environmental conditions, chemical exposure, (ix) modifications or repairs done by other than ATL, (x) mishandling during shipment of the Product, (xi) any defects or performance failures resulting from components from a third party that are integrated into ATL Products, (xii) any defects caused or resulting from components or materials provided to ATL by suppliers mandated or designated by Buyer; (xiii) the incompatibility, improper design, manufacture, installation, operation or maintenance of products, accessories, equipment or materials not supplied by ATL, (xiv) any other abuse, misuse, neglect or accident or (xv) any Products purchased outside of the United States of America.

7.3 In no circumstance shall ATL have any liability or obligation with respect to expenses, liabilities or losses associated with the installation or removal of any Product or the installation or removal of any components for inspection, testing or redesign occasioned by any defect or by repair or replacement of a Product. The conditions of any tests by Buyer on any Products shall be mutually agreed upon, and ATL shall be notified of, and may be represented at, all tests.

7.4 Buyer's exclusive remedy, if any, under these warranties is limited, at ATL's election, to any one of (a) refund of ATL's purchase price or fees paid, as applicable, (b) repair by ATL or the manufacturer of any Products found to be defective, (c) replacement of any such Product, or (d) with respect to Services, re-performance of such non-conforming Services.

EXCLUSIVE REMEDIES FOR BREACH OF WARRANTY; WARRANTY DISCLAIMER

8.1 Buyer shall notify ATL in writing promptly (and in no case later than five (5) calendar days after discovery) of the failure of any Product to conform to the warranty set forth above. The notice shall describe in commercially reasonable detail the symptoms associated with such failure, and shall provide ATL the opportunity to inspect such Products. The notice must be received by ATL during the applicable warranty period for such Product. Unless otherwise directed in writing by ATL, ATL will issue a Return of Merchandise Authorization (RMA) within thirty (30) calendar days after the Buyer's notice, Buyer shall package the allegedly defective Product in its original shipping carton(s) or a functional equivalent and shall ship it to ATL at ATL's expense. Buyer must prepay shipping charges.

8.2 Modification, repair or replacement and the return shipment of the Products with minimum insurance to Buyer shall be at ATL's expense. Buyer shall bear the risk of loss or damage in transit, and may insure the Products. Buyer shall reimburse ATL for transportation costs incurred for Products returned but found by ATL not to be defective. Modification or repair of Products may, at ATL's option, take place either at ATL's facilities or at Buyer's premises. If ATL is

unable to modify, repair or replace Products to conform to the warranty set forth above, then ATL shall, at ATL's option, either refund to Buyer or credit to Buyer's account the purchase price of the Products less depreciation calculated on a straight-line basis over ATL's stated Warranty Period.

8.3 BUYER ACKNOWLEDGES THAT EXCEPT AS SPECIFICALLY SET FORTH OR REFERENCED IN THIS PARAGRAPH 8.3, THERE ARE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, IN ADVERTISING MATERIALS, BROCHURES, OR OTHER DESCRIPTIVE LITERATURE) BY ATL OR ANY OTHER PERSON, EXPRESS OR IMPLIED, AS TO THE CONDITION OR PERFORMANCE OF ANY PRODUCTS OR SERVICES, THEIR MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR OTHERWISE. ATL ASSUMES NO RESPONSIBILITY OR LIABILITY WHATSOEVER FOR THIRD PARTY MANUFACTURER'S PRODUCT SPECIFICATIONS OR THE PERFORMANCE OR ADEQUACY OF ANY DESIGN OR SPECIFICATION PROVIDED TO ATL BY OR ON BEHALF OF BUYER. THE REMEDIES SET FORTH IN THIS PARAGRAPH 8 SHALL BE ATL'S SOLE AND EXCLUSIVE LIABILITY AND BUYER'S SOLE AND EXCLUSIVE REMEDY FOR BREACH OF WARRANTY. ATL'S LIABILITY FOR ANY CLAIMED BREACH OF WARRANTY SHALL BE LIMITED TO A REFUND OF THE PURCHASE PRICE OF THE PRODUCT OR THE FEES PAID FOR THE SERVICES FOUND TO BE DEFECTIVE OR NON-CONFORMING, AS APPLICABLE. IN NO EVENT SHALL ATL BE LIABLE FOR THE COST OF PROCUREMENT OR INSTALLATION OF SUBSTITUTE GOODS OR SERVICES BY BUYER OR FOR ANY SPECIAL, CONSEQUENTIAL, PUNITIVE, INDIRECT OR INCIDENTAL DAMAGES OR LOST PROFITS. SUCH LIMITATION UPON ATL'S LIABILITY SHALL SURVIVE EVEN IF ANY OF BUYER'S LIMITED OR EXCLUSIVE REMEDIES ARE DEEMED TO HAVE FAILED OF THEIR ESSENTIAL PURPOSE.

