



## GENERAL TERMS AND CONDITIONS OF SALE

### General Terms and Conditions of Sale of TxV Aerospace Composites, LLC.

The following terms and conditions are incorporated by reference into the Contract (as defined below).

#### 1. DEFINITIONS

1.1 In these Conditions:

**"Background IPR"** means TxV IPR or Buyer IPR (as relevant) deemed reasonably necessary by TxV for the purpose of carrying out a Contract.

**"Buyer"** means the individual firm or company to whom a quotation for the sale of Products and/or Services is addressed or whose purchase order for the purchase of Products and/or Services is accepted by TxV;

**"Buyer IPR"** means all Intellectual Property Rights belonging to Buyer or which is licensed to Buyer (to the extent that Buyer is freely able to sub-license such rights without breaching the terms of the relevant license) at the date of the order, as well as all Intellectual Property Rights that Buyer may generate or otherwise acquire including by way of license during the term of a Contract other than Generated IPR;

**"Conditions"** means these standard terms and conditions of sale;

**"Contract"** means the particular individual contract for the supply of Products and/or Services by TxV to the Buyer created by TxV issuing to the Buyer a Customer Order Confirmation pursuant to Condition 3 below;

**"Customer Order Confirmation"** means the document entitled Customer Order Confirmation

generated by TxV and sent by mail, courier, fax or e-mail by TxV to the Buyer;

**"Generated IPR"** means all Intellectual Property Rights created in the course of or in connection with the work carried out under a Contract;

**"Group Company"** means in relation to a party, that party, each and any subsidiary, affiliate or parent from time to time and each and any affiliate or subsidiary from time to time of a parent of that party;

**"Improvement"** means any Generated IPR which is a development, adaptation and/or derivative work of, or improvement, modification and/or enhancement to, any Background IPR of a party;

**"Incoterms"** means Incoterms 2010 as published by International Chamber of Commerce or such other edition in force at the date when a Contract is made and agreed by the parties;

**"Intellectual Property Rights or IPR"** means any patents, utility models, rights to inventions, copyright and related rights, moral rights, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of

protection which subsist or will subsist now or in the future in any part of the world;

**"Polymer"** means polyaryletherketone (PAEK) materials including (without limitation) polyetheretherketone (PEEK) materials, in forms including, but not limited to, granules, powders, pellets, fibres, tapes and films, in each case filled or unfilled;

**"Polymer Components"** means components or products made from or incorporating Polymer;

**"Polymer and Polymer Components Generated IPR"** means any Generated IPR which relates to: (a) any methods and/or equipment used in the manufacture of Polymer or Polymer Components; and/or (b) any ideas, know how, inventions, processes, techniques, materials changes and/or individual additions or design features created, devised or developed to create and/or which are specific to the Polymer, Polymer Components or process for the manufacture using Polymer and which are capable of being used to adapt or translate any components or products made from metal or other materials into Polymer Components;

**"Products"** means goods as specified in the Customer Order Confirmation;

**"Services"** means any services to be provided by TxV as specified in the Customer Order Confirmation and as ancillary services in respect of the supply of the Products by TxV;

**"Special Conditions"** means such additional terms agreed from time to time in writing between TxV and the Buyer;



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**"Specifications"** means the statement of work and/or specifications, designs and drawings describing the Products and/or Services as agreed in writing by TxV;

**"TxV"** means TxV Aerospace Composites, LLC a Limited Liability Company with a place of business at 55 Broadcommon Rd, Unit 2, Bristol, RI 02809 USA;

**"TxV IPR"** means all Intellectual Property Rights belonging to TxV which is licensed to TxV (to the extent that it is freely able to sub-license such rights without breaching the terms of the relevant license) as at the date of a Contract, as well as all Intellectual Property Rights that TxV may generate during the term of a Contract other than Generated IPR.

1.2 The headings are for convenience only and shall not affect the interpretation of this document.

1.3 All references to prices, Products and Services contained in these Conditions shall be taken to mean the prices, Products and Services detailed in the Customer Order Confirmation.

### 2. APPLICATION

2.1 These Conditions shall govern and be incorporated in every Contract made by or on behalf of TxV with the Buyer and unless otherwise expressly agreed in writing between TxV and the Buyer shall prevail over any terms and conditions contained or referred to in any documentation submitted by the Buyer or in correspondence or elsewhere or

implied by trade custom, practice or course of dealing.

2.2 TxV's quotation is not to be taken as an offer and no Contract shall take effect unless and until a Customer Order Confirmation has been issued by TxV to the Buyer.

