



General Terms and Conditions for Purchase

1 APPLICABLE LAW - DEFINITIONS. The definition of terms, interpretation of this Order, and the rights of parties hereto shall be construed and governed by the laws enacted by Buyer's state (as shown on the face hereof), including the Uniform Commercial Code. All reference herein to federal, state or local statutes, regulations, rules and orders shall be deemed to include all amendments and revision thereof. "Buyer" means the division or subsidiary of Xaler Systems, LLC (Xaler) shown on the face hereof. "Seller" means the person or entity to which this purchase order is addressed. "Order" means this purchase order, including all terms and conditions on the face and reverse side hereof and all specifications issued hereunder and all drawings, models and samples furnished hereunder. "Goods" means those articles, materials, and drawings, data or other property or services that are the subject of this Order. "Seller" also includes Seller's principal if Seller is acting as broker or agent.

2 ACCEPTANCE. If this order is deemed to constitute an offer, it shall be accepted in the expressly limited manner specified on the face hereof. If this Order is deemed to constitute acceptance of an offer, such acceptance is expressly made conditional on Seller's assent to the terms of this Order, and shipment of any part of the Goods or other commencement of performance shall be deemed to constitute such assent.

3 PRICE. If the price is omitted in this Order, the Goods shall be billed at the lower of the price last paid or quoted, or the prevailing market price.

4 ROUTING, RISK OF LOSS, EXCESS SHIPMENTS, DELAYS. (a) Time is of the essence in the performance of this Order by Seller. (b) Buyer may select mode of transportation, routing of, and carrier for the Goods. Seller shall be liable of excess transportation costs resulting from deviation from Buyer's instructions. (c) Goods shall be delivered by Seller to Buyer's business from which goods were ordered, unless otherwise specified on the face hereof. Risk of loss as to such Goods shall remain with Seller until after Goods are delivered and all nonconformity's are cured. (d) Buyer's weight and count are conclusive, and Buyer shall have no liability for payment for Goods delivered in excess of the quantity ordered. Excess Goods shall be subject to rejection by Buyer and re-delivery to Seller at Seller's expense. (e) If, prior to time for delivery of the Goods, Seller has reason to believe that it will be unable to meet its delivery schedule, it shall immediately notify Buyer in writing, shall indicate the cause of delay, shall use its best efforts to cure the anticipated delay, and permit Buyer to engage in expediting. Upon receipt of notice of the anticipated delay or upon occurrence of an actual delay, Buyer may (I) direct expedited routing of Goods, with excess costs paid by Seller, or (II) cancel the Order and purchase substitute Goods elsewhere, with resulting excess costs and expenses paid by Seller.

5 EXPEDITING. Buyer's personnel shall be allowed reasonable access to Seller's facilities, and its sub-Sellers, for expediting purposes. Seller shall supply schedules and progress reports to Buyer for use in expediting.

6 DELIVERY: Packing & Crating. Goods to be furnished hereunder shall be suitably prepared for shipment to secure lowest transportation rates (unless a premium method is specified on the face hereof) and comply with carrier regulations. No charges are allowed for packing, crating, freight express, or cartage unless authorized hereunder.

7 QUALITY: Warranties. In addition to any other warranties whether express or implied, Seller warrants that all Goods delivered shall strictly conform to the terms, instructions, conditions, specifications, descriptions, drawings, and data specified herein or furnished herewith, shall be of good design, material, and workmanship, free from defects, merchantable and fit for their intended purpose, and shall meet applicable industrial and governmental safety standards. Seller further warrants that Seller will have title to and the right to sell such goods at the time of delivery, and that all such Goods shall be new (unless otherwise specified in this Order) at the time of delivery. Seller shall also assign or otherwise transfer to Buyer the warranties on goods and services incorporated into Goods sold hereunder. All warranties herein mentioned shall survive any inspections, delivery, acceptance or payment by Buyer, and all such warranties shall run to Buyer, its successors, assigns, customers and users of Goods. No warranties hereunder shall be deemed disclaimed except in a writing signed by an authorized representative of Buyer. Repairs or replacements of the Goods shall be made by Seller, without cost to Buyer, at any time within the warranty period of the Goods, when the Goods are deemed defective by the Buyer.

