

**NUMONYX**  
**GENERAL TERMS AND CONDITIONS OF PURCHASE**

1. [DEFINITIONS](#)
2. [TERMS](#)
3. [PRICING, INVOICING AND PAYMENT](#)
4. [TERMINATION](#)
5. [CONTINGENCIES](#)
6. [DELIVERY, RELEASES, AND SCHEDULING](#)
7. [ACCEPTANCE AND WARRANTY](#)
8. [PRODUCT SPECIFICATIONS AND IDENTIFICATION](#)
9. [PACKING AND SHIPMENT](#)
10. [CUSTOMS CLEARANCE](#)
11. [OWNERSHIP/BAILMENT RESPONSIBILITIES](#)
12. [CONFIDENTIALITY AND PUBLICITY](#)
13. [INTELLECTUAL PROPERTY INDEMNIFICATION](#)
14. [HAZARDOUS MATERIALS](#)
15. [COMPLIANCE WITH LAWS](#)
16. [PRIVACY](#)
17. [ELECTRONIC TRANSACTIONS](#)
18. [DISPUTE RESOLUTION](#)
19. [WAIVER, REMEDIES AND ASSIGNMENT](#)
20. [APPLICABLE LAW, SURVIVAL](#)
21. [ADDITIONAL WARRANTIES](#)
22. [GENERAL LIABILITY AND INSURANCE](#)
23. [COMPLIANCE TO CONTINGENT WORKFORCE POLICY](#)
24. [COMPLIANCE TO BUYER'S DRUG FREE WORKPLACE DIRECTIVE](#)
25. [COMPLIANCE WITH ORIENTATION / BADGING GUIDELINES](#)
26. [INSURANCE](#)
27. [COMPLIANCE WITH LAWS](#)
28. [INDEPENDENT CONTRACTOR](#)
29. [SOLE COMPENSATION](#)
30. [NEW DEVELOPMENTS](#)
31. [ADDITIONAL SURVIVAL CLAUSES](#)

**NUMONYX**  
**GENERAL TERMS AND CONDITIONS OF PURCHASE**

1. DEFINITIONS

- A. "Release" means Buyer's authorization to Seller to ship in accordance with this Purchase Order, and authorizing Seller to ship a definite quantity of Items to a specified schedule. The Release is contained in this Purchase Order.
- B. "Items" means the equipment, materials, software, or goods of any kind that Seller is to provide to Buyer as set forth on this Purchase Order.
- C. "Custom Items" are Items manufactured to Buyer's specifications solely for Buyer and offered or sold to no other customer.
- D. "Service(s)" means the work of any kind to be performed as set forth in an addendum or as set forth on the face of the Purchase Order .

2. TERMS

Unless otherwise stated in a written agreement signed by Buyer (hereafter called "Buyer"), the terms and conditions herein shall apply to all purchase orders for Items issued by Buyer. Notwithstanding anything to the contrary stated in Seller's conditions of sale, Seller agrees that its acceptance of Buyer's purchase order constitutes (1) Seller's express disclaimer of all its conditions of sale and (2) Seller's express acceptance of the terms and conditions set out herein.

3. PRICING , INVOICING AND PAYMENT

- A. Applicable price is the price mentioned in Buyer's purchase order or resulting from price calculation formulas as stipulated in the purchase order. Such price shall always be stipulated firm, and not subject to revision or escalation, or any adjustment due to currency fluctuation. Unless otherwise agreed in writing, price is fully inclusive of standard packaging and of any and all costs, risks and profits related to or in connection with the performance of the purchase order. No extra charge of any kind will be allowed unless specifically agreed in writing by Buyer in advance and stated on the purchase order.
- B. All applicable taxes shall be stated separately on Seller's invoice. Seller shall remit all such taxes to the appropriate tax authority unless Buyer provides sufficient proof of tax exemption. Buyer shall not reimburse Seller for the amount of such taxes withheld and remitted to the appropriate tax authority as may be required by law. If Seller does not collect tax from Buyer and is subsequently is audited by any tax authority, liability of Buyer will be limited to the tax assessment, with no reimbursement for penalty or interest charges.
- C. All costs forwarded to Buyer for reimbursement of expenses agreed under the terms of this Purchase Order shall be net of any reclaimable Value Added Taxes ("VAT") incurred on such expenses. Seller agrees to invoice Buyer no later than one hundred eighty (180) days after shipment of Items. Buyer will not be obligated to make payment against any invoices submitted after such period. Buyer's payment shall not constitute acceptance.
- D. Unless otherwise agreed in writing on the purchase order, payment term shall be ninety (90) days date of invoice, end of month.
- E. Original invoices or packing lists shall be submitted and shall include: purchase agreement number (if applicable), Purchase Order number, line Item number, Release number, part number, complete bill to address, description of Items, quantities, unit price and extended totals, and shall be accompanied by all the necessary supporting documents.

