

## CERTECH INC. SALES CONDITIONS — ORDER ACKNOWLEDGEMENT 80502

**ACCEPTANCE:** Subject to the terms and conditions of this Order Acknowledgement and these Sales Conditions, Certech, Inc ("Seller") accepts its buyer's ("Buyer") order for the products or services described in this Order Acknowledgement at the specified prices (provided that Seller may adjust prices for products or services using precious metals to reflect cost increases for the relevant precious metal(s) prior to shipment or performance) (the "Contract"). In the event of any conflict or inconsistency between these Sales Conditions and the body of the Order Acknowledgement, the latter will prevail. UNLESS ACCEPTED IN WRITING BY AN EXECUTIVE OFFICER OF SELLER, ANY ADDITIONAL, DIFFERENT OR INCONSISTENT TERMS OR CONDITIONS IN BUYER'S PURCHASE ORDER, INCLUDING ANY DIFFERENT OR ADDITIONAL DRAWINGS, SPECIFICATIONS, PERFORMANCE STANDARDS, TESTING REQUIREMENTS OR THE LIKE NOT ATTACHED TO OR INCORPORATED BY REFERENCE IN THIS ORDER ACKNOWLEDGEMENT OR IN ANY SELLER'S QUOTATION REFERENCED HEREIN, ARE REJECTED BY SELLER AND SHALL NOT BE BINDING ON SELLER NOR HAVE THE EFFECT OF PREVENTING THE FORMATION OF A CONTRACT OR OF VARYING OR OTHERWISE LEAVING OPEN ANY TERMS OR CONDITIONS. Neither Seller's failure to respond to any such additional, different or inconsistent terms or conditions, nor Seller's commencement of performance shall constitute assent thereto.

**ASSIGNMENT:** This Order Acknowledgement is issued solely to Buyer and is non-transferable. Seller may assign its rights and duties under this Order Acknowledgement, in whole or in part, to any affiliate of Seller, or to any purchaser of substantially all of Seller's business or assets related to performance hereof.

**BUYER DESIGNED PRODUCTS:** As to any products or services for which Buyer provides any or all of the design, specifications or machining or detailed part drawings ("Buyer Designed Products"), Buyer agrees to indemnify and hold harmless Seller and its affiliates, shareholders, directors, officers, employees, successors and assigns from and against any and all liabilities, demands, claims, assessments, costs, judgments, awards, fines, sanctions, penalties, charges, damages, expenses (including any amounts paid in settlement, investigative costs, court costs and attorneys' fees and costs), or losses at any time incurred by any of them as a result of the manufacture or sale of such products or any prototype of same, purchased by Buyer from Seller hereunder, arising out of, related to or in connection with, in whole or in part, the design, manufacture, sale, re-sale or use of the productions by any person, or any documentation or other data furnished by Seller pursuant to the Contract or this Order Acknowledgement, including without limitation, any manufacture, sale, re-sale or use of any thereof and any claims for personal injury, infringement, property damage or other economic loss, whether arising in contract, tort or under any other legal theory (including negligence of Seller or strict liability). Buyer's duty to defend Seller against any such claims is triggered by written notice of any such claim submitted to Buyer by Seller or on Seller's behalf. Seller shall have the right to approve defense counsel retained to represent Seller in any such claim, said approval not to be unreasonably withheld. Seller's delivery of not less than ninety percent of the quantity of each Buyer Designed Product covered hereby will constitute satisfaction of Seller's obligations. Notwithstanding the foregoing, Buyer agrees to accept and pay for up to one hundred ten percent of the quantity of each such product covered hereby.

**CANCELLATION/CHANGES:** Buyer may cancel or modify this agreement only with Seller's written consent, which may be granted or withheld at Seller's sole discretion. Seller may condition its acceptance of any change order or cancellation on Buyer's payment of a change or cancellation charge, as applicable, or a modification of any delivery estimates or performance timetables. Any such charge will be set by Seller in an amount sufficient to reimburse Seller for any costs incurred or committed in performing or preparing to perform the order prior to such change or cancellation, to compensate Seller for any loss of profit occasioned by such change or cancellation, and to reflect any increased costs of performance likely to be incurred by Seller as a result of any accepted change order or cancellation.

