

GENERAL PROVISIONS FOR SUBCONTRACTS AND PURCHASE ORDERS

References to "**Seller**" herein shall refer to the party named in the Order as "Seller". References to "**Buyer**" herein shall refer to the party named in the Order as "Buyer". Seller and Buyer collectively are sometimes referred to herein as "**Parties**", and each individually may be referred to herein as a "**Party**". This Purchase Order (the **Order**), is subject only to the terms and conditions that are included in the Order, including any supplement, specifications or other documents referred to in the Order. The terms of any proposal referred to in this Order are included and are made a part of the Order only to the extent of specifying (a) the price, (b) the nature and description of the Supplies ordered, and (c) the terms as to payment and time of delivery, and then only to the extent that such terms are consistent with the terms and conditions of this Order. See also the defined terms in Section 14)1.10) below.

- 1) **APPLICABLE LAW; APPLICABLE COURTS.** This Order, the performance of the Parties hereunder, and any dispute or controversy arising out of or in connection with this Order, shall be construed in accordance with and governed by laws of the State of South Dakota. The Parties irrevocably submit to the jurisdiction of the Courts of the State of South Dakota and the United States District Court for the District of South Dakota in any action or proceeding arising out of or relating to the Order and waive the defense of an inconvenient forum to the maintenance of such action or proceeding.
- 2) **ASSIGNMENT.** Any assignment of a Party's rights hereunder, or delegation of a Party's obligations and duties hereunder, shall be void, unless the other Party gives its prior written consent.
- 3) **CERTIFICATE OF COMPLIANCE.** A signed Certification of Compliance, if specifically requested by Buyer, shall accompany each lot shipment to Buyer. Certifications of Compliance must be furnished with each shipment regardless of board specifications for each date coded lot of boards. The signed certificate should show: part and/or drawing number; description; revision level; date code; Order and/or contract number; and quantity. Seller shall maintain lot traceability for all Supplies on each Order and contract. Packing slips shall reference traceability number or batch number.
- 4) **CERTIFICATE OF ANALYSIS.** Seller and all suppliers shall maintain a copy of the Certificate of Analysis to certify the characteristics of the raw material used to manufacture the Supplies. Seller and all suppliers shall periodically validate raw material test reports from their raw material suppliers. Such records shall be made available by Seller to Buyer upon reasonable request.
- 5) **CHANGES.** Changes require prior written consent from Buyer, including changes to quality system, product design, product, inspection, testing or other processes or production equipment. If the Seller's part number is used as the specification, then all changes to the product, including changes in the revision level or the Seller's part number shall be approved in writing by the Buyer prior to shipment. Buyer may at any time, by a written notice to Seller, and without notice to sureties, if any, make changes, within the general scope of this Order, in any one or more of the following:
 - a) Drawings, designs, or specifications, where the Supplies to be furnished are to be specially manufactured for Buyer in accordance therewith;
 - b) Method of shipment or packing; and
 - c) Place of delivery.

If any such change causes an increase or a decrease in the cost of, or the time required, for the performance of any part of the work under this Order, whether changed or not changed by any such notice, an equitable adjustment shall be made in the Order price or the delivery schedule, or both, and this Order shall be modified as agreed in writing between the parties accordingly. If Seller's part number is used as the specification, then all changes to Supplies, including changes in the revision level or Seller's part number shall be approved in writing by Buyer before shipment.