Buyer assumes the risk and agrees to defend and indemnify ATL against and hold ATL harmless from all liability relating to (i) any breach by Buyer of any provisions of these terms and conditions, (ii) any actual or alleged violation or infringement upon any patent, copyright or other intellectual property rights of any third party arising from compliance with Buyer's designs, specifications or instructions; (iii) any unauthorized modification, alteration, adaptation or use of the Products and/or installation of any device, instrument or equipment part thereof in or on the Products, the use or combination of which has not been approved, including, without limitation, any such damage, injury or contamination whatsoever arising out of any use in connection with any nuclear facility or activity, military application or medical device, (iv) assessing the suitability for Buyer's intended use of the Products, (v) developing or selecting any component, product and/or system and the respective design or drawing related thereto, and (vi) determining the compliance of Buyer's use of the Products with applicable laws, regulations, codes and standards. Buyer retains and accepts full responsibility for all warranty and other claims relating to, or arising from, Buyer's Products which include or incorporate products or components manufactured or supplied by ATL. Buyer is solely responsible for any and all representations and warranties regarding the Products made or authorized by Buyer. Buyer will defend and indemnify ATL and hold ATL harmless from any liability, claims, loss, cost or expenses (including reasonable legal fees) attributable to Buyer's products or representations or warranties concerning same.

9. LIMITATION OF ATL'S LIABILITY AND INDEMNITY

9.1 Except as provided for in Articles 7, 8 and 9 above, ATL will have no liability or obligation to Buyer or any other person for any claim, loss, damage, or expense caused in whole or in part, directly or indirectly, by the inadequacy of any of the Products or Services for any purpose, by any deficiency or defect in any of the Products or Services, by the use or performance of any of the Products or Services or any failure or delay in ATL's performance hereunder, whether in contract, strict liability, tort or otherwise. For the avoidance of doubt, nothing in this Section 9 shall limit ATL's liability under its indemnification obligations set forth in this Agreement.