8 INSPECTION OF GOODS: Rejection of Goods and Revocation of Acceptance. After receipt of Goods, Buyer shall have a reasonable time, but not less than seven days, in which to inspect and accept or reject Goods, and payment for Goods shall constitute acceptance. Buyer may reject Goods not conforming to the instructions, terms, conditions, specifications, drawings, data, or warranties furnished under this Order. For all rejected Goods, Seller shall provide Buyer a full refund for or replacement of the Goods, at Seller's risk and expense, including transportation costs both ways. Buyer may, at its option, purchase substitute Goods in lieu of rejected Goods, and Seller shall be liable for the difference in costs, less expense saved by Buyer. Acceptance of part of Goods shall not bind Buyer to accept the remainder. Acceptance of all or part of Goods shall not deprive Buyer of the right to revoke acceptance and return any part of the Goods or the right to make a claim for damages because of the failure of the Goods to conform to this Order. Buyer shall not be liable to Seller for failure to accept Goods for causes beyond Buyer's reasonable control.

9 INFRINGEMENT. Seller shall protect and indemnify Buyer for any cost or expense arising from a claim of infringement of any intellectual property right of a third person by any of the Goods delivered hereunder. Seller shall defend or settle, at its own expense, any lawsuit, action, or proceeding brought against Buyer. In the event that Buyer should be enjoined from use of the Goods as a result of such lawsuit or proceeding, Seller shall pay all Buyer's costs and expenses including consequential damages and at Buyer's option may: (a) secure cancellation of the injunction; (b) replace the Goods with non-infringing Goods at Seller's expense; (c) remove the Goods from Buyer's premises and refund to Buyer the amount paid for the Goods. The provisions of this paragraph shall not apply to any claims, demands, and lawsuits or injunctions where Goods have been manufactured by the Seller in accordance with Buyer's specific design.

10 INDEMNIFICATION. Seller shall defend, indemnify and save harmless Buyer from and against any loss, cost, damage, or expense, arising from (a) any claims which may be made against Buyer by reason of injury or death to person or damage to property, claimed to have been suffered by any person or other entity and alleged to have been caused by defective goods furnished hereunder or by any act or omission, negligent or otherwise, of Seller or any subcontractor of Seller or of any of their employees, workmen, servants, or agents;

(b) any damage to Buyer's property, including property occupied or used by, or in the care, custody or control of Seller, alleged to have been caused by defective Goods or by any act or omission, negligent or otherwise, of Seller, or any subcontractor of Seller or any of their employees, workmen, servants, or agents; and (c) any claims which may be made against Buyer by reason of injury or death to person or damage to property, howsoever alleged to have been caused, and claimed to have been suffered by Seller or any subcontractor of Seller or by any of their employees, workmen, servants or agents. In no event shall Seller be required to indemnify Buyer for any injury, death, or loss caused solely by the negligence of Buyer. Seller agrees to defend, indemnify and hold Buyer harmless from all liabilities, claims, fines, civil and criminal penalties, including reasonable cost and settlement, which may arise directly or indirectly out of the failure of Seller to comply with the provision of Paragraphs 12, 14, 15, 16 and/or 17 of this Order.