2.3 TxV is prepared to receive the Buyer's order by telephone or by e-mail but will have no responsibility whatsoever for any error or omission in the transmission of the Buyer's order.

2.4 TxV shall be entitled to rely in all respects and in all circumstances on the contents of the Customer Order Confirmation as stating the quantity of the Products and any Services to be supplied. Accordingly, it shall be the Buyer's sole responsibility to check the Customer Order Confirmation and to notify TXV forthwith after the receipt of the same where the Products and any Services are not properly stated in the Customer Order Confirmation.

2.5 The Contract shall be based solely on these Conditions and any Special Conditions.

2.6 The Buyer expressly agrees that these Conditions and any Special Conditions shall take precedence over any contractual provisions offered by the Buyer. TxV shall not be bound by and does not agree to any contractual provisions offered by the Buyer save to the extent, if any, that TxV expressly agrees to the same in writing. The Buyer agrees that no actions taken by TxV shall be

interpreted as TxV's acceptance of any contractual provisions offered by the Buyer.

### 3. ORDERS

Unless otherwise agreed in writing between the parties, Buyer shall place orders and TxV shall, as soon as reasonably practicable after receipt of an order, notify Buyer of whether it accepts such order and the anticipated delivery date for that order by issuing a Customer Order Confirmation. Each order that is so accepted shall constitute a separate binding Contract.

### 4. DELIVERY

4.1 Time for delivery of the Products and/or the completion of the Services as stated by TxV in a Customer Order Confirmation is stated as accurately as reasonably practicable but is not guaranteed. TxV will not be liable for any delays in delivery for whatever reason unless the parties have expressly agreed in writing signed by TxV to specific liquidated damages for late deliveries. Except where otherwise agreed in the Customer Order Confirmation, TxV shall deliver Products ex works.

4.2 The Buyer shall have no right to cancel the Contract for failure of TxV to meet any delivery or completion time stated in the Customer Order Confirmation.

4.3 TxV may accept subsequent changes in delivery dates, purchase prices and quantities of Products and/or Services



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requested by Buyer in a revised order issued by Buyer without having been deemed to have added to or modified these Conditions.

4.4 All Products delivered to Buyer shall be delivered to Buyer's named delivery point (or such other delivery point as may be specified in the Customer Order Confirmation).

4.5 Upon receipt of each delivery of Products sold hereunder, Buyer shall examine such Products for any damage, defects or shortage. TxV will have no liability unless Buyer notifies TxV within three (3) days of receipt of the Products and confirms by notification in writing within seven (7) days of receipt of the Products, following which the provisions of Condition 11.2 shall apply. If Buyer fails to give such notice of rejection, Buyer shall be deemed to have accepted the delivery in full.

4.6 Failure by Buyer to take delivery of any one or more instalments of Products delivered in accordance with the Contract shall entitle TxV to terminate the Contract either in whole or part.

4.7 TxV shall be entitled to deliver the Products by instalments. Each instalment shall be treated as if it constituted a separate and distinct contract between TxV and Buyer.

### 5. PRICE

5.1 Save as otherwise agreed in writing by TxV, or as indicated in the Customer Order Confirmation

or any Special Conditions, the prices of the Products and/or Services:

- (i) will be those prevailing at the time of delivery;
- (ii) are stated as a price per unit;
- (iii) shall exclude all costs associated with expedited delivery, including, but not limited to, costs relating to freight, transportation, insurance, delivery and unloading; and
- (iv) are exclusive of any sales, excise or other taxes, which TxV shall add at the appropriate prevailing rate.

5.2 Tooling prices are good faith estimates until both Buyer and TxV have agreed upon and finalized part design. The tooling price includes any cavity cutting unless stated otherwise in the Customer Order Confirmation. Any needed additional cuttings may delay final delivery. Unless otherwise agreed in writing by the parties, fifty percent (50%) of purchase price is due when Buyer places an order for tooling. The remaining fifty percent (50%) is due and owing thirty (30) days from completion of the tooling. Tooling is considered complete when the first shot is molded.

5.3 Purchase orders for production of parts: part prices are good faith estimates until TxV confirms the manufacturing process through

sampling and production part approval. Purchase price is due and owing thirty (30) days from the invoice date. Time is of the essence.

5.4 If Buyer fails to follow the payment schedule(s) above or if TxV anticipates Buyer may be unable to perform hereunder, TxV may terminate this contract, defer, discontinue or suspend shipments, or demand adequate assurance of Buyer's performances.

