



## Necsel Standard Terms and Conditions of Sale

### 1. DEFINITIONS

In these Standard Terms and Conditions of Sale (“Terms”), the following definitions apply:

“Acknowledgment” means Seller’s standard sales order acknowledgment document.

“Customer” means the person or entity to whom a quotation is made and/or to whom Acknowledgment is sent by Seller.

“Contract” means the binding contract between Customer and Seller for the sale and purchase of the Products.

“Delivery” means the making available to Customer the Products specified in an Acknowledgement.

“Product” means a product that Seller offers to sell, and/or sells (or agrees to sell) pursuant to a Contract.

“Seller” means either Necsel Intellectual Property, Inc., or any of its subsidiaries and/or affiliates as indicated on a quotation and/or an Acknowledgement.

“Standard Product” means a product as sold by Seller to Customer that (a) has not been modified specifically for Customer, (b) is available to the general public for purchase from Seller, and (c) has been packaged and tested before Delivery.

References to sections mean sections of these Terms; section headings are for reference only and do not affect the interpretation of these Terms.

### 2. FORMATION OF CONTRACT

2.1 Any written quotation of Seller is (except as otherwise stated therein):

1. a) an offer to sell Products in accordance with these Terms; and
2. b) valid for thirty (30) days from the date thereof (subject to any written extension or earlier withdrawal by Seller).

2.2 Any published price list of Seller does not represent an offer open for acceptance.

2.3 Seller shall sell the Products to Customer in accordance with any Customer order:

1. a) that constitutes an unqualified acceptance of Seller’s written quotation and these Terms; or
2. b) that Seller, at its sole discretion, accepts either in whole or in part.

2.4 Any Customer order conforming to Section 2.3 will be accepted by means of the Acknowledgement. Such acceptance shall form a Contract governed solely by these Terms. Seller reserves the right in its sole discretion to reject any Customer order regardless of whether Seller gave Customer a written quotation.

2.5 These Terms shall override all other terms and/or conditions or warranties (if any) imprinted on or referred to in an order, form, or other document issued by Customer (none of which shall apply). Seller's offer to sell Products expressly limits Customer's acceptance to these Terms without modification, and no modification of the Terms will bind Seller unless expressly accepted in writing by Seller. Any different or additional terms and conditions proposed by Customer are hereby rejected and shall be of no effect, even if such terms and conditions have not been expressly rejected by Seller.

2.6 Contracts shall be non-cancellable in whole or in part. If Customer cancels, reschedules, or rejects any Delivery of Products, in whole or in part, Customer shall pay the full price for such Products. Any indulgence or waiver that Seller may make shall be at Seller's sole discretion on a case-by case basis and subject to Section 16.8.

### 3. DELIVERY & PASSING OF RISK

3.1 Unless otherwise agreed in the Acknowledgement or specified by Seller, Delivery of Products shall be FCA, Seller's applicable shipment facility as stated in the Acknowledgement, Incoterms<sup>®</sup> 2010.

3.2 Seller will use its reasonable endeavors to meet any time or date for Delivery stated in the Acknowledgement. However, Seller will not be liable in any respect for any loss or damage caused by any failure or delay in making delivery.

3.3 Delivery may be made in one or more separate consignments.

3.4 Customer shall be deemed to have accepted the Products within fourteen (14) days of Delivery.

3.5 Risk of loss and damage to Products shall pass to Customer upon delivery of Products to the carrier for shipment. Title shall pass to Customer as provided in Section 6.3 of these Terms.

3.6 If due Delivery is delayed for reasons attributable to Customer or its agents, storage and any other reasonable costs will be payable by Customer on demand by Seller and notwithstanding Section 3.5, the Products shall be at Customer's risk from the commencement of the delay. Seller reserves the right to invoice Customer for the Products and to commence the warranty period set forth in Section 8 with effect from the original due Delivery date.

### 4. PRICE

4.1 The price shall be Seller's quoted price, or, in the event of any conflict, the price in the Acknowledgement.

4.2 The price includes packaging in accordance with Seller's normal practice.

4.3 The price excludes (as applicable) any and all:

1. a) value-added or other similar sales or other taxes levied upon Products supplied by Seller, and
2. b) additional costs and charges incurred by Seller for shipping, insurance, and special handling from applicable Seller's facility, all of which shall be charged in addition to the price.

