



OX3 Corporation General Terms and Conditions

Effective February 2021

1. **PURCHASE AND SALE OFFER; ORDER OF PRECEDENCE.** The general terms and conditions stated herein (the "Terms") shall apply to any purchase orders, consolidated output reports, electronic data interchanges, or scheduling agreements (collectively, "POs") issued by OX3 Corporation or any of its subsidiaries or affiliates located in the Americas as identified in the relevant PO ("Buyer") that incorporate the Terms by reference or are accompanied by an attachment containing the Terms. A PO together with the Terms collectively constitutes Buyer's offer to enter into a purchase and sale transaction for products, including both tangible and intangible good(s), software(s) and related documentation ("Products") and/or services ("Services") with the party named on the PO ("Seller") on the terms stated herein and in the PO. If Buyer and Seller have separately executed a written agreement governing the purchase of Products or Services (hereafter, a "Purchase Agreement"), then the terms of the separate Purchase Agreement shall additionally apply to such offer. In the event of a conflict between (a) the Terms and a Purchase Agreement, then the Purchase Agreement shall take precedence and (b) the Terms and the provisions stated in any PO, then the Terms shall take precedence. Buyer may publish new version of these Terms, which shall automatically apply to any PO issued after the release of such new version.

2. **ACCEPTANCE.** POs are deemed accepted by Seller if (a) not rejected in writing within five (5) calendar days of the date of the applicable PO or (b) Seller has commenced performance pursuant to the PO, whichever is earlier. Acceptance of the PO is expressly conditioned upon Seller's acceptance of the Terms.

3. **INTEGRATION.** The Terms and the PO, together with the Purchase Agreement, if any, between the parties (collectively, the "Agreement"), constitute the complete and exclusive agreement of the parties with respect to purchase and sale of the Products or Services described in the PO. The Agreement supersedes all prior or contemporaneous oral and written communications, agreements, representations, or negotiations between the parties relating to the subject matter thereof. Any invoice, sales terms, or other document issued by Seller shall not modify or become part of the Agreement or become binding on Buyer, even if an acknowledgment copy is signed by Buyer.

4. **AMENDMENTS.** No modification or amendment of the Terms or a PO proposed by Seller shall be effective unless it is made in writing, explicitly states that such writing amends the Terms or PO, and is signed by an authorized representative of both Buyer and Seller.

5. **PRICES.** Seller shall invoice Buyer in the currency and amount stated in a PO. Unless otherwise specified in the PO or a Purchase Agreement, the price includes all charges for packaging, transportation to point of delivery, and license fees, if applicable.

6. **TAXES.** Unless otherwise provided in the PO, the price excludes, and Buyer shall pay, if required, all excise, sales, use, transfer, or other taxes, state and local, in connection with the sale or delivery of the Products or Services to Buyer. Upon request of Buyer, Seller agrees to provide Buyer with certificates, data or other information necessary for any tax exemptions, duty drawbacks, or other tax payments or reporting.

7. **PAYMENT TERMS.** Unless otherwise specified on the PO, payment terms will be net 30 days from the date of the invoice. Buyer shall at all times have the right to set off any amounts due to Seller against any amounts due to Buyer by Seller.

8. **QUANTITIES.** Seller must deliver the exact quantities specified in each PO. Buyer reserves the right to reject incomplete deliveries and to return, at Seller's risk and expense, excess quantities delivered.

9. **PACKAGING AND SHIPMENT.** All Products shall be packaged, marked, and otherwise prepared for shipment by Seller in suitable containers in accordance with Buyer's packaging specifications. Seller shall mark on containers all necessary handling, loading, and shipping instructions including PO number. An itemized packing list shall be included with each shipment.

