

TERMS AND CONDITIONS OF PURCHASE

1. **CONTRACT OF PURCHASE.** Subject to the terms and conditions stated herein (including all drawings, specifications and other documents attached to this offer or referred to in this offer), Seller agrees to sell and Buyer agrees to purchase from Seller, the goods or services described in the purchase order (“order”) to which these Terms and Conditions (“Terms”) are attached or otherwise relate. Seller shall acknowledge receipt and acceptance of each order within three (3) business days; however, if for any reason Seller shall fail to return to the Buyer the signed acknowledgement copy of an order, any conduct by Seller which recognizes the existence of a contract pertaining to the subject matter hereof shall constitute unqualified acceptance by Seller of the order and all of these terms. Any terms or conditions proposed by the Seller which add to, vary from or conflict with these Terms are hereby objected to. If an order has been issued by Buyer in response to Seller’s offer, and if any of these Terms are additional to or different from the terms or conditions of such offer, then the issuance of Buyer’s order shall constitute an acceptance of such offer, subject to the express condition that the order and these Terms constitute the entire agreement between Buyer and Seller with respect to the subject matter of the order. Any reference by Buyer to Seller’s proposal is solely for the purpose of incorporating the description and specifications of the goods and services contained therein to the extent that such description and specifications do not conflict with the description and specifications on the face of the order.

2. **PRICE.** The price for the goods or services shall be the price as shown on an order. Such price includes, without limitation, all freight charges, packing charges, import and customs fees, insurance and any and all other charges whatsoever in connection with Seller’s delivery of the goods and/or services in the order.

If Buyer notifies Seller prior to shipment of any order or provision of any services of any better pricing available from a third party for the same or like products or services, Seller shall have the option to reduce the price invoiced to such better price, notwithstanding the order price, or Buyer shall have the right to terminate such order and/or any or all other orders.

3. **TAXES.** Unless exempt therefrom, all duties and taxes which Seller is required by law to collect from Buyer are included in the price stated herein. Any such items included in the prices or otherwise payable by Buyer shall be separately identified on Seller’s invoice. Seller shall be responsible for and shall pay, defend and hold Buyer harmless from any and all federal, state,

local or foreign taxes, fees, premiums or surcharges measured or based, in whole or in part, on the net income, net profits, gross income, gross profits or gross receipts applicable to amounts received by Seller under this Agreement, and all excise, privilege, net worth, capital, franchise, commercial activity, value added, occupational or any other taxes, fees, premiums or surcharges applicable to amounts received by Seller under this Agreement on all materials and supplies furnished or services performed by Seller, including any real or personal property tax assessed against any and all real or personal property owned or used by Seller in the performance of its obligations under this Agreement, as well as all sales and use taxes imposed on materials included in real estate construction.

4. **INVOICES AND PAYMENT.** All invoices must contain the following information: Purchase order number, item number, description of items, sizes, quantities, and unit prices. Buyer shall pay all undisputed amounts to Seller within sixty (60) days of the later of the date of Buyer’s receipt of the goods or completion of required services, or the date of Buyer’s receipt of an approved invoice. A prompt payment discount of two percent (2%) (excluding any applicable sales and use taxes) shall be available for invoices paid within fifteen (15) days of such date.

Acceptance of or payment for any goods or services in no way relieves Seller from any obligation to correct defects in accordance with these Terms, or waives Buyer’s right to dispute payment of the invoice later. Payment of invoice shall not constitute acceptance of the goods or services and shall be subject to adjustment for shortages, defects and other failures of Seller to meet the requirements of the order. Buyer shall have the right to reduce and set-off against amounts payable to Seller hereunder any indebtedness, damages or other claims which Buyer may have against Seller however and whenever arising.

Where any amount payable to Seller is in dispute, Buyer may withhold payment on the disputed portion until the dispute is resolved. Upon resolution of the dispute, Buyer shall pay the amount mutually agreed or determined to be payable. No interest shall be due on any disputed amounts.

Acceptance by the Seller of payment on an invoice shall operate as and shall be a warranty that: (a) all subcontractors and/or materialmen of Seller have been paid; (b) all laws, codes, ordinances, rules and regulations of any governmental unit or agency having jurisdiction over the Seller’s supply of goods

and/or services have been satisfied; and (c) no person or entity has filed or is entitled to file a lien against Buyer or its property.