9.2 IN NO EVENT WILL BUYER BE ENTITLED TO OR ATL BE LIABLE TO BUYER OR ANY OTHER PARTY FOR ANY INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, TORT OR CONSEQUENTIAL DAMAGES OR LOSSES OF ANY NATURE, INCLUDING, WITHOUT LIMITATION, ANY DAMAGES FOR BUSINESS INTERRUPTION COSTS, LOSS OF REVENUES, PROFITS OR SAVINGS, LOSS OF DATA, LOSS OF GOODWILL, REPROCUREMENT, REMOVAL OR REINSTALLATION COSTS, OVERHEAD OR INJURY TO REPUTATION OR LOSS OF CUSTOMERS, OR FOR ANY CLAIMS ASSERTED AGAINST BUYER BY A THIRD PARTY ARISING DIRECTLY OR INDIRECTLY OUT OF OR IN CONNECTION WITH THE MANUFACTURE, DELIVERY, SALE, USE OR DEFECT OF PRODUCTS SOLD BY ATL TO BUYER OR SERVICES PERFORMED BY ATL FOR (OR ON BEHALF OF) BUYER, EVEN IF ATL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES. IN NO EVENT WILL ATL BE LIABLE FOR ANY PERSONAL INJURIES OR DEATH ARISING DIRECTLY OR INDIRECTLY OUT OF OR IN CONNECTION WITH THE MANUFACTURE, USE OR DEFECT OF ANY SUCH PRODUCTS OR THE PERFORMANCE OF ANY SUCH SERVICES. NOTWITHSTANDING ANYTHING ELSE CONTAINED IN THESE TERMS AND CONDITIONS, BUYER'S RECOVERY FROM ATL FOR ANY CLAIM WILL NOT EXCEED BUYER'S PURCHASE PRICE OR FEES PAID (PLUS SHIPPING CHARGES AUTHORIZED BY ATL FOR RETURN THEREOF, IF APPLICABLE) FOR THE PRODUCT OR SERVICE GIVING RISE TO SUCH CLAIM, IRRESPECTIVE OF THE NATURE OF THE CLAIM, WHETHER IN CONTRACT, TORT, WARRANTY OR OTHERWISE.

10. PRODUCTS DISTRIBUTED BUT NOT MANUFACTURED BY ATL. Buyer acknowledges that ATL is not a manufacturer of certain products distributed by ATL. ATL will transfer to Buyer whatever transferable warranties and indemnities, if any, ATL receives from manufacturers of such products, including any transferable warranties and indemnities regarding intellectual property infringement. ATL authorizes Buyer, at Buyer's sole expense, to assert to the maximum extent permitted by law and for Buyer's account, all rights and powers of ATL under any applicable manufacturer's warranty on any such product.

11. SOFTWARE: Any third party software included in or relating to Products, is supplied by their respective manufacturers. ATL makes no representation or warranty with respect thereto and will have no liability in connection therewith. Buyer agrees to comply with the manufacturer's requirements with regard to proprietary and similar rights in and to such software including any requirement to enter into a separate license agreement and prohibitions against duplicating or disclosing the same, and will indemnify ATL against and hold it harmless from any and all liability, cost or expense arising from a breach or purported breach of such requirements.

12. PRODUCT CHANGES: ATL reserves the right to change, improve or add or discontinue any Products at any time. To the extent applicable, ATL will use reasonable efforts to provide Buyer a reasonable opportunity to make purchases of Products prior to such discontinuation.

13. RECALLS OR WITHDRAWALS: In the event any governmental agency having jurisdiction requests or orders any corrective action with respect to any Product (or any finished product containing or contained in any Product), including any recall, corrective action or market action (collectively "Recall"), the Buyer shall immediately notify ATL in writing if it becomes aware of any complaint, claim, or defect indicating that the Products may be unsafe, hazardous, or non-compliant with applicable law. The Buyer shall provide ATL with full details of the affected products, including batch and serial numbers, and retain all necessary traceability records for a period of three (3) years after the Recall is closed. Subject to the terms of this Agreement, ATL shall not be liable to the Buyer for any costs, expenses, or losses incurred in connection with a Recall, including but not limited to the costs of investigating defects, notifying customers, shipping, or replacing the affected Products, unless such recall is judicially determined to have been caused primarily by ATL's gross negligence or willful misconduct.

14. INTELLECTUAL PROPERTY INDEMNITY:

14.1 ATL agrees to indemnify Buyer and hold Buyer harmless from any suit or proceeding brought against Buyer insofar as such suit or proceeding is based on a claim that any of ATL's Products constitutes direct infringement of any issued patent (whether United States or foreign), registered trademark, copyright, or misappropriation of trade secrets, provided ATL is informed by Buyer in writing within ten (10) calendar days after receipt by Buyer and furnished a copy of each communication, notice or other action relating to the alleged infringement and is given all authority (including the right to exclusive control of the defense of any suit or proceeding), information and assistance necessary to settle or defend such suit or proceeding. In the event such Product or any part thereof is, in such suit, held to constitute infringement and the use of such Product or part thereof is enjoined, ATL shall, by its own election and at its own expense, either (a) procure for Buyer the right to continue using such Product, or modify it so that it becomes non-infringing, (b) replace the Product with a non-infringing Product or (c) remove such Product, or part thereof, and grant Buyer a credit thereon and accept its return.

