

PURCHASE TERMS & CONDITIONS

1. **General.** These Purchase Terms & Conditions (“Terms”) shall govern all purchases of goods (“Goods”) and services (“Services”) described in any purchase order issued by Buyer, or in any other document issued by either Buyer or Supplier (such purchase order or other document together being hereinafter referred to as a “Purchase Order”) evidencing the purchase of such Goods or Services by Buyer from Supplier. These Terms contain the entire understanding of Buyer and Supplier with respect to the subject matter of the Purchase Order and incorporate all representations, warranties, covenants, commitments and understandings on which Buyer and Supplier have relied, and neither party makes any other representations, warranties, covenants, commitments or understandings. These Terms supersede all previous representations, warranties, covenants, commitments and understandings between Buyer and Supplier, written or oral, including any terms in any estimate, offer or other similar document, with respect to the subject matter of the Purchase Order. No modification, amendment or waiver of any term or condition in the Purchase Order or in these Terms shall be effective, nor shall any additional or different terms or conditions, whether set forth in an invoice, confirmation, acceptance, shrink-wrap license, click wrap license, online terms of use or service or elsewhere, or pursuant to any course of dealing, usage of the trade or Buyer's acceptance of any goods or services, be effective, unless set forth in a writing signed by Buyer and Supplier. Specifications, drawings and other attachments or documents referred to in the Purchase Order are incorporated into and made a part of the Purchase Order.

2. **Notices.** All communications relating to the Purchase Order, to be effective, shall be addressed, if from Supplier to Buyer, to the Buyer's representative, and if from Buyer to Supplier, to the Supplier's representative, identified in the Purchase Order or as otherwise provided to the other party in writing. Any communications transmitted via facsimile or electronically (a) shall be considered a “writing” or “in writing,” (b) shall be deemed “signed” if a signature is affixed that is valid in accordance with applicable law (including a valid electronic signature), and (c) will constitute an “original” when printed. Communications introduced as evidence on paper will be admissible to the same extent and under the same conditions as other business records originated and maintained in documentary form and admissibility shall not be contested on the basis that the communication was not originated or maintained in documentary form.

3. **Goods and Services set forth in the Purchase Order.** Supplier shall (a) provide to Buyer the Goods and Services set forth in the Purchase Order; (b) keep Buyer advised of the status of its performance of the Purchase Order; (c) permit Buyer or its representatives to review and observe, from time to time upon reasonable notice, Supplier's progress under or performance in connection with the Purchase Order; and (d) provide Buyer with such reports as are appropriate to the nature of the Goods and Services, and as may be reasonably requested by Buyer from time to time.

4. **Inspection.** All Goods and deliverables are subject to final review, inspection and acceptance by Buyer notwithstanding any payment or initial inspection. Final inspection will be made by Buyer within a reasonable time after receipt of Goods or deliverables.

5. **Non-Conforming Goods or Services; Late Delivery; Replacement Personnel.**

(a) Buyer reserves the right to refuse any Goods or Services and to cancel all or any part of the Purchase Order if Supplier does not, or Goods or Services provided by Supplier to Buyer do not, conform to any applicable industry standards or practices, any applicable specifications, drawings, samples, descriptions or any other similar criteria in the Purchase Order or otherwise provided to Supplier by Buyer (the “Specifications”) or any terms and conditions set forth in the Purchase Order or in these Terms. Acceptance of any part of a shipment of Goods or any part of the Services shall not bind Buyer to accept any non-conforming Goods or non-conforming Services simultaneously provided by Supplier, nor deprive Buyer of the right to reject any previous or future non-conforming Goods or Services. Buyer may, if it rejects any non-conforming Goods, return such Goods to Supplier at Supplier's expense for transportation both ways, and Supplier shall not deliver to Buyer any replacement or substitution Goods for such rejected Goods unless so authorized by Buyer.

