

Fill in this information to identify the case:

Debtor 1 Proterra Operating Company, Inc.

Debtor 2 _____
(Spouse, if filing)

United States Bankruptcy Court for the: _____ District of Delaware

Case number 23-11121

- Date Stamped Copy Returned
- No self addressed stamped envelope
- No copy to return

Official Form 410
Proof of Claim

04/22

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor? Crystal Instruments Corporation
Name of the current creditor (the person or entity to be paid for this claim)

Other names the creditor used with the debtor _____

2. Has this claim been acquired from someone else?
 No
 Yes. From whom? _____

3. Where should notices and payments to the creditor be sent?
Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

Where should notices to the creditor be sent?	Where should payments to the creditor be sent? (if different)
<u>Crystal Instruments Corporation</u> Name <u>2090 Duane Ave</u> Number Street <u>Santa Clara CA 95054</u> City State ZIP Code Contact phone <u>Tiffany Pan</u> Contact email <u>Tpan@go-ci.com</u>	 Name Number Street City State ZIP Code Contact phone _____ Contact email _____

Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____

4. Does this claim amend one already filed?
 No
 Yes. Claim number on court claims registry (if known) _____ Filed on _____
MM / DD / YYYY

5. Do you know if anyone else has filed a proof of claim for this claim?
 No
 Yes. Who made the earlier filing? _____

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Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? No
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____

7. How much is the claim? \$ 18,425.00. Does this amount include interest or other charges?
 No
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
Limit disclosing information that is entitled to privacy, such as health care information.
Extended software subscription & Extended Hardware Warranty

9. Is all or part of the claim secured? No
 Yes. The claim is secured by a lien on property.
Nature of property:
 Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
 Motor vehicle
 Other. Describe: _____
Basis for perfection: _____
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)
Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)
Amount necessary to cure any default as of the date of the petition: \$ _____
Annual Interest Rate (when case was filed) _____ %
 Fixed
 Variable

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10. Is this claim based on a lease? No
 Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? No
 Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

- No
 Yes. Check one:

Amount entitled to priority

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

- Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). \$ _____
- Up to \$3,350* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7). \$ _____
- Wages, salaries, or commissions (up to \$15,150*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4). \$ _____
- Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8). \$ _____
- Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5). \$ _____
- Other. Specify subsection of 11 U.S.C. § 507(a)() that applies. \$ _____

* Amounts are subject to adjustment on 4/01/25 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

Check the appropriate box:

- I am the creditor.
- I am the creditor's attorney or authorized agent.
- I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

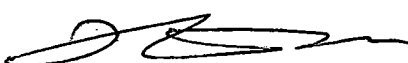
I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 08 08 2023
MM / DD / YYYY



 Signature

Print the name of the person who is completing and signing this claim:

Name Tiffany ZHENPING Pan
First name Middle name Last name

Title CFO

Company Crystal Instruments Corporation
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 2090 Duane Ave
Number Street

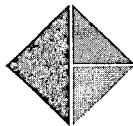
Ssnta clara CA 95054
City State ZIP Code

Contact phone 4089868880 Email tpan@go-ci.com

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CRYSTAL INSTRUMENTS

CRYSTAL INSTRUMENTS CORP

2090 Duane Ave

SANTA CLARA, CA 95054 USA

Phone # 408-986-8880 Fax #408-834-7818

www.crystalinstruments.com

Original

Invoice

Date (mm/dd/yyyy)	Invoice #
7/19/2023	13000

TIN:77-0427968
D&B DUNS Number:805119653

Bill To	Ship To
Proterra Operating Company, Inc. Accounts Payable 1 Whitlee Ct. Greenville, SC 29607	Proterra Operating Company, Inc. 1815 Rollins Road Burlingame, CA 94010

P.O. Number	Payment Terms	Rep	Ship (mm/dd/yyyy)	Via	F.O.B.	S.O. Number	Project
823748	Net 60	AF	7/19/2023	Included	Origin	230777	