11 BREACH: Incidental and Consequential Damages. In addition to the indemnification provided for in paragraph 10 of this Order, Seller further agrees to indemnify, defend, and hold harmless Buyer from all losses and expenses resulting from an actual or alleged breach of warranty, express or implied, or other actual or alleged breach of this Order by Seller. In addition, Seller shall be liable to Buyer for incidental or consequential damages incurred by Buyer as a result of breach of this Order or breach of any warranty. As used herein, incidental damages include, without limitation, (a) expenses reasonably incurred by Buyer in the inspection, receipt, transportation, and custody of rejected Goods; (b) any reasonable charges, expenses, and commissions in connection with purchasing substitute Goods; (c) expenses incurred in recalling Goods from Buyer's customers; (d) any litigation expenses, including court costs and attorney's fees, incurred in the prosecution of any suit brought to enforce the Buyer's right; and (e) any other reasonable expenses incident to the delay, failure to deliver, delivery of non-conforming Goods, or other breach of this Order. As used herein, consequential damages include damages suffered by Buyer as a consequence of Seller's breach of this Order or of any warranty, including (without limitation) loss of profits, penalties, and damages caused by injury to person, property or business and proximately resulting from any such breach.

12 INSURANCE. Seller shall furnish to Buyer a certificate of insurance showing that Seller has obtained insurance coverage in the following minimum amounts:

- (a) WORKER'S COMPENSATION - statutory limits for the state or states in which the work is to be performed; Employers Liability - \$1,000,000; and
- (b) COMMERCIAL GENERAL LIABILITY - \$1,000,000 combined single limit per occurrence including Premises and Operations, Independent Contractors, Contractual Liability and Products and Completed Operations coverage's; and
- (c) AUTOMOBILE LIABILITY (including owned, hired and non-owned vehicles) - \$1,000,000 combined single limit per occurrence. Such certificate shall set forth the insurance company, amount of coverage, the policy members and date of expiration, and shall include a thirty-days- notice-of-cancellation-to-Buyer clause. Teknik shall be named as an additional insured party under each of these policies with the exception of the policies covering Worker's Compensation and Automobile Liability. Such insurance coverage shall be maintained by Seller at all times during which it is performing work under this Order.

Compliance by Seller with insurance requirement does not affect Seller's indemnification or other liabilities under this Order.

13 NON-WAIVER. The failure or delay of Buyer to insist upon strict performance of any terms and condition hereof, to exercise any rights or remedies provided herein or by law, failure to properly notify Seller of breach; the acceptance of or payment for any Goods hereunder; or the approval of design, shall not release Seller from any of the obligations of this Order and shall not be deemed a waiver of any right of Buyer to insist upon strict performance hereof or of any of its rights or remedies as to the Goods, or as to any default hereunder, not shall any purported oral modification or rescission of this Order by Buyer operate as a waiver of any of the terms hereof.

14 EQUAL EMPLOYMENT OPPORTUNITY. Seller certifies that it is in full compliance with Executive Order No. 11246 as amended, and all administrative regulations issued pursuant thereto, as well as all other applicable equal employment obligations as required by Executive Orders, Rules, Regulations, or law as of the date of executing this order.

15 OCCUPATIONAL SAFETY AND HEALTH. Seller warrants that any Goods sold pursuant to this Order comply in all respects with the Occupational Safety and Health Act of 1970, (OSHA), any amendments thereto, and all applicable regulations, rulings, orders and standards promulgated thereunder. In the event that the Goods sold hereunder do not so conform, Buyer may return the Goods for correction or replacement at Sellers expense.

16 ENVIRONMENTAL COMPLIANCE. In the event that this Order is for an amount in excess of \$100,000 and Seller is not otherwise exempt, then Seller stipulates and agrees: (a) that none of Seller's facilities is listed on the Environmental Protection Agency(EPA) List of Violating Facilities pursuant to 40 CFR Part 15; (b) to comply with all the requirements of the Clean Air Act, as amended, and the Clean Water Act, as amended, including all regulations, guidelines and standards issued thereunder;(c)that this Order is expressly conditional upon Seller promptly notifying Buyer in the event Seller receives any communication from the U.S. EPA, indicating that a facility to be utilized in the performance of this Order is being considered for listing on the EPA List of Violating Facilities; and (d) to include the requirements of (a) through (d) in every subcontract exceeding \$100,000 which is not otherwise exempt.