**CHANGES IN DESIGN OR CONSTRUCTION:** Seller may change the design or construction of any products or services as it determines (unless the specifications, drawings and design were provided by Buyer), provided that such modified products or services meet any warranted performance specifications.

**CONFIDENTIALITY:** "Confidential Information" means: (a) trade secrets and proprietary and confidential information of Seller which is disclosed by Seller to Buyer and all analyses, compilations, studies, prototypes or other documents or materials prepared by Buyer which may incorporate such information; and (b) the existence of a relationship between Buyer and Seller and all information associated with such relationship. Buyer shall keep in confidence and not use other than for the sole benefit of Seller, nor disclose or make available to any third party any Confidential Information. Confidential Information may be disclosed only to those employees of Buyer who (i) reasonably require access to such information for the benefit of the relationship between Buyer and Seller; (ii) have been informed of the confidential nature of the Confidential Information; and (iii) agree to act in accordance with the terms and conditions of this confidentiality section. Buyer may only publish, use or disclose Seller's name or identity (including, without limitation, in any advertisement, news release or patent application) with the prior written approval of Seller's authorized representative.

**INSPECTION AND TESTING:** Buyer shall inspect and test all products supplied by Seller and shall verify that said products meet all Buyer's design specifications and the requirements of the Contract. Upon discovery of any nonconforming product supplied to Buyer (each, a "Non-Conforming Product"), Buyer shall promptly notify Seller of same. Should Buyer determine that any product supplied by Seller hereunder does not meet all requirements of the Contract or Buyer's design specifications, the parties agree to enter into further good faith negotiations regarding the supply of additional products by Seller to Buyer under this Order Acknowledgement. Absent further agreement, nothing herein shall create any legal obligation on either party to proceed with the supply of any additional products with respect to Non-Conforming Products. Buyer acknowledges that the fees and costs payable pursuant to this Order Acknowledgement will remain due and payable as contemplated under the Contract, notwithstanding that the products do not meet any or all of Buyer's requirements.

**DELIVERY:** Seller will use commercially reasonable efforts to meet any delivery estimates and performance timetables specified in Buyer's purchase order or this Order Acknowledgement, but IN NO EVENT WILL SELLER BE LIABLE FOR DELIVERY OR PERFORMANCE DELAYS, REGARDLESS OF CAUSE. All products or other deliverables shall be delivered Ex-works the Seller's loading dock, unless otherwise specified on the purchase order. Buyer must inspect all deliveries upon receipt. Notification of Seller in respect of defects, shortages or non-conformities reasonably discoverable by inspection must be asserted in writing within thirty (30) days after receipt or will be deemed waived, except that any waiver shall not release Buyer from its obligation to inspect and test all products supplied by Seller for any Non-Conforming Product.

**DRAWINGS & DOCUMENTATION:** Ownership of all drawings, inventions, bills of materials, flow diagrams, plot plans, details, specifications and other data or documentation (regardless of medium) held by Seller prior to undertaking work on the Buyer Designed Products and all associated intellectual or industrial property rights shall be and remain the property of Seller, and Buyer will execute such confirmatory assignments as Seller may from time to time request. Buyer will use any product manuals or documentation (regardless of medium), including any wiring schematics or assembly drawings, solely for the purpose of installation, maintenance, operation and authorized repair of the products. Buyer's use and disclosure of any such manuals or other documentation shall be subject to any confidentiality or nondisclosure agreement between Seller and Buyer and the obligations set out in the section headed "CONFIDENTIALITY" above.

**EQUAL EMPLOYMENT OPPORTUNITY:** There are incorporated into this Order Acknowledgement the provisions of Executive Order 11246 (as amended) of the President of the United States on Equal Employment Opportunities and the rules and regulations issued pursuant thereto, with which Buyer represents it will comply, as applicable. Seller represents that with respect to the production of the products under this Contract, the Seller will fully comply with section 12(a) of the Fair Labor Standards Act 1938 as amended, and the Equal Employment Opportunity Regulations.

**GOVERNMENT CONTRACTS:** If the products are purchased by Buyer pursuant to or in connection with a U.S. Government contract or subcontract, Buyer shall promptly notify Seller in writing of those provisions, if any, of the Federal Acquisition Regulations and/or of the Defense Federal Acquisition Regulations Supplement (collectively, the "FARS/DFARS") that are required to be included in the Contract. The pertinent provisions of the FARS/DFARS described in such notification that are so required to be included will be applicable hereto and will be incorporated herein by reference from and after the date such notification is received by Seller.