No.	Quantity	Item Code	Description	Price Each	Amount
1	1	CI-T32	Extended software subscription, one year.	3,460.00	3,460.00
2	1	CI-T40	Front-End Extended Hardware Warranty, One Year(16 channel systems) SN: 1033760,1034560,3229536	2,299.00	2,299.00
3	1	CI-T32	Extended software subscription, one year.	8,415.00	8,415.00
4	1	CI-T40	Front-End Extended Hardware Warranty, One Year SN 1058240,1058336,3231488	2,299.00	2,299.00
5	2	FECT-M1	Permanent FECT - Manual License for 1 Front-End SN 1058240,1058336	2,000.00	4,000.00
		Discount Service	Sales Discount for Service	-2,048.00	-2,048.00
			Sales Tax 9.625%	9.625%	0.00

	USD Total	\$18,425.00
	Payments/Credits	\$0.00
	Balance Due	\$18,425.00

These items are controlled by the U.S. Government and authorized for export only to the country of ultimate destination for use by the ultimate consignee or end-user(s) herein identified. They may not be resold, transferred, or otherwise disposed of, to any other country or to any person other than the authorized

Please remit payments to:

Crystal Instruments Corp
2090 Duane Ave, Santa Clara, CA 95054

Bank Information for Wiring:

Bank Name: JPMorgan Chase Bank, N. A.
City, State: Palo Alto, CA
SWIFT Code: CHASUS33
ACH Routing: 322271627
Account Number: XXXXX7900
Title of Account: Crystal Instruments Corp
Note: Please indicate the invoice number in wire instruction.

Contact: sales@go-ci.com

All payments must be made in USD. CRYSTAL INSTRUMENTS (CI) may extend or withhold credit to the Buyer at sole discretion of CI. When credit is extended to the Buyer, the terms of payment shall be determined prior to the order acknowledgement. Credit may be withdrawn or subsequent shipments may be held by CI at any time for late payments of more than 30 days of due date. The Buyer shall pay interest at the rate of 1.5% per month from the due date of invoice for any late payments. Once credit is withheld, prepay terms will be applied to all future shipments until the overdue balance is paid off AND at least one (1) prepaid term purchase is completed.

The prices of CI products are exclusive of all taxes and duties. Without limitation of the foregoing, responsibility for all customs duties and charges, sales taxes, use taxes, value-added taxes and any other taxes imposed by any federal, state, local or municipal taxing authority (excluding any taxes solely on an income of CI), shall be borne solely by the Buyer.



Type	Standard Purchase Order
Order	823748
Order Date	19-JUL-2023
Revision	0
Revision Date	
Requester/ Deliver To	Aaron Zetley
Requester Email	azetley@proterra.com
Buyer	Jamie Caddell
Contact	jcaddell@proterra.com

Supplier: **Crystal Instruments Corporation**
 2090 Duane Ave
 Santa Clara, CA 95054
 United States
 SALES Ali Farrokhian

Bill To: **Proterra Operating Company Inc.**
 1 Whitlee Court
 Greenville, SC 29607
 United States
 ap@proterra.com

Ship To: **Proterra Operating Company Inc.**
 1815 Rollins Road
 Burlingame, CA 94010
 United States

Customer Account No.	Supplier No.	Payment Terms	Freight Terms	IncoTerms	Transportation	Ship Via
	3496	NET 60				
Confirm To			Requester/Deliver To			
poconfirmation@proterra.com			Aaron Zetley			

Change	Change Summary
End of the Changes	

"Please note: As of 7/17/2023, delivery date has been changed to Supplier Ship Date. Parts on this PO must be ready on the supplier's dock on this date."

Line	Part Number / Description	Supplier Ship Date	Quantity	UOM	Unit Price (USD)	Tax	Amount (USD)
1	Crystal Instruments, Extended Warranty for Software and Support for Dual Shaker System and Dongling Vibration Table	05-JUL-2023	1	Each	18,425.00	N	18,425.00
	o SHIP TO: Proterra - Burlingame 1815 Rollins Road Burlingame, CA 94010 United States						
Total (USD):							18,425.00

Buy America:

Valued Supplier, effective immediately we ask that a Buy America Certification is provided for each part provided to Proterra on an annual basis and for each new component awarded after receipt and acceptance of the purchase order. The Buy America certification is required on over 90% of Proterra contracts in order to be in full compliance with all applicable FTA requirements and Federal Legislation. The Buy America cert can be found at the following link: <https://www.proterra.com/resources/suppliers/>. We ask that you return the completed form to: DG_Sourcing_Certificates@proterra.com. For any questions concerning certification requirements please contact Melissa Keeney at mkeeney@proterra.com.