14.2 ATL shall not be obligated to settle or defend any suit or proceeding, or be liable for any costs or damages, if the Buyer is in breach of any term herein or the alleged infringement arises out of (i) compliance with Buyer's specifications or any addition to or modification of the Product after delivery thereof, (ii) from use of the Product or any part thereof in conjunction with any product, technology, item(s) or services that Buyer develops, owns or receives from a third party, (iii) use for a purpose or in a manner for which the Product was not designed or intended, or (iv) any modifications made by ATL to a Product in accordance with Buyer specific instructions. ATL's obligations hereunder shall not apply to any alleged infringement occurring after Buyer has received notice of such alleged infringement unless ATL thereafter gives Buyer express written consent for such continuing alleged infringement. ATL shall not be bound in any manner by any settlement hereunder made without its prior express written consent, NOR SHALL ATL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, AND CONSEQUENTIAL OR PUNITIVE DAMAGES OR LOST PROFITS ARISING OUT OF INTELLECTUAL PROPERTY INFRINGEMENT. ATL'S LIABILITY HEREUNDER SHALL NOT EXCEED THE PURCHASE PRICE PAID BY BUYER FOR THE ALLEGEDLY INFRINGING PRODUCT. IF INFRINGEMENT IS ALLEGED PRIOR TO COMPLETION OF DELIVERY OF A PRODUCT, ATL MAY DECLINE TO MAKE FURTHER SHIPMENTS WITHOUT BEING IN BREACH OF THIS AGREEMENT. THE FOREGOING STATES THE SOLE AND EXCLUSIVE LIABILITY OF ATL FOR INTELLECTUAL PROPERTY INFRINGEMENT AND IS IN LIEU OF ANY AND ALL REPRESENTATIONS, WARRANTIES, OR CONDITIONS EXPRESS OR IMPLIED, IN REGARD THERETO. Buyer agrees, at its expense, to settle or defend, indemnify and hold ATL harmless from any and all claims and to pay costs and damages awarded in any suit or proceeding against ATL based on an allegation that any Product furnished hereunder according to designs or specifications furnished by Buyer infringes any third party's intellectual property, provided Buyer is promptly notified in writing of such suit or proceeding and is given all authority (including the right to exclusive control of the defense of any suit or proceeding), information and assistance necessary to defend or settle any such suit or proceeding.

15 PROPERTY FURNISHED BY BUYER: If Buyer furnishes any components, tools, dies, jigs or other property, equipment, material, or facilities to ATL in connection with the performance of this Order Acknowledgement, Buyer shall bear all risk of loss or damage with respect to such property, equipment, material, or facilities and shall indemnify and hold ATL harmless from and against all loss, cost, expense or liability arising in connection with its use of any such property, equipment, material, or facilities. ATL shall not be responsible for any delay in performance or nonperformance hereunder or the failure of any Product to conform to applicable specifications resulting, in whole or in part, from ATL's use of property, equipment, material, or facilities furnished by Buyer.