### 6. PAYMENT

6.1 Buyer shall pay each invoice in full in accordance with the payment terms as set out on the invoice. Time shall be of the essence for payment of invoices by Buyer.

6.2 TxV reserves the right (in TxV's absolute discretion) to require payment in full for the Products and/or Services on or before delivery or otherwise to change any credit terms given to Buyer from time to time.

6.3 Interest is payable on overdue amounts of invoices at the rate of 3% over Barclays Bank plc base rate from time to time, to run from the due date for payment until receipt by TxV of the full amount (including any accrued interest), whether before or after judgment.

6.4 TxV may suspend the supply of Products and/or Services to Buyer where any payment is overdue from Buyer to TxV under any Contract or any contract between TxV (or any Group Company of TxV) and a Group Company of



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Buyer, until all such amounts have been paid.

- 6.5 All sums payable in respect of an order shall be payable in full by Buyer without deduction of any kind, whether by way of set-off, counterclaim or otherwise howsoever. Buyer shall not be entitled to set-off an amount owing or alleged to be owing to it by TxV against amounts owing by Buyer to TxV.

### 7. CHANGES

By written notice to TxV, Buyer may from time to time, suggest changes to Specifications of the Products and/or Services. TxV and Buyer will promptly discuss and agree reasonably and in good faith, any difference in price or time for performance resulting from such changes. If TxV agrees, in its discretion, to implement such changes, the agreement between the parties with respect to such changes will be made in accordance with Condition 27 below.

### 8. RETENTION OF TITLE

- 8.1 Risk of damage or loss of the Products shall pass to Buyer at the time of delivery.
- 8.2 Notwithstanding delivery and passing of the risk of loss, the Products will remain the property of TxV until TxV receives payment in full (in cash or cleared funds) for the Products and any other goods or Services that TxV has supplied to the Buyer in respect of which

payment has become due, in which case title to the Products shall pass at the time of payment of all such sums.

- 8.3 From delivery until title to the Products passes to Buyer, Buyer shall insure the Products for full value. Buyer shall hold the proceeds of any claim on the insurance policy in trust for TxV and shall immediately account to TxV for any proceeds.
- 8.4 Until such time as the title to the Products passes to Buyer, Buyer shall hold the Products as TxV's trustee and shall keep the Products separate from those of Buyer and third parties and properly stored, protected and insured and identified as TxV property, but shall be entitled to use (or where authorized by TxV in writing in advance, resell) the Products in the ordinary course of its business in which case all proceeds from such resale or use shall be held by Buyer in trust for the benefit of TxV.
- 8.5 Until such time as the title to the Products passes to Buyer (and provided the Products are still in separate, identifiable existence and have not been resold), TxV shall be entitled at any time to require Buyer to deliver up the Products to TxV, and, if Buyer fails to do so forthwith, to enter upon any premises of Buyer if the Products are stored and repossess the Products all to the fullest extent permitted by law, and where the Products are stored at

the premises of a third party, Buyer shall procure a right for TxV to enter such third party's premises to repossess the Products.

- 8.6 Buyer shall not be entitled to pledge, grant a security interest in, or charge by way of security for any indebtedness any of the Products which remain the property of TxV, and if Buyer does so, all monies owing by Buyer to TxV shall forthwith become due and payable, without prejudice to any other right or remedy of TxV.
- 8.7 Notwithstanding any other provision of this Condition 8:
- (i) Buyer shall be entitled to use (or where authorized by TxV in writing in advance, resell) the Products in the ordinary course of business, provided that this right shall automatically cease should Buyer become subject to any of the events listed in Condition 12.1(b); and
  - (ii) TxV may elect for title to the Products to pass to Buyer at any time following delivery to Buyer.
- ### 9. SERVICES
- 9.1 The provisions of this Condition 9 shall only apply if TxV is providing Services to Buyer.
- 9.2 In providing Services, TxV shall:
- (i) provide Services with reasonable care and skill;