Production Part Approval Process:

In addition to the physical part(s) being provided on this PO, there is also a Production Part Approval Process (PPAP) documentation requirement. Details of the Part PPAP requirements can be found in the "Proterra Partner's Guide" and "Proterra APQP_PPAP Requirements" document, both of which can be provided by Proterra Commodity Manager, Buyer, Supplier Quality Engineer, or at the Proterra Supplier Portal: <https://www.proterra.com/resources/suppliers/>. To submit PPAP's please have your quality manager visit: <https://proterra.ppapmgr.com/>.



Domestic Supplier Freight Routing Instructions

PROTERRA FACILITIES:

Proterra - LAX
 393 Cheryl Ln.
 City of Industry, CA 91789

Proterra - BGM
 1815 Rollins Rd.
 Burlingame, CA 94010

Proterra - GVL
 1 Whitlee Court
 Greenville, SC 29607

PARCEL SHIPMENTS:

Preferred Carrier UPS (Unless otherwise noted):

- Our LAX office is also known as Walnut, CA 91789 and/or City of Industry, CA 91789.
- Please provide Packing Slip(s) that reference the PO & part number as well as the quantity of each part attached to or inside the packaging. This aids proper receipt and prevents payment delays to suppliers.

Parcel Max Limits:

- UPS has established specific weight and size limits for the packages that you send with all UPS services. The restrictions below only pertain to individual packages. There are no limits to the total weight of your shipment or the total number of packages in your shipment.
 - Packages can be up to 150 lbs.
 - Packages can be up to 165 inches in length and girth combined.
 - Packages can be up to 108 inches in length.
- For shipments that exceed those limits, please defer to our "Freight Shipments" instructions below and/or work directly with your Proterra Buyer for solutions.

UPS Acct #'s			
Carrier Name	Burlingame, CA 94010	Greenville, SC 29607	LAX, CA 91789
UPS Parcel	2FX095	88767W	5RY558

NOTE: Please **DO NOT** send any shipments via Air or Priority transit unless you have a documented direct request from a Proterra Supply Chain Logistics representative. An approved documented request must come in the form of an email that clearly specifies the required delivery date (i.e. NEED BY DATE) to the respective Proterra facility. **THE USE OF UPS EXPRESS PLUS, UPS EARLY AM, FEDEX INTERNATIONAL FIRST OR FEDEX FIRST OVERNIGHT ARE SERVICE LEVEL'S NO LONGER AVAILABLE FOR USE UNDER ANY PARCEL ACCOUNT, PLEASE DO NOT ATTEMPT TO USE.**

NOTE: **Suppliers who do not adhere to our "Supplier Routing Instructions," or select an unapproved expedited service, will be billed directly for the full amount of the freight bill.**





Domestic Supplier Freight Routing Instructions

FREIGHT SHIPMENTS:


Preferred carrier is Echo Global Logistics (Unless otherwise noted):

ECHO CONTACT LIST:





CONTACT US



Echo Dedicated Account Team Contact Information		Please use these dedicated methods to contact your account team, as well as information for vendor routing instructions.
Dedicated Phone Number:	312-999-2193	
Dedicated Fax Number:	312-334-2933	
Dedicated Email Address:	proterra@echo.com	
UPDATED DECEMBER 2018		
Individual Echo Team Contact Information		
Name	Phone	Email
TIER 1		
Felipe Faus Long Beach Account Executive	312-999-2193	proterra@echo.com
Dan Turner Long Beach Account Executive		
Ashley Martin Chicago Account Executive		
Chicago Account Executive		
TIER 2		
Melissa Gastelum Operations Manager	562-388-6182	melissa.gastelum@echo.com
Escalation - For any issues that need additional attention, please follow these escalation guidelines: Day-To-Day Operations / Minor Operational Issues: Items which can be resolved quickly and efficiently, are non-critical in nature and are non-repetitive expect to contact Tier 1 and escalate to Tier 2. These issues include: → Standard Load Information/Equipment Requests → Standard Shipment Status → Critical Shipments		Major Operational Issues: Items that require immediate action above and beyond the current teams response or issues that have been diagnosed as being patterns please contact the additional Tiers up to Tier 4. These issues include: → Repetitive Carrier Issues → Repetitive Late or Missed Pick-Ups → Operational Issues Not Addressed By Team