16. INTELLECTUAL PROPERTY RIGHTS; PROPRIETARY INFORMATION: All intellectual property rights in ATL's pre-existing technology, platform designs, design accelerators, and other background intellectual property (collectively, "ATL Background IP") shall at all times remain vested in ATL and/or its licensors. Buyer acknowledges ATL's exclusive ownership of the ATL Background IP hereunder, that all uses of said ATL Background IP by Buyer shall inure solely to the benefit of ATL, and that Buyer will not acquire any right to use the ATL Background IP apart from, or after the termination of, this Agreement, except as expressly provided herein. For any Product that incorporates ATL Background IP, ATL hereby grants to Buyer a limited, perpetual, royalty-free, paid-up, non-exclusive right and license to use, sell, and display such ATL Background IP solely in connection with Buyer's sale, use, and operation of the Product. Buyer may transfer its license to, or may sublicense, ATL Background IP only to the extent that such ATL Background IP is incorporated into a Product. Except as set forth in the foregoing license, Buyer shall not have any legal, equitable, or other right to encumber the ATL Buyer IP or all or any of the goodwill attendant to it. Any and all goodwill arising out of Buyer's use of the ATL Buyer IP shall inure solely for the benefit of ATL.

As used herein, the term "Proprietary Information" includes any information, documentation, software, methods, know-how, process, procedure, prototypes, formula, trade secret, material or apparatus, of a confidential or proprietary nature obtained from ATL and any information obtained from ATL which is not readily available to ATL's competitors and which, if known by a competitor of ATL, might lessen any competitive advantage of ATL or give such competitor a competitive advantage. ATL retains ownership of all Proprietary Information, whether written, oral, electronic, visual, graphic, photographic, observational or

otherwise, and all documentation which contains Proprietary Information. Buyer shall not disclose, duplicate or reproduce any Proprietary Information, in whole or in part, nor shall Buyer use any Proprietary Information other than in the course of performing its obligations hereunder. Buyer shall take all reasonable steps to prevent the disclosure, duplication or reproduction of any Proprietary Information. Buyer shall limit access to the Proprietary Information to those employees of Buyer with a valid need to know. Notwithstanding the foregoing, Buyer shall not be required to refrain from disclosing or using any Proprietary Information which has become known to Buyer if the original source of such Proprietary Information was not ATL or any person or party affiliated with ATL or having a relationship of confidentiality with or an obligation of confidentiality to ATL. Upon request of ATL or termination of this Agreement, Buyer shall immediately return to ATL any Proprietary Information.

17 CANCELLATION:

17.1 Neither this Agreement nor any release hereunder is subject to cancellation by Buyer except upon (a) written request of Buyer and (b) written approval of ATL. Buyer agrees to pay ATL for all of ATL's out-of-pocket costs associated with the cancellation of the Order including, but not limited to: (i) raw materials, (ii) work in process, (iii) inventory carrying costs, (iv) scrapping and disposal fees, (v) value added taxes, (VAT), customs duties, export licenses, tariffs and other customary fees paid to governmental or quasi-governmental authorities; and (vi) direct and indirect expenses, prior commitments in reliance on such Order, and ATL's profits. In no case will the cancellation charge be less than ATL's actual costs (including overhead and other indirect costs). The amount of cancellation charge to be charged to Buyer shall be determined at the sole discretion of ATL and may equal 100% of the amount of the order at the time of ATL's receipt of Buyer's request for cancellation. Buyer is entitled to receive a written notice from ATL setting forth how the cancellation charge was calculated. Upon payment of the cancellation charge, Buyer shall be entitled to receive all raw materials and work in process, and ATL agrees to ship such goods to Buyer at Buyer's expense, provided, however that any work in process delivered hereunder shall be delivered AS-IS without any warranty of any kind.

17.2 ATL reserves the right, by written notice of default, to cancel any Order, without liability to Buyer, in the event of the happening of any of the following: insolvency of Buyer, the filing of a voluntary petition in bankruptcy by Buyer, the filing of an involuntary petition to have Buyer declared bankrupt, the appointment of a receiver or trustee for Buyer, the execution by Buyer of an assignment for the benefit of creditors, the discontinuance of business by Buyer, the sale by Buyer of the bulk of its assets other than in the usual course of business or due to a significant credit rating reduction.