- 6) CONFIDENTIAL INFORMATION. No party will disclose any information of the other party that pertains to matters of a non-public, secret, classified, confidential and/or restricted nature, including information regarding this Order, Supplies, equipment or material of the model or kind referred to in any of the specifications, plans, or papers accompanying the Order or incorporated in other articles special features of design or construction peculiar to the articles specified in the Order or to the fact that Seller has furnished or contracted to furnish to Buyer the Supplies. This Section 6) shall not restrict supplying or disclosing the foregoing information to the other Party's employees strictly on a "need-to-know" basis and who are themselves bound by a duty of confidentiality to such other Party (who shall be liable for breaches of this Section 6) by such employees). Notwithstanding the foregoing, a Party shall be entitled to disclose such information if required by applicable law or governmental authority (provided that the Party intending to disclose such information first provide the other Party a reasonable opportunity to seek a protective order or other measure to prevent disclosure of such information).
- 7) CONTINGENT FEES. Seller represents and warrants that no person or selling agency has been employed or retained by it to solicit or secure this Order upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, other than a customary sales representative.
- 8) C-TPAT. Spartronics supports the U.S. Custom and Border Protection (CBP) Customs-Trade Partnership Against Terrorism (C-TPAT) program, a joint effort between CBP and the trade community to reduce the threat of terrorism by means of protecting the integrity of cargo imported into the United States. Spartronics acknowledges and agrees support of C-TPAT is critical to the realization of its objectives and to the cooperative endeavor between U.S importers and CBP. Spartronics requires foreign suppliers of imported goods to scrutinize and, where necessary, develop sufficient security measures within their own supply chain. To the extent that other Party is a foreign supplier of imported goods, it agrees to scrutinize, based on risk, appropriate security measures to be implemented and maintained throughout the supply chain, including out-sources or contracted elements of the supply chain, such as transportation, conveyance, warehouse, broker, consolidator or other elements. Other Party agrees to work with Spartronics business partners to ensure that pertinent security measures are in place and adhered to and, where necessary, develop sufficient security measures with its own supply chain. More information about C-TPAT can be found at www.cbp.gov. If the other Party will be importer of record for any items required to fulfill this Order, such other Party shall be a certified member of the C-TPAT initiative. If the other Party fails to maintain its C-TPAT certified member status, any delays or failure to perform based on its inability to obtain imported goods due to U.S. Customs requirements shall not be considered an excusable default under Section 14(c).
- 9) DEFAULT; TERMINATION FOR DEFAULT. A party may, subject to Section 16) below, by written notice of default to the other party, terminate in whole or in part this Order If the other party fails to perform any of its obligations under this Order, and such party does not cure such failure within a period of 20days (or such longer period as the Parties may agree to in writing) after receipt of notice from the terminating party in writing specifying such failure.
 - a) If this Order is terminated (in whole or in part) as provided in paragraph a) of this Section 9) by Seller, Buyer, in addition to any other rights provided in this Section 9), may require Seller to transfer title and deliver to Buyer, in the manner and to the extent directed by Buyer, (i) any completed supplies, goods or materials, and (ii) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called **manufacturing materials**) as Seller has specifically produced or specifically acquired for the performance of such part of this Order as has been terminated; and Seller shall, upon direction of Buyer, protect and preserve property in the possession of Seller in which Buyer has an interest. Payment for manufacturing materials delivered to and accepted by the Buyer shall be at the contract price. Payment for manufacturing materials delivered to and accepted by Buyer and for the protection and preservation of property shall be in an amount agreed upon by Seller and Buyer.