Prior to receiving payment, Seller shall provide Buyer a completed and valid federal form W-9 (Request for Taxpayer Identification Number and Certification), form W8-BEN (Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding), or other such form issued by the Internal Revenue Service used to certify citizenship designation and to claim exemption or reduction of withholding. The form must be certified under penalties of perjury, and forwarded to Buyer at his/her e-mail address. Where Buyer is required by the laws of any tax jurisdiction to withhold income or other similar taxes from payment, the amount payable by Buyer upon which the withholding is based shall be paid to Seller net of such withholding. Buyer shall pay any such withholding to the applicable tax authority and timely provide Seller with documentation, certificates of withholding, or receipts necessary for Seller to claim the withholding taxes from the applicable Taxing Authority.

5. DELIVERY AND RETURN. Unless otherwise agreed in writing, the goods shall be delivered to Buyer assembled, completed, and ready for use, and the Buyer shall accept delivery of such goods or performance of any required services at the location designated on the order. The obligation by Seller to meet the delivery or performance date specified in the order, or that promised by Seller if not specified in the order, is of the essence. Seller shall give Buyer advance notice of when shipments will be made. In the event that Seller believes or has reason to believe that it will not be able to comply with and/or otherwise satisfy the required or promised delivery date(s), Seller will immediately notify Buyer of same and the new expected delivery date; provided, however, that such notice shall not relieve Seller of its liability for failure to comply with its delivery obligations. Delivery of goods or performance of any required services is not complete until goods or services have been actually received and accepted by Buyer. Should Seller fail to comply with or otherwise fail to satisfy the required or promised delivery date(s) as applicable, Buyer may, at its sole discretion, reduce the amount due Seller in an amount which reasonably reflects an estimate of Buyer's anticipated damages, and not a penalty, for such failure. If, in the Buyer's judgment no more than once in any twelve (12) month period, any delivered goods are no longer required by Buyer, Buyer may return to Seller at Buyer's expense any or all unused goods for a full refund of their purchase price (or a downward reasonable adjustment in price if the goods are of such a nature that individual prices per unit are not determinable from the), without any restocking fee or other penalty.

6. EXCUSABLE DELAY. Seller shall not be deemed to be in default on account of delays in the delivery of goods or in the performance of services to the extent it is beyond Seller's control and not occasioned by Seller's fault or negligence, provided that promptly upon the occurrence of any event which may result in a delay, Seller shall give notice thereof to Buyer, which notice shall identify such occurrence and specify the period of delay which may be reasonably expected to result

therefrom. In the event delivery of the goods or performance of services shall be delayed due to any cause beyond Seller's control and not occasioned by Seller's fault or negligence for a period of more than thirty (30) days after the required delivery date, Buyer shall have the option to terminate such order and/or any and all other orders along with this Agreement upon written notice given to the Seller.

7. WARRANTY. Seller warrants to Buyer, its parent, affiliated companies, and their respective managers, directors, officers, partners, employees, agents, successors and assigns, along with their customers and the end users of any goods that all goods and services provided hereunder shall be (i) merchantable; (ii) new; (iii) free from defects in material and workmanship; (iv) with regard to goods designed by Seller, free from defects in design; (v) in compliance with all applicable specifications, drawings, and performance requirements; (vi) fit for the purpose intended; (vii) free from liens and encumbrances on title; and (viii) that any and all computer software provided as part of any goods or services will be free of any virus, malware, trojan horses or other harmful programs or data incorporated into the software that disrupts the proper operation of the software or any associated computer hardware or software.

Upon notice by Buyer, Seller shall repair, or remove and replace at its own expense, and at Buyer's sole option and direction, any and all goods and services which, in the sole determination of Buyer, is defective, fails to comply with the Agreement, or otherwise fails to satisfy all warranties and guarantees herein at any time within two (2) years from the date of the receipt of the goods or services by Buyer or two (2) years from the date of Buyer's initial operation and use of the goods, whichever is later. Such repair or replacement shall be at no additional charge and on an emergency "rush" basis. Should Seller fail to proceed with the repair, removal and/or replacement of goods or services within ten (10) days from the date of Buyer's notice to do so, Buyer may take all necessary steps to repair, remove and/or replace the goods and services, and the costs and expenses of and incidental to the doing so shall immediately be paid by the Seller. Buyer may at its option deduct such costs and expenses from any portion of the invoice amount not yet paid to the Seller. Seller will pay all costs, additional fees, penalties, rush payments, and damages for nonconforming goods or services, including, but not limited to, any damages incurred as a result of Buyer having to purchase goods or services from an alternative supplier.