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- (ii) use reasonable efforts to meet any performance dates agreed between the parties; but any such dates shall be estimates only, and time shall not be of the essence for performance of the Services; and
- (iii) have the right to make any changes to the Services that are necessary to comply with any applicable law or safety requirement or that do not materially and adversely affect the nature or quality of the Services.
- weapons or missiles capable of delivering such weapons, or in support of any terrorist activity; or
- b. in breach of any applicable laws, trade sanctions or trade embargoes, including, without limitation, in violation of license requirements 1 C998 under the Bureau of Industry and Security Export Administration Regulations; and
- (ii) the Products and any associated technology will not be resold if it is known or suspected that they are intended to be used for such purposes.
- (iii) No Products or technical data controlled under International Traffic in Arms Regulations ("ITAR") (22 C.F.R. Part 120-130 shall be transferred to TxV by Buyer.
- (iv) No U.S.-origin Export Administration Regulations ("EAR") goods, service or technical data controlled at a level other than EAR99, shall be transferred to TxV by Buyer without TxV's prior written consent. Buyer shall provide to TxV the Export Control Classification Number ("ECCN") of such good, service or technical data.
- (v) Buyer will not export, reexport, transfer or otherwise use the Products in any way, directly or indirectly, that violates or causes a violation of ITAR, EAR or U.S. economic sanctions enforced by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC").

**10. EXPORT SALES**

10.1 Buyer acknowledges that the export of Products and/or Services and any associated technology, including intellectual property as further described in Condition 13, may be subject to export control regulations in certain applicable jurisdictions (as such regulations may be amended from time to time).

10.2 Buyer agrees that as a condition of TxV's acceptance of any order and therefore, any Contract made under these Conditions, that:

- (i) the Products and/or Services and any associated technology will not be used:
  - a. for purposes associated with any chemical, biological, nuclear

10.3 If TxV is not able to obtain any requisite governmental license, consent or permit or other authorization in fulfilment of any order or Contract, TxV shall not be liable to Buyer or any third party in respect of any bond or guarantee or for any loss, damage or other resultant financial penalty.

10.4 The sale of the Products is subject to the Incoterm (if any) stated in the Customer Order Confirmation. In the event of any conflict between the provisions of Incoterms and these Conditions, then the Customer Order Confirmation shall prevail.

10.5 It is hereby agreed between the parties that the United Nations Convention on Contracts for the International Sales of Products shall not apply to any Contract pursuant to these Conditions.

10.6 Buyer shall be responsible for complying with any legislation or regulations governing the importation of Products into the



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country of destination and for the payment of any duties on them.

**11. WARRANTY AND LIABILITY**

11.1 TxV warrants that the Products will, when delivered, comply with the Specifications.

11.2 TxV is not liable for any defect in the Products unless the Buyer has given notice to TxV within the time periods provided in Condition 4.5. If Buyer notifies TxV of a defect in the Products within the specified time periods, TxV's only obligation is, at its sole option, to either replace or repair any quantity of the Products that are damaged or defective; or refund to Buyer the amount paid by Buyer for the quantity of the Products that are the subject of the claim, together with the applicable transportation costs.

11.3 **TXV MAKES NO REPRESENTATIONS AND GIVES NO WARRANTIES OR UNDERTAKINGS, EXPRESS OR IMPLIED, IN FACT OR IN LAW:**

- (i) **AS TO QUALITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR FOR THE SUITABILITY OR OTHERWISE OF THE PRODUCTS FOR USE IN THE MANUFACTURE OF PRODUCTS BY THE BUYER OR ANY OTHER APPLICATION;**
- (ii) **AS TO THE OWNERSHIP, VALIDITY**

**OR SUBSISTENCE OF ANY INTELLECTUAL PROPERTY THAT MAY SUBSIST IN THE PRODUCTS OR IN ANY APPLICATION OR USE THEREOF; OR**

(iii) **FOR THE BENEFIT OF BUYER OR BUYER'S CUSTOMERS OR AGENTS;**

**AND ALL OF THE FOREGOING ARE DISCLAIMED BY TXV.**

11.4 **TXV HAS NOT AND WILL NOT PARTICIPATE IN THE DESIGN, MANUFACTURE, SALE OR DISTRIBUTION OF ANY OF THE BUYER'S PRODUCTS.**

11.5 **TXV IS NOT LIABLE TO THE BUYER, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR RESTITUTION, OR FOR BREACH OF STATUTORY DUTY OR MISREPRESENTATION, OR OTHERWISE FOR:**

- (i) **ANY DEFECT IN THE PRODUCTS OR SERVICES CAUSED BY FAIR WEAR AND TEAR, ABNORMAL OR UNSUITABLE CONDITIONS OF STORAGE OR USE AFTER DELIVERY, OR AN ACT, OMISSION OR DEFAULT OF THE BUYER OR A THIRD PARTY; OR**
- (ii) **LOSS OF REVENUES, LOSS OF CONTRACTS OR LOSS OF PROFITS,**