4.4 Customer agrees to pay all amounts due and payable in accordance with Section 4.3 unless it has a valid resale certificate or tax exemption certificate, in which case Customer would be exempt from sales taxes in applicable states. Also, Customer shall be responsible for any personal property taxes arising in relation to each item of the Products from the date of Delivery.

4.5 Reference in these Terms to "tax" or "taxes" include excise, duties, levies, and all similar forms of taxes.

## 5. PRICE VARIATION

Seller reserves the right to vary the price of the Products to be supplied pursuant to the Contract in proportion to any verifiable change of costs to Seller between the date of the Acknowledgement and the date of Delivery (including but not limited to exchange rate variations, labor costs, material costs, transport costs, and taxes) or where the change is due to any act or default of Customer.

## 6. PAYMENT

6.1 Subject to Section 6.2, Customer shall pay amounts due within thirty (30) days of the invoice date in the same currency as stated in Seller's invoice. Invoices may be sent at any time on or after shipment of the Products. Customer shall be liable to pay interest on any late payments at a rate equal to the lower of eighteen percent (18%) per annum (one and one half percent (1.5%) per month) or the maximum rate permitted under applicable law. Additionally, if any payment is more than fifteen (15) days past due, Seller shall be entitled to suspend performance of any or all of its obligations under the Contract, including withholding warranty coverage, until all such payments are made.

6.2 Seller reserves the right to require payment by an irrevocable letter of credit confirmed by a high-rated international bank (chosen at Seller's discretion) to be established in favor of Seller and to have an initial validity period not less than the Delivery period in the Acknowledgement plus one (1) calendar month. The letter of credit shall permit part shipments and provide for the release of one hundred percent (100%) of the Contract value of the Products comprising each shipment. If Seller determines in its sole discretion that payment by an irrevocable letter of credit is necessary, Seller shall be under no liability to deliver any Products until a letter of credit has been opened in accordance with this Section 6.2.

6.3 Legal and beneficial title in the Products shall remain in Seller until payment in full has been received by Seller for all sums due to Seller by Customer under all contracts between them. Until such time, Customer shall hold the Products as Seller's fiduciary agent and bailee, and Seller may require return of the Products. For the purpose of recovery of the Products, Customer grants Seller an irrevocable license to enter on any premises where the Products are situated (or are reasonably thought to be situated) to repossess them, and

Customer agrees to pay any costs of repossession. Customer will store the Products separately and in such a way to enable them to be clearly identified as Seller's property. Notwithstanding the foregoing, risk in the Products shall pass as set forth in Section 3.5.

6.4 Customer shall not be entitled to exercise any right of sell-off or counter claim against Sellers invoices.

## 7. SPECIFICATION & CHANGES

7.1 The specifications for Products shall be those set out in its catalog in effect from time to time or otherwise set forth in the Acknowledgement ("Specifications"). No other specification, descriptive material, written or oral representation, correspondence, or statement shall form part of or be incorporated by reference into the Contract.

7.2 Seller may make modifications to any Product or Specifications: (a) to conform to any applicable laws, (b) to make a Product non-infringing with respect to any rights under patent, copyright, and trademark, trade secret, or other intellectual property laws ("Intellectual Property Rights"), or (c) to otherwise improve a Product, so long as such modifications do not materially affect the quality or performance of the Products. Seller will use reasonable endeavors to promptly notify Customer of any such material changes.

## 8. WARRANTY OF PRODUCTS

8.1 Seller warrants that the Products:

1. a) are free from defects in materials and workmanship, and
2. b) conform in all material respects to the Specifications.

No obligation or liability will arise out of Seller's rendering of advice or service in connection with Customer's purchase of the Products or any repair or replacement of a Product.

For Products that contain an optoelectronic component subject by its nature to a normal degree of performance degradation with operational use and/or time, such degradation shall not constitute a "defect" for purposes of this warranty.

8.2 The warranty period for Products shall be twelve (12) months from the date of shipment unless otherwise stated on the Acknowledgment.

8.3 If any Product is found by Seller not to function as warranted during the warranty period, Seller will determine, at its sole option, to either:

1. a) make it to function as warranted, or
2. b) replace it with equivalent conforming Product.