Delivery, inspection, test, acceptance or use of, or payment for the goods furnished hereunder shall not affect Seller's obligation under this warranty, and such warranties, and all other warranties, express or implied, shall survive delivery, inspection, test acceptance, payment, and use. If defects are identified before shipment to Buyer's customer, and provided Buyer elects to provide Seller with the opportunity to make the repair or provide the replacement, Seller agrees to correct defects in, or replace any goods not conforming to the foregoing warranty promptly, but in no event, will repair or replacement and delivery be completed more than ten (10) days from notice of such nonconformity by Buyer. A written notice specifying that such goods are corrections or replacements shall

accompany deliveries of corrected or replaced goods. In the event that Seller fails to correct defects in or replace nonconforming goods promptly, Buyer, after reasonable notice to Seller, shall have the right to correct or replace such goods and charge Seller for the cost incurred by Buyer in doing so, such right to include, without limitation, Buyer's right to deduct or offset. If defects are identified after shipment to Buyer's customer, goods may be scrapped, retained, or held for Seller's disposition, at the discretion of Buyer's customer. Seller shall promptly reimburse Buyer for any expenses or damages incurred by Buyer regardless of the nature of such expenses or damages as a result of or relating to Seller's failure to comply with (i)-(viii) above, including but not limited to repair, replacement, rework, removal and reinstallation costs, shipping costs, production delays, payment withholds, field service costs, recall costs, and costs of filing and complying with legal and regulatory requirements, including but not limited to those of agencies such as the Consumer Product Safety Commission. If services or technical data are to be provided by Seller hereunder, Seller warrants to Buyer that such services and/or technical data have been performed or prepared in a professional and workmanlike manner and in compliance with Buyer's instructions or other requirements.

Seller further warrants to Buyer that at all times the prices charged to Buyer for any goods or services under an order is not less favorable than that extended to any other buyer for the same or like goods. In the event of a breach of such warranty, Buyer shall have the right to terminate such order and/or any or all other orders, and Seller shall refund to Buyer the amount of such savings not previously afforded to Buyer under prior sales and/or then-currently outstanding purchase orders.

8. QUALITY OF GOODS AND SERVICES. All goods sold by Seller to Buyer pursuant to the order shall conform to Buyer's quality standards and requirements set forth in any specifications, drawings, samples or other document upon which the order is based. Prior to delivery, Seller shall inspect and test the goods for quality in compliance with the order. The Seller shall keep records of all such quality inspections and tests and, if so requested by Buyer, supply Buyer with copies of such records. Buyer, without prejudice to any other rights or remedies, including the right to inspect goods after delivery, shall have the right at all times to inspect and test the goods during manufacture or processing or while stored under Seller's control. Seller shall not make any changes during the term of this Agreement in the quality, in the location of manufacture, or in Seller's processes related to the goods without prior notification to and written acceptance of such changes by the Buyer in its sole discretion. Any accepted changes shall become the controlling standard of quality for the remaining term of this Agreement.

9. INDEMNIFICATION. Seller covenants and agrees at all times to indemnify, defend and hold harmless Buyer, its parent, affiliated companies, and their respective managers, directors, officers, employees, agents successors and assigns, their customers and any end-users of goods (collectively, "Buyer Indemnified Parties"), from and against any and all losses, costs and expenses arising from a breach of this Agreement by Seller,