4. TERMINATION

- A. Buyer may terminate this Agreement or any Purchase Order or Release issued, or any part thereof, at any time for its sole convenience by giving written notice of termination to Seller. Upon Seller's receipt of such notice, Seller shall, unless otherwise specified in

**NUMONYX**  
**GENERAL TERMS AND CONDITIONS OF PURCHASE**

such notice, immediately stop all work hereunder and give prompt written notice to and cause all of its Sellers or subcontractors to cease all related work.

- B. There shall be no charges for termination of orders for standard Items. Paragraphs C through F of this Section 4 shall govern Buyer's payment obligation for custom Items. Notwithstanding anything to the contrary, Seller shall not be compensated in any way for any work done after receipt of Buyer's notice, nor for any costs incurred by Seller's vendors or subcontractors after Seller receives the notice, nor for any costs Seller could reasonably have avoided.
- C. Any claim for termination charges for custom Items, along with a summary of all mitigation efforts, must be submitted to Buyer in writing within thirty (30) days after receipt of Buyer's termination notice
- D. Seller's claim may include the net cost of custom work in process scheduled to be delivered within fifteen (15) days and that must be scrapped due to the termination. Seller shall, wherever possible, place such custom work in process in its inventory and sell it to other customers. In no event shall such claim exceed the total price for the Items terminated. Upon payment of Seller's claim, Buyer shall be entitled to all work and materials paid for.
- E. Before assuming any payment obligation under this section, Buyer may inspect Seller's work in process and audit all relevant documents.
- F. Notwithstanding anything else in this Agreement, failure to meet the delivery date(s) in the Purchase Order shall be considered a material breach of contract and shall allow Buyer to terminate the order for the Item and/or any subsequent Releases in the Purchase Order without any liability whether the Purchase Order was for standard or custom Items.

5. CONTINGENCIES

Neither party shall be responsible for its failure to perform due to causes beyond its reasonable control such as acts of God, fire, theft, war, riot, embargoes or acts of civil or military authorities. If delivery is to be delayed by such contingencies, Seller shall immediately notify Buyer in writing and Buyer may either (1) extend time of performance, or (2) terminate the uncompleted portion of the Purchase Order at no cost to Buyer.

6. DELIVERY, RELEASES, AND SCHEDULING

- A. Seller shall notify Buyer in writing within two (2) business days of receipt of this Purchase Order if Seller is unable to make any scheduled delivery and shall state the reasons therefore. The absence of such notice constitutes acceptance of this Purchase Order and commitment to the Release terms.
- B. Seller shall deliver Items or Services per the Release schedule. Buyer may place any portion of a Release on hold prior to Delivery at no additional charge by notice that shall take effect immediately upon receipt. Releases placed on hold will be rescheduled or terminated in accordance with Section 4 within a reasonable time.

7. ACCEPTANCE AND WARRANTY

- A. Prior payment to secure cash discounts does not constitute Buyer's acceptance of the Items or Services. Non-refusal of the Items or Services does not in any way limit the warranties as per this Section 7.
- B. Buyer may inspect and test all Items at reasonable times before, during, and after manufacture. All Items shall be received subject to Buyer's inspection, testing, approval, and acceptance at Buyer's premises notwithstanding any inspection or testing at Seller's premises or any prior payment for such Items. Buyer shall have the right to refuse Items that do not comply with the relevant Release or the applicable specifications or requirements. Items rejected by Buyer as not conforming to this Purchase Order or Item specifications, whether provided by Buyer or furnished with the Item, may be returned to

**NUMONYX**  
**GENERAL TERMS AND CONDITIONS OF PURCHASE**

Seller at Seller's risk and expense and, at Buyer's request, shall immediately be repaired, replaced, or refunded.