**EXPORTS:** All sales, shipments, and sharing of technical data, both domestically and internationally, by Seller, its divisions, and subsidiaries, are done so in accordance with all applicable United States laws and regulations, including, but not limited to, the Export Administration Regulations ("EAR"), International Traffic in Arms Regulations ("ITAR"), Iranian Transaction Regulations ("ITR") and the International Emergency Economic Powers Act ("IEEPA") and any controls thereunder, and/or amendments thereof. By accepting this agreement Buyer confirms that they are not located in (or a national resident of) any country under United States or United Nations embargo or sanction, not identified on any United States Department of

Commerce Denied Persons List, Entity List, United States Department of State Debarred Parties List, and/or the United States Department of the Treasury's Specially Designated Nationals list, and not directly or indirectly involved in the financing, commission or support of terrorist activities or in the development or production of nuclear, chemical, biological weapons or in missile technology programs as specified in the EAR. Upon Seller's request, Buyer agrees to provide all information pertaining to the actual routing of products to be exported and the intended use thereof. Any routing and/or use of Seller's products contrary to the laws and Regulations of the United States or country in which they are being used is prohibited.

**FORCE MAJEURE:** Seller shall have no liability or be in breach for any failure or delay in performance due to strikes, lockouts, concerted acts of workmen or other industrial disturbances, fires, explosions, floods or other natural catastrophes, civil disturbance or riots, armed conflict whether declared or undeclared, terrorist acts, curtailment, shortage, rationing or allocation of normal sources of supply of labor, materials, transportation, engineering, Buyer's technical or Buyer's design difficulties; adverse future government action, energy or utilities, accidents, acts of God, delays of subcontractors or vendors, surference of or voluntary compliance with acts of government and government regulations, embargoes or any other similar or dissimilar cause which is beyond the reasonable control of Seller.

**DISPUTE RESOLUTION - CHOICE OF LAW AND VENUE:** The U.N. Convention on the International Sale of Goods shall not apply to the transactions contemplated herein. The rights and obligations of the parties in respect of this Order Acknowledgement shall be governed by and construed according to the laws of the state of Delaware, USA, without regard to its principles of conflicts of laws. All disputes arising out of this Order Acknowledgement will be brought solely in the state or federal courts having jurisdiction over the county in which Seller's facility named in this Order Acknowledgement is located, and Buyer consents to the personal jurisdiction of and laying of venue in any such court, and waives any objection based on lack of personal jurisdiction or forum non conveniens.

**INVOICES & PAYMENT:** Payment will be due 30 days after the date of Seller's invoice. All overdue amounts will bear interest at the lesser of 1.5% per month or the highest rate allowed by law. If any amount due hereunder is collected through a collection agency or attorney, Buyer will pay Seller's cost of collection, including reasonable attorneys' fees. Seller reserves and Buyer grants a present and continuing first priority purchase money security interest and lien over all products sold hereunder until the purchase price therefor has been paid in full. Buyer irrevocably appoints Seller as attorney-in-fact to execute, if necessary, and file any and all documentation required by law or deemed necessary and appropriate by the Seller to effect, protect and continue Seller's security interest.

**SELLER LIABILITY:** Under no circumstances will Seller be liable, whether in contract, tort or otherwise (including based on negligence or strict liability), for any special, indirect, incidental, punitive or consequential damages of any kind or for any loss of profits. Without limiting any other provision hereof, Seller's maximum liability for direct damages in respect of any products or services furnished to Buyer shall not exceed the actual price paid to Seller in respect thereof. Buyer covenants that its use of any products furnished hereunder will comply with all applicable laws and regulations, and with any applicable product specifications and documentation.

**TAXES:** Quoted prices do not include any excise, sales, value added, goods and services, privilege, use or similar taxes or levies, or import or export duties payable in connection with sale or delivery of any products or performance of any services, all of which will remain the sole responsibility of Buyer. If Seller is required to collect or pay any such taxes, levies or duties, Buyer will pay such amounts to Seller upon invoice.