and from and against any and all claims for loss, damage or injury and from and against any suits, actions, or legal proceedings of any kind brought against Buyer, or by such other parties by or on account of any person, persons, or entities, or on account of any injuries received or sustained by any person, persons, or entities in any manner (howsoever arising, including without limitation, by reason of negligence, breach of warranty, defect in design, material or workmanship or otherwise, and even though strict liability be claimed), directly or indirectly caused by, incident to, or growing out of a breach of this Agreement, defects in the design, manufacture, or materials used in the goods, negligence in the manufacture, or provision of the goods supplied, or performance of the services hereunder. If directed by Buyer, Seller shall take upon itself the defense and/or settlement of all such claims and the defense of any suit, suits or legal proceedings of any kind brought to enforce such claim or claims, and to pay all judgments entered in such suit, suits or legal proceedings, and all attorneys fees and other expenses. Seller agrees that in any instance where such claims in any way affect Buyer's interest under this Agreement or otherwise, Seller shall not consummate any settlement without Buyer's prior written consent. Seller's covenants of indemnity herein shall continue in full force and effect notwithstanding the termination or expiration of this Agreement.

10. PATENT INDEMNIFICATION. Seller will indemnify, defend and hold the Buyer Indemnified Parties harmless from and against all liability and expenses, including attorneys' fees, arising from actual or claimed infringement of patent, trademark, copyright, misappropriation of trade secrets, breach of confidential relationship, or other rights occasioned by the manufacture, sale or use of the goods or services provided under the order.

11. INSURANCE. Seller has and will maintain the following types and amounts of insurance coverage: (1) Comprehensive General Liability on an occurrence policy form with policy limits equal to or greater than \$2,000,000 per occurrence (combined single limit) and \$5,000,000 in the aggregate, including without limitation coverage for: (i) premises and operations, (ii) products and completed operations, (iii) broad-form contractual liability, (iv) broad-form property damage (including completed operations) and (v) personal injury liability/advertising injury; (2) statutory Worker's Compensation; (3) Employers Liability \$500,000; and (4) Comprehensive Automobile Liability: Bodily Injury \$1,000,000 per occurrence and per person, Property Damage \$500,000 per occurrence. Policy deductibles shall not be more than \$100,000. The above amounts are merely contractual requirements and are not intended to serve as caps on liability. Items (2) and (3) shall only apply if Seller enters upon Buyer's premises for the performance of this Agreement.

Seller will furnish a Certificate of Insurance reflecting such coverage to Buyer upon request from time to time. Seller's insurer will provide Buyer with thirty (30) days written notice prior to cancellation or intent not to renew any insurance coverage(s) required to be maintained herein. All insurance policies must be written by financially viable, U.S. insurance companies rated by A. M. Best as A-VII or better and duly

licensed and authorized to do business in the state, province or territory in which Buyer is located. Buyer and its subsidiaries and affiliates shall be named as an additional insured under Seller's policies providing the coverage above. Seller must provide a Waiver of Subrogation in favor of Buyer. Seller's insurance shall be primary and non-contributory to any of Buyer's insurance.

12. **INSPECTION AND ACCEPTANCE.** Buyer may inspect all goods at any time, including during manufacture at the Seller's facility. Such inspection may at Buyer's option include confirmation of Seller's compliance with all requirements of this Agreement. At no additional cost to Buyer, Seller will permit Buyer and/or its designees access to Seller's facilities at all reasonable times and will provide all tools, facilities and assistance reasonably necessary for such inspection and/or confirmation. All goods are subject to final inspection and acceptance at any time after delivery to Buyer. Buyer, without prejudice to any other rights or remedies, shall have the right to reject defective goods and, at Seller's risk (notwithstanding the terms of delivery) and expense, return the same to Seller or dispose of the same according to Seller's instructions. Payment or transfer of title shall not constitute acceptance. Buyer may return any non-conforming goods to Seller for reimbursement, credit, replacement or correction as Buyer may direct, or Buyer may correct and/or replace such goods at Seller's expense. If Seller fails to do so in a timely manner, Buyer may cancel the order as to all such goods, and in addition, may cancel the then remaining balance of such order and all other orders. Any goods rejected by Buyer will be held by Buyer temporarily at Seller's risk and expense. Seller will not tender goods for acceptance unless any former rejection or requirement of correction is disclosed. Seller will reimburse Buyer for any packaging, handling and transportation costs Buyer incurs with respect to rejected goods. Buyer may revoke its acceptance of goods at any time, whether or not a substantial modification to the goods has been made, if Buyer finds a previously undiscovered defect in the goods which substantially impairs the value of the goods to Buyer. No inspection on the part of Buyer, nor any failure to make any inspection, shall relieve the Seller from its responsibilities under the order and/or these Terms and Conditions or in any way or to any extent modify, relieve, waive, terminate or otherwise affect the warranties or guarantees or any other covenant, obligation or undertaking of the Seller set forth therein or herein.