- C. Buyer agrees to pay only for the ordered quantities. If Buyer accepts a quantity less than as specified in the Release, the cost shall be prorated and Buyer may require Seller to make up the quantity in subsequent Releases according to the terms of the applicable purchase order and to these General Terms and Conditions of Purchase. Over shipments will be held at Seller's sole risk and expense for a period of time not exceeding ten (10) days from the date of delivery. After such period of time has elapsed without Seller taking back the Items or sending instructions for shipment at Seller's expense, Buyer will return Items exceeding the ordered quantities to Seller at Seller's sole risk and expense. Seller agrees that Buyer, at its sole discretion, may elect to purchase any, all or part of over shipments according to the terms of the applicable purchase order and to these General Terms and Conditions of Purchase.
- D. Seller makes the following warranties regarding Items furnished hereunder:
- (1) Items will not infringe any party's intellectual property rights;
  - (2) Seller has the necessary right, title, and interest to provide said Items to Buyer, and the Items will be free of liens and encumbrances;
  - (3) Items are new, and of the grade and quality specified;
  - (4) Items are free from defects in workmanship and material, conform to all samples, drawings, descriptions, and specifications furnished or published by Seller, and to any other agreed-to specifications;
  - (5) Items conform to the manufacturing quality provisions set forth in Addendum B.
- E. If Seller breaches any of the foregoing warranties, or Items are otherwise defective or non-conforming, during a period of two (2) years after Buyer's acceptance of Items, Seller shall, at Buyer's option, promptly repair, replace, or refund the amount paid for such Items. Seller shall bear the cost of shipping and risk of loss of all defective or non-conforming Items while in transit.
- F. Seller agrees that the warranties specified herein shall be in addition to any warranties implied by law or expressly granted by Seller other than specified herein and to any other warranties, whether express or implied, applicable to the relevant purchase. They shall survive any inspection, delivery, test, acceptance, payments or resale of the Items by Buyer, as well as any termination of orders or of agreements related to orders.

8. PRODUCT SPECIFICATIONS AND IDENTIFICATION

Seller shall not modify the specifications for Items without Buyer's written consent. Seller shall notify Buyer at least one hundred twenty (120) days in advance of any changes in the manufacturing process. Seller shall cooperate with Buyer to provide configuration control and traceability systems for Items supplied hereunder.

9. PACKING AND SHIPMENT

All Items shall be prepared for shipment in a manner that:

- (1) is acceptable to common carriers for shipment at the lowest rate, air or ocean, per defined route;
- (2) is adequate to ensure safe arrival (at a minimum, prepare all items for shipment in compliance with SEMI E137-0705 packing specifications);
- (3) unless otherwise agreed in writing by the Parties, transfer of title shall take place upon arrival of the Items at Buyer's premises or the destination otherwise agreed. Any reservation of title or property right clauses coming from Seller shall be deemed not written;
- (4) as directed by Buyer, transfer of risk and management of freight shall be by Seller or Buyer in accordance with the terms and conditions of Incoterms2000;
- (5) if no INCOTERMS 2000 provision is applicable or if it is not specified, transfer of risk shall follow transfer of title;
- (6) delivery dock dates defined shall include transportation duration. Where not otherwise specified, carriage of Items shall be at Seller's own risk and expense. In

**NUMONYX**  
**GENERAL TERMS AND CONDITIONS OF PURCHASE**

any case, Seller shall provide adequate insurance of the Items until arrival of the Items at Buyer's premises or the destination otherwise agreed.