10. **DELIVERY.** Unless otherwise agreed in writing, all Products shall be delivered DAP (Incoterms® 2020), destination specified by Buyer. Time, place and rate of delivery are of the essence. Any provision for delivery in installments shall not be construed as making the obligations of Seller severable. If delivery cannot be made at the specified time and place, Seller shall promptly notify Buyer of the earliest possible date for conforming delivery and shall provide written notice thereof and obtain written approval for

premium freight delivery, which shall be paid for by Seller. Notwithstanding such notice, and unless otherwise agreed by Buyer in writing, Seller's failure to effect conforming delivery shall entitle Buyer to revoke any acceptance without incurring liability to Seller, to cancel this order without incurring liability to Seller, to receive a full refund of any amounts paid, to purchase substitute Products elsewhere, to return at Seller's risk and expense all or any part of a non-conforming delivery and to hold Seller accountable for any loss or additional costs incurred. Buyer's receipt or acceptance of all or part of a nonconforming delivery shall not constitute a waiver of any claim, right, or remedy Buyer has under this Agreement or under applicable law

11. **TITLE AND RISK OF LOSS.** Unless otherwise indicated on the PO, title and the risk of loss for Products (other than software products) purchased pursuant to POs shall pass to Buyer in accordance with the agreed upon Incoterms®

12. **INSPECTION AND REJECTION.** Buyer or Buyer's customers may inspect relevant operation sites of Seller upon reasonable prior written notice and inspect and test all Products and/or raw materials at reasonable times before, during, and after manufacture. All Products and Services shall be received subject to Buyer's inspection, testing, approval, and acceptance at Buyer's premises, notwithstanding any inspection or testing at Seller's premises or any prior payment for such Products or Services. In case of rejection of the Products or Services, Buyer may, at Buyer's discretion, without prejudice to any other right or remedy available to Buyer hereunder or at law, (i) suspend payment to Seller; and/or (ii) return (if applicable) the Products at Seller's risks and expenses and claim full refund of the price already paid for the rejected Products or Services; and/or (iii) accept the Products or Services at a mutually agreed equitable reduction in price; and/or (iv) require Seller to remedy promptly the non-compliant Services or to replace or repair promptly the nonconforming Products, at Seller's costs and expenses. Acceptance of and/or payment for the Products or Services by Buyer shall not release Seller from any of its obligations, representations or warranties hereunder.

13. **REJECTED PRODUCTS.** If any Products are returned in accordance with Section 12, Seller will provide Buyer with a return material authorization or replacement Product within three (3) business days of Buyer's request. Seller further agrees to provide Buyer with an initial failure analysis within twenty-four (24) hours and a containment plan within forty-eight (48) hours and to provide due diligence in obtaining a full failure analysis. If the Buyer, in its sole discretion, requires a third party to perform containment activities, inspections, testing, sorting and rework in connection with any Products supplied by Seller. Seller shall reimburse Buyer for all such costs incurred. These remedies are in addition to other remedies Buyer may have under these Terms or at law or otherwise.

14. **PRODUCT WARRANTY.** In addition to any other express or implied warranties, Seller warrants that (a) all Products delivered hereunder will be merchantable, new, suitable for the uses intended, of the grade and quality specified, and free from all defects in design, material, and workmanship, will conform to all samples, drawings, descriptions and specifications furnished, and will be free of liens and encumbrances and claims; (b) all Products have been designed, manufactured and delivered, and all Services have been provided, in compliance with all applicable laws (including labor and environmental compliance laws), regulations (including EC Directive 2001/95 on General Product Safety); and (c) where the Products or Services contain chemicals or dangerous hazardous goods or substances, such goods or substances shall comply with all applicable laws, regulations and requirements (in particular the REACH Regulation) and detailed specifications shall be provided by Seller to enable Buyer to transport, store, use and dispose them in a safe manner. Seller warrants that software Products provided hereunder will perform substantially in accordance with applicable product specifications in effect at the time of delivery.

15. **SERVICES WARRANTY.** Seller warrants that all Services will be performed in a workmanlike and professional manner, with due skill and care, using the proper materials and appropriately qualified and trained staff. Seller shall be fully liable and responsible for all actions by any third parties hired by Seller to assist in the performance of the Services.