13. **BUYER'S CHANGES.** Buyer shall have the right at any time prior to the delivery date of the goods or services to make changes in drawings, designs, specifications, packaging, time and place of delivery, nature and duration of services, and method of transportation. If any such changes cause a material increase or decrease in the cost of or the time required for the performance, an equitable adjustment shall be made and the order shall be modified in writing accordingly.

14. **CANCELLATION/TERMINATION.** In addition to its other rights hereunder, Buyer reserves the right to cancel an order or any part thereof at any time without further cost or liability if (a) Seller breaches any of the provisions of this

Agreement, or (b) Seller becomes insolvent or the subject of any proceeding under the law relating to bankruptcy or the relief of debtors. Buyer further reserves the right to terminate any and all orders or any part thereof at any time upon ten (10) days' notice if for the sole convenience of the Buyer. If such termination right is invoked, all reasonable costs incurred up to the date of termination will be reimbursed, provided Seller establishes an entitlement thereto, and upon such payment Seller shall deliver any inventory of parts, materials or finished goods paid for by Buyer (if requested by Buyer), and return all Buyer-provided property pursuant to the following section.

Any termination of an order(s), in whole or in part, or this Agreement in its entirety, shall discharge all obligations and liabilities of the parties with respect to undelivered goods, services or other items to be furnished, without penalty.

Upon any such termination, in whole or in part, it is agreed: (i) that all completed or partially completed orders so terminated shall be and remain the property of Buyer and that Buyer may elect, upon written notice to Seller, to take title to all other material, equipment and other property identified to any order(s) so terminated that Seller owns or has the right to acquire; and (ii) that all obligations of Seller under this Agreement with respect to completed orders, including but not limited to all performance guarantees and patent rights and indemnities, applicable as of such date, shall apply to all goods and services completed or substantially completed by Seller prior to termination. If termination is due to subsections (a) or (b) of the preceding paragraph, Buyer has the option to purchase any equipment, materials, supplies, etc. that are specific to or used solely for the Buyer's orders at the fair market value as determined by an independent third party appraiser.

15. **BUYER'S PROPERTY.** All tools, equipment dies, gauges, models, drawings or other materials furnished by the Buyer to Seller or made by Seller for the purpose of an order or paid for by the Buyer, and all replacements thereof and materials fixed or attached thereto, shall be and remain the property of the Buyer. All Buyer's property and, whenever applicable, each individual item thereof, will be plainly marked and otherwise adequately identified by Seller as "**Property of Harrington Industrial Plastics, LLC**," and will at Seller's expense be safely stored (separate and apart from Seller's property whenever practicable) and will be kept free of all liens, claims, encumbrances and interests of third parties. Seller will not substitute any property for Buyer's property, will not deliver or make available to any third party any of Buyer's property or any property or goods developed, manufactured or created with the aid of any of Buyer's property and will not use any of Buyer's property or any property or goods manufactured, developed or created with the aid of Buyer's property, except in filling the orders of Buyer. Upon any termination of this Agreement or completion of an order, or upon the written request of Buyer at any time, Seller will prepare all Buyer's property for shipment and at Seller's expense will deliver such property to Buyer in the same condition as originally received by Seller, reasonable wear and tear excepted. Buyer shall have the right, at all reasonable times upon prior notice, to enter Seller's premises to inspect any and all Buyer's property and any property or goods

manufactured, developed or created with the aid of any Buyer's property. Seller shall have such responsibility for Buyer's property as is chargeable to Seller by law by reason of its position as a bailee.

16. BUSINESS ETHICS. Seller shall comply, and take reasonable steps to ensure that its suppliers and subcontractors comply, with Buyer's Code of Ethics, if applicable. Seller warrants that it has not, and will not, offer or give to any employee or representative of Buyer any gift or gratuity with a view toward influencing such person in connection with this Agreement or any other order of Buyer. Any breach of this provision shall constitute a material breach of each and every contract between Buyer and Seller.