**WHETHER DIRECT, INDIRECT OR CONSEQUENTIAL LOSS, NOR FOR ANY INDIRECT OR CONSEQUENTIAL**

**LOSS AND WHETHER ARISING FROM NEGLIGENCE, BREACH OF CONTRACT OR OTHERWISE.**

11.6 **THE ENTIRE LIABILITY OF TXV UNDER OR IN CONNECTION WITH THE CONTRACT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR RESTITUTION, OR FOR BREACH OF STATUTORY DUTY OR MISREPRESENTATION, OR OTHERWISE, IS LIMITED TO AN AMOUNT EQUAL TO TWO TIMES THE TOTAL OF THE CHARGES PAYABLE BY BUYER UNDER THE CONTRACT.**

11.7 **EXCEPT AS SET OUT IN THESE CONDITIONS, ALL CONDITIONS, WARRANTIES AND REPRESENTATIONS, EXPRESS OR IMPLIED BY:**

- (I) **STATUTE;**
- (II) **COMMON LAW; OR**
- (III) **OTHERWISE, IN RELATION TO:**
  - (a) **THE PRODUCTS; OR**
  - (b) **ANY INTELLECTUAL PROPERTY THAT MAY SUBSIST IN THE PRODUCTS OR IN ANY USE OR APPLICATION THEREOF, ARE EXCLUDED TO THE FULLEST EXTENT PERMITTED BY LAW.**



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11.8 Nothing in these Conditions shall exclude or limit a party's liability for fraud, for death or personal injury caused by its negligence, or for any other matter, if and to the extent that under Delaware law, liability for it cannot be excluded, restricted or limited in the context of these Conditions.

11.9 The invalidity, illegality or unenforceability of any part of these Conditions does not affect or impair the continuation in force of the remainder of these Conditions.

### 12. TERMINATION

12.1 Either party shall be entitled to terminate the Contract by giving written notice to the other if:

- a. the other party commits a material breach of any of the terms and conditions of the Contract and in the case of a material breach capable of cure, fails to cure within thirty (30) days of written notice being received specifying the material breach and requiring its cure; and/or
- b. if any lienholder or other encumbrancer takes possession of or a receiver, administrative receiver or similar officer is appointed over any of the property or assets of the other party or if the other party makes any assignment for the

benefit of creditors or other voluntary arrangement with its creditors or files a petition for bankruptcy or is the subject of an involuntary petition for bankruptcy or goes into liquidation (except for the purpose of reorganization not involving insolvency where the resulting entity agrees to be bound by or assumes the obligations imposed on the other party) or becomes insolvent or bankrupt or anything analogous to any of these events under the law of any jurisdiction occurs in relation to the other party or if the other party ceases or threatens to cease to carry on business or if the financial position of the other party deteriorates to such an extent that in the reasonable opinion of the performing party the capability of the other party adequately to fulfil its obligations under the Contract has been placed in jeopardy.

12.2 The termination or expiration of the Contract, however arising, will be without prejudice to the rights and remedies of TxV accrued prior to termination or expiration. The Conditions that expressly or

impliedly have effect after termination or expiration will continue to be enforceable notwithstanding termination or expiration of the Contract.

### 13. INTELLECTUAL PROPERTY

13.1 This Condition will apply except where the parties have entered into a separate written agreement signed by their respective authorized representatives prior to or contemporaneous with the effective date of the Contract with respect to the parties' IPR that expressly prevails over these Conditions.

13.2 Buyer shall not at any time assert any rights in the goodwill attaching to any of TxV's trademarks or other intellectual property, and all such rights shall vest in and ensure exclusively for the benefit of TxV.

13.3 All Background IPR is and shall remain the exclusive property of the party owning it (or, where applicable, the third party from whom its right to use the Background IPR has derived). All Background IPR shall only be used for the purpose of the Contract and neither party shall make use of other party's Background IPR for any activity irrelevant to the Contract.

13.4 Buyer shall give TxV disclosure of all Background IPR owned or licensed by it and any Generated IPR under Condition 13.5(ii) which is reasonably necessary to perform the Services and/or supply the



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Product(s) under the Contract. Buyer hereby grants to TxV a non-exclusive, fully-paid up, royalty-free licence under such Background IPR and Generated IPR for the term of the Contract to do (or have done) any act for the purpose of complying with its obligations and enjoying the benefit of its rights under the Contract.