17 COMPLIANCE WITH LAWS. In the performance of work hereunder, Seller shall comply with all applicable federal, state, and local laws, and rules and regulations of any government authority, which have the effect of law. Any provisions required to be included in this Order by any such applicable law, rules, or regulation shall be deemed incorporated herein. Without limiting the generality of the foregoing, Seller certifies to Buyer that the Goods purchased hereunder were produced in compliance with the applicable requirements of the Fair Labor Standards Act of 1938, as amended.

18 WITHHOLDING OF PAYMENTS. Buyer shall have the right (but no duty) to withhold any moneys payable by it hereunder and apply the same to the payment of any obligations of Seller to Buyer.

19 ASSIGNMENT. None of the amounts due or to become due nor any of the work to be performed under this Order shall be assigned or subcontracted by Seller without the prior written consent of Buyer's authorized representative. With regard to any assignment or subcontract under this Order, Seller shall remain obligated to Buyer as if no assignment or subcontract had been made. All assignees, contractors, and those who provide Goods or services, directly or indirectly to Buyer under this Order shall be bound by the terms and conditions of this Order in the same manner as Seller, and Buyer shall be subrogated to Seller's rights under any assignment or subcontract.

20 TERMINATION OF ORDER. (a) Buyer may at any time terminate Seller's performance under this Order, in whole or in part, by written notice to Seller, whereupon Seller shall terminate its performance upon receipt of such notice and shall terminate all orders and subcontracts to the extent they relate to such performance. Seller shall promptly advise Buyer of the quantities of Goods and raw material on hand or purchased prior to termination and of the most favorable disposition that Seller can make thereof. Seller shall comply with Buyer's instructions regarding disposition of Goods and raw materials. Seller shall submit to Buyer in writing notice of its intention to submit claims based on such termination within 15 days from the date of notice of termination, and all such claims shall be made in detail and substantiated within 30 days thereafter, or such claims shall be waived. Buyer shall pay Seller the Purchase Order price of finished Goods accepted by Buyer and the cost to Seller, excluding profits and losses, of work in process and raw materials relating to this Order, less the agreed value of any Goods used or sold by Seller with Buyer's consent. Buyer reserves the right to verify such claims at any reasonable time or times by inspecting the records, facilities, work or materials of Seller relating to this Order. Buyer will make no payments for finished work, work in progress, or raw materials fabricated or procured by Seller unnecessarily in advance or in excess of Buyer's delivery requirements under this Order. Notwithstanding the above, payments made under this paragraph shall not exceed the aggregate price specified in this Order, less any payments made or to be made. Payment provided under this paragraph shall constitute Buyer's only liability in the event this Order is terminated. (b) To the extent this Order covers Goods normally carried in the inventory of Seller, as distinguished from Goods specially made to Buyer's specifications, Buyer shall have no liability for any termination of this Order, in whole or in part, prior to shipment.

For any termination for which notice thereof is sent to Seller after receipt of Goods by Buyer, liability shall be limited to returning such Goods and reimbursing Seller the direct cost of handling and transportation.

21 CANCELLATION. Buyer may cancel this Order for default with respect to all or any part of undelivered Goods if Seller (a) does not meet delivery or performance schedules, (b) breaches any terms hereof, including warranties or (c) becomes insolvent or commits any act of bankruptcy. In the event of cancellation for default, Buyer shall have no liability whatsoever for undelivered Goods or any part thereof.

22 BUYER'S PROPERTY; CONFIDENTIALITY. (a) Buyer retains title to all information and materials furnished to Seller to facilitate performance under this Order, and the same shall be

(i) treated as Buyer's confidential information, (ii) used exclusively by Seller to complete this Order, and (iii) returned to Buyer at its direction or upon completion, termination, or cancellation of this Order, along with copies or reproductions thereof, unless otherwise agreed to in writing by Buyer. (b) All property of Buyer furnished or made available to Seller for performance of work under this Order, shall remain property of Buyer and shall be segregated from Seller's property and be individually marked and identified as Buyer's property.