8.4 If Seller determines, at its sole option, that repair or replacement cannot be made using commercially reasonable efforts, Seller will refund to Customer the price paid for the Product.

8.5 Any replacement Product will conform to the original applicable Specification and will be equivalent to the exchanged Product in all material respects. Seller shall own the replaced Product.

8.6 The warranty period for the replacement Product shall be the greater of ninety (90) days from the date of such replacement or the remaining replaced Product warranty period.

8.7 Seller shall be responsible for loss of, or damage to, Customer returned Product while it is in Seller's possession during warranty service until redelivery to Customer or until delivery of replacement or until refund pursuant to Section 8.4 (as applicable).

8.8 No warranty is provided for:

1. a) supply items normally consumed during operation of the Products;
2. b) failures caused by non-Seller products;
3. c) failures caused by a Product's inability to operate in conjunction with other Customer hardware or software;
4. d) performance failures resulting from services not performed by Seller; or
5. e) development, pre-production, or any form of prototype whatsoever.

8.9 Warranty will be voided by misuse, improper handling or storage, improper installation or repair, accident, damage, modification, failure to maintain proper physical or storage/operating environment, or improper Customer maintenance not approved by Seller in writing.

8.10 The terms of this Section 8 set forth Seller's entire liability and Customer's entire remedy with respect to any defect or default in the Products.

EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, ALL WARRANTIES, REPRESENTATIONS, TERMS OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTY OF MERCHANTABILITY, SATISFACTORY QUALITY, AND FITNESS FOR A PARTICULAR USE OR PURPOSE ARE HEREBY EXPRESSLY DISCLAIMED TO THE FULLEST EXTENT PERMITTED BY LAW. THE PRODUCTS ARE NOT AUTHORIZED FOR USE BY CUSTOMER OR ANY THIRD PARTY AS CRITICAL COMPONENT IN LIFE SUPPORT PRODUCTS OR SYSTEMS OR FOR USE IN AVIATION, NUCLEAR, OR ANY OTHER INHERENTLY DANGEROUS APPLICATION WITHOUT THE EXPRESS WRITTEN APPROVAL OF SELLER. LIFE SUPPORT PRODUCTS OR SYSTEMS ARE THOSE THAT ARE INTENDED TO SUPPORT OR SUSTAIN LIFE AND WHOSE FAILURE TO PERFORM CAN REASONABLY BE EXPECTED TO RESULT IN A SIGNIFICANT INJURY TO THE USER. CRITICAL COMPONENTS ARE THOSE COMPONENTS WHOSE FAILURE TO PERFORM CAN REASONABLY BE EXPECTED TO CAUSE FAILURE OF A LIFE SUPPORT DEVICE OR SYSTEM OR AFFECT ITS SAFETY OR EFFECTIVENESS.

## 9. WARRANTY CLAIM PROCEDURE

9.1 Seller will provide warranty services to Customer consistent with Seller's current standard practices and response times. Where applicable, before Seller provides warranty services, Customer agrees to follow the problem determination, problem analysis, and warranty services request procedures that Seller provides.

9.2 When returning Product to Seller for warranty service, Customer agrees to ship it prepaid and suitably packaged to a location Seller designates.

9.3 If not found by Seller to be in breach of warranty, the Products will be returned to Customer at Customer's expense, and Seller may charge an evaluation and test fee not exceeding fifteen percent (15%) of the price of the Products so affected. If the Products are found to be in breach of warranty, any replacements or repaired Products will be returned to Customer at Seller's expense.

9.4 Post warranty services may be available at Seller's then-current prices.

## 10. INTELLECTUAL PROPERTY

10.1 All intellectual property and other proprietary rights relating to Products including, but not limited to, any Intellectual Property Rights and all technical, business, and similar information of Seller or any Intellectual Property Rights that are created by Seller in the course of performing the Contract shall be, and shall remain, Seller's property.

10.2 Customer agrees not to remove, alter, obscure, or deface any marks, names, notices, or numbers affixed to the Products without Seller's written consent.

10.3 Customer agrees not to, and will not encourage, assist, or authorize any other person to reverse engineer, decompile, or disassemble the Product or any software contained therein, or otherwise attempt to derive software source code or other technology related to the Product.