16. **INTELLECTUAL PROPERTY WARRANTY.** Seller represents and warrants that the Products and Services delivered or performed hereunder do not infringe any patent, trademark, trade secret, or copyright, or any other proprietary, intellectual property, industrial property, contract, or other right held by any third party and that Seller holds the necessary titles to license to Buyer any intellectual property right for every component of the Products or Services provided to Buyer. Seller shall defend at its own expense any suit or action brought against Buyer based on a claim that Seller's goods infringe on



any patent or copyright or other intellectual property right, and shall pay all costs and damages awarded therefrom. If use of Seller's goods is enjoined, Seller shall, at its option and own expense, either produce for Buyer the right to continue to use the goods, or replace them with a substantially equivalent non-infringing good, or modify the goods so they become non-infringing.

17. **INTELLECTUAL PROPERTY.** Any specifications, drawings, diagrams, schematics, sketches, models, samples, designs, technical information, marketing information or forecasts, or data, written, oral or otherwise, furnished by Buyer or on Buyer's behalf, are and shall remain Buyer's sole and exclusive property, and shall be returned promptly to Buyer (together with all copies) upon Buyer's request. Buyer shall be the sole and exclusive owner of, and Seller hereby assigns and transfers to Buyer all rights and title in all works, and any and all inventions, developments, products, processes, computer programs, software, data, technologies, designs, innovations, improvements, creative works, photographs, illustrations, graphics, writings, displays, video recordings, audio recordings and other materials and works (whether or not patentable and whether or not copyrightable) embodied in or arising out of the Services, and any rights in intellectual property arising out of the foregoing items, which are made, conceived, reduced to practice, created, written, designed or developed by Seller or its agents or employees, solely or jointly with others (including, but not limited to, jointly with Buyer), in the performance of the Services under the Agreement. Seller shall not use any Buyer intellectual property for its own benefit or for the benefit of any third party and shall not infringe any Buyer intellectual property in any way.

18. **TOOLS AND EQUIPMENT.** All tools, dies, molds, patterns, jigs, masks, test specifications and fixtures, adapting and interconnecting mechanisms, and other equipment and materials furnished by Buyer to Seller or paid for by Buyer, directly or indirectly, and any replacements, shall remain Buyer's property. Seller shall safely store and maintain such property separately from Seller's property, shall plainly identify such property as Buyer's property and shall not use such property except in filling this or other POs for Buyer. All such property shall be held at Seller's risk, shall be insured by Seller at its expense for an amount equal to its replacement cost and with Buyer named as loss payee and shall be returned promptly to Buyer or Buyer's designee upon Buyer's request. Seller shall, at its own expense, perform preventative maintenance in a commercially reasonable manner unless otherwise specified.

19. **OX3 CHANGES.** Buyer may, at any time and upon written notice, make changes to specifications, designs, method of packing or shipment, quantity ordered, destinations and delivery schedules. If any such change causes a material increase or decrease in Seller's cost or the time for performance, an equitable adjustment shall be mutually agreed to in writing concerning the price or delivery schedule, or both. Any claim by Seller for adjustment under this Section 19 shall be deemed waived unless made in writing within ten (10) days after receipt of written notice of the change request.

20. **SELLER PROPOSED CHANGES.** Seller shall not substitute other items or revise specifications from those specified in this PO without the prior written consent of Buyer. Seller shall notify the Buyer in writing of any proposed change to the Product(s) or to the manufacturing process of the Product(s) or to the Services no later than ninety (90) days prior to the shipment date of such Product(s) or commencement of performance of such Services. Process changes include but are not limited to: a change that incorporates addition, deletion or merging of processing methods, supplier initiated specification changes, change in manufacturing location, change in major equipment (i.e. use of new or modified equipment, machine, tool, jig, etc.), method change in supplier of raw or bulk material, or change in manufacturing methods. Within thirty (30) days upon receipt of such notice, Buyer will provide written acceptance or disallowance of any proposed change. If Buyer disallows the proposed change, Seller shall continue to deliver unchanged Product(s) and adhere to the manufacturing process of the Product(s) and/or to perform the Services in accordance with the provisions of this PO.

21. **END of LIFE (EOL).** Notwithstanding anything to the contrary in this PO, Seller will notify Buyer of its intent to discontinue manufacture of any Products on the same basis as it notifies its customers generally. Seller will use all commercially reasonable efforts to provide no less than nine (9) months' notice before such end of life. Buyer may place additional POs for such Products (or service parts) for six (6) months after EOL date and Seller shall accept such POs with schedule deliveries extending up to twenty-four (24) months beyond EOL date.