Domestic Supplier Freight Routing Instructions

BOOKINGS:

- EchoTrak Portal Bookings *(For those with Access)*
 - Book LTL, TL, Partial and NON-Expedite shipments through the EchoTrak Portal
 - Please call or email Echo directly, using contact list above, for the listed modes below:
 - Air
 - Expedites by land
- **NOTE:** If you do not have access to the EchoTrak portal, please call or email your bookings for all modes directly to the Echo team using the dedicated access information in the Echo contact list.

BOOKING LEAD TIMES:

- Echo or Carrier will coordinate pick-up based on Supplier booking information of cargo ready date and time. *(Suppliers are responsible to update Echo of any changes to pick-up timeframes. Failure to communicate information back to Echo may result in a dry run fee that will be charged back to vendor.)*

Required Booking Lead Time	
Mode	Days/Time prior to Cargo Ready Date (KPI)
Air	24 hours (1 Business Day)
TL/Partial	48 hours (2 Business Days)
LTL	48 hours (2 Business Days)
LTL (Same day Request)	No later than 12pm local time. 2-hour lead time for shipping operations that close before 2pm local time.

NOTE: If your shipping operation closes before 2pm local time, we require 2-hour lead time from your close time.

- For **RURAL** locations please see lead times below. *(Locations that are generally located outside of urban areas)*

Required Booking Lead Time	
Mode	Days/Time prior to Cargo Ready Date (KPI)
Air	24 hours (1 Business Day)
TL/Partial	48 hours (2 Business Days)
LTL	48 hours (2 Business Days)
LTL (Same day Request)	No later than 10am local time. 4-hour lead time for shipping operations that close before 2pm local time.

NOTE: If your shipping operation closes before 2pm local time, we require 4-hour lead time from your close time.

REQUIRED DETAILS FOR ALL SHIPMENTS:

- Weight of package in lbs



PROTERRA

Domestic Supplier Freight Routing Instructions

- Quantity of packages
- Shipping container i.e. pallet, box
- Size of container if not a standard pallet or box
- Full ship from address
- Full ship to address
- Freight class
- Pick up window (date/time)
- Shipping/Receiving hours
- Proterra Need By Delivery Date (REQUIRED)
- Special instructions of any kind (i.e. hazmat, lift gate required, appointment, etc)
- Packing Slips

REQUESTED DETAILS:

- NMFC number if available
- Shipping contact information such as email and phone numbers
- Clear directions or instructions for trucking companies

NOTE: Please ensure that all shipments have a packing slip that references the PO & part number as well as the quantity of each part attached to the pallet or inside the package. This aids proper receipt and prevents any payment delays.

PROTERRA SUPPORT:

Should you have any questions, comments or concerns regarding our logistics process, please contact your assigned Commodity Manager or our Logistics team. For your reference, Proterra's Commodity Manager contact list is noted below:

- Proterra Sourcing
DG_SCSourcingproterra.com@proterra.com
- Proterra Logistics
SCLogistics@proterra.com

NOTE: Suppliers who do not adhere to our "Supplier Routing Instructions," or select an unapproved expedited service, will be billed directly for the full amount of the freight bill.

PROTERRA INC - Terms and Conditions

1. **Acceptance.** This PO is an offer by Proterra Inc ("Buyer") for the purchase of goods ("Products") and/or services ("Services") from the party to whom the PO is addressed ("Seller") subject to these terms and conditions ("Terms"); together with the PO, the "Agreement". Seller shall be bound by Buyer's offer when (a) Seller returns an acknowledgment copy of a PO; (b) Seller commences work on Products or performance of Services; or (c) Seller ships Products, whichever occurs first.

2. **Complete Agreement.** This Agreement, and any PO entered into herewith (if any), constitute the entire agreement between Buyer and Seller. Any previous agreements or terms that are inconsistent with any of the terms and conditions set forth in this Agreement and any PO are hereby rendered null and void. No agreement to modify this Agreement or any PO shall be binding upon Buyer unless agreed to in writing.