10.4 Seller will indemnify and hold Customer harmless from and against any claim, damage, liability, loss, cost, expense, obligation, action or cause of action arising out of any actual or alleged infringement of any Products sold by Seller to Customer under the Contract on any Intellectual Property Rights of any third party, provided that Customer:

1. a) promptly notifies Seller in writing of the claim, and
2. b) provides Seller full power and authority to defend or settle any such third party claim and cooperates with Seller in the process.

However, Customer may, by counsel of its own choosing and at its sole expense, participate in any legal proceeding or settlement relating to any matter as to which a claim is made by Customer under this indemnity.

10.5 If such a claim is made or appears likely to be made, Seller agrees (a) to secure the right for Customer to continue to use the Product, (b) to modify it, or (c) to replace it with one that is equivalent. If Seller determines that none of these alternatives is reasonably available, Customer agrees to return the Product to Seller on Seller's written request. Seller will then give Customer a credit equal to the depreciated value of the Product.

10.6 Any such claims against Customer or liability for infringement arising from the use of the Product following a request for return by Seller are the sole responsibility of Customer. This represents Seller's entire obligation to Customer regarding any claim of infringement.

10.7 Seller has no obligation to defend or indemnify Customer if the third party claims arise from any of the following:

1. a) anything Customer provides that is incorporated into the Product;
2. b) functionality provided by Seller at the instruction of Customer;
1. c) Seller's compliance with any design or Specification furnished and required by Customer;
3. d) Customer's modification of Product;
1. e) the combination, operation, or use of Product with other products not provided by Seller; or
4. f) Customer's failure to install any upgrade provided by Seller at no cost.

10.8 If any Product is sold by Seller to meet Customer's particular specifications or requirements that are not part of Seller's Standard Product that is offered to the general public in the normal course of Seller's business, Customer will indemnify and hold Seller harmless from and against any claim, damage, liability, loss, cost, expense, obligation, action or cause of action arising out of any actual or alleged infringement of any Products sold by Seller to Customer under the Contract on any Intellectual Property Rights of any third party.

## 1. LIMITATION OF LIABILITY

11.1 IN NO EVENT WILL SELLER OR ITS SUPPLIERS OR SUBCONTRACTORS BE LIABLE FOR ANY COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, INDIRECT, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, SPECIAL, OR INCIDENTAL DAMAGES, INCLUDING WITHOUT LIMITATION ANY DAMAGES FOR LOSS OF USE, OPPORTUNITY, MARKET POTENTIAL, GOODWILL, REVENUE, OR PROFITS, ARISING FROM OR RELATING TO THE CONTRACT, HOWEVER CAUSED AND ARISING UNDER ANY THEORY OF LIABILITY, INCLUDING BUT NOT LIMITED TO CONTRACT OR TORT (INCLUDING PRODUCTS LIABILITY, STRICT LIABILITY, AND NEGLIGENCE), AND EVEN IF SUCH PARTY KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL SELLER'S AND ITS SUPPLIERS' OR SUBCONTRACTORS' TOTAL AGGREGATE LIABILITY ARISING FROM OR RELATED TO THE CONTRACT EXCEED THE LESSER OF:

(A) THE AMOUNTS ACTUALLY RECEIVED BY SELLER FROM CUSTOMER DURING THE SIX (6) MONTH PERIOD IMMEDIATELY PRECEDING THE MOST RECENT CLAIM BROUGHT BY CUSTOMER AGAINST SELLER UNDER OR RELATED TO THE CONTRACT, OR

(B) **TWO HUNDRED FIFTY THOUSAND U.S. DOLLARS (US\$250,000).**

THE FOREGOING LIMITATIONS SHALL APPLY EVEN IF THE REMEDIES PROVIDED HEREIN FAIL OF THEIR ESSENTIAL PURPOSE. THE CONTRACT STATES THE ONLY AND EXCLUSIVE REMEDIES FOR ANY AND ALL CLAIMS MADE AGAINST SELLER OR ITS SUPPLIERS OR SUBCONTRACTORS WITH RESPECT TO SELLER'S PRODUCTS AND/OR THE CONTRACT. THE PARTIES AGREE THAT THIS SECTION 11 REPRESENTS A REASONABLE ALLOCATION OF RISK.