17. CONFIDENTIAL AND/OR PROPRIETARY INFORMATION. "Confidential Information" and/or "Proprietary Information" (hereinafter referred to as "Proprietary Information") shall, for the purpose of this Agreement, mean: (i) information, knowledge or data disclosed by Buyer to Seller, regardless of whether disclosed in written, tangible, oral, visual or other form, which is related to the subject of this Agreement; (ii) information, knowledge or data which was obtained from facility visits; and (iii) information, knowledge or data not specifically related to the subject of this Agreement but which is in written or other tangible form bearing a suitable legend identifying its proprietary or confidential nature or is otherwise identified as confidential or proprietary. In the event Buyer furnishes sample products, equipment, or other objects or material, including software, to Seller, the items so received and any information contained therein shall be treated as Proprietary Information disclosed to Seller under this Agreement. Furthermore, any and all information obtained or derived from said items, including results from testing, shall be treated as if they were Proprietary Information disclosed pursuant to this Agreement. All Proprietary Information disclosed in any documentary or tangible form, whether in written or electronic form may be marked "Proprietary" or "Confidential" and if the Information is not so identified, it will be considered Proprietary if by its very nature or the circumstances under which it is disclosed one would reasonably consider it to be Proprietary. Seller shall use Buyer's Proprietary Information solely for the purposes of supporting the current business relationship with Buyer and not for any other purpose. Seller shall not disclose Buyer's Proprietary Information to any third party without Buyer's express written consent. Seller may disclose Buyer's Proprietary Information to contract workers, consultants and agents of Seller who have a need to know and who have executed agreements with Seller obligating them to treat such information in a manner consistent with the terms of this Agreement. Notwithstanding the foregoing provisions, this Agreement shall not restrict or affect Seller's rights to use or disclose information: (1) which is or may hereafter be in the public domain through no fault of Seller; or (2) which Seller can show, as reflected by its written documents, that it was known to it prior to the disclosure by Buyer; or (3) which is disclosed to Seller by a third party, without restrictions similar to those herein imposed, subsequent to disclosure by Buyer; or (4) which Seller can show, as reflected by its documents, was

independently developed by Seller without the use of the Proprietary Information.

18. INTELLECTUAL PROPERTY. (A) *Property, Seller Property and Background Property*. All inventions, patents, copyrights, trade secrets, know-how or other industrial or intellectual property arising from or incorporated in work performed by Seller in the design and development of Products pursuant to this Agreement (hereinafter "Property") shall be and remain the property of Seller if and only to the extent that such work was funded entirely by Seller without the use of Buyer Proprietary Information or other resources of Buyer (hereinafter "Seller Property"). All inventions, patents, copyrights, trade secrets, know-how or other industrial or intellectual property used in the Products, but owned by Seller prior to entering into this Agreement ("hereinafter "Background Property") shall be and remain the property of Seller. Seller shall grant to Buyer a perpetual, world-wide, exclusive, royalty-free license to make, use, and sell Buyer products incorporating or using all or any of such Background Property or Property. (B) *Buyer Property*. If the work performed by Seller pursuant to this Agreement was funded wholly or in part by Buyer, or utilized or was derived from Buyer Proprietary Information, all such Property (including tooling) shall belong exclusively to, and is hereby assigned to Buyer (hereinafter "Buyer Property"). Seller agrees to execute such assignments and other documents which, in the opinion of Buyer, are necessary at any time to secure Buyer's rights hereunder. In the event that Seller uses other parties in connection with the work called for by this Agreement, Seller agrees to procure from them similar rights and agreements on behalf of Buyer.

Seller is being engaged as an independent contractor on a work-for-hire basis, and therefore any and all copyrights and other intellectual property rights produced by or for Seller in connection with its performance hereunder vests in the Buyer and shall solely belong to the Buyer. Upon request Seller will provide an assignment of copyright to Buyer.

