

1. Definitions

The term "AFL" means America Fujikura Ltd. or any company that is a subsidiary of, an affiliate of, or otherwise related to America Fujikura Ltd. The term "Seller" means any individual, corporation or other entity to whom this Purchase Order is delivered.

2. Applicability

- (a) These terms and conditions of purchase (these "Terms") are the only terms which govern the purchase of the goods ("Goods") and services ("Services") by AFL from the Seller. Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the Goods and Services covered hereby, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms.
- (b) The accompanying purchase order (the "Purchase Order") and these Terms (collectively, this "Agreement") comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms prevail over any of Seller's general terms and conditions of sale regardless whether or when Seller has submitted its sales confirmation or such terms. Fulfillment of this Purchase Order constitutes acceptance of these Terms.

3. Delivery of Goods and Performance of Services.

- (a) Seller shall deliver the Goods in the quantities and on the date(s) specified in the Purchase Order or as otherwise agreed in writing by the parties (the "Delivery Date"). If Seller fails to deliver the Goods in full on the Delivery Date, AFL may terminate this Agreement immediately by providing written notice to Seller and Seller shall indemnify AFL against any losses, claims, damages, and reasonable costs and expenses directly attributable to Seller's failure to deliver the Goods on the Delivery Date. AFL has the right to return any Goods delivered prior to the Delivery Date at Seller's expense and Seller shall re-deliver such Goods on the Delivery Date.
- (b) Seller shall deliver all Goods to the address specified in the Purchase Order (the "Delivery Point") during AFL's normal business hours or as otherwise instructed by AFL. Seller shall pack all goods for shipment according to AFL's instructions or, if there are no instructions, in a manner sufficient to ensure that the Goods are delivered in undamaged condition.
- (c) Seller acknowledges that time is of the essence with respect to Seller's obligations hereunder and the timely delivery of the Goods and Services, including all performance dates, timetables, project milestones and other requirements in this Agreement.

4. Shipping Terms

The Purchase Order number must appear on all shipping documents, shipping labels, bills of lading, air waybills, invoices, correspondence and any other documents pertaining to the Purchase Order.

5. Title and Risk of Loss

Title and risk of loss passes to AFL upon delivery of the Goods at the Delivery Point. Seller bears all risk of loss or damage to the Goods until delivery of the Goods to the Delivery Point.

6. Inspection and Rejection of Non-Conforming Goods

AFL has the right to inspect the Goods on or after the Delivery Date. AFL, at its sole option, may inspect all or a sample of the Goods, and may reject all or any portion of the Goods if it determines the Goods are non-conforming or defective. If AFL rejects any portion of the Goods, AFL has the right, effective upon written notice to Seller, to: (a) rescind this Agreement in its entirety; (b) accept the Goods at a reasonably reduced price; or (c) reject the Goods and require replacement of the rejected Goods. If AFL requires replacement of the Goods, Seller shall, at its expense, replace the non-conforming or defective Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective goods and the delivery of replacement Goods. If Seller fails to timely deliver replacement Goods, AFL may replace them with goods from a third party and charge Seller the cost thereof and terminate this Agreement for cause pursuant to Section 17. Any inspection or other action by AFL under this Section shall not reduce or otherwise affect Seller's obligations under the Agreement, and AFL shall have the right to conduct further inspections after Seller has carried out its remedial actions.

7. Price

The price of the Goods and Services is the price stated in the Purchase Order (the "Price"). If no price is included in the Purchase Order, the Price shall be the price set out in Seller's published price list in force as of the date of the Purchase Order. Unless otherwise specified in the Purchase Order, the Price includes all packaging, transportation costs to the Delivery Location, insurance, customs duties and fees and applicable taxes, including, but not limited to, all harmonized sales tax, goods and services tax, provincial sales tax, value added tax, use or excise taxes. No increase in the Price is effective, whether due to increased material, labor or transportation costs or otherwise, without the prior written consent of AFL.

8. Payment Terms

Seller shall issue an invoice to AFL on or any time after the completion of delivery and only in accordance with these Terms. AFL shall pay all properly invoiced amounts due to Seller within 45 days after AFL's receipt of such invoice, except for any amounts disputed by AFL in good faith. All payments hereunder must be in

Canadian dollars. Without prejudice to any other right or remedy it may have, AFL reserves the right to set-off at any time any amount owing to it by Seller against any amount payable by AFL to Seller. In the event of a payment dispute, AFL shall deliver a written statement to Seller no later than 7 days prior to the date payment is due on the disputed invoice listing all disputed items and providing a reasonably detailed description of each disputed item. Amounts not so disputed are deemed accepted and must be paid, notwithstanding disputes on other items, within the period set forth in this Section 8. The parties shall seek to resolve all such disputes expeditiously and in good faith. Seller shall continue performing its obligations under this Agreement notwithstanding any such dispute.