(b) The delivery of Goods and Services shall strictly comply with the delivery date or delivery schedule, if any, set forth in the Purchase Order. If at any time it appears that Supplier will not meet such delivery date or schedule, Supplier shall promptly notify Buyer in writing of reasons for, and the estimated duration of, the delay. If requested by Buyer, Supplier shall ship delayed Goods by means to avoid or minimize delay to the maximum extent possible, including rerouting any shipment if appropriate and the use of a dedicated motor carrier or air freight, and any added costs shall be borne by Supplier.

(c) Buyer reserves the right to request, for any lawful reason, the removal or reassignment of any personnel assigned by Supplier to provide Services, which right shall not relieve Supplier of any responsibility it has under the Purchase Order. Supplier, shall as soon as practicable thereafter, provide replacement personnel satisfactory to Buyer. Supplier shall not, however, leave any position without staffing acceptable to Buyer during any replacement period.

(d) Notwithstanding the foregoing, Buyer may cancel the Purchase Order and seek any other remedies available in accordance with applicable law, if Supplier does not, or Goods or Services provided by Supplier to Buyer do not, conform to the Purchase Order and these Terms, including delivery of Goods or Services that do not strictly comply with the Specifications or the delivery date or schedule, if any, set forth in the Purchase Order.

6. Cancellation; Changes.

(a) Except as otherwise set forth in the Purchase Order, Buyer may cancel the Purchase Order at any time and for any reason upon written notice to Supplier given at least sixty (60) days in advance. In the event of such cancellation, Supplier shall comply with any directions given by Buyer in such notice with respect to the Goods or Services and cease all other shipment and delivery of Goods and Services covered by the Purchase Order. On the effective date of such cancellation, Supplier shall provide to Buyer all material, drawings, work-in-progress and co-developed intellectual property (in the state of completion or non-completion in which they exist on the date of cancellation) and, within thirty (30) days following the effective date of cancellation, submit an invoice to Buyer for all Goods and Services provided by Supplier and accepted by Buyer in accordance with the Purchase Order prior to cancellation, but only to the extent relating to such Goods or Services for which Supplier has not already submitted an invoice to Buyer. Buyer agrees to pay all undisputed amounts in accordance with the Purchase Order and these Terms. In no event shall Buyer be responsible for any amounts in the aggregate greater than (a) the total that would have been due under the Purchase Order, or (b) the value of the work done by Supplier in accordance with the Purchase Order prior to cancellations, whichever is less.

(b) Buyer may change the scope of the Services set forth in the Purchase Order at any time. If the change affects the cost or time required for performance, a fair adjustment will be made and confirmed by Buyer issuing a change order or revised Purchase Order.

(c) Supplier shall notify Buyer prior to making any changes to raw materials, methods of manufacture, production equipment or locations involved in the performance of the Purchase Order, and shall obtain Buyer's written consent prior to instituting any such changes.

7. Competitive Offers.

(a) If Buyer receives an offer from a third party to supply Goods of a quality at least as favorable as the quality set forth in the Purchase Order, and at a price (adjusted for differences in delivery costs) which is better than the price set forth in the Purchase Order, then Buyer may give Supplier notice thereof, including in such notice the price at which the Goods were offered, the duration thereof and the quantity of Goods so offered, and Buyer shall provide Supplier with ten (10) days from such notice to either agree to supply an equivalent quantity of Goods at such offered price (in lieu of the price set forth in the Purchase Order) or release Buyer to purchase such quantity of Goods from the third party, in which event the quantity to be purchased pursuant to the Purchase Order shall be reduced by the quantity of Goods purchased from such third party.

(b) Supplier represents that the prices set forth in the Purchase Order are no higher than those charged other customers for similar quantities of like Goods or Services.