Such property shall be used exclusively for performance under this Order and shall be returned to Buyer at its written request, or upon termination, cancellation or completion of this Order. The Seller shall: maintain such property in good condition and assume all risks and liabilities for losses arising from its use of Buyer's property; purchase insurance to cover the risks and liability assumed herein and furnish Buyer evidence of such insurance upon request; permit inspection of such property by Buyer; furnish detailed statements of such inventory; and fully cooperate and assist Buyer in any effort by it to obtain possession of such property through court proceedings or otherwise.

23 SPECIAL TOOLING. (a) "Special tooling" means all patterns, dies, fixtures, molds, jigs, models, gauges, inspection devices, special cutting tools, special test devices, drawing, and templates, and any replacements thereof, which, prior to the date of this Order, were not owned or used by Seller and which Seller has been or will be required to acquire and use solely for the purpose of furnishing Goods under this Order. Special tooling does not include tools, capital items, or property owned by or furnished by Buyer. Before commencing work under this Order, Seller agrees to obtain prior written approval of Buyer as to the purchase of any special tooling, and such request shall describe in detail each item and the price thereof. (b) Seller agrees that all special tooling shall be used exclusively for performance of work under this Order or as directed by Buyer in writing, and agrees to maintain special tooling in good condition, fully covered by insurance, and to replace it at Seller's cost if lost, stolen, destroyed, or otherwise rendered unfit for use. Seller agrees to permit inspection and to supply Buyer with detailed statements of inventory of the special tooling upon request. Upon completion, cancellation, or termination of the work for which such special tooling is required, Seller shall prepare a list of Goods for which special tooling has been used, together with a detailed listing in a form acceptable to Buyer of the special tooling, including the unamortized cost and fair market value of each item, and shall by written assignment transfer possession and title to the special tooling to Buyer, free and clear of liens and encumbrances, in exchange for the lesser of the unamortized cost or fair market value of the tooling, except that Buyer shall be under no obligation to purchase such special tooling.

Buyer reserves the right to dispose of special tooling without taking possession thereof and to receive any salvage or resale revenues resulting therefrom. Seller agrees that Buyer shall have the right to enter Seller's premises for the purpose of obtaining possession of any special tooling.

24 PROPRIETARY RIGHTS IN INVENTIONS. Seller agrees to assign to Buyer without cost and not otherwise to make use of any invention, improvement, or discovery, whether or not patentable, which is conceived or reduced to practice in performance of the work under this Order by any employee of Seller or any person working under Seller's direction.

25 TAXES. Prices stated herein include all taxes directly applicable to the Goods sold hereunder. Notwithstanding the foregoing, Buyer shall only be liable for such federal, state, and local taxes levied on Buyer which Seller is required by law to collect from the Buyer.

26 BUYER'S RIGHT TO MAKE CHANGES. Buyer may at any time, by written notice to Seller, make changes in the drawings, specifications, quantities, and schedules and shipping instructions under this Order. If any such change increases or decreases the cost of performing

this Order or the time required for its performance, an equitable adjustment in prices an/or schedules shall be made, provided, however that any claim by Seller for such adjustment shall be presented in writing to Buyer within 30 days from the date the change is ordered by Buyer.

27 CUMULATIVE REMEDIES. Any right or remedy of Buyer provided herein is in addition to Buyer's other rights and remedies provided herein or by law, and all of Buyer's rights and remedies hereunder are cumulative and non-exclusive.

28 ENTIRE AGREEMENT. This order constitutes the entire agreement between the parties with respect to the subject matter hereof and shall supersede all previous proposals, both oral and written, negotiations, representations, commitments, writing and all other communications between the parties. No waiver, alteration, modification of or addition to the terms and conditions contained herein shall be binding unless expressly agreed to in writing by a duly authorized representative of Buyer.