13.5 The parties agree that Generated IPR shall be owned as follows:

- (i) all Polymer and Polymer Components Generated IPR and/or Improvements to TxV Background IPR shall belong solely to TxV; and
- (ii) all Generated IPR which is not TxV Polymer and Polymer Components Generated IPR shall belong solely to Buyer.

13.6 If during the term of the Contract either party (or its authorized sub-contractors) develop or create (whether with or without others and whether jointly with the other party or not) any Generated IPR, it shall immediately disclose any such Generated IPR to the other party. Each party shall ensure that its part of the work under the Contract shall only be undertaken by persons who are either employed by that party under a contract for services or who are consultants under a consultancy contract with that party which (in each case) provides for the assignment by such persons of all

IPR created by them during the course of their duties owed to that party under such contract. Each party hereby assigns to the other party all right, title and interest in and to any Generated IPR (including by way of present assignment of future rights) to the extent necessary in order to give full effect to Condition 13.5.

13.7 Buyer represents and warrants that it has title to any material or Specifications it may provide to TxV and that TxV's possession and reliance on and receipt and use of the same in connection with the manufacture, sale or use of the Products and any other purpose in connection with the performance of TxV's obligations under the Contract shall not constitute infringement of any Intellectual Property Rights and any other rights of a third party.

13.8 Buyer shall not cause or allow to be analysed and/or reverse engineered any Products provided by TxV or its Group Company, to determine the chemical composition, formulation or measure the properties of such Products, unless with the prior written consent of TxV, which may be given or withheld in the sole and absolute discretion of TxV.

### 14. TOOLING

All tooling and other tangible manufacturing assets of TxV used to fulfil Buyer's order shall remain the property of TxV and no right or interest of any kind whatsoever in any of the

foregoing shall be construed or interpreted as having been granted or otherwise conveyed to Buyer, either expressly, or by implication, estoppel or otherwise. Any tooling sold to Buyer will be limited to that which is separately quoted by TxV, which quote expressly states that price indicated therein by TxV is "for purchase" or "for sale" of the tooling described therein rather than as an additional charge to defray, whether in whole or in part, TxV's tooling costs.

### 15. CONFIDENTIALITY

15.1 This section will apply except where any applicable non-disclosure agreement between TxV and Buyer remains effective.

15.2 Each party agrees that all information received from the other party under the Contract, including the nature of the Products, and/or Services to be provided by TxV and the existence of any Contract, shall be maintained in confidence and not disclosed to others, except as such disclosure may be required by applicable law or court order, and the receiving party agrees not to use such information for any purpose, other than the fulfilment of the Contract, without the prior written consent of the other party. The obligations of confidentiality shall survive the termination or expiration of the Contract for a period of five (5) years.

15.3 Each party shall use commercially reasonable care to protect the confidentiality of information





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received from the other party but in all events no lesser standard of care to protect the confidentiality of information received from the other party than it uses to protect its own confidential information, and shall limit disclosure of such information to those of its personnel and consultants and those of a TxV Group Company who have an actual need to know and have a written obligation to protect the confidentiality of such information.

### 16. ANTI-BRIBERY

- 16.1 Each party shall comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption in any jurisdiction applicable to the parties and the supply of the Products and/or Services ("**Applicable Bribery Law**"). No party shall place the other in breach of any Applicable Bribery Law.
- 16.2 Each party shall maintain in place throughout the term of this Contract its own adequate policies and procedures to ensure compliance by it and its personnel with the Applicable Bribery Law and will enforce those policies and procedures as necessary to avoid any breach by it or its personnel of Applicable Bribery Law. Each party shall promptly answer reasonable enquiries from the other party relating to those policies and procedures.

16.3 Buyer shall promptly report to TxV any request or demand for any undue financial or other advantage of any kind received by Buyer in connection with the performance of this Contract.

16.4 Breach of this Condition 16 shall be deemed a material breach and not capable of cure.

### 17. FORCE MAJEURE

If TxV is prevented, hindered or delayed from or in supplying Products by an event or circumstance beyond its control (including, without limitation, strikes, lockouts and other industrial disputes, accidents, act of God, war, riot, civil commotion, malicious damage, compliance with a law or governmental order, rule, regulation or direction, reductions in or unavailability of power at manufacturing plant, breakdown of plant or machinery, or shortage or unavailability of raw materials from normal sources or routes of supply or delay by Buyer in the performance of any of its obligations under the Contract (each of the foregoing being a "Force Majeure Event")) TxV may, at its option and without any liability for any loss or damage suffered by Buyer:

- (a) suspend deliveries while the Force Majeure Event (or its effects) continues (or continues); or
- (b) terminate any Contract so affected with immediate

effect by written notice to Buyer.