22. **AUTOMOTIVE PRODUCTS COMPLIANCE.** Seller agrees to be End of Life Vehicles (ELV) compliant for parts supporting automotive products and comply with all applicable laws and regulations related thereto. Seller shall provide Buyer with required information concerning the material and

chemical content of the components and/or materials supplied to Buyer under this PO in the format as requested by Buyer. For components and/or materials which are used in automotive products, the Seller shall enter the requested information into the International Material Data System (IMDS) (www.mdssystem.com) and submit the information to Buyer's IMDS account (Company IMDS ID supplied upon request). It is expected that Seller will provide complete chemical disclosure of the materials supplied or the materials used in components supplied to Buyer.

23. **SOFTWARE.** With respect to the software Products, if any, provided by Seller, Buyer and Seller intend and agree that such software Products are being licensed and not sold, and that the words "purchase", "sold", or similar or derivative words are understood and agreed to mean "license". Seller shall retain ownership of and title to all software Products provided hereunder, notwithstanding anything to the contrary stated herein. Seller hereby grants Buyer a royalty-free, nonexclusive perpetual license to use such software for Buyer's internal business purposes on the hardware Products provided hereunder, to use the related documentation for Buyer's internal business purposes, and to sublicense and distribute such software Products and documentation in connection with the sale of hardware products incorporating such software Products.

24. **COMPLIANCE WITH LAWS.** Seller shall comply with all applicable laws, ordinances, codes, rules, regulations, and orders in the performance of any PO, including but not limited to, the United States Foreign Corrupt Practices Act ("FCPA"), the UK Bribery Act, and any laws of the U.S. Department of Commerce Bureau of Industry and Security. Furthermore, Seller represents that neither it nor any of its subcontractors, vendors, agents or other associated third parties will utilize child, slave, prisoner or any other form of forced or involuntary labor, or engage in abusive employment or corrupt business practices, in the supply of Products or provision of Services under this Agreement. Seller shall obtain all permits or licenses required in connection with the manufacture, sale, shipment, and installation of the Products ordered and/or Services provided hereunder.

25. **CANCELLATION & TERMINATION.** Subject to applicable law, Buyer may, by written notice to Seller, cancel the whole or any portion of any PO in the event of (a) a voluntary or involuntary bankruptcy filing by or against Seller, (b) the appointment of any trustee or receiver for any substantial portion of Seller's assets, (c) any assignment for the benefit of creditors, (d) Seller ceasing to carry on business in the ordinary course, (e) Seller's breach of any provision contained herein, or (f) for convenience upon fourteen (14) days written notice. In the event of any such cancellation under (a)-(e) above, Buyer may procure, upon such terms and in such manner as Buyer may deem appropriate, products or services comparable to the Products or Services covered by the PO so terminated, and Seller shall be liable to Buyer for all excess costs of such comparable Products or Services. In the event of any such cancellation, Buyer may require Seller to deliver, in the manner and to the extent directed by Buyer, any completed or partially completed Products and/or Services, against Buyer's payments of the portion of the price properly allocable to such Products and/or Services. Seller shall continue performance of such PO to the extent not canceled. Except to the extent specifically set forth herein, Buyer shall have no obligation or liability to Seller in respect of the canceled portion of this PO.

26. **INDEMNIFICATION.** Seller shall defend, indemnify, and hold Buyer harmless against any and all claims, losses, liabilities, damages, costs or expenses, including reasonable attorney's fees and court costs, arising out of (a) Seller's breach of any obligations, representation, warranty or agreement made hereunder, (b) any Products or Services provided by Seller, and (c) Seller's negligent act or omission or willful misconduct.

27. **ASSIGNMENT/SUBCONTRACTING.** Seller shall not assign any PO, and shall not assign, delegate or subcontract any obligations under a PO, without the prior written consent of Buyer. Any attempted assignment is void. A change of majority ownership or control of Seller shall constitute an assignment by Seller for purpose of this Section 27.