19. COMPLIANCE WITH LAWS. Seller warrants that all goods or services supplied hereunder will have been produced or provided in compliance with, and Seller agrees to be bound by, all applicable federal, state and local laws, orders, rules, regulations, guidelines, standards, limitations, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted pursuant to such laws. In addition, that Seller has complied with applicable federal and state laws, rules and regulations, included, but not limited to E.O. 11246, Section 202, 11625, 11701, and 11758 pertaining to fair employment practices or which prohibit discrimination because of age, color, sex, physical or mental handicap, race, nationality, religion or creed, or other similar federal or state laws or regulations.

By accepting an order, Seller represents, covenants and warrants to and with Buyer that Seller and all subcontractors below Seller are, and at all times while this Agreement remains outstanding will be, in full compliance with the laws, regulations and Executive Orders of the U.S. Foreign Corrupt Practices Act, the Anti-Kickback Act and the Office of Foreign

Assets Control (OFAC) of the U.S. Department of the Treasury (collectively, "The Acts").

Neither Seller nor any person having direct or indirect a beneficial interest in Seller is (i) a person whose name appears on the list of Specially Designated Nationals and Blocked Persons published by OFAC (an "OFAC Listed Person") or (ii) a department, agency or instrumentality of, or is otherwise directly or indirectly controlled by or acting on behalf of any OFAC Listed Person or the government of a country subject to comprehensive U.S. economic sanctions administered by OFAC, currently Iran, Sudan, Cuba, Burma, Syria and North Korea (each OFAC Listed Person and each other entity and country described in clause (ii), a "Blocked Person"). Seller further represents and warrants that none of the goods or services that it is supplying to Buyer originates from or involves, in whole or in part, any Blocked Person. Seller further represents and warrants that no part of the proceeds from any transaction with Buyer constitutes or will constitute funds obtained on behalf of any Blocked Person or will otherwise be used, directly or indirectly, in connection with any investment in, or any transactions or dealings with, any Blocked Person. Buyer may reject, suspend, or cancel any transaction involving a Blocked Person without penalty or payment. Seller further agrees to indemnify and hold harmless Buyer Indemnified Parties from any violation of The Acts or other provisions hereof by Seller or any subcontractors below Seller. All defined terms set forth in The Acts apply to this clause.

20. PERFORMANCE OF SERVICES. Seller agrees that any services it performs constitute work in its status as an independent contractor. Seller confirms that it exercises control over its employees, contractors, and agents, and that none are acting under the control of Buyer. Seller agrees to indemnify, defend and hold Buyer harmless from and against any claims by its employees, contractors or agents that they are acting under Buyer's control in any way and/or qualify in any way as Buyer's employees.

21. RELATIONSHIP. The relationship of the parties shall at all times be that of independent contractors. Nothing shall be construed to create any association, partnership, joint venture, or relationship of principal and agent, or employer and employee, between Buyer and Seller (or any permitted subcontractor). Seller shall indemnify, defend and hold harmless Buyer Indemnified Parties from and against any claims or damages arising out of or relating to any claims by Seller's employees, agents, subcontractors, any other person or entity claiming through Seller, or any government or administrative body, that such individual is an employee of Buyer.

22. ENTIRE AGREEMENT; AMENDMENT. These Terms along with any or all orders by Buyer constitutes the entire agreement between the parties relating to the subject(s) of such order(s) (collectively, the "Agreement"). Once applicable by reason of any order by Buyer to Seller, these Terms shall apply to any and all subsequent orders by Buyer to Seller, notwithstanding any other or later terms and conditions not

expressly agreed and executed by Seller. In the event of any discrepancy between these Terms and any Buyer order, Seller acceptance or any other documents related to any Buyer order or the subject matter thereof, the more stringent requirement, standard, specification, criteria, warranty or guarantee, as reasonably determined by Buyer, shall govern, unless the context hereof expressly requires otherwise. These Terms may be modified only by written instrument executed by the authorized representatives of both parties.

23. ASSIGNMENT. Seller shall not assign any rights or interests in any order or the Agreement without Buyer's prior written consent in its sole discretion. Further, Seller shall not subcontract any order without Buyer's prior written consent in its sole discretion. Any attempted assignment or delegation absent such approval shall be wholly void and totally ineffective for all purposes. Seller shall remain liable for performance notwithstanding the approval of any such assignment. Any such assignee shall upon demand execute and deliver to Buyer an instrument confirming such assumption. In addition, any person or entity to which this order is assigned pursuant to the provisions of Bankruptcy Code 11 U.S.C., Section 101 et seq., shall be deemed without further act or deed to have assumed all of the obligations arising under all orders and this Agreement, whether before or after the date of such assignment.