### 18. REMEDIES AND WAIVERS

No delay or omission by either party in exercising any right, power or remedy provided by law or under these Conditions shall:

- (a) affect that right, power or remedy; or
- (b) operate as a waiver of it.

The single or partial exercise of any right, power or remedy provided by law or under these Conditions shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy. The rights, powers and remedies provided in these conditions are cumulative and not exclusive of any rights, powers and remedies provided by law.

### 19. RIGHTS OF THIRD PARTIES

- 19.1 The Buyer agrees that the controls, benefits, rights and licenses granted to TxV under the Contract are also granted to each TxV Group Company and that any loss suffered by TxV or a TxV Group Company as a result of any action or omission under the Contract shall be deemed to be a loss of TxV and recoverable from Buyer under the Contract (subject to the agreed exclusions and limits on liability).
- 19.2 Other than as set out in Condition 19.1 above, a person who is not a party to the Contract will have no right under the Contract to enforce any of its terms.



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### 20. NO PARTNERSHIP

Nothing in these Conditions and no action taken by the parties pursuant to these Conditions and any Contract made under them shall constitute a partnership, association, joint venture or other co-operative entity between the parties.

### 21. GOVERNING LAW

These Conditions and any Contract made under them are governed by, and shall be construed in accordance with, the laws of the State of Delaware, without regard to principles of conflict of laws. The parties declare that it is their intention that the Contract shall be regarded as made under the laws of the State of Delaware and that the laws of that State shall be applied in interpreting its provisions in all cases where legal interpretation is required. Each of the parties irrevocably and unconditionally agrees: (a) to be subject to the jurisdiction of the courts of the State of Delaware and of the federal courts sitting in the State of Delaware; and, (b) (1) to the extent such party is not otherwise subject to service of process in the State of Delaware, to appoint and maintain an agent in the State of Delaware as such party's agent for acceptance of legal process, and (2) that service of process may also be made on such party by prepaid certified mail with a proof of mailing receipt validated by the

United States Postal Service constituting evidence of valid service, and that service made pursuant to (b) (1) or (2) above shall have the same legal force and effect as if served upon such party personally within the State of Delaware. For purposes of implementing the parties' agreement to appoint and maintain an agent for service of process in the State of Delaware, each party that does not otherwise have a registered agent in the State of Delaware appoints the Delaware Secretary of State as such agent.

### 22. LIMITATION OF LEGAL PROCEEDINGS

All arbitrations under the Contract shall be bilateral and conducted on an individual basis. Neither party shall attempt to initiate an arbitration on behalf of a class; neither party shall attempt to certify an arbitration as a class proceeding, and an arbitrator shall have no authority to award class-wide relief. Buyer acknowledges and agrees that this Condition specifically prohibits Buyer from commencing arbitration proceedings as a representative of others or joining in any arbitration proceedings brought by any other person.

### 23. INJUNCTIVE RELIEF

Each party shall be permitted to institute proceedings in a federal or state court of competent

jurisdiction to seek temporary or preliminary injunctive relief (i) to enforce the other party's confidentiality obligations under the Contract as well as obligations relating to applicable anti-bribery and export sales or (ii) to enforce Condition 22 in any dispute relating to a Contract pending the resolution of that dispute through Arbitration.

### 24. INDEMNITY

24.1 Buyer agrees to investigate, indemnify, hold harmless, and defend TxV, any Group Company of TxV, and each of its or their respective officers, directors, agents, employees, representatives, successors, and assigns (collectively, "Indemnified Parties") from and against:

- (i) any and all claims, demands, damages, fines, penalties, losses, causes of action, liabilities, and judgments (collectively, "Claims") of every kind (including all expenses of litigation, court costs, and reasonable attorney's fees), for damage to any property or injury to or death of any person (including, but not limited to, employees of the Buyer) resulting from, arising out of, or in any way connected with the acts or omissions to act, of Buyer, its officers, agents, employees, representatives, and



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contractors (collectively, the "Buyer Parties"), including to the extent any such Claims are based in part upon the joint or concurrent negligence or strict liability of Indemnified Parties, or whether any such Claims are by way of tort or contract or otherwise. Buyer will not be required to indemnify Indemnified Parties for any Claims determined by final judgment of a court to have been caused by the willful misconduct or gross negligence of Indemnified Parties.