- (7) Seller shall mark all packages and containers with all necessary lifting, handling, and shipping instructions, clearly identifying and marking Items that need special care or special storage and/or transportation conditions, indicating the precautions to be taken. Seller shall label each package and container with shipping information, purchase order numbers, date of shipment, and name and address of consignor and consignee.
- (8) Notwithstanding anything in this section to the contrary, for Hazardous Materials freight, title and risk of loss shall pass to Buyer upon delivery of Items to Buyer's point of use at the Buyer factory site designated in the Release.

10. CUSTOMS CLEARANCE

- (1) Seller agrees that all required documents and licensing are available for export at origin country and clearance upon arrival to destination. Documentation including but not limited to: commercial invoices, packing list, export licensing, SED, certificate of origin (CO), EURO1.
- (2) Upon Buyer's request, Seller shall provide other import and export information needed to comply with applicable export or import regulations.

11. OWNERSHIP/BAILMENT RESPONSIBILITIES

Any specifications, drawings, schematics, technical information, data, tools, dies, patterns, masks, gauges, test equipment, and other materials furnished or paid for by Buyer shall:

- (1) be kept confidential;
- (2) remain or become Buyer's property;
- (3) be used by Seller exclusively for Buyer's orders;
- (4) be clearly marked as Buyer's property and segregated when not in use;
- (5) be kept in good working condition at Seller's expense; and
- (6) be shipped to Buyer promptly on demand.

12. CONFIDENTIALITY AND PUBLICITY

- A. Either party may have or may be provided access to the other's confidential information and materials. Additionally, Seller may be engaged to develop new information for Buyer, or may develop such information during the performance of Services, which information will become, upon creation, Buyer's confidential information unless otherwise agreed in writing. Provided such are marked in a manner reasonably intended to make the recipient aware, or the recipient is sent written notice within forty-eight (48) hours of disclosure, that the information or materials are "Confidential", each party agrees to maintain such information in accordance with the terms of this Purchase Order and the CNDA or any applicable separate nondisclosure agreement between Buyer and Seller. In the absence of a CNDA or other written agreement, at a minimum each party agrees to maintain such information in confidence and limit disclosure on a need to know basis, to take all reasonable precautions to prevent unauthorized disclosure, and to treat such information as it treats its own information of a similar nature, until the information becomes rightfully available to the public through no fault of the non disclosing party.
- B. The parties agree that neither will disclose the existence of this Purchase Order, nor any of its details or the existence of the relationship created by this Purchase Order, to any third party without the specific, written consent of the other. Neither party may use the other party's name or trademarks in any type of advertisement materials, web sites, press releases, interviews, articles, brochures, business cards, project reference or client listings without the other's written consent. For Buyer, this would be the Director of Corporate Purchasing and/or the Vice President of Materials.

13. INTELLECTUAL PROPERTY INDEMNIFICATION

- A. Seller guarantees that the Items to be supplied and any part of them do not infringe any patent, license, industrial patent right, copyright, mask work right or any other industrial and/or intellectual property right of any third party. Seller guarantees that it has full right to

**NUMONYX**  
**GENERAL TERMS AND CONDITIONS OF PURCHASE**

use, produce and sell the Items to be supplied and that Buyer shall have full right to use and resell such Items.

- B. Seller shall indemnify and hold Buyer and its customers harmless from any costs, expenses (including reasonable attorneys' fees), losses, damages, or liabilities incurred because of actual or alleged infringement of any patent, copyright, trade secret, trademark, maskwork, or other intellectual property right arising out of the use or sale by Buyer or Buyer's customers of Items or Buyer's products manufactured using the Item(s) or containing the Item(s), irrespective of whether Buyer furnishes any specifications to Seller, except as otherwise provided in this paragraph. Buyer shall notify Seller of such claim or demand and shall permit Seller to participate in the defense or settlement thereof. If an injunction issues as a result of any claim or action, Seller agrees at its expense and Buyer's option to either:
- (1) procure for Buyer and Buyer's customers the right to continue using Items;
  - (2) replace them with non-infringing Items;
  - (3) modify them so they become non-infringing; or
  - (4) refund to Buyer the amount paid for any Items returned to Seller or destroyed. Regardless of which of the foregoing remedies is effected, Seller shall pay to Buyer rework expenses and incremental costs incurred by Buyer to procure alternative products required to fill orders placed by Buyer and accepted by Seller as of the effective date of the injunction. This indemnification shall not apply to the extent custom Items are manufactured to Buyer's detailed specifications and such infringement would not have occurred but for complying with such detailed specifications.
- C. Buyer shall defend, indemnify, and hold Seller harmless from any costs or expenses arising from a rightful claim of infringement by a third party, where Buyer furnishes and requires Seller to use detailed specifications for the process of manufacturing the Item(s), and such infringement claim would not have occurred but for complying with such detailed specifications. Notwithstanding the foregoing, Buyer shall have no liability to Seller hereunder, if Seller knows, or through the exercise of reasonable due diligence should have known, that the required manufacturing specification(s) infringe or potentially infringe another party's intellectual property rights. The foregoing states the entire set of obligations and remedies flowing between Buyer and Seller arising from any intellectual property claim by a third party.