29 SETTLEMENT OF DISPUTES. Any claim or dispute arising in connection with this Order which is not settled by the parties within 60 days of notice thereof first being given by either party to the other shall be finally settled by arbitration under the Commercial Arbitration Rules and the Guidelines for Expediting Larger, Complex Commercial Arbitration of the American Arbitration Association, and judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction over it. There shall be three arbitrators, all of whom shall be fully active in their respective occupations and shall conduct themselves as neutrals, and whose chairman shall be an attorney experienced in arbitrating large commercial disputes. Each party shall appoint one arbitrator, and the two arbitrators shall appoint the third. All arbitrators shall be compensated at their normal hourly or per diem rates for all time spent by them in connection with the arbitration proceedings. A preliminary hearing shall be held. The arbitrators shall actively manage the arbitration to make it fair, expeditious, economical and less burdensome and adversarial than litigation, and the award rendered shall state its reasoning. Any party may request a court to provide interim relief without waiving the agreement to arbitrate.

30 ERRORS. Any stenographic or clerical errors contained on the face hereof are subject to correction by Buyer.

31 PERFORMANCE. Seller shall deliver the Goods available to Buyer and/or perform any services contemplated by the Order or this agreement in accordance with any dates specified in the Order or as otherwise agreed by the parties ("Delivery Dates"). Seller acknowledges that time is of the essence in relation to the timing of all Product deliveries and any service performance under the Order. If the Goods are not delivered in accordance with the applicable Delivery Dates and/or the services contemplated herein are not performed by the agreed upon date, then without limiting any other remedy, Seller shall owe Buyer liquidated damages in an amount equal to one percent (1%) of the amount of the Order for each day after the specified Delivery Dates that the Goods remain undelivered and/or for each day after the agreed upon date that any services contemplated by the Order remain unperformed. Buyer shall be entitled to deduct any liquidated damages due from the applicable prices set forth in the Order. The maximum amount payable by Seller for any one failure shall not exceed fifteen percent (15%) of the amount of the Order. Notwithstanding the provisions herein contained, the parties may agree on a different schedule and percentage of liquidated damages in any applicable Order. The parties hereby also acknowledge and agree that any sums payable hereunder shall constitute liquidated damages and not penalties and are in addition to all other rights of the Buyer,

including the right to call a default or terminate the agreement. The parties further acknowledge that (i) the amount of loss or damages likely to be incurred is incapable or is difficult to precisely estimate, (ii) the amounts specified in this section bear a reasonable relationship to, and are not plainly or grossly disproportionate to, the probable loss likely to be incurred in connection with any failure by the Seller to deliver the Goods to Buyer and/or perform any services contemplated by the Order or this agreement in accordance with the Delivery Date, (iii) one of the reasons for the Seller and the Buyer reaching an agreement as to such amounts was the uncertainty and cost of litigation regarding the question of actual damages, and (iv) the Seller and the Buyer are sophisticated business parties and have been represented by sophisticated and able legal counsel and negotiated this agreement at arm's length.

32 FORCE MAJEURE. Buyer shall not be responsible to Seller for delay or failure in performance of any the obligations imposed by this agreement, provided such failure shall be occasioned by fire, flood, explosion, lightning, wind storm, hailstorm, earthquake, subsidence of soil, failure of machinery or equipment or supply of materials, discontinuity in the supply of power, computer hacks, attacks, and malware, acts of governmental actors, proxies, or persons acting on its behalf (including persons acting with the intent to aid such actors), court order or governmental interference, terrorist attacks, civil commotion, riot, war, strikes, labor disturbances, transportation difficulties, labor shortage, natural genetic variation of any living matter, or by any other cause of like or unlike nature beyond the control of such party.