8. Invoice. Except as otherwise set forth in the Purchase Order, Supplier shall issue a separate invoice for each shipment of Goods delivered by Supplier and for each set of completed Services. Supplier shall not issue any invoices before the Goods or Services are delivered to Buyer. Payment due dates, including discount periods, will be computed from the date the invoice is received by Buyer to the date Buyer's check is mailed (or payment is otherwise transmitted by Buyer). All invoices submitted by Supplier shall include (a) the Purchase Order number; (b) a description of Goods and Services provided; (c) details around any travel and out-of-pocket expenditures approved by Buyer; and (d) a detailed description of the number of hours worked and the fee per hour, if the Services covered by such invoice are provided based on time and material pricing. Supplier shall send Buyer invoices promptly, and in any event within 12 months after delivering the Goods or Services to Buyer. Any invoices sent to Buyer more than 12 months after Supplier delivered the Goods or Services may be rejected by Buyer, and Buyer shall not be obligated to pay any amounts not properly invoiced within 12 months after the Goods or Services are delivered, including any pass-through expenses or taxes that otherwise would have been reimbursable in accordance with the Purchase Order.

9. Payments. Except as otherwise set forth in the Purchase Order, payment terms shall be net sixty (60) days after the receipt by Buyer of an undisputed invoice. Buyer may withhold payment of any amounts which are disputed, in good faith, by Buyer. Buyer may also withhold payment until Supplier, if requested, has furnished satisfactory releases of all liens and claims relating to Supplier's performance of Services, and Supplier shall indemnify and defend Buyer from all liens and encumbrances arising out of Supplier's performance of Services. If the Purchase Order provides for payment of any taxes by Buyer, Supplier's invoices shall list taxes separately, and Buyer is liable only for those taxes which Supplier is authorized to collect from Buyer, by law. Except for amounts expressly set forth in the Purchase Order, Buyer shall not be responsible for any (a) other charges, including charges for delivery, parts or services and (b) expenses of Supplier or any mark-ups on any expenses of Supplier.

10. Warranty.

(a) Supplier represents and warrants the following with respect to Goods and Services supplied pursuant to a Purchase Order: (i) the Goods or Services will be delivered free of any third party claims and Supplier shall transfer good title thereto to Buyer; (ii) the Goods and Services shall be of merchantable quality, conform to applicable industry standards and practices and the Specifications, be suitable for Buyer's intended use, if such use is described in the Purchase Order or in any request for quotation or similar document delivered to Supplier prior to its execution of the Purchase Order, and be free from contamination, defects in design, material and workmanship; (iii) all Services shall be provided by qualified personnel reasonably skilled and trained in the performance of the Services and in a workmanlike and professional manner; (iv) any documentation provided to Buyer by Supplier shall meet reasonable standards of clarity and detail; (v) the Goods and Services provided to Buyer and the use thereof by Buyer shall not infringe on any party's intellectual property rights, including any party's confidential information, trade secrets, copyrights or patents; (vi) Supplier is currently under no obligation to any party, nor will Supplier enter into any obligation with any party, that could interfere with Supplier delivering the Goods and Services described in the Purchase Order; and (vii) Supplier shall comply with, and the Goods and Services provided by Supplier shall be in compliance with, all federal, state and municipal statutes, laws, ordinances and regulations, including those relating to the environment, occupational safety and health, labor standards, assembly and supply of the goods, United States Food and Drug Administration (including compliance with good manufacturing practices), the statutes, laws, ordinances and regulations of any other applicable governmental entity, International Standards Organization Rules 9,000 et seq. and any permits, licenses and certifications Supplier is required to have.

(b) If the Goods or Services provided to Buyer or the use thereof by Buyer infringes on any party's intellectual property rights, including any party's confidential information, trade secrets, copyrights or patents, or if the sale or use of such Goods or Services is enjoined, Supplier shall, at its expense and option, either procure for Buyer the right to continue to use such Goods or Services, replace such Goods or

Services with equivalent non-infringing Goods or Services or modify such Goods or Services so they become equivalent non-infringing Goods or Services. The foregoing, however, shall not be construed to limit or exclude any other claims or remedies that Buyer may assert.

(c) All representations and warranties shall run to Buyer, its customers and the users of the Goods or Services or products into which such Goods or Services may be incorporated. All third party warranties and representations obtained by or applicable to Supplier in connection with any Goods or Services are hereby deemed provided for the benefit of Buyer, its affiliates and their users and customers. Nothing in this clause shall be construed as limiting in any way Supplier's other warranties to Buyer.