14. HAZARDOUS MATERIALS

Seller agrees that equipment containing Hazardous Material must comply with all local & international regulations including but not limited to packaging, documentation, transportation & usage, e.g., Material Safety Data Sheets (MSDS), Cargo Aircraft Only / International Air Transport Association (CAO/IATA and International Maritime Organization / International Maritime Dangerous Goods Code (IMO/IMDG Code), Accord européen relatif au transport international des marchandises Dangereuses par Route (ADR), 49 Code of Federal Regulations (US) (CFR). Prior to causing Hazardous Materials to be on Buyer's property, Seller shall obtain written approval from Buyer's Site Environmental/Health/Safety organization.

Seller will be fully responsible for and indemnify Buyer from any liability resulting from the actions of Seller or its contractors in connection with:

- (1) providing such Hazardous Materials to Buyer; and/or
- (2) the use of such Hazardous Materials in providing Services to Buyer.

15. COMPLIANCE WITH LAWS

- A. Seller is aware of, and shall in all respects abide by, laws, decrees and regulations issued by any local or other authorities, and any rules or regulations issued by private or public organizations relating to its activity within the framework of the implementation of the purchase order. Seller shall bear all the financial and/or administrative consequences incurred by Buyer; in particular, as a result of the failure by Seller or its employees, sub-contractors and suppliers, to comply with the provisions of the said laws, decrees, regulations or other above mentioned texts.

**NUMONYX**  
**GENERAL TERMS AND CONDITIONS OF PURCHASE**

- B. Seller shall comply with all applicable laws regarding employment of underage or child labor and shall not employ children under the age of 16.

16. PRIVACY

- A. If Buyer transmits any personal information to Seller, Seller warrants that Seller shall not transfer such personal information to any third party or use it for any purpose other than as described in this Purchase Order.
- B. If Seller obtains personal information in the course of performance of Services for Buyer, Seller warrants that Seller shall not transfer such personal information to any third party or use it for any purpose other than as described in this Purchase Order.
- C. If Seller collects personal information on behalf of Buyer, and Buyer has given notice to Seller that Buyer will use such personal information in order to contact the data subject, Seller shall submit personal information to Buyer only if the data subject has opted-in to receive information, either from Buyer, or from other companies or persons in general.
- D. Seller shall permanently delete all personal information within thirty (30) days after the personal information is no longer being actively used in fulfilling Seller's obligations to Buyer under this Purchase Order.
- E. Seller shall take all measures necessary to ensure the security of Seller's data. Further, Seller shall comply with the current online Privacy Alliance's privacy guidelines (available at [www.privacyalliance.org](http://www.privacyalliance.org)), and any and all updates as they may be issued.