3. **Payment Terms; Delivery.** Unless otherwise specified in the PO, payment shall be net sixty (60) days from the last day of the calendar month in which a correct and valid invoice is received by Buyer. Delivery shall be Ex Works (EXW). No charges against Buyer will be allowed for taxes, import duties, transportation, packaging, or other matters not expressly identified in this Agreement or a PO. Damage resulting from improper packaging will be by borne by Seller. Seller agrees to supply Products at ninety-seven percent (97%) On Time Delivery (OTD) based on the delivery date(s) specified in the PO. If the OTD percentage falls below this number, more than two months sequentially and a resolution is not in place by the fifteenth (15th) day of the third month from the first occurrence, then Buyer may terminate any open remaining POs at no charge.

4. **Warranty.** Seller warrants for a period of the lesser of ~~thirty six (36) months~~ after date of receipt by Buyer or ~~twenty four (24) months~~ following the date Buyer's product containing the Product is delivered to, and accepted by Buyer's customer ("Product Warranty Period") that the Products will be (i) in full conformity with all specifications and other descriptions, (ii) fit for their particular purpose, (iii) merchantable and of good quality material and workmanship consistent with the highest industry standards, (iv) free from defects, whether latent or otherwise, and (v) adequately contained, packaged and labeled ("Product Warranty"). If Products fail to conform to the Product Warranty, then Supplier will, at its own expense, promptly repair or replace such Products (with such repair or replacement being subject to Buyer's approval in its sole discretion), which right shall be in addition to such other rights as Buyer may have in law or equity. Such replacement Products will be warranted for the remainder of the original warranty, but not less than one (1) year. If Supplier is not able to promptly repair or replace such Products, Supplier shall promptly refund to Buyer amounts paid for such Products. In addition, Seller warrants that the Services will (i) be performed in a prompt and workmanlike manner consistent with the highest industry standards, and by qualified persons that have the requisite knowledge, training and skills, (ii) be free of any claim of intellectual property infringement, (iii) comply with all applicable laws or regulations, and (iv) conform to the specifications and requirements as specified in the PO ("Services Warranty") the Product Warranty and Services Warranty shall be collectively referred to as the "Warranty". If Services fail to conform to the Services Warranty, then Supplier will, at its own expense, promptly re-perform the Services. If Seller is unable to promptly re-perform the Services, Supplier shall promptly refund to Buyer the amounts paid for such Services. Buyer has the right to charge-back to Seller or offset from amounts owed to Seller for all of Buyer's reasonable costs, expenses and liabilities incurred to remedy or repair defective Products or Services, including, but not limited to, Buyer's costs and expenses relating to diagnosing, testing, labor, travel, expedited shipping, and other costs, to remedy or repair such defective Products or Services. Buyer will issue a Non-Conformance Report ("NCR") and a Receiving Inspection Financial Tracker ("RIFT") to identify the defective Products or Services and account for Buyer's cost, expenses and liabilities. The Warranty shall be in addition to any warranties of broader scope and service warranties and guarantees given to Buyer by Seller, shall survive inspection, testing, acceptance, and payment, and shall run to Buyer, its affiliates, its successors, assigns, and Buyer's customers. No later than thirty (30) days following the issuance of the first PO hereunder, Seller shall provide a detailed warranty claims process to enable Buyer to efficiently enforce the Warranty if necessary.

Seller will be given the opportunity to remedy defective Products a maximum of two (2) times within a single thirty (30) day period. If after two (2) times, the remedy is not sufficient to provide acceptable products to Buyer, Buyer may cancel the remaining open Purchase Orders at no charge. In addition, if during the Warranty Period, more than one-half percent (0.5%) of Seller's Products delivered to Buyer are determined to be defective or non-conforming ("Abnormal Rate of Return"), upon written notice from Buyer to Seller that such Abnormal Rate of Return has occurred, the Warranty Period for each of the Products delivered to Buyer shall be extended day for day until such time the Abnormal Rate of Return is reduced below one-half percent (0.5%).