11.2 The foregoing limitation will not apply to claims for damages for bodily injury (including death) and damage to real property and tangible personal property caused by the negligence of Seller or in the case of fraudulent misrepresentation by Seller.

11.3 In no event shall Seller or its affiliates, subsidiaries, agents, suppliers, or subcontractors be liable for any of the following:

1. a) damages based on any third-party claim except as expressly provided in Sections 10 and 11;
- or

2. b) loss of, or damage to, Customer's records, files, or data, even if Seller is informed of the possibility of such loss or damage.

## 12. INDEMNIFICATION BY CUSTOMER

Customer will indemnify Seller, its affiliates, and their respective officers, directors, shareholders, employees, agents, legal representatives, successors, and assigns from and against any claim, damage, liability, loss, cost, expense, obligation, action, or cause of action arising out of any breach by Customer of its obligations under the Contract or any negligent or willful misconduct of Customer. Customer's obligations under this Section 12 will survive the expiration or termination of the Contract.

## 13. TERMINATION

Seller may terminate the Contract forthwith if Customer: (a) breaches any of the Terms; or (b) becomes insolvent or enters into any arrangement with creditors or is put into liquidation or suffers the appointment of a receiver. Upon termination, Seller shall have no more obligations to Customer under the Contract. Termination shall not prejudice Seller's right to payment for Products delivered prior to termination but not paid for by Customer.

## 14. CONFIDENTIALITY

14.1 "Confidential Information" means any non-public, confidential, or proprietary information disclosed by one party (and with respect to Seller, including its affiliates and subsidiaries) (the "Disclosing Party") to the other party (the "Receiving Party") that:

- (a) if disclosed in tangible form, is conspicuously marked with a "confidential," "proprietary," or some similar legend to indicate its confidential nature;
- (b) if disclosed orally, is clearly designated as confidential at the time of disclosure, and is specifically identified in a confirmatory writing sent to the Receiving Party within thirty (30) days after initial disclosure; or
- (c) would otherwise be reasonably expected to be treated in a confidential manner under the circumstances of disclosure. Neither party may disclose the existence and the general nature of the Contract nor the Terms. Notwithstanding the foregoing, the Receiving Party shall not have any obligations under this Section 14 with regard to any Confidential Information of the Disclosing Party that:
  - (i) was in the public domain when received or thereafter enters the public domain through no fault of the Receiving Party;
  - (ii) was known to the Receiving Party at the time of receipt;



(iii) is received by the Receiving Party from a third party without restrictions on disclosure and, to the knowledge and belief of the Receiving Party, without any breach of any confidentiality obligation to the Disclosing Party;

(iv) is approved for disclosure by written authorization of the Disclosing Party or is disclosed by the Disclosing Party to others without restriction on disclosure;

(v) was independently developed by the Receiving Party or its affiliates without using the Disclosing Party's Confidential Information; or

(vi) is disclosed by the Receiving Party pursuant to statute, regulation, or the order of a court of competent jurisdiction, provided that the Receiving Party promptly notifies the Disclosing Party of such required disclosure in order to permit the Disclosing Party to seek a protective order or other appropriate relief.

14.2 The Receiving Party shall not use any Confidential Information of the Disclosing Party for any purpose except to perform its obligations and exercise its rights under the Contract. The Receiving Party shall not disclose any Confidential Information of the Disclosing Party to third parties or to such party's employees and independent contractors, except that, subject to the provisions below, the Receiving Party may disclose the Disclosing Party's confidential Information to its and its affiliates' directors, officers, employees, agents, subcontractors, attorneys, accountants, or advisers ("Representatives") who have a need to know the Confidential Information to perform the Receiving Party's obligations or to exercise the Receiving Party's rights under the Contract. The Receiving Party shall take at least those measures that it takes to protect its own confidential information of a similar nature but in no event less than a reasonable degree of care. The Receiving Party shall ensure that its Representatives who have access to Confidential Information of the Disclosing Party are under a duty, contractual or otherwise, to maintain the confidentiality of the Confidential Information.

14.3 Each party agrees that any violation or threatened violation of the Contract may cause irreparable injury to the other party, entitling the other party to seek injunctive relief in addition to all legal remedies available to it.

