

**1. Definitions.** "Buyer" as used herein means the individual, firm, partnership, corporation, limited liability company or entity to whom this Order Contract is addressed. The term "Seller" as used herein means Ellison Technologies, Inc. "Order Contract" as used herein means this written order acknowledgement. "Parts" as used herein means any and all machine tool parts, components, tooling and related accessories, and other goods and equipment subject to this Order Contract and described on the cover page hereto. "Services" as used herein means any and all installation, repair or other services subject to this Order Contract and described on the cover page hereto.

**2. General.** If this Order Contract is deemed to be an offer by Seller, Buyer's acceptance is strictly limited to the terms contained herein and Seller hereby notifies Buyer of its objection to any additional or different terms in Seller's purchase order or its acceptance of this Order Contract. If this Order Contract is construed as Seller's acceptance of Buyer's offer, this acceptance is expressly conditioned on Buyer's assent to any additional or different terms from those contained in Buyer's offer, including any purchase order. If Buyer uses its own purchase order or other form to order from Seller, such form will be used for convenience only and will evidence Buyer's unconditional agreement to these terms and conditions. Any additional terms or conditions contained therein are objected to by Seller. Seller's failure to object to specific provisions contained in Buyer's orders or other communications will not be deemed a waiver of the terms and conditions herein. Buyer's order is accepted only at the prices and terms indicated on this Order Contract, irrespective of any prices or terms quoted by Seller or listed on a purchase order or other writings. All prices are subject to state and local sales tax, if applicable, and to any other tax Seller may be required to collect or pay in connection with the transactions contemplated herein. No additional or other terms will be binding on Seller unless accepted in a writing signed by a duly authorized representative of Seller. Agreement to this Order Contract can be made by any commercially reasonable means, including Buyer's return of a duplicate copy of this Order Contract or Buyer's acceptance of the Parts and/or Services.

**3. Entire Agreement.** This Order Contract contains the entire agreement between Buyer and Seller with respect to the matters contained herein, and no course of dealing or usage of trade or actual course of performance will be relevant to explain or supplement any term used herein, and all different terms and conditions proposed by Buyer are hereby expressly rejected. Any other oral agreement between the parties with respect to the subject matter hereof will be null and void.

**4. Credit Approval.** Shipment, delivery and performance of all work hereunder are subject to the approval of Seller's credit department. Seller may at any time decline to make any shipment or delivery or perform any work except upon receipt of payment in advance or upon such other payment terms as are acceptable to Seller's credit department.

**5. Payment.** Except as indicated on the Order Acknowledgement, Buyer will pay the full purchase price for any Parts and the full fees and expenses for any Services within 30 days of the invoice date. Outstanding balances not paid when due will be charged a late fee of 1.5% of the outstanding balance during all or any portion of the month (or the maximum amount permitted by state law), payable on the last day of each calendar month. Buyer will pay all of Seller's costs of collection and/or repossession, including reasonable attorneys' fees, in the event Buyer fails to make any payment when due. If shipments are delayed by Buyer, or because Buyer's account is in arrears, payments will become due on the date that Seller notifies Buyer that it is prepared to make shipment. Any Parts held by Seller for Buyer will be at Buyer's sole risk and expense.

**6. Delivery and Installation.** Seller will select carrier to deliver any Parts delivered under this Order Contract. All delivery charges, including, but not limited to insurance charges, will be at Buyer's sole cost and expense. Delivery dates or shipping schedules are approximate and based on the most recent information available to Seller from the manufacturer as of the date of this Order Contract and may be adjusted from time to time. Seller will not be responsible for any failure to perform arising from causes beyond its control, including, but not limited to, fire, acts of God, explosions, accident, labor disputes or shortages, failure or delays in transportation, inability to secure raw materials or machinery needed for the manufacture or delivery of the Parts and/or Services, acts of government or judicial action. Any installation, assembly or connection of the Parts will be at Buyer's sole and separate expense unless expressly included as paid Services hereunder.

**7. Risk of Loss/Damage in Transit.** All shipments will be F.O.B. (UCC) Seller's shipping point. Upon delivery by Seller to a carrier for shipment of Parts to Buyer,

risk of loss will pass to Buyer and the carrier will be deemed to be acting for and on behalf of Buyer and the terms of payment for the Parts will not be affected by damage to or destruction of the Parts.

**8. Cancellation; Return of Parts.** This Order Contract is not cancelable after it has been accepted by Seller. Buyer may return any Parts ordered or delivered under this Order Contract at any time within 30 days of the delivery thereof to Buyer, provided such Parts are in "new" condition and subject to payment of any restocking fee charged by the manufacturer of such Part.