Buyer shall also have the right to reasonably declare a recall of, or field corrective action to, any Products manufactured by Seller for Buyer. Seller agrees to indemnify Buyer for all expenses in any such recall, provided that the recall is attributable to a breach of any of the warranties provided in this Agreement or is otherwise attributable to a defect related to Seller's manufacturing, packaging and/or labeling processes. Seller shall also credit Buyer's account for the Products recovered and/or returned to it as a result of any such recall.

5. **Quality Assurance.** Seller is subject to Buyer's Supplier Quality Manual, which includes Advance Product Quality Planning ("APQP") and Production Part Approval Process ("PPAP") (collectively, the "Quality Review") to ensure the Products are manufactured in a quality manner and aligned with Buyer's specifications. As part of the Quality Review, Buyer may audit and evaluate Seller's manufacturing process, equipment, work instructions, inspection protocol, and similar items. Seller shall make commercially reasonable efforts to promptly resolve issues identified during the Quality Review.

Upon the initial shipment of Products, Seller shall provide a Part Submission Warrant ("PSW") to Buyer stating that the Products were manufactured in accordance with the materials and processes agreed to during the Quality Review. In addition, Seller shall measure the initial ten (10) Product shipments and conduct a process capability study with the objective of achieving a 1.67 Cpk using the metrics agreed to during the Quality Review. The parties will collaborate to improve the processes related to Cpk's under 1.67 through enhanced inspections, process and other similar activities. Supplier shall supply a Certificate of Conformance (CoC) with each shipment.

6. **Product Manufacture; Upgrades/Discontinuance.** Seller shall continuously supply each Product, or an equivalent product (reasonably agreed to by Buyer), for a minimum period of five (5) years following the end of the Warranty Period for the Products purchased by Buyer pursuant to the last issued PO hereunder ("Supply Period"). During the Supply Period, Buyer may purchase Products (or equivalents) pursuant to this Agreement, with pricing equivalent to the pricing offered to other similarly situated customers. If Seller intends to discontinue the manufacture and sale of the Products after the end of the Supply Period, Seller shall provide at least eighteen (18) months prior written notice to Buyer. During such eighteen-month period ("Discontinuance Period"), Buyer may place a final PO for Products (or equivalents) pursuant to this Agreement; provided however, the last delivery date for such Products (or equivalents) shall not be more than six (6) months after the end of such Discontinuance Period. If Seller used tooling other than Buyer's Property (defined below) to manufacture the Products, Buyer shall have the right to purchase such tooling at fair market value during the Discontinuance Period. Seller shall promptly notify and provide written information on any upgrades or modifications to existing Products and new product development for products similar to any of the Products. All such modifications, regardless of whether Seller believes they will impact the Products, shall be communicated no less than forty-five (45) days prior to taking effect.

7. **Spare Parts.** Seller shall stock spare parts ("Spare Parts") of sufficient type and quantity to replace or repair any reasonably foreseeable failures related to the Products. Spare Parts shall be made available for twelve (12) years from the start of the Warranty Period of each Product. Spare Parts shall ship within forty-eight (48) hours of the receipt of a PO for such Spare Parts or a Warranty claim.

8. **Technical Documentation, Software, Support & Training.** Seller shall provide the following technical documentation ("Technical Documentation") at the time of initial delivery of the Product: (i) complete parts manual(s) including field replacement units, (ii) electrical or pneumatic schematics (if applicable), (iii) maintenance and repair manual(s), and (iv) operation manual(s). Technical Documentation shall contain adequate detail to enable users to reasonably maintain and repair the Products. Buyer shall have access to any Seller software required to support and operate the Products ("Seller Software"). Seller shall maintain the compatibility of Seller Software with the current version of the commonly used computer operating system (e.g., Windows 10) as well as the previous two versions of such operating systems. Seller shall provide competent personnel as technical support for all Products ("Technical Support"). Technical Support shall assist with field problem resolution, root cause failure analysis, and other support required to maintain operation of the Products. Technical Support shall be made available within four (4) hours of the Buyer's request. Technical Documentation, Seller Software and Technical Support shall be maintained as stated herein for twelve (12) years from the start of the Warranty Period of each Product. Seller shall provide product training to Buyer or Buyer's designated third party(ies) ("Training"). Training shall enable Buyer or its third parties to perform preventative maintenance, scheduled component replacements, and diagnose and repair field issues related to the Products. Seller shall perform any commissioning or activation checks required to ensure the correct installation and warranty coverage of the Products. There shall be no additional cost to Buyer for such checks. The parties shall meet quarterly, or as needed in Buyer's sole discretion, to review issues related to spare parts, product changes, warranty administration, and other such aftermarket issues.