18. RESCHEDULES: Buyer may only reschedule an Order with ATL's written consent. Orders scheduled to ship within a forty five (45) day window are considered frozen, and are not subject to reschedule. Changes to Orders which are submitted to ATL and provide for Product to ship between forty six (46) and ninety (90) days may affect no more than 50% of such Order (measured by quantity) and shall only be made through the end of the calendar quarter following the quarter in which the Order was placed. If such change accelerates a delivery time, ATL shall use commercially reasonable efforts to meet such delivery time and change, subject to the availability of any and all materials used to produce the Product. Conversely, ATL shall accept no more than one (1) change per Order that provides for the extension of a delivery date, whereby ATL must hold or store Product. In such event, ATL will notify Buyer of the storage of the Products and all risks of loss will pass to Buyer at the time the Products are placed in storage. The maximum postponement for any shipment will be thirty (30) days. Buyer shall be responsible for any and all expenses incurred by ATL for delay in shipment/delivery, including a ten percent (10%) penalty based on total amount of the Order or portion of the Order rescheduled. Buyer agrees to pay all expedite fees and other costs associated with the rescheduled date. ATL also may, at its sole option, submit its invoice for said rescheduled, delayed or stored Products to Buyer and Buyer will pay as set forth herein and reimburse ATL for all storage expenses. Notwithstanding the foregoing, payment for Product shall be due no later than thirty (30) days after the date upon which ATL ships the Product or the date upon which ATL stores such Product pursuant to a change as set forth in this Section.

19. RESALE OF PRODUCTS: Buyer agrees that it shall not resell any Products purchased from ATL unless Buyer is an authorized distributor of ATL's Products. ATL shall not be obligated to provide any warranty service or other technical support for any Products not purchased directly from ATL or an authorized distributor of ATL.

20. NO LICENSE: Neither this Order Acknowledgement nor purchase of any Products hereunder shall be construed to confer upon Buyer or its customers any license under any patent or other intellectual property or proprietary rights of ATL. Tooling, set-up, fitting-up, drawings, design information, non-recurring engineering, and partial preparation charges when invoiced cover only part of the cost thereof to ATL. Buyer does not acquire any right, title or interest in any tooling, set-up, fitting-up, drawings, design information, or invention or other intellectual property resulting therefrom, which remain the sole property of ATL.

21. NON-WAIVER OF DEFAULT: No failure by ATL to insist on strict performance of any term or condition hereof shall constitute a waiver of such term or condition or any breach thereof, nor shall such failure in any way affect ATL's legal remedies with respect to any default by Buyer hereunder.

22. LEGAL ACTION: Any lawsuit or other action brought by Buyer against ATL, whether based on contract, tort or any other legal theory of recovery, must becommenced within one (1) year from the date when the alleged cause of action accrued or Buyer is deemed to have waived any and all claims and causes of action.

23. APPLICABLE LAW; VENUE: This Agreement and the sale of goods and services hereunder shall be governed by and construed in accordance with the laws of the State of Delaware, excluding laws directing the application of the laws of another jurisdiction, and Buyer hereby attorns to such exclusive jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods will not, for any purpose, govern or apply to the sale of goods and services or any transactions, performance or disputes hereunder. All legal proceedings arising under this Agreement or in respect of the sale of the

Products will be initiated and maintained solely and exclusively in any state or federal court located in Salt Lake County, Utah. The parties hereby irrevocably consent to such jurisdiction and venue. **THE PARTIES EXPRESSLY WAIVE AND FOREGO ANY RIGHT TO A TRIAL BY JURY**.

24. **SEVERABILITY:** If any term, covenant or condition of these Terms and Conditions, or the application thereof to any person or circumstance, shall, to any extent, be invalid, illegal or unenforceable, the remainder of these Terms and Conditions or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant or condition of these Terms and Conditions shall be valid and shall be enforced to the fullest extent permitted by law.