- b) The rights and remedies of the parties provided in this Section 9) shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Order.
- 10) DEFINITIONS. For purposes of this Order, and unless otherwise indicated, the following terms have the meanings as set forth below:
- a) **Government**: The United States of America.
 - b) **Supplies** or **supplies**: Means, as applicable, services, raw materials, components, parts, intermediate assemblies, and products supplied hereunder.
 - c) **Spartronics**: Means Spartronics, LLC and/or its subsidiaries as named herein.
- 11) DELIVERY. Each package must be numbered and labeled with Buyer's Order number, stock number, contents, and weight. An itemized packing slip must be placed in each package. Each delivery must be accompanied by a packing slip specifying the exact quantity and the description of the delivery. Each packing slip shall bear Buyer's Order number. Delivery shall occur and title and all risk of loss shall pass to Buyer upon the earliest to occur of the following ("Delivery"): (a) Buyer takes possession of the Products; (b) the Products leave Seller's premises to be delivered to Buyer; or (c) the Products are placed in the possession of a common, contract or other carrier to be delivered to Buyer. Seller shall not be responsible for any damage to the Products caused by a carrier, and Buyer's sole recourse for that damage shall be against the carrier. Seller may make partial deliveries. Buyer shall give Seller prompt notice of any discrepancy in the quantity of Products ordered.
- 12) DRAWINGS. Buyer retains all rights in designs, drawings, specifications, and other data or papers furnished by Seller in connection with this Order. To the extent directed by Buyer, upon completion of the work, Seller shall promptly return to Buyer all designs, drawings, specifications, and other data or papers furnished by Buyer, together with all copies or reprints, and Seller shall thereafter make no further use either directly or indirectly of any thereof, of any information derived therefrom, without Buyer's prior written consent. When applicable, Seller will manufacture per customer part drawing number and revision letter. Placement of this Order obligates Seller to comply with the requirements of process specifications when called out in drawing notes or otherwise.
- 13) ELECTRONIC SIGNATURE. The parties agree that if this Order is transmitted electronically neither Party shall contest the validity of this Order, or any acknowledgement thereof, on the basis that this Order or acknowledgement contains an electronic signature.
- 14) EMPLOYMENT MATTERS. Seller shall comply with all applicable laws, rules and regulations regarding employment or engagement of employees and/or contractors, as applicable. Further, Seller shall not engage any illegal immigrants or aliens.
- 15) EXPORT CONTROL. Export of information contained herein, which includes release to foreign nationals within the United States, without first obtaining approval or license from the Department of State for items controlled by the International Traffic in Arms Regulations (ITAR), or the Department of Commerce for items controlled by the Export Administration Regulations (EAR), is strictly prohibited. Seller shall immediately notify the Buyer in writing if Seller is listed in any Denied Parties List, similar lists, or if Seller's export privileges are otherwise denied, suspended, or revoked in whole or in part, by any Government entity or agency.
- 16) FORCE MAJEURE. Any delay or failure of either Buyer or Seller to perform its obligations under this Order will be excused to the extent that the delay or failure was caused directly by an event beyond such Party's control, without such Party's fault or negligence and that by its nature could not have reasonably been foreseen by such Party or, if the event could have reasonably been foreseen, such event was unavoidable (such events may include natural disasters, embargoes, pandemics, strikes, explosions, riots, wars or acts of terrorism) (each, a **Force Majeure Event**). A Party shall give the other Party prompt written notice of any event or circumstance that is reasonably likely to result in a Force Majeure Event and the anticipated duration of such Force Majeure Event. Each Party shall use

commercially reasonable efforts to end the Force Majeure Event, ensure that the effects of any Force Majeure Event are minimized, and resume full performance under this Order as soon as is reasonably practicable once the Force Majeure Event subsides. During any Force Majeure Event, Buyer may, at its option (a) purchase Supplies from other sources and reduce the quantities hereunder by such quantities without liability to Seller, and require Seller to reimburse Buyer for any additional costs to Buyer of obtaining the substitute goods compared to the Prices for such Supplies under this Agreement, (b) require Seller to deliver to Buyer all finished Supplies, work in process or parts and materials produced or acquired for work under this Order, or (c) require Seller to provide Supplies from other sources in quantities and at a time requested by Buyer and at the prices for the Supplies hereunder.