9. **Value Add and Value Engineering.** Seller and Buyer will participate in value add and value engineering with the target of annual cost reductions of at least twelve percent (12%) achieved by process change, material change or other cost improvements.

10. **Confidentiality.** All information and specifications directly or indirectly shared or disclosed by Buyer to Seller, its affiliates, its agents and its representatives shall be held by Seller, its affiliates, its agents and its representatives in confidence, and Seller shall take all reasonable precautions to prevent any such confidential information from being divulged to any entity or person for any purpose other than as reasonably necessary to perform this Agreement and any PO hereunder. Seller, its affiliates, its agents and its representatives shall only use such confidential information strictly in connection with the performance of this Agreement. This obligation of confidence shall continue for five (5) years after the termination of the last PO hereunder; provided, however, any information that constitutes a trade secret shall remain subject to all confidentiality obligations herein until such time as the information is no longer a trade secret.

11. **Intellectual Property.** All intellectual property of Buyer shall remain the sole property of Buyer, and Buyer grants Seller a non-exclusive, non-transferable, royalty-free license to use unique specifications and any other confidential information provided by Buyer to Seller, but solely for the purpose of manufacturing the Products, or performing the Services, for Buyer, in connection with this Agreement. Seller, its affiliates and their employees shall disclose and assign on demand, and it and they do hereby assign, to Buyer all inventions, improvements, or developments, each whether patentable or not, that it and/or they may make or assist in making in the course of development of any Products or specifications for any Products, or use in the performance of any Services, provided that such design or development is paid for by Buyer or is otherwise based on unique specifications or other confidential information provided by Buyer. In addition, Seller, its affiliates and their employees agree that all information, ideas, results, and data developed by Seller, its affiliates and their employees as a result of developmental work paid for by Buyer shall be the exclusive property of Buyer. Seller, its affiliates and their employees will defend or settle, at its and/or their own expense, any claim, suit or proceeding brought against Buyer to the extent it is based upon a claim that any Product or Service infringes any intellectual property, patent or copyright, or misappropriates any trade secret, of any third party.

12. **Tooling.** Seller agrees that, unless otherwise agreed to by the parties, all tooling, intellectual property, drawings, plans, specifications, materials, samples and equipment furnished by Buyer either directly or indirectly to Seller, along with any and all tooling, intellectual property, drawings, plans, specifications, materials, samples and equipment for which Buyer has agreed to reimburse Seller, shall be and remain the sole and exclusive property of Buyer (collectively, "Buyer's Property"). Seller shall treat all Buyer's Property with due care and diligence, constantly keeping it ready for operation. Seller bears the risk of loss of and damage to Buyer's Property while under Seller's direct or indirect care, custody or control. Seller shall not directly or indirectly grant or allow any security interest, mortgage, charge, lien or any other encumbrance, claim or right on any of Buyer's Property. Buyer and its affiliates have the right to take immediate possession of Buyer's Property at any time without payment of any kind. If Buyer purchases tooling through Seller to manufacture Products, Seller agrees to apply a Buyer's asset tag indicating the equipment is Buyer's property and allow Buyer to audit the facility from time to time to review the condition of the tooling.

13. **Indemnification; Liability.** Seller shall indemnify, defend, and hold harmless Buyer and its subsidiaries, affiliates, directors, officers, employees, representatives and agents, and their successors and assigns, against all damages, claims, allegations, suits, actions, or proceedings arising from or in connection with: (a) any failure by Seller to comply with any term of this Agreement or any PO issued hereunder; (b) any infringement, claimed infringement, or unauthorized or unlawful use of any patent, copyright, or trademark, trade secret or proprietary data; (c) any negligence, gross negligence or intentional or willful conduct, omissions or fraud of Seller, its affiliates and their employees; or (d) any personal injury, death, or property damage sustained by any person or entity from use of any Product, or receipt of Services, under this Agreement or any PO, unless such injury, death, or damage results solely from intentional or grossly negligent acts or omissions of Buyer. In no event will Buyer be liable to Seller for any indirect, incidental, consequential, or punitive damages, or for loss of profits or revenue, whether in an action in contract, tort, strict liability, or otherwise. Buyer's cumulative liability under this Agreement and all PO's will not exceed the aggregate amount paid by Buyer under this Agreement and all PO's, even if a term of this Agreement or any PO fails of its essential purpose.