17. ELECTRONIC TRANSACTIONS

- A. Subject to the terms and conditions of this section, the parties agree to accept electronic records and electronic signatures (as such terms are defined in the U.S. Electronic Signatures in Global and National Commerce Act) relating to transactions contemplated by this Agreement.
- B. In connection with system-to-system implementations:
- (1) The parties will implement the particular transaction sets and/or message specifications mutually agreed upon by the parties. Each party's implementation will comply with applicable standards (e.g., applicable ANSI standards or RosettaNet PIPs), except as otherwise mutually agreed.
  - (2) Where applicable standards require that the receiving party issue a notice to the other confirming message receipt, such notice will not constitute a binding acceptance or acknowledgement of anything more than mere receipt. In the event that any element of an applicable standard conflicts with a provision of this Agreement, the provision of this Agreement will control.
  - (3) If a party has adopted an electronic identifier (e.g. a digital signature), the other party is entitled to rely on the authenticity of messages signed by or otherwise associated with such electronic identifier unless and until notified otherwise by the adopter.
- C. Either party may use a third party service provider in connection with e-business activities (e.g., to route or translate EDI or XML messages, or to host web based services). The party contracting with a service provider must require that such service provider (1) use information disclosed to or learned by such service provider in connection with providing services solely for the purpose of providing the applicable services, and (2) not disclose such information to any third party. Either party may begin to use or may change a service provider upon reasonable prior written notice. Each party will be liable for the acts or omissions of its service provider in connection with activities contemplated by this Agreement.

18. DISPUTE RESOLUTION

All disputes arising directly under the express terms of this Purchase Order or Purchase Agreement, if any, or the grounds for termination thereof shall be resolved as follows: The senior management of both parties shall meet to attempt to resolve such disputes. If the

**NUMONYX**  
**GENERAL TERMS AND CONDITIONS OF PURCHASE**

disputes cannot be resolved by the senior management, either party may make a written demand for formal dispute resolution and specify therein the scope of the dispute. Within thirty (30) days after such written notification, the parties agree to meet for one (1) day with an impartial mediator and consider dispute resolution alternatives other than litigation, including referral to the National Patent Board. If an alternative method of dispute resolution is not agreed upon within thirty (30) days after the one day mediation, either party may begin litigation proceedings.

19. WAIVER, REMEDIES AND ASSIGNMENT

- A. Buyer's waiver of a Seller's breach or default under these General Terms and Conditions of Purchase shall not be a waiver of any subsequent default. Failure of Buyer to enforce compliance with any term or condition hereof shall not constitute a waiver of such term or condition nor shall it affect Buyer's right to enforce compliance to such term or condition at a later time.
- B. If any provision of this Purchase Order is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, such determination shall not affect the validity of the remaining provisions.
- C. Buyer may assign or delegate its rights and/or obligations, or any part thereof under this Purchase Order to any or all of its wholly-owned subsidiaries. Otherwise, neither party may assign or delegate its rights and obligations under this Purchase Order without the prior written consent of the other. For purposes of this Section, the acquisition, merger, consolidation, or change in control of Seller or any assignment by operation of law shall be deemed an assignment that requires Buyer's written consent.

20. APPLICABLE LAW, SURVIVAL

This Purchase Order is to be construed and interpreted according to the laws of the State of Delaware, excluding Delaware's conflict of laws provisions. The provisions of the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Purchase Order. The following Sections shall survive the termination or expiration of this Purchase Order: 1, 3, 4, 5, 7, 10, 11, 12, 13, 14, 16, 17, 18, 19, and 20. In addition, any right or legal obligation of a party that by its express term or nature would reasonably extend beyond the term of this Purchase Order shall survive for such extended period.

**If this Purchase Order is for Services (defined as the work to be performed by Seller as designated in the Purchase Order), the following terms and conditions also apply:**

21. ADDITIONAL WARRANTIES

All reference to the term "Item(s)" in these Purchase Order Terms And Conditions shall be deemed to include Services. In addition, Seller represents and warrants that all Services provided shall be performed in a workmanlike and competent manner in accordance with the highest professional standards in Seller's trade or industry, and shall meet the descriptions and specifications provided and/or published by Seller, and those provided by Buyer.