(d) Supplier shall indemnify and defend Buyer, its employees and officers against all claims, liabilities and losses of any kind, including costs, expenses and attorneys' fees, arising as a result of the failure of the Goods or Services to conform to the requirements of the Purchase Order and these Terms, irrespective of whether such claim is denominated as being predicated upon breach of contract, strict liability, tort, or any other theory of liability.

11. Buyer's Premises. If Supplier enters Buyer's premises, Supplier shall: (a) comply with Buyer's site rules, practices and policies; (b) ensure that its personnel and agents proceed directly to the site where Services are to be provided and do not enter any other part of the premises, except as directed by Buyer. (c) agree that Buyer or its affiliate, as the case may be, may search Supplier's personnel and agents, their vehicles and packages while they are on, leaving or entering the premises. (d) indemnify and defend Buyer, its employees and officers against all claims, liabilities and losses of any kind, including costs, expenses and attorneys' fees, due to injuries (including death) or damage to persons or property occurring to or caused by Supplier, its agents or contractors, or any of their employees, such indemnity to include injuries or damage caused by the joint or concurring negligence of Buyer; (e) maintain, at least, the following minimum insurance: (i) Workers' Compensation – Statutory; (ii) Employer's Liability -- \$1 million each accident/disease, each employee/disease – policy limit; (iii) Commercial General Liability (Bodily Injury, Property Damage, Products and Completed Operations and contractual liability on an occurrence form of policy naming Buyer as an additional insured) -- \$2 million each occurrence, combined single limit; (iv) Comprehensive or Commercial Automobile Liability (Bodily Injury or Property Damage for owned, non-owned and hired vehicles and naming Buyer as an additional insured) -- \$1 million each occurrence, combined single limit; (v) Umbrella Liability Insurance -- \$10 million each occurrence, excess coverage over underlying primary insurance required and naming Buyer as an additional insured. Supplier will secure from its Workers' Compensation and Employer's Liability carrier a waiver of subrogation in favor of Buyer, its employees and agents, and furnish Buyer certificates confirming the coverage described in this Section.

12. Rights to Deliverables, Inventions.

Buyer will be the exclusive owner of all deliverables created by Supplier in connection with or during the performance of the Purchase Order, any works based on or derived from such deliverables, and any ideas, concepts, inventions or techniques that Supplier may conceive or first reduce to practice as a result of the performance of the Purchase Order and all intellectual property rights therein, including patents, copyrights, trade secrets, trademarks, and similar rights under the laws of any governmental authority (collectively, "Intellectual Property Rights").

13. Software. If the Goods set forth in the Purchase Order include any software (including pursuant to a software-as-a-service offering), related documentation and/or updates thereto (collectively, "Software") the following terms and conditions apply:

(a) Supplier shall retain all Intellectual Property Rights in and to the Software. Supplier hereby grants to Buyer and its affiliates a perpetual (unless otherwise limited in the Purchase Order to a specific duration), worldwide, non-exclusive license to access and use the Software for the business purposes of Buyer and its affiliates. If the Purchase Order limits the Software to use by a certain number of users, then Buyer may replace a user with another user from time to time, provided that the then-current number of users using the Software does not exceed such number. If Supplier determines that Buyer and its affiliates have exceeded

rights to the Software in the Purchase Order through increased usage that is otherwise in accordance with these Terms, Supplier shall promptly notify Buyer in writing of such excess usage and Buyer shall thereafter promptly eliminate such excess usage. If Buyer does not eliminate such excess usage, Supplier's exclusive remedy shall be to invoice Buyer proportionally for such excess usage using the pricing set forth in the Purchase Order.

(b) Buyer and its affiliates may (i) make a reasonable number of backup or archive copies of any Software provided by Supplier and (ii) permit one or more third parties to exercise the rights granted to Buyer and its affiliates hereunder, provided that any such third party may only use the Software to provide Goods to or perform Services for Buyer and its affiliates. Except as expressly permitted herein, Buyer and its affiliates shall (i) not reverse engineer, decompile or otherwise discover the source code of the Software; (ii) not remove any copyright, trademark or other proprietary rights notices in the Software; and (iii) reproduce such notices on any copies of the Software. Supplier shall electronically deliver the Software such that no tangible media passes to Buyer.