- (ii) any and all Claims resulting from, arising out of, or in any way connected with, any breach of the Agreement by any of the Buyer Parties, including breaches of any representation or warranty made hereunder, or the failure of any of the Buyer Parties to comply with any third party requirements or with any laws including, but not limited to, fines, penalties, and monetary sanctions imposed by any governmental entity, or political subdivision or agency thereof, associated with any such failure.

24.2 Buyer will investigate, defend, hold harmless and indemnify TxV and

the other Indemnified Parties against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by TxV and/or the other Indemnified Parties in relation to any claim brought against TxV and/or the other Indemnified Parties in relation to actual or alleged infringement of any Intellectual Property Rights of a third party or any other rights of a third party arising in any way in relation to the Products and/or Services contracted or otherwise out of or in connection with TxV's performance of its obligations under the Contract or otherwise in breach of the warranty set out in Condition 13.7, including such claims where TxV or another Indemnified Party has contributed to the design of the Products (collectively "IP Claims"). TxV shall have the right to take sole conduct of all IP Claims and in any event, Buyer will make no admission of liability for or on behalf of TxV or an Indemnified Party in respect of any IP Claim or settle any such IP Claim on terms amounting to such an admission without the prior written consent of TxV. Buyer expressly waives any claim against TxV or a TxV Group Company or any other

Indemnified Party that any such IP Claims arose out of compliance with TxV or a TxV Group Company or another Indemnified Party's specification, design or direction.

### 25. NOTICES

All notices, requests, demands, claims and other communications hereunder shall be in writing (except as may otherwise be specifically provided herein to the contrary). Any such written communication shall be deemed to have been duly given (except as may otherwise be specifically provided herein to the contrary), and shall be deemed sufficient to preserve the rights of the sending party, if sent to the address of the receiving party stated in the Contract (or to such other address as any party may designate for itself by notice to the other parties given pursuant hereto) and sent by one of the following methods: (a) mailed by certified or registered mail, with postage prepaid by sender, or shipped by express courier service, with charges prepaid by sender and receipted for, by or on behalf of the intended recipient or (b) delivered by hand and receipted for, by or on behalf of the intended recipient, or (c) mailed by US mail, first class, postage prepaid and, in such case, delivery shall be presumed to have been made three days after such mailing by US mail, first class and postage prepaid, or by telecopier (with evidence of receipt) to the



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below number (or to such other number as any party may designate for itself by notice to the other parties given pursuant hereto) and with copy of the same being sent via overnight delivery to the below address, or (e) by electronic mail (with evidence of receipt) to the email address (or to such other email address as any party may designate for itself by notice to the other parties given pursuant hereto) and with copy of the same being sent via overnight delivery to the applicable address set forth in the Contract.

### 26. PARTIES BOUND

The Contract and all rights, duties, obligations, and undertakings shall be binding upon and shall inure to the benefit of the parties and their respective officers, directors, representatives, agents, employees, affiliates, successors, and permitted assigns, personal and legal representatives and heirs; provided, however, that Buyer shall not assign or otherwise transfer any of such rights, duties, obligations or undertakings or any portion thereof to any third party without the prior written consent of TxV, which consent may be granted or withheld in TxV's sole and absolute discretion.

### 27. ENTIRE AGREEMENT AND AMENDMENT

This Contract constitutes the entire agreement between TXV and the Buyer with respect to the

matters contained herein and supersedes all prior or contemporaneous oral or written agreements, representations or communications. No

modifications, amendments or supplements to the Contract shall be effective for any purpose unless agreed in writing and signed by TXV.

### 28. SEVERABILITY

In the event that any portion of the Contract shall, for any reason, be held invalid or unenforceable, it is agreed that the same shall not affect any other portion of the Contract, but that the remaining covenants and restrictions or portions thereof shall remain in full force and effect, and that if the invalidity or unenforceability is due to the unreasonableness of the covenants and restrictions, the covenants and restrictions shall nevertheless be effective as may be determined to be reasonable by a court of competent jurisdiction.

### 29. SURVIVAL

Provisions of these Conditions which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Contract including, but not limited to, the following Conditions: 4 to 6 inclusive, 8 to 25 inclusive and 28.

### 30. WAIVER OF JURY TRIAL

**TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE PARTIES AGREE TO WAIVE, AND DO WAIVE, TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO UNDER OR IN CONNECTION WITH THE CONTRACT.**