22. GENERAL LIABILITY AND INSURANCE

- A. Seller shall be solely responsible and liable towards Buyer and any third party for any physical injury, property damage or any other material damage, loss or prejudice arising from performance by Seller or Seller's employees, agents or subcontractors, of Seller's obligations under the purchase order.
- B. Notwithstanding Seller's immunities as may be applicable under law, and as mutually negotiated between the parties, Seller specifically undertakes, pursuant to A above, responsibility and liability for claims or liabilities asserted against Buyer by Seller's employees. The foregoing indemnity shall include any claim made or threatened,

**NUMONYX**  
**GENERAL TERMS AND CONDITIONS OF PURCHASE**

whether by legal proceedings or otherwise, against Buyer by a third party on the grounds that any person supplied or engaged by Seller is or was deemed to be an employee of Buyer. Seller further agrees that if Buyer is required by law or otherwise to include Seller or any Seller's employees in any of Buyer's benefit plans or provide severance benefits under law, Seller shall reimburse Buyer for the actual amount required to be paid, or the fair market value of any benefit received by Seller or Seller's employees arising from work performed under this Agreement.

23. COMPLIANCE TO CONTINGENT WORKFORCE POLICY

Sellers who provide services for Buyer and who assigned its employees to Buyer's premises to provide the said services are responsible for complying with Buyer's global contingent workforce policy. This includes but is not limited to adhering to requirements for site and network access and complying with all relevant restrictions on placement at Buyer, which includes waiting periods to satisfy workforce stabilization guidelines and adherence to the 12 month rule (or as otherwise advised) for staff augmentation workers. All of the guidelines are found in the Buyer's Contingent Worker ("CW") Supplier Policy.

24. COMPLIANCE TO BUYER'S DRUG FREE WORKPLACE DIRECTIVE

Buyer is committed to fulfilling its legal and ethical responsibility to maintain a safe and efficient working environment on Buyer premises. Seller shall actively support Buyer's objective to provide "risk free" and "drug free" environment for Buyer's employees, suppliers, and contractors. Seller shall comply with Buyer's drug free work place directive as outlined in Buyer's contingent workforce policy.

25. COMPLIANCE WITH ORIENTATION / BADGING GUIDELINES

Seller is responsible for ensuring that Seller and all of its employees and subcontractors comply with all Buyer access and security requirements, including but not limited to cooperation with access paperwork, relevant vetting requirements, and completion of any required orientation required by buyer. Seller should refer to the local badging office and the Buyer's CW Supplier Policy for details

26. INSURANCE

Seller shall take out adequate insurance policies to cover any liability that, subject to Section 24 above, might arise towards Buyer, and hereby agrees to indemnify and hold Buyer harmless against any such damage and liability.

27. COMPLIANCE WITH LAWS

- A. Add the following sentence to Section 16 above: Seller agrees to abide by all Buyer's rules and regulations while on Buyer's premises or performing Services including, but not limited to, safety, health and hazardous material management rules, and rules prohibiting misconduct on Buyer's premises such as use of physical aggression against persons or property, harassment, and theft.
- B. Seller shall make all deductions for taxes, worker's compensation, and other deductions from Contractor's income received for services as required by any applicable tax code or law, or any other governmental tax laws, and shall make all such payments to the applicable authority.
- C. For services provided in the U.S., Seller agrees not to provide foreign nationals (non U.S. citizens or U.S. permanent residents) as employees or Contingent Workers for work on any Buyer site unless that foreign national is covered under a valid U.S. Export License or is not exposed to controlled technology. Additionally, for services outside of the U.S., the Seller agrees not to provide foreign nationals as employees or contractors for work on any Buyer site unless i.) that foreign national is a citizen or permanent resident of the country of that Buyer site or ii.) the foreign national is covered under a valid U.S. Export Authorization or iii.) the foreign national is not exposed to controlled technology or iv.) the foreign national does not require a valid U.S. Export License.

**NUMONYX**  
**GENERAL TERMS AND CONDITIONS OF PURCHASE**

Refer to <http://www.bis.doc.gov/licensing/exportingbasics.htm> for further information.

- D. It is a requirement of this Agreement that the Seller shall be responsible for obtaining all such approvals, authorizations, permits and licenses and shall indemnify and hold Buyer harmless from any failure to comply with such requirement.