14. Force Majeure. Supplier and Buyer, as the case may be, shall be excused for delays in performance or failure of performance to the extent arising from causes beyond such party's reasonable control, including without limitation strikes, wars, fires, acts of terror or acts of God, such as floods and earthquakes. In the event of any such event or condition, the party whose performance is excused hereunder shall notify the other party promptly thereof and shall make diligent efforts to perform at its earliest opportunity. If Supplier's performance is excused hereunder, Buyer may cancel the Purchase Order and Supplier agrees to provide to Buyer reasonable assistance and information necessary for Buyer to make, have made, or otherwise procure replacement Goods and Services.

15. Shipping Terms. Except as otherwise set forth in the Purchase Order, delivery of Goods is to be F.O.B. Buyer's plant and all amounts in the Purchase Order include all delivery charges thereto. If the Purchase Order provides that the Goods are to be shipped F.O.B. shipping point (or similar delivery terms imposing shipping costs upon Buyer), and Buyer has not designated routing, Supplier shall ship Goods via the most economical method that will meet the delivery date provided to Supplier by Buyer. Supplier shall provide a packing list to Buyer for all shipments referencing the appropriate order number. Bills of lading, if any, shall also reference the appropriate order number.

16. Title. Title to Goods and deliverables (including, but not limited to, any materials and equipment therein) and risk of loss, shall pass to Buyer at the delivery point. Passage of title shall not relieve Supplier of any of its other obligations under the Purchase Order.

17. Confidentiality; No Publicity.

(a) Supplier shall not, without the prior written consent of Buyer, originate any publicity (including any news release or public announcement) nor use any logos, trademarks, service marks or names of Buyer or any of its affiliates.

(b) Supplier shall not, without the prior written consent of Buyer, disclose to any third party Confidential Information (as defined below) or use any such Confidential Information for any purpose other than in connection with providing to Buyer the Goods and Services set forth in the Purchase Order. "Confidential Information" shall mean any information that is not already in the public domain or independently developed or obtained by Supplier relating to the following: the existence of the relationship with Buyer; Buyer's purchasing systems or practices (including, without limitation, descriptions of purchased items, quantities purchased and prices paid); the nature of the Services performed or deliverables or Goods delivered under the Purchase Order; or any data, designs or any other information relating to Buyer or its affiliates or their businesses. Notwithstanding the foregoing, Supplier may disclose Confidential Information (i) to Supplier's employees having a need to know such information in connection with Supplier's performance of the Purchase Order or (ii) to comply with applicable laws, court orders or government regulations, provided, in such case Supplier promptly provides notice thereof to Buyer prior to any disclosure to allow Buyer to comment thereon and to seek a protective order or similar relief. Supplier agrees that it will take appropriate action by instruction, agreement or otherwise with its employees who are

permitted access to Confidential Information to notify them of the obligations hereunder. Upon Buyer's request, at any time, all documents and other material containing Confidential Information furnished to Supplier (and copies thereof), shall be returned to Buyer or destroyed, as directed by Buyer.

18. Buyer's Property. If any tools, equipment or materials is furnished to Supplier by, or paid for by, Buyer, and any replacement thereof, and any materials affixed or attached thereto, such tools, equipment or materials shall be and remain the personal property of Buyer, and shall be safely stored separate and apart from Supplier's property. Supplier shall not substitute any property for Buyer's property and shall not use such property except in filling Buyer's Purchase Orders. Such property while in Supplier's custody or control shall be held at Supplier's risk, shall be kept insured by Supplier at Supplier's expense in an amount equal to the replacement cost with loss payable to Buyer and shall be subject to removal at Buyer's written request, in which event Supplier shall prepare such property for shipment and shall redeliver to Buyer in the same condition as originally received by Supplier, reasonable wear and tear excepted.