25. **ASSIGNMENT:** Buyer may not transfer or assign this Order Acknowledgement or any interest herein, by operation of law or otherwise, without the prior express written consent of ATL. Any attempted transfer or assignment without such consent shall be void. ATL may assign its rights and delegate its duties hereunder. Notwithstanding, these Terms and Conditions shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

26. **ENTIRE AGREEMENT:** This Order Acknowledgement supersedes all prior written and oral agreements and understandings between ATL and Buyer with respect to the Products and services specified herein. No representation or statement not contained herein shall be binding upon ATL as a representation, warranty or condition or otherwise**.**

27. **MODIFICATION:** No addition to or waiver, modification or cancellation of any provision hereof shall be binding upon ATL unless in writing and signed by a duly authorized representative of ATL.

28. **NOTICES:** All notices and other communications hereunder shall be in writing and shall be mailed by first-class, registered, express or certified mail, postage prepaid, to the parties hereto at their respective designated addresses, subject to the right of either party to change such address upon ten (10) calendar days prior written notice.

29. **EXPORT CONTROL:** Buyer acknowledges that Products, software, and technical information provided under this Order Acknowledgement are subject to U.S. and other export laws and regulations. Buyer agrees not to export, re-export, transfer, or transmit the Products, software, or technical information except in compliance with all such laws and regulations. This sale is subject to any applicable governmental approvals and, at ATL's request, Buyer agrees to sign written assurances and other export-related documents as may be required for ATL to comply with US export laws and regulations.

30. **SOLVENCY**: Buyer hereby represents and warrants to ATL that Buyer is solvent (on a balance sheet basis) and has the unrestricted ability to pay its debts in the ordinary course of business as and when they are due and payable. Buyer further represents, warrants, and acknowledges that ATL is a critical vendor and essential supplier of the Products, that the Products are not readily available from alternative sources, and that the continued supply of Products by ATL is necessary for the preservation of Buyer's business operations and the going-concern value of Buyer's enterprise. Buyer acknowledges and agrees that, contemporaneously with the receipt by ATL from Buyer of any order or request to purchase products, goods, or services, (i) Buyer shall be deemed to have remade and reaffirmed in writing Buyer's solvency representation and warranty and critical vendor acknowledgment set forth above; and (ii) such written solvency representation and warranty and critical vendor acknowledgment, in addition to being remade as set forth herein, shall be deemed for all purposes to be incorporated into said order or request as if it was fully set forth in writing therein, it being the express intention of the parties to grant to ATL the maximum right of reclamation available at law or in equity either under applicable state law (i.e. the Uniform Commercial Code) or in any bankruptcy or insolvency proceeding.

31. **ATTORNEY'S FEES:** If ATL institutes a lawsuit or any other action against Buyer to collect any monies due ATL hereunder or pursuant to any order for Products or services, or if ATL successfully defends against a lawsuit or any other action instituted by Buyer against ATL hereunder, whether based on contract, tort or any other theory, then ATL shall be entitled to, and Buyer shall reimburse ATL for, ATL's costs and expenses, including without limitation, attorneys' fees and costs, paid or incurred in connection with any such collection efforts, lawsuit or action.

32. **NO REVERSE ENGINEERING**: Buyer covenants and agrees that it shall not, nor shall it knowingly permit any third party (including any employee, agent or representative) to: (i) cause or permit the copying, duplication or reproduction of any Proprietary Information or ATL's intellectual property and Products; (ii) translate, adapt, vary or modify the Proprietary Information or ATL's intellectual property and Products, including without limitation, any tangible embodiment thereof; or (iii) disassemble, decompile, decompose, reverse engineer or otherwise analyze for the purpose of duplicating, reproducing, copying, creating derivative works of, or otherwise "knocking off", any Proprietary Information or ATL's intellectual property and Products which is in a finished, completed, final or tangible form (including without limitation, samples or prototypes or products produced by virtue of such Proprietary Information or ATL's intellectual property and Products).