## 15. ITEMS SUPPLIED BY CUSTOMER

Any items supplied by Customer for the purposes of the Contract ("Infeed Item") shall be of suitable quality in accordance with the relevant Specification and shall be provided free of charge in sufficient quantities and at the times required by Seller. Customer shall indemnify Seller, its affiliates, and their respective officers, directors, shareholders, employees, agents, legal representatives, successors, and assigns from and against all actions, demands, claims, proceedings, losses, or costs resulting from a defective Infeed Item, or from any liability for infringement of a third party's Intellectual Property Rights arising from the supply or subsequent use or sale of Infeed Items.

## 16. GENERAL PROVISIONS

16.1 Customer agrees not to assign, or otherwise transfer the Contract or Customer's rights under it, or delegate Customer's obligations, without Seller's prior written consent. Any purported transfer in violation of this section is void and prohibited.

16.2 Customer represents and warrants that it is buying Products for its own internal use and/or for incorporation in other Customer hardware or software to be sold to third parties as an aggregate product or system. Customer agrees that it shall not resell Products to third parties in the same or similar form as sold by Seller to Customer without receiving prior written consent from Seller.

16.3 Seller and Customer agree to comply with all applicable laws including, without limitation, all applicable export and import laws and regulations. Customer shall not export any Products or technical data received from Seller pursuant to the Contract except in accordance with applicable export control laws and regulations.

16.4 If the performance of the Contract or of any obligation thereunder by either party is prevented by reason of the act of God, fire, floods, war, terrorism and civil disturbances or riot, acts of government, currency restrictions, labor disputes, strikes, difficulty in obtaining materials, failure of carrier or sub-contractor, inability to obtain any necessary import or export license or other consent or permit required of any relevant authority, or any other act or condition whatsoever beyond the reasonable control of such party, such party will, except for payment obligations, be excused from performance for so long as such cause continues.

16.5 Except for non-payment, neither Customer nor Seller will bring a legal action under the Contract more than two (2) years after the cause of action arose.

16.6 In the event that any provision of the Contract including these Terms or portions thereof are held to be invalid or unenforceable, the remainder of the Contract will remain in full force and effect.

16.7 The Contract including these Terms forms the complete and exclusive agreement between Customer and Seller and replaces any prior oral or written proposals, correspondence, or communications regarding the subject matter hereof.

16.8 No forbearance, delay, or indulgence by either party in enforcing the provisions of these Terms shall prejudice or restrict the rights of that party, nor shall any waiver of its rights operate as a waiver of any subsequent breach.

16.9 The Contract including these Terms may not be modified or amended except in writing signed by a duly authorized representative of each party.

16.10 The parties shall execute and do all such further deeds, documents, and things as may be necessary to carry the provisions of the Contract into full force and effect.

16.11 The Contract shall be governed by and construed under and according to the laws of the State of California, United States of America, without regard to its conflict of law provisions other than such provisions directing application of California law. The United Nations Convention on Contracts for the International Sale of Goods does not apply to the Contract.

16.12 If there is a dispute between the parties (whether or not the dispute arises out of or relates to the Contract), the parties agree that they will first attempt to resolve the dispute through one senior management

member of each party. If they are unable to do so within sixty (60) days after the complaining party's written notice to the other party, the parties will then seek to resolve the dispute through non-binding mediation conducted in Orange County, California. Each party must bear its own expenses in connection with the mediation and must share equally the fees and expenses of the mediator. If the parties are unable to resolve the dispute within sixty (60) days after commencing mediation, either party may commence litigation in the state or federal courts in Orange County, California. The parties irrevocably submit to the exclusive jurisdiction of those courts and agree that final judgment in any action or proceeding brought in such courts will be conclusive and may be enforced in any other jurisdiction by suit on the judgment (a certified copy of which will be conclusive evidence of the judgment) or in any other manner provided by law. Process served personally or by registered or certified mail, return receipt requested, will constitute adequate service of process in any such action, suit, or proceeding. Each party irrevocably waives to the fullest extent permitted by applicable law (a) any objection it may have to the laying of venue in any court referred to above; (b) any claim that any such action or proceeding has been brought in an inconvenient forum; and (c) any immunity that it or its assets may have from any suit, execution, attachment (whether provisional or final, in aid of execution, before judgment or otherwise), or other legal process.

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