9. Seller's Obligations Regarding Services

Seller shall:

- (a) before the date on which the Services are to start, obtain, and at all times during the term of this Agreement, maintain, all necessary licenses and consents and comply with all relevant laws applicable to the provision of the Services;
- (b) comply with all rules, regulations and policies of AFL, including security procedures concerning systems and data and remote access thereto, building security procedures, including the restriction of access by AFL to certain areas of its premises or systems for security reasons, and general health and safety practices and procedures;
- (c) maintain complete and accurate records relating to the provision of the Services under this Agreement, including records of the time spent and materials used by Seller in providing the Services in such form as AFL shall approve. During the term of this Agreement, upon AFL's written request, Seller shall allow AFL to inspect and make copies of such records and interview Seller personnel in connection with the provision of the Services;
- (d) obtain AFL's written consent prior to entering into agreements with or otherwise engaging any person or entity, including all subcontractors and affiliates of Seller, other than Seller's employees, to provide any Services to AFL (each such approved subcontractor or other third party, a "Permitted Subcontractor"). AFL's approval shall not relieve Seller of its obligations under the Agreement, and Seller shall remain fully responsible for the performance of each such Permitted Subcontractor and its employees and for their compliance with all of the terms and conditions of this Agreement as if they were Seller's own employees. Nothing contained in this Agreement shall create any contractual relationship between AFL and any Seller subcontractor or supplier;
- (e) require each Permitted Subcontractor to be bound in writing by the confidentiality provisions of this Agreement, and, upon AFL's written request, to enter into a non-disclosure or intellectual property assignment or license agreement in a form that is reasonably satisfactory to AFL;
- (f) ensure that all persons, whether employees, agents, subcontractors, or anyone acting for or on behalf of the Seller, are properly licensed, certified or accredited as required by applicable law and are suitably skilled, experienced and qualified to perform the Services;
- (g) ensure that all of its equipment used in the provision of the Services is in good working order and suitable for the purposes for which it is used, and conforms to all relevant legal standards and standards specified by the AFL; and
- (h) keep and maintain any AFL equipment in its possession in good working order and shall not dispose of or use such equipment other than in accordance with the AFL's written instructions or authorization.

10. Change Orders

AFL may at any time, by written instructions and/or drawings issued to Seller (each a "Change Order"), order changes to the Services. Seller shall within 3 days of receipt of a Change Order submit to AFL a firm cost proposal for the Change Order. If AFL accepts such cost proposal, Seller shall proceed with the changed services subject to the cost proposal and the terms and conditions of this Agreement. Seller acknowledges that a Change Order may or may not entitle Seller to an adjustment in the Seller's compensation or the performance deadlines under this Agreement.

11. Conditions and Warranties

- (a) Seller covenants and warrants to AFL that for a period of 12 months from the Delivery Date, all Goods will:
- (i) be free from any defects in workmanship, material and design;
- (ii) conform to applicable specifications, drawings, designs, samples and other requirements;
- (iii) be fit for their intended purpose and operate as intended;
- (iv) be merchantable;
- (v) be free and clear of all liens, security interests or other encumbrances; and
- (vi) not infringe or misappropriate any third party's patent or other intellectual property rights.
- (vii) These warranties survive any delivery, inspection, acceptance or payment of or for the Goods by AFL;
- (b) Seller warrants to AFL that it shall perform the Services using personnel of required skill, experience and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and shall devote adequate resources to meet its obligations under this Agreement; and