28. **CONFIDENTIALITY.** Seller agrees that all information furnished or disclosed by Buyer, including information of Buyer's customers, to Seller in connection with the placing or filling of a PO or any Services related thereto shall be treated as confidential and Seller shall hold and protect such information with the same degree of care that it uses with its own information of like importance, but in no event less than a reasonable standard of care. Seller shall not refer to Buyer in any advertising, press release, client list or other promotional or marketing material nor shall Seller use the Buyer's name or corporate logo or any Buyer trademarks, service marks, or marks of any similar likeness without express prior written permission from Buyer. Unless



otherwise agreed in writing, information and material furnished or disclosed by Seller to Buyer is not confidential or proprietary, and shall be acquired by Buyer free of restrictions of any kind.

29. **SECURITY AND AUDIT RIGHTS.** In addition to Seller's other obligations under this Agreement (e.g., compliance with laws, confidentiality), Seller shall reasonably safeguard and maintain all Buyer confidential information (which includes information of Buyer's customers) and all networks, work stations, databases, and other systems used to host, store, process, or transmit Buyer confidential information or other information related to Buyer's Products using industry standard administrative, physical and technical security controls, processes, technologies and measures to ensure the confidentiality, integrity and availability of such information. Buyer may notify Seller in writing from time to time of specific security requirements and the parties shall discuss any additional costs to comply with such requirements and an equitable allocation of such costs, taking into consideration whether Seller is already in compliance with such changes, whether such changes are required by applicable law, and whether Seller has alternative compensating controls already in place. Seller will notify Buyer in writing immediately of any event or incident involving Buyer confidential information. Seller shall ensure that all of its suppliers also comply with these security standards. **AUDIT RIGHTS:** Buyer shall have the right, exercisable at reasonable times and intervals, and on reasonable prior written notice and subject to Seller's applicable confidentiality, safety and security policies, to audit Seller's records and Seller's business, manufacturing and security practices during normal office hours in order to verify Seller's compliance with its obligations under this Agreement or any applicable PO. Notwithstanding anything to the contrary herein, Buyer shall also have the right to delegate the audit activity to third party accounting or other representatives of Buyer provided such third parties agree to treat the audit data and audit results as confidential at least to the extent such information is protected in accordance with the confidentiality obligations set forth herein and to enter into a confidentiality agreement with Seller.

30. **FORCE MAJEURE AND BUSINESS CONTINUITY.** Neither party will be responsible or liable in any way for failing to perform its obligations under this PO during any period in which performance is prevented or significantly delayed by causes beyond its reasonable control and without its own fault or negligence, including, without limitation, acts of God, acts of civil or military authority including governmental priorities, fire, flood, war, embargo, explosions, riots, terrorist attacks and orders of any governmental authority. Seller agrees to comply with OX3's Business Continuity Management Program (OX3 Policy supplied upon request) and participate in third party business information collection efforts.

31. **WAIVER.** The failure of Buyer to insist in any instance upon the strict performance of any provision of this Agreement, or to exercise any right or privilege granted to Buyer hereunder, shall not be construed as a waiver of such provision or right.

32. **GOVERNING LAW.** This Agreement and the rights and obligations of the parties hereunder shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts. Any disputes arising between the parties hereunder (including any question regarding its existence, validity or termination) not resolved between or among the parties shall be initiated and conducted exclusively in state or federal court in Boston, Massachusetts, and each Party hereby unconditionally and irrevocably consents to the exclusive jurisdiction and venue of such courts. The parties hereby expressly agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

33. **E-COMMERCE.** Seller agrees to participate in Buyer's electronic purchase and sale transaction program using Buyer's designated third party e-commerce provider, currently the Ariba network. Seller shall, at its own cost, obtain and maintain all equipment, software and services necessary to transmit and receive documents electronically ("E-Documents"). E-Documents include: catalogues, catalogue punch-outs, requests for proposal, purchase orders, service confirmations, change requests, and invoices. Seller is responsible for all fees, if any, associated with the use of the Ariba network. The supplier membership fee schedule can be found at: www.ariba.com/suppliermembership.