28. INDEPENDENT CONTRACTOR

In performing Services under this Purchase Order, Seller is an independent contractor and its personnel and other representatives shall not act as nor be agents or employees of Buyer. As an independent contractor, Seller will be solely responsible for determining the means and methods for performing the required Services. Seller shall have complete charge and responsibility for personnel employed by Seller; however, Buyer reserves the right to instruct Seller to remove from Buyer's premises immediately any of Seller's personnel who are in breach of this Purchase Order. Such removal shall not relieve Seller of its obligation to provide Services under this Purchase Order.

29. SOLE COMPENSATION

Seller acknowledges and agrees that Seller's sole compensation is as set forth in this purchase order agreement and that neither Seller nor of Seller's employees are entitled to participate in any of Buyer's benefit plans, including but not limited to stock option plans, stock participation plans, profit sharing, retirement or pension plan contributions or savings or medical plans.

30. NEW DEVELOPMENTS

- A. Seller represents and warrants that Seller has no outstanding agreement or obligation that is in conflict with any of the provisions of this Purchase Order, or that would adversely affect Seller's performance hereunder or Buyer's exclusive right to developments (defined below), and Seller agrees that Seller shall not enter into any such conflicting agreement during the term of this Purchase Order.
- B. Seller agrees that all works of authorship, inventions, improvements, developments, and discoveries conceived, made, or discovered by Seller, solely or in collaboration with others, in the course of its performance of Services or the development of deliverables for Buyer hereunder as well as all patents, copyrights, trade secrets, trademarks, and other intellectual property rights therein and thereto (collectively, "Developments"), are the sole property of Buyer. Seller agrees to assign (or cause to be assigned) and does hereby assign fully to Buyer all such Developments.
- C. Seller agrees to assist Buyer, or its designee, at Buyer's expense, in every proper way to secure Buyer's rights in the Developments, including the disclosure to Buyer of all pertinent information and data with respect thereto and the execution of all applications, specifications, oaths, assignments, and all other instruments which Buyer may deem necessary in order to apply for and obtain such rights and in order to assign and convey to Buyer, its successors, assigns, and nominees the sole and exclusive rights, title, and interest in and to such Developments, including (without limitation) providing a certificate of originality and a written assignment of intellectual property. Seller further agrees that Seller's obligation to execute or cause to be executed, when it is in Seller's power to do so, any such application, specification, oath assignment, or other instrument shall continue after the termination of this Purchase Order. Seller further agrees to assist Buyer in enforcing all patents, trademarks, copyrights, trade secrets, or other ownership rights to protect Buyer's exclusive interest in Developments.
- D. Buyer acknowledges and agrees that Seller shall retain sole and exclusive ownership of, and/or an unrestricted right to license, any invention, improvement, development, concept, discovery, or other proprietary information owned by Seller or in which Seller has an interest ("Seller IP"). Notwithstanding the foregoing, Seller agrees that if in the course of performing the Services, Seller incorporates any Seller IP into any Development, Buyer is hereby granted and shall have a nonexclusive, royalty free, perpetual, irrevocable, worldwide license, including the right to sublicense, under any such Seller IP to make, have made, use, import, prepare derivative works of, reproduce,

**NUMONYX**  
**GENERAL TERMS AND CONDITIONS OF PURCHASE**

have reproduced, perform, display, offer to sell, sell, or otherwise distribute such invention, improvement, development, concept, discovery, or other proprietary information as part of or in connection with such Development.

- E. Seller represents, warrants and agrees that it will not incorporate any third party intellectual property into any Development or deliverable provided hereunder without notifying and obtaining the prior written approval of Buyer.
- F. Seller hereby waives any and all moral rights, including the right to identification of authorship or limitation on subsequent modification, that Seller (or its employees) has or may have in any invention, materials, or other deliverables assigned to Buyer hereunder.
- G. Seller warrants that:
  - (1) all of its employees or contractors who perform work for it hereunder will have entered into written agreements with Seller which ensure that the work they do is subject to the terms and conditions of this section; and
  - (2) it will not incorporate any Developments into deliverables to be provided to Buyer which contain intellectual property not assignable or licensable to Buyer as provided in this Section.

31. [ADDITIONAL SURVIVAL CLAUSES](#)

Add the following clauses to Section 20: 21, 23, 24, 25, 26 and 29.