19. Material Safety Data Sheets. Any appropriate material safety data sheet ("MSDS") and labeling, as and if required by law, will precede or accompany each shipment by Supplier. Further, Supplier shall send to Buyer updated MSDSs and labeling as required by law.

20. Environmental, Safety and Industrial Hygiene Matters. With respect to all environmental, safety and industrial hygiene matters related to Supplier's activities in providing Goods and Services to Buyer, Supplier shall: (a) comply with all applicable laws and regulations; (b) inform Buyer promptly of any significant adverse event that has the potential of affecting the quality of the Goods and Services; (c) inform Buyer promptly of any allegations or findings of violations of applicable laws or regulations that have the potential of affecting the quality of the Goods and Services; (d) allow Buyer's representatives to inspect Supplier's facilities, such inspections to be at reasonable times and upon reasonable notice; and (e) implement promptly any corrective action which may be reasonably requested by Buyer. Supplier shall provide Buyer accurate information concerning ozone depleting chemicals used in its products or processes when required by any applicable regulations or laws.

21. Wood Pallets. If wood pallets are utilized by Supplier to ship any Goods or materials to Buyer or its affiliates or authorized locations, such wood pallets must be constructed from lumber sourced from countries that prohibit the treatment of wood with any form of halophenol based chemicals (including but not limited to 2, 4, 6 trichlorophenol, 2, 4, 6 tribromophenol, any of the tetrachlorophenols, any of the tetrabromophenols and pentachlorophenol). Wood pallets used must have been heat treated only, in accordance with the Heat Treatment standards set forth in International Standards for Phytosanitary Measures Publication No. 15, 2009 Revision (ISPM 15). Additionally, the sourced lumber or finished pallets shall not be shipped or stored with pallets or materials that may contain the chemicals mentioned above. While ISPM 15 currently provides for the use of Methyl Bromide (MB), the use of pallets fumigated with Methyl Bromide is also prohibited. All wood pallets must be labeled with the HT stamp in accordance with ISPM 15 Annex II. Failure to meet the above requirements of this paragraph may lead to rejection of shipments at Supplier's expense.

22. Compliance.

(a) Any provisions, representations or agreements required by law or regulation to be included in the Purchase Order are hereby incorporated by reference into these Terms, including, but not limited to, those prohibiting discrimination against any employee or applicant for employment because of race, color, religion, sex or national origin, or physical or mental handicap and those providing for the employment of disabled veterans and veterans of the Vietnam era.

(b) Supplier represents and warrants that no article shipped pursuant to this Purchase Order will be adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act, or is an article which may not under the provisions of §404 or §505 of that Act be introduced into interstate commerce.

(c) In the manufacture of the Goods or delivery of the Services, Supplier shall employ young persons only as permitted by the following policy on the employment of young persons: (i) Age, Health & Safety – No

person under the age of 16 shall be employed; no person between the ages of 16 and 18 shall be employed unless such employment is in compliance with the health, safety and morals provisions of the International Labour Organization Convention 138 Concerning Minimum Age; (ii) Hours –No persons under the age of 18 ("Young Person") shall be required to work more than 48 hours of regularly scheduled time and 12 hours of overtime per week, nor more than six days per week; (iii) Law & Regulations – No Young Person shall be employed unless such employment is in compliance with all applicable laws and regulations concerning age, hours, compensation, health and safety; and (iv) Supplier agrees to submit to periodic compliance inspections by Buyer or its affiliates and representatives, maintain the records necessary to demonstrate compliance and provide annual certifications of compliance to the foregoing.

(d) Pursuant to Public Law 95-507, the provision at 48 Code of Federal Regulations 52.219-9 ("Utilization of Small Business Concerns") is incorporated into any Purchase Order in excess of \$500,000. Supplier agrees to use best efforts to carry out this policy in the award of subcontracts consistent with the efficient performance of the Purchase Order. Notwithstanding the foregoing, Supplier shall not subcontract any of its obligations under the Purchase Order without the prior written consent of Buyer.