- 17) GRATUITIES/KICKBACKS; ANTI-BRIBERY. Each party shall abide by the terms of the Foreign Corporate Practices Act and any similar laws of other jurisdictions, as applicable. No gratuities (in the form of entertainment, gifts, or otherwise) or kickbacks shall be offered or given by Seller, to any employee of Buyer for the purpose of obtaining or rewarding favorable treatment as a supplier.
- 18) INDEPENDENT CONTRACTOR RELATIONSHIP. Seller is an independent contractor in all of its operations and activities hereunder. Nothing in this Order creates any agency, joint venture, partnership or other form of joint enterprise, employment or fiduciary relationship between Buyer and Seller. Neither Buyer nor Seller has any express or implied right or authority to assume or create any obligations on behalf of or in the name of the other Party or to bind the other Party to any contract, agreement or undertaking with any third party.
- 19) INDEMNIFICATION. Seller shall indemnify, defend and hold Buyer and its affiliates, and each of their directors, officers, employees and agents, (each, an **Indemnified Party**, and collectively, the **Indemnified Parties**) harmless against any losses, claims, actions, judgments, settlements, liabilities, damages costs, charges and expenses (including reasonable attorneys' fees, the costs of investigation, the costs of enforcing any right to indemnification under this Order and those costs of pursuing any insurance provider), interest, awards, penalties and fines incurred by, any Indemnified Party, or asserted against, any Indemnified Party, resulting from or in connection with: (a) a breach of Seller's representations and warranties or covenants under this Order, (b) violation of any law, ordinance, rule or regulation or government order by Seller and (c) recalls, replacements or refunds due to failure of the Supplies to conform. The obligations of Seller under this Section 19) survive the cancellation or termination of this Order.
- 20) INFORMATION OF SELLER. Seller shall not provide any proprietary information to Buyer without prior execution of a written proprietary information agreement by the Parties.
- 21) INSPECTION AND ACCEPTANCE
 - a) All Supplies shall be subject to inspection and test by Buyer to the extent practicable at all times and places, including the period of manufacture, and in any event before acceptance, without additional charge.
 - b) Seller shall notify Buyer of nonconforming Supplies and make arrangements for approval of nonconforming material prior to shipment. Seller shall provide right of access by the Buyer, its customer, and regulatory authorities to all facilities involved in the Order and to all applicable records. Seller shall flow down to sub-tier suppliers such requirements.
 - c) [In case any Supplies or lots are defective in material or workmanship or otherwise not in conformity with the requirements of this Order, Buyer shall have the right either to reject them (with or without instructions as to their disposition) or to require their correction or replacement. Supplies or lots that have been rejected or required to be corrected or replaced shall be removed, or, if permitted or required by Buyer, corrected in place by and at the expense of Seller promptly after notice, and shall not thereafter be tendered for acceptance unless the

former rejection or requirement of correction or replacement is disclosed. If Seller fails promptly to remove such Supplies or lots that are required to be removed, or promptly to replace or correct such Supplies or lots, Buyer may either (i) by contract or otherwise replace or correct such supplies and charge to Seller the total cost, or (ii) terminate this Order for default. Seller agrees to respond in a timely manner to any and all requests for corrective action resulting from rejection of Seller's material.

- d)
- e) The inspection and test by Buyer of any Supplies or lots thereof does not relieve Seller from any responsibility regarding defects or other failures to meet the Order requirements that may be discovered before acceptance.
- f) Seller shall provide and maintain an adequate inspection system covering the Supplies. Record of all inspection work by the Seller shall be kept complete and available to Buyer during the performance of this Order or per the applicable Spartronics Procurement Standard referenced below, whichever is greater and for such longer period as may be specified elsewhere in this Order.

22) INSURANCE.

- a) Seller, at its expense, shall obtain and maintain commercial general liability insurance coverage (including product liability) and all-risk property insurance coverage covering any bailed property and all of Seller's property with such insurance carriers and in such amounts as are reasonably acceptable to Spartronics. Upon the request of Spartronics, Seller shall furnish certificates of insurance setting forth the applicable coverage. All such policies shall provide that the coverage thereunder shall not be terminated without at least 30 days prior written notice to Spartronics.
- b) Seller also shall require all subcontractors who will perform work on a Government installation to procure and maintain the insurance required by Spartronics during the entire period of performance. Seller shall furnish (or assure that there has been furnished) to Buyer a current certificate of insurance meeting the requirements of Section 22)(a) above for each such first-tier subcontractor, at least five (5) days before entry of each such subcontractor's personnel on the Government installation.

23) LIENS. Seller shall deliver to Buyer the Supplies free and clear of all liens, claims, and encumbrances.

24) NEW MATERIALS. The Supplies shall consist of new materials, not used, or reconditioned, remanufactured, or of such age as to impair its usefulness or safety.

25) OFFICIALS NOT TO BENEFIT. No members of or delegates to Congress, or Resident Commissioner, shall be admitted to any share or part of this Order or to any benefit that may arise therefrom.