**9. Non-Waiver.** In the event of a default by Buyer under this Order Contract or any other agreement between Seller and Buyer, Seller may decline to make further shipments without in any way affecting its rights or obligations under this Order Contract or such other agreement. The failure of Seller to insist in any instance on the performance of any of the terms, covenants or conditions of this Order Contract, or to exercise any right herein, will not be construed as a waiver or relinquishment of (a) any right, term or condition of this Order Contract, (b) the future performance of any term, covenant or condition or (c) any of Seller's legal remedies hereunder.

**10. Security Interest.** Buyer hereby grants to Seller and Seller hereby retains a continuing purchase money security interest in all Parts, whether currently in Buyer's possession or hereafter acquired, together with any and all proceeds of sale or other disposition thereof. Buyer authorizes Seller to execute and file one or more financing statements pursuant to the UCC in force in Buyer's state of formation (or Buyer's state of residence if Buyer is an individual) in a form satisfactory to Seller to evidence Seller's security interests granted hereunder and will take such other steps as requested by Seller to perfect its such security interests. If Buyer defaults in its payment obligations under this Order Contract, Seller may declare all amounts owed immediately due and will have the remedies of a secured party under the Uniform Commercial Code. Buyer agrees to pay Seller's reasonable attorneys' fees and court costs for the collection of any amounts owing to Seller hereunder or incurred in the repossession of the Parts.

**11. Assignment.** This Order Contract will be binding upon and inure to the benefit of the successors and assigns of Seller and Buyer. Buyer may not assign this Order Contract without Seller's written consent.

**12. No Seller Warranty; OEM Parts Warranty.** BUYER ACKNOWLEDGES THAT NO WARRANTY, EXPRESS OR IMPLIED BY LAW OR USAGE, ARE HEREIN MADE BY SELLER WITH RESPECT TO ANY PARTS OR SERVICES, AND BUYER HEREBY WAIVES ALL WARRANTIES — EXPRESS, IMPLIED OR STATUTORY. SELLER MAKES NO WARRANTY OF MERCHANTABILITY, AND THE DESCRIPTION OF THE PARTS AND/OR SERVICES CONTAINED IN THIS ORDER CONTRACT IS FOR THE SOLE PURPOSE OF IDENTIFYING THE PARTS AND/OR SERVICES AND IS NOT A WARRANTY. TO THE EXTENT ANY PARTS PURCHASED BY BUYER HEREUNDER ARE SOLD SUBJECT TO A MANUFACTURER'S WARRANTY THAT SELLER IS ABLE TO PASS THROUGH TO BUYER, SELLER AGREES TO, AND HEREBY DOES, PASS-THROUGH SUCH MANUFACTURER'S WARRANTY TO BUYER AND SELLER FURTHER AGREES TO PROVIDE REASONABLE ASSISTANCE TO BUYER'S EFFORTS TO MAKE A WARRANTY CLAIM AGAINST THE MANUFACTURER OF SUCH PARTS TO THE EXTENT IT ENCOUNTERS ANY ISSUES WITH SUCH PARTS THAT ARE COVERED BY SUCH MANUFACTURER'S WARRANTY.

**13. LIMITATION ON LIABILITY.** IN NO EVENT WILL SELLER BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES OF ANY KIND FROM ANY CAUSE ARISING OUT OF OR RELATED TO THE PARTS OR SERVICES OR THEIR INSTALLATION OR THE USE OR INABILITY TO USE ANY OF THE PARTS, INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS, LOSS OF USE, GOODWILL OR BUSINESS INTERRUPTION, OR DAMAGES OF ANY KIND BASED UPON A CLAIM FOR BREACH OF WARRANTY OR FOR FAULTY WORKMANSHIP OR MATERIALS.

**14. Export Restrictions.** Buyer agrees and acknowledges that the Parts may be subject to export restrictions imposed by the U.S., Japan and other countries and agrees to comply with all such export restrictions.

**15. Choice of Law.** The validity and interpretation of this Order Contract will be governed and construed according to the laws of the State of Illinois, without giving effect to principles of conflicts of laws. Application of the United Nations Convention on Contracts for the International Sale of Goods is hereby excluded. The parties hereby consent to service of process, personal jurisdiction and venue in the state courts located in DuPage County, Illinois or the federal courts located the Northern District of Illinois, and select such courts as the exclusive forum with respect to any action or proceeding brought to enforce any dispute, liability or obligation under this Order Contract.