**WAIVER:** No waiver of any term or condition by Seller shall be valid unless in writing, and no such waiver will constitute a precedent or waiver of the same or any other term or condition on any future occasion.

**WARRANTY - PRODUCTS:** Seller warrants that, under proper and normal use, any products supplied by it (other than prototype) will be free from defects in material and workmanship, other than defects attributable to Buyer's design specifications, for a period of one (1) year from the date of delivery. With respect to any raw material, element or sub-component of a product not manufactured by Seller, Seller's sole obligation will be to assign to Buyer any rights under any warranties in favor of Seller from the vendors thereof, to the extent permitted by the terms hereof. Seller further warrants that, at delivery, the products (other than prototype) manufactured by it will perform in all material respects in accordance with any performance specifications expressly referenced in this Order Acknowledgement, except for failures to perform attributable to Buyer's design specifications. If any such specifications provide for performance or acceptance test(s), compliance with such performance specifications shall be exclusively determined by the result of such test(s), and Seller's liability under this warranty will terminate upon successful completion of such test(s) or, sixty (60) days after delivery if such performance or acceptance test(s) are not completed within such period for reasons beyond Seller's control. If, during the applicable warranty period, any warranted product fails to conform to the applicable warranties, Seller's sole obligation, and Buyer's sole remedy, will be, at Seller's option, to repair or replace the Non-Conforming Product, Ex-works Seller's loading dock, or to refund the price paid to Seller therefor, provided in each case that Buyer shall give Seller immediate written notice upon discovery of such non-conformity, specifying in reasonable detail the nature thereof. Seller will have the option of requiring the return of the allegedly Non-Conforming Product, freight prepaid, to verify the claim. The remedies in this paragraph will be Buyer's sole remedies for failure or underperformance of a Non-Conforming Product and under no circumstances will Seller be liable for any damages, including any special, indirect, incidental, punitive or consequential damages of any kind, or for any loss of profits caused by failure or underperformance of Seller's products. Repairs or alterations made without Seller's written consent shall render all of Seller's product warranties void and of no effect. Buyer shall be solely responsible for all defects or damages attributable to Buyer or conditions (including damage) of or to any product after delivery, including as a result of the use of such product with any other product or raw material not provided or approved in writing by Seller.

**WARRANTY - SERVICES:** Seller warrants that all services provided to Buyer (including any engineering services in connection with the production of any prototypes) will be performed in a workmanlike manner as set forth in this Order Acknowledgement. In the event of any breach of the foregoing warranty, Seller's sole obligation, and Buyer's sole remedy, will be to re-perform the relevant service, without additional charge, or to refund any price paid with respect to such non-conforming service, at Seller's option and under no circumstance will Seller be liable for any damages, including any special, indirect, incidental, punitive or consequential damages of any kind, or for any loss of profits caused by any breach of the foregoing warranty.

**EXCEPT AS EXPRESSLY PROVIDED IN THE "WARRANTY" SECTIONS ABOVE, SELLER MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO ANY PRODUCTS, SERVICES OR DOCUMENTATION, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE, AND SELLER HEREBY DISCLAIMS SAME. ANY INPUT FROM SELLER REGARDING ANY ASPECT OF THE PRODUCTS OR SUITABILITY FOR ANY APPLICATION IS PROVIDED SOLELY AS A CONVENIENCE TO BUYER, ON AN AS-IS BASIS AND WITHOUT ANY WARRANTY (EXPRESS OR IMPLIED) AND DOES NOT CONSTITUTE A RECOMMENDATION OR SUGGESTION AS TO ANY ASPECT OF THE PARTICULAR PRODUCT OR USE FOR ANY PARTICULAR APPLICATION.**

**MISCELLANEOUS:** (a) Except as otherwise expressly provided in a written document signed by both parties, this document constitutes the entire agreement between the parties and all prior agreements and communications between the parties are hereby merged into this agreement. All notices required under this agreement shall be in writing and sent by commercially reasonable means. In case any provision of this agreement should be or become unenforceable under applicable law, that provision will be severed, and the remaining provisions will remain in effect.

(b) Seller's fulfillment of the purchase order is dependent on acceptability and usability of any Buyer-provided tooling, otherwise Seller reserves the right to charge a finishing surcharge or reject the purchase order.