26) PRICE. The price specified in the Order shall include all costs, charges and expenses for packing, boxing, loading, taxes (including sales, use, excise or other duties or taxes payable in any country where production or delivery occurs), duties and all other charges of any kind which either party is required to pay with respect to the manufacture, sale, and delivery to the "F.O.B. point" or other delivery point specified in the Order. Seller shall be responsible for any costs, charges, taxes or expenses not included in the price specified in the Order. Seller warrants that the prices on this Order will not be in excess of the permissible prices established pursuant to law and pertinent Government regulations and in effect on the date hereof or on the dates of delivery; and if hereafter it is found that said prices have been exceeded, Seller agrees to reduce the prices charged and to refund the excess payments made, retroactively, to conform to the applicable law and regulations.

27) SELLER'S PROCESSES. Any knowledge or information concerning Seller's products, methods, or manufacturing processes that Seller may disclose to the other Party incident to the manufacture of the material or work covered by this Order shall, unless otherwise specifically agreed in writing, be deemed

to have been disclosed as a part of the consideration for this Order, and Seller agrees not to assert any claim against Buyer by reason of Buyer's use or alleged use thereof in connection with its obligations under this Order.

- 28) **QUALITY CONTROL SYSTEM.** Seller shall provide and maintain quality control in compliance with the requirements identified in the following applicable Spartronics Procurement Standards:
- a) PE-5590-AER: Aerospace Products
 - b) PE-5590-MED: Medical products
 - c) PE-5590-GOV/IND: Government I Industrial Products
- 29) **PACKING AND SHIPPING INSTRUCTIONS.** Packaging shall be Standard Commercial unless otherwise noted. Seller warrants that all shipments under this Order are made in compliance with all applicable Federal and State hazardous materials tariffs/regulations. A packing slip must accompany each shipment. Seller shall mark containers or packages with necessary lifting, loading, and shipping information, including the Buyer's Order number, item number, dates of shipment, and the names and addresses of consignor and consignee. If Seller's supplier makes a shipment, Seller's name must be shown on the packing list in addition to Buyer's Order number, bulk number, part number or code number, and delivery point number, if applicable. Bill of lading and advice of shipment must be sent as soon as material is forwarded, giving the correct Order number, part or requisition numbers, description of material, and full forwarding information. Supplies arriving without proper notice will be held up until the desired information is received and all demurrage will be charged to Seller's account. All Supplies must be forwarded in accordance with routing specified in this Order or additional instructions issued by Buyer. F.O.B. origin shipments will not be insured. Seller will declare value only on shipment to released ratings and then only at a maximum value applicable to the lowest published rating. Unless otherwise specified, delivery shall be FOB Origin.
- 30) **SPECIFICATIONS.** Any manufacturing or other specifications referred to in this Order are hereby made a part hereof as if fully set forth herein.
- a) All Supplies furnished must conform to Buyer's specifications where indicated.
 - b) If blueprint is specified on the Order, do not proceed without it.
 - c) Supplies made in accordance with Buyer's specifications and drawings shall not be furnished or quoted to any other person or concern; provided, however, Seller may produce items for direct sale to the Government where the Government has the right to use the equipment, tools, gauges, designs, drawings, engineering data, or other technical or proprietary information furnished by the Buyer, which are required to produce the item. All specifications, drawings, tools, jigs, dies, fixtures, materials, and other items furnished by the Buyer shall be delivered to Buyer promptly upon request. None of the work contemplated as being performed by Seller under this Order shall be subcontracted without the prior written consent of Buyer, which shall not be unreasonably withheld.
- 31) **TERMS AND INVOICES.** Invoices shall (a) be rendered in duplicate; (b) cover not more than one Order; (c) be rendered with Order number noted thereon; (d) be sent to the address thereon. Invoices, shipping notices, and bills of lading are to be mailed within twenty-four (24) hours after shipment. It is understood that any cash discount period shall be computed from date of receipt by Buyer of acceptable invoice or material, whichever is later. On all prepaid shipments chargeable to Buyer, Seller shall attach the transportation receipt to invoice. On invoices returned for correction, any cash discount period will date from the receipt of the corrected invoice.
- 32) **TERMINATION.** The Parties may terminate the performance of work under this Order, in whole or in part, for any reason upon 30-days' prior written notice. Any such termination shall be effected by delivery to the other party of a notice of termination specifying the extent to which performance of work under this Order is terminated and the date upon which such termination becomes effective.
- a) After receipt of a notice of termination, Seller shall:

- i. Stop work under the Order on the date and to the extent specified in the notice of termination;
 - ii. Place no further orders or subcontracts for materials, services, or facilities, except as may be necessary for completion of such portions of the work under the Order as may not be terminated;
 - iii. Terminate all Orders and subcontracts to the extent that they relate to the performance of any work terminated by the notice of termination;
 - iv. Assign to Buyer, in the manner and to the extent directed by Buyer, all of the right, title, and interest of Seller under the orders or subcontracts so terminated;
 - v. Settle all outstanding liabilities and all claims arising from such termination of orders and subcontracts subject to the approval or ratification of Buyer to the extent it may require, which approval or ratification shall be final for all purposes of this clause;
 - vi. Transfer title and deliver in the manner, to the extent, and at the times directed by Buyer of:
 - a. the fabricated or un-fabricated parts, work in process, completed work, supplies, and other material produced as a part of, of acquired in connection with the performance of, the work terminated by the notice of termination, and
 - b. the completed or partially completed plans, drawings, information, and other property that if the Order had been completed, would be furnished to Buyer.
 - vii. Complete performance of such part of the work as shall not have been terminated by the notice of termination; and
 - viii. Take such action as may be reasonably necessary for protection and preservation of the property related to this Order that is in the possession of Seller or subcontractors.
- b) After receipt of a notice of termination, Seller shall submit to Buyer any termination claim, in the form and with the certification prescribed by Buyer. Such claim shall be submitted promptly, but not later than three (3) months from the effective date of termination, unless one or more extensions in writing is granted by Buyer, upon request of Seller made in writing within such three-month period or authorized extensions thereof. Upon failure of Seller to submit its termination claim within the time allowed, Buyer may determine, on the basis of information available to Buyer, the amount, if any, due to Seller in respect to the termination and such determination shall be final. After Buyer has made a determination under this paragraph, Buyer shall pay Seller the amount so determined.
- c) Subject to the provisions of paragraph (a), Seller and Buyer may agree that the whole or any part of the amount or amounts to be paid to Seller by reason of the total or partial termination of work pursuant to this clause, and Buyer shall pay the agreed amount or amounts; provided, that such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total contract price as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated. Nothing in paragraph (d) below prescribing the amount to be paid to Seller in the event of the failure of Seller and Buyer to agree upon the whole amount to be paid to Seller by reason of the termination of work pursuant to this clause shall be deemed to limit, restrict, or otherwise determine or affect the amount or amounts that may be agreed upon to be paid to Seller pursuant to this paragraph (c).
- d) In the event of the failure of Seller and Buyer to agree as provided in paragraph (c) upon the amount to be paid to Seller by reason of the termination of work pursuant to this clause, Buyer shall pay to Seller the amounts determined by Buyer as follows, but without duplication of any amounts:
- i. For completed Supplies accepted by Buyer and not paid for, a sum equivalent to the aggregate price for such Supplies computed in accordance with the price or prices specified in the Order, appropriately adjusted for any saving of freight or other charges.
 - ii. The total of:

- a. The cost of such work, including initial costs and preparatory expenses allocable thereto, exclusive of any costs attributable to supplies paid or to be paid for under (d)(i) above; and
- b. The cost of settling and paying claims arising from the termination of work under subcontracts or Orders as provided in paragraph (a)(v) above, exclusive of the amounts paid or payable on account of Supplies furnished by the subcontractor before the effective date of the Notice of Termination of work under this Order, which amount shall be included in the cost on account of which payment is made; and
- c. The total sum to be paid to Seller under (d)(i) and (d)(ii) above shall not exceed the total contract price reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated. Except for normal spoilage and except to the extent that Buyer shall have otherwise expressly assumed the risk of loss. There shall be excluded from the amounts payable to Seller the failure value as determined by Buyer of property that is destroyed, lost, stolen, or damaged so as to become undeliverable. The obligation of Buyer to make any payments under this clause shall be subject to deductions with respect to (i) all unliquidated advance other payments on account therefore made to Seller applicable to the terminated portion of this Order, (ii) and claim that Buyer may have against Seller, in connection with this Order, and (iii) the agreed price for, or the proceeds of sale of, any materials, supplies, or other things retained by Seller, or sold, and not otherwise recovered by or credited to Buyer. Buyer may make partial payments and payments on account against costs incurred by Seller in respect to the terminated portion of the Order whenever in the opinion of Buyer the aggregate of such payments shall be within the amount to which Seller will be entitled hereunder. If the total of such payments is in excess of the amount finally agreed upon or determined to be due under this clause, such excess shall be payable by Seller to Buyer upon demand, together with interest computed at the rate of a 6% per annum for the period from the date incurred.