23. Dispute Resolution.

(a) *Governing Law.* The laws of the State of New York, without regard to principles of conflict of laws or Buyer's place of residence, will govern these Terms and the Purchase Order.

(b) *Arbitration.* Subject to subsection (c) below, any dispute that might arise between Supplier and Buyer relating to or arising from the Purchase Order or these Terms shall be settled by binding arbitration in accordance with the then prevailing Commercial Arbitration Rules of the American Arbitration Association ("AAA"), except where those rules conflict with this provision, in which case this provision controls. Arbitration shall be conducted before a single arbitrator selected from the AAA's National Roster of Arbitrators. The arbitration shall be held, and Supplier and Buyer irrevocably consent to arbitrate, in New York, New York, unless they mutually agree upon an alternative location. The arbitration shall be conducted in English. In rendering the award the arbitrator shall apply the substantive law of New York (except where that law conflicts with this clause). The arbitrator may issue orders providing for reasonable discovery by the parties. Any court with jurisdiction shall enforce this clause and enter judgment on any award. Supplier and Buyer each have the right before or during the arbitration to seek and obtain from the appropriate court provisional remedies such as attachment, an injunction, replevin, etc., to avoid irreparable harm, maintain the status quo or preserve the subject matter of the arbitration. The arbitration proceedings shall be confidential and neither party shall publicize the nature of any dispute or the outcome of any arbitration proceeding, except to the extent required by law, provided in such case the party required to make any disclosure informs the other party of such requirement to allow the other party to seek a protective order. The arbitrator may issue appropriate protective orders to safeguard each party's confidential information.

24. Audit. Supplier agrees to make, keep and maintain, in accordance with generally accepted accounting principles and practices, consistently applied, complete books, invoices, records of payments, instructions, specifications, plans, drawings, receipts, manuals, contracts, purchase orders and other records relating to the Purchase Order, including the Goods and Services provided thereunder and if applicable, cost of materials used, expenses incurred, hours worked. Buyer shall have the right to audit or examine all such items, either directly or through its authorized representative or agents, during regular business hours and upon reasonable prior notice. If any audit or examination reveals that Supplier collected more from Buyer than it was entitled to collect under the Purchase Order, Supplier shall promptly reimburse Buyer for the amount of any overcharges. Supplier shall also pay Buyer interest at the rate of one percent (1%) per month on such amount, but in no event to exceed the highest lawful rate of interest, calculated from the date the amount was paid to Supplier until the date of actual reimbursement to Buyer. In the event that any such audit or examination reveals that Supplier collected more than five percent (5%) in excess of the amount that it was entitled to collect under the Purchase Order, Supplier shall also reimburse Buyer for the cost of such audit.

25. Assignment. The Purchase Order and the rights and duties under the Purchase Order and these Terms

and condition shall not be assignable by either party without the prior written consent of the other party, which consent may be withheld in such other party's sole discretion; provided however, Buyer may assign its rights and obligations to any one or more of its affiliates or to a successor of the business to which the Purchase Order relates. The Purchase Order and these terms and conditions shall inure to the benefit of and be binding upon Buyer and Supplier and their respective successors and permitted assigns. Nothing contained in the Purchase Order or these Terms shall give to any other person any benefit or any legal or equitable right, remedy or claim.

26. Relationship. The relationship of Buyer and Supplier is that of independent contractors, and nothing contained herein shall be construed to (i) give either party any right or authority to create or assume any obligation of any kind on behalf of the other or (ii) constitute Buyer and Supplier as partners, joint ventures, co-owners or otherwise as participants in a joint or common undertaking.

27. Miscellaneous. Headings used herein are for convenience only and shall not be used for interpretive purpose. A party's failure to act with respect to another party's breach of any provision contained herein does not constitute a waiver. If any provision herein is held to be invalid or unenforceable, such provision shall be narrowly construed, if possible, or otherwise deemed ineffective and the remaining provisions shall not be affected. The terms and conditions in the Purchase Order and these Terms shall survive the fulfillment of the Purchase Order, as applicable.