- (c) the warranties set forth in this Section 11 are cumulative and in addition to any other warranty provided by law or equity. Any applicable statute of limitations runs from the date of AFL's discovery of the noncompliance of the Goods or Services with the foregoing conditions and warranties. If AFL gives Seller notice of noncompliance pursuant to this Section, Seller shall, at its own cost and expense, (i) replace or repair the defective or non-conforming Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective or non-conforming goods to Seller and the delivery of repaired or replacement Goods to AFL, and, if applicable, (ii) repair or re-perform the applicable Services.
- 12. General Indemnification**
Seller shall defend, indemnify and hold harmless AFL and AFL's parent company, their/its subsidiaries, affiliates, successors or assigns and its/their respective directors, officers, shareholders and employees (collectively, "Indemnitees") against any and all loss, injury, death, damage, liability, claim, deficiency, action, judgment, interest, award, penalty, fine, cost or expense, including reasonable legal fees and professional fees and costs, and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers (collectively, "Losses") arising out of or occurring in connection with the Goods and Services purchased from Seller or Seller's negligence, willful misconduct or breach of the Terms. Seller shall not enter into any settlement without AFL's prior written consent.
- 13. Intellectual Property Indemnification**
Seller shall, at its expense, defend, indemnify and hold harmless AFL and any Indemnitee against any and all Losses arising out of or in connection with any claim that AFL's or Indemnitee's use or possession of the Goods or use of the Services infringes or misappropriates the patent, copyright, trade-mark, trade secret or other intellectual property right of any third party. In no event shall Seller enter into any settlement without AFL's or Indemnitee's prior written consent.
- 14. Limitation of Liability**
Nothing in this Agreement shall exclude or limit (a) Seller's liability under Sections 5, 11, 13, 15, 16, 17, 19 and 24 hereof, or (b) Seller's liability for fraud, personal injury or death caused by its negligence or willful misconduct.
- 15. Insurance**
Seller shall, at its own expense, maintain and carry insurance in full force and effect which includes, but is not limited to, commercial general liability (including product liability) in a sum no less than \$2,000,000 CAD with financially sound and reputable insurers. Upon AFL's request, Seller shall provide AFL with a certificate of insurance from Seller's insurer evidencing the insurance coverage specified in these Terms. By written request from AFL, the certificate of insurance shall name AFL as an additional insured. Seller shall provide AFL with 30 days' advance written notice in the event of a cancellation or material change in Seller's insurance policy. Except where prohibited by law, Seller shall require its insurer to waive all rights of subrogation against Seller's insurers and Seller.
- 16. Compliance with Law**
Seller is in compliance with and shall comply with all applicable laws, regulations and ordinances. Seller shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under this Agreement. Seller shall comply with all export and import laws of all countries involved in the sale of the Goods under this Agreement or any resale of the Goods by Seller. Seller assumes all responsibility for shipments of Goods requiring any government import clearance. AFL may terminate this Agreement if any governmental authority imposes antidumping or countervailing or any retaliatory duties or any other penalties on Goods.
- 17. Termination**
In addition to any remedies that may be provided under these Terms, AFL may terminate this Agreement with immediate effect upon written notice to the Seller, either before or after the acceptance of the Goods or the seller's delivery of the Services, if Seller has not performed or complied with any of these Terms, in whole or in part. If the Seller becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors, then the AFL may terminate this Agreement upon written notice to Seller. If AFL terminates the Agreement for any reason, Seller's sole and exclusive remedy is payment for the Goods received and accepted and Services accepted by AFL prior to the termination. If AFL terminates the Purchase Order for convenience after Seller's confirmation thereof, AFL shall only be liable to pay the actual costs incurred by Seller for goods produced in accordance with such Purchase Order, work in process in respect of such Purchase Order, or materials acquired for production of such Purchase Order for the goods completed as of the termination date.
- 18. Waiver**
No waiver by AFL of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by AFL. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.
- 19. Confidential Information**
All non-public, confidential or proprietary information of AFL, including but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by AFL to Seller, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" in connection with this Agreement is confidential, solely for the purpose of performing this Agreement and may not be disclosed or copied unless authorized in advance by AFL in writing. Upon AFL's request, Seller shall promptly return all documents and other materials received from AFL. AFL shall be entitled to injunctive relief for any violation of this Section.
- 20. Force Majeure**
Except for payment obligations, if the performance of the Agreement is disrupted, in whole or in part, by circumstances beyond the reasonable control of either party including, without limitation; fire, explosion, power failure, acts of God, war, revolution, civil commotion, acts of public enemies, law, order, regulation, ordinance or requirement of any government or its representative or legal body having jurisdiction, the inability to obtain, or delay in obtaining, local access for any reason whatsoever, fraud, breaches of system security, or labor unrest such as strikes, slowdowns, picketing or boycotts, then the part affected shall be excused from non-performance related to such cases.
- 21. Assignment**
Seller shall not assign, transfer, delegate or subcontract any of its rights or obligations under this Agreement without the prior written consent of AFL. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the Seller of any of its obligations hereunder. AFL may at any time assign or transfer any or all of its rights or obligations under this Agreement without Seller's prior written consent to any affiliate or to any person acquiring all or substantially all of AFL's assets.
- 22. Relationship of the Parties**
The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever. No relationship of exclusivity shall be construed from this Agreement.
- 23. No Third-Party Beneficiaries**
This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.
- 24. Governing Law**
All matters arising out of or relating to this Agreement are governed by and interpreted in accordance with the laws of the Province where the services are to be performed and the laws of Canada applicable therein to the parties irrevocably at torn to the exclusive jurisdiction of the courts of the applicable Province. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement.
- 25. Notices**
All notices, requests, consents, claims, demands, waivers and other communications hereunder (each, a "Notice") shall be in writing and addressed to the parties at the addresses set forth on the face of the Sales Confirmation or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.
- 26. Severability**
If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.
- 27. Survival**
Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Agreement including, but not limited to, the following provisions: Insurance, Compliance with Laws, Confidential Information, Governing Law and Survival.
- 28. Amendment and Modification**
These Terms may only be amended or modified in a writing stating specifically that it amends these Terms and is signed by an authorized representative of each party.