33) TOOLING AND FIXTURES. All Spartronics purchased tooling, (hard, soft, and/or electronic) and test fixtures are the property of Spartronics. Tooling and fixtures should not be used for any purpose other than the manufacture of Supplies. Spartronics purchased tooling and fixtures may not be destroyed or transferred without the written permission of Spartronics. All such articles are to be maintained in good working condition and fully covered, with insurance, without expense to Spartronics. Seller will deliver to Spartronics, at Seller's expense, upon request such articles in good working condition Such articles are to be used for the exclusive production of Spartronics.

34) WARRANTIES; REIMBURSEMENT. By accepting this Order, Seller represents and warrants that the Supplies furnished under this Order have been, or will be, manufactured and sold, and that Seller and its business otherwise is, in compliance with all relevant Federal, state, and local laws and regulations. Seller warrants that at the time of delivery the Supplies will be made in a workmanlike manner and will conform to the requirements of this Order. Buyer shall give notice to Seller of any nonconformance with the foregoing within twelve months of the delivery of the applicable Supplies. If required by Buyer within a reasonable time after such notice, Seller shall promptly correct or replace any defective or nonconforming Supplies or part. When such correction or replacement requires transportation of the Supplies or part thereof, all shipping costs shall be borne by Seller. If correction or replacement is required, Seller shall repay reasonable costs of removal of the Supplies from any component, assembly or system into which the supplies may have been incorporated, and reinstallation of non-defective supplies, and the reasonable costs of return of the Supplies. Acceptance or payment by Buyer does not relieve Seller of liability for its obligations hereunder. Buyer shall have the right to reject any goods found not to be in compliance with these warranty provisions, the specifications, or other requirements of this Order.

- 35) PROPRIETARY INFORMATION; INFRINGEMENT. All works of original authorship created by Seller in connection with this order are "works made for hire." All Supplies which are created in the course of this Order and all intellectual property rights in such goods are owned by the Buyer. Seller grants Buyer an irrevocable, nonexclusive, royalty-free, worldwide license to any technical information, know how, copyrights and patents owned and controlled by Seller necessary for Buyer to have made or make, or use or sell any such goods.
- 36) MATERIAL SAFETY DATA SHEET. Seller shall provide Buyer with a Material Safety Data Sheet and any other reasonably requested information, including without limitation, lists of materials and quantities of materials, for any Supplies provided under this purchase order which may release, or otherwise result in exposure to a hazardous chemical or materials under normal conditions of use. Seller shall supply advanced notice to Buyer, including appropriate shipping labels, if any shipment of Supplies contains potentially hazardous or restricted materials.
- 37) ENTIRE AGREEMENT. This Order, together with all attachments referred to herein constitutes the entire agreement between Buyer and Seller with respect to the subject matter hereof. This Order may only be amended by an amendment authorized by Spartronics. The United Nations Convention on the International Sale of Goods is expressly excluded.
- 38) WAIVER OF JURY TRIAL. EACH OF BUYER AND SELLER ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY THAT MAY ARISE UNDER THIS ORDER IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH OF BUYER AND SELLER IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS ORDER OR THE SUPPLIES. EACH OF BUYER AND SELLER CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) IT HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) IT MAKES THIS WAIVER VOLUNTARILY, AND (D) IT HAS BEEN INDUCED TO ENTER INTO THIS ORDER BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION
- 39) NOTICES. All notices hereunder shall be delivered in writing to the Parties at the addresses set forth on the Order.