14. **Forecasts.** Any forecasts provided by Buyer shall be for informational and capacity planning purposes only and are not binding on Buyer to purchase Products or Services.

15. **Liability.** During the term of this Agreement and for a period of two (2) years thereafter, Seller shall, at its own expense, maintain and carry insurance in full force and effect, which includes, but is not limited to, commercial general liability in a sum no less than \$3,000,000. Upon Buyer's request, (a) Seller will furnish certificates of insurance and any renewals, evidencing that satisfactory policies are in full force and effect, and (b) Seller shall cause Buyer and its affiliates to be named as additional insured on all such policies, as applicable.

16. **Termination.** Buyer may terminate all or any part of a PO for Buyer's convenience not less than forty-five (45) days prior to the scheduled delivery date, in which event, Seller agrees to stop work immediately as to the terminated portion of the PO and to notify subcontractors, if any, to stop work, and protect and preserve property in its possession in which Buyer has an interest. If Seller has incurred costs for commercially reasonable purchases of raw materials or components to support deliveries beyond the forty-five day noncancelable period under the PO, Buyer shall reimburse such costs to the extent Seller is able to establish that the raw materials or components are unusable in connection with Seller's other business. Seller may not recover such costs for raw materials or components purchased in connection with Products scheduled to be delivered beyond ninety (90) days of the termination date. In no event shall the termination costs and all previous payments made under the PO exceed the total PO value shown on the face of the PO, or include any anticipatory profits related to work under the PO not yet performed or costs incurred due to Supplier's failure to terminate work as of the termination date. In the event that either party commits a material breach of its obligations under this Agreement and fails to cure that breach within thirty (30) days after receiving written notice thereof, the other party may terminate this Agreement immediately upon written notice to the party in breach.

17. **Miscellaneous.** Seller shall not assign this Agreement or any of Seller's rights under this Agreement, without the prior written consent of Buyer. Buyer may assign this Agreement without the consent of Seller to an affiliate or to a successor-in-interest in the event of a merger, reorganization or sale of all or substantially all of the stock, assets or business of Buyer. At all times Seller shall comply with all applicable laws, regulations, rules, and orders. Seller represents and warrants that the Products satisfy the Buy America requirements of 49 CFR 661, and Seller shall provide certification of compliance with Buy America with each Product shipment in a form reasonably acceptable to Buyer. A waiver of a breach of any term of this Agreement or any PO hereunder will not be construed as a waiver of any succeeding breach of that term or as a waiver of the term itself. The Agreement and any PO issued hereunder have been made and delivered in the United States, and California law (excluding any choice of law rules) will govern their interpretation and enforcement. Seller agrees to subject itself to the jurisdiction and process of the courts of the State of California or federal courts located in the Northern District of California as to all matters and disputes arising or to arise under this Agreement or any PO hereunder. Unless Buyer's prior written consent is obtained, Seller shall not make any announcement or release any information concerning this Agreement to any public market or any third party except as required for performance hereunder or by applicable law. Buyer and Seller are contractors independent of one another. The invalidity in whole or in part of any provision hereof shall not affect the validity of any other provision.

Seller and any of its subcontractors shall abide by the requirements of 41 CFR §§ 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals on the basis of protected veteran status or disability, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.

18. **Minerals Sourcing.** Seller agrees to (i) comply with Buyer's Conflict Minerals Policy, which has been provided to Seller, (ii) provide such information as requested by Buyer evidencing Seller's compliance therewith and (iii) take such action and provide such information as reasonably requested by Buyer pertaining to the responsible sourcing of minerals.

19. **Combating Trafficking.** Seller acknowledges that Buyer strictly prohibits human trafficking in all of Buyer's operations and in those of all subcontractors, suppliers and agents in its global supply chain.