24. REMEDIES CUMULATIVE. Buyer's remedies shall be cumulative and remedies herein specified do not exclude any remedies allowed by law or equity. Waiver of any breach shall not constitute waiver of any other breach of the same of any other provision. Acceptance of any goods or services or payment thereof shall not waive any breach.

25. TITLE/LIENS. Title to all goods shall vest in Buyer immediately upon payment of the undisputed portion of an invoice. Seller shall pay for labor, services, materials, equipment and parts thereof, and other expenses incurred by it or its suppliers in connection with the order and indemnify and defend Buyer against all claims and liens arising out of unpaid accounts. Buyer may require and Seller agrees to provide, upon Buyer's request and as a condition precedent to any payment(s) by Buyer to Seller hereunder, properly executed and notarized partial waiver of mechanic's lien rights signed by Seller, any and/or all sub-suppliers and/or materialmen in a form suitable to Buyer. In addition, Seller agrees to provide, upon Buyer's request and as a condition precedent to any payment(s) by Buyer to Seller hereunder, properly executed and notarized affidavit(s) or certificate(s) verifying that all labor payroll (including taxes thereon), bills for materials and equipment or other amounts due sub-suppliers, suppliers and other indebtedness of Seller incurred in connection with the order and covered by the particular affidavit or certificate involved has been fully paid and satisfied. Seller hereby irrevocably waives any rights it may now have or which it may acquire to file liens or charges against Buyer or Buyer's property.

26. AUDIT RIGHTS. Upon reasonable notice, Buyer and its representatives shall have the right to audit at Seller's facility

or other reasonable locations (“Auditable Facilities”) Seller’s compliance with any of the provisions of this Agreement. Seller will provide to Buyer and its representatives access at all reasonable times to the Auditable Facilities and to data and Seller’s personnel for the purpose of performing audits to enable them to confirm that Seller is complying with these Terms and/or any order(s) and is meeting all legal requirements. Seller shall, at no cost to Buyer, cooperate in any such audits. If any such audits result in an overpayment by Buyer, Seller shall promptly refund such overpayment and reimburse Buyer for the cost of such audit.

27. GOVERNING LAWS. THIS AGREEMENT SHALL BE CONSTRUED AND ENFORCED ACCORDING TO THE LAWS OF THE STATE OF CALIFORNIA, EXCLUDING ITS “CHOICE OF LAW” OR “CONFLICT OF LAW” RULES. The exclusive venue for any disputes hereunder shall be the state courts located in San Bernardino County, California, or the federal courts of the Central District of California, and each party irrevocably submits to the exclusive jurisdiction of such federal and state courts.

28. SEVERABILITY. If any provision of the Agreement shall be held by a court of competent jurisdiction to be contrary to law, the remaining provisions of the Agreement shall remain in full force and effect.

29. NO WAIVER. Any waiver of the terms of any order or these Terms must be in writing and signed by the party to be charged with such waiver. The failure of a party to enforce any provision of this Agreement promptly shall not be construed as a waiver of such provision. Any waiver shall be limited to the instance so waived, and shall not be deemed a continuing or future waiver.

30. CONSTRUCTION. The headings of the various sections of these Terms or any order are intended solely for convenience of reference, and shall not be deemed or construed to explain, define, limit, modify or place any construction upon the provisions hereof. Any reference to a party’s authorization or similar consent shall mean in such party’s sole and absolute discretion. These Terms shall be construed by their plain meaning, and not for or against a party by virtue of being the drafter.

31. PUBLICITY. Seller shall not publicly disclose the existence of or any other information respecting these Terms or any Buyer order without the prior written authorization of Buyer. Requests by Seller for such disclosure, whether by publicity releases, advertisements, association papers, internal publications, video presentations and/or other types of disclosure likely to become public information shall be submitted to Buyer for prior approval.

32. SURVIVAL. All warranties, obligations of confidentiality and other provisions which by their nature are intended to survive this Agreement shall survive the completion or termination of this Agreement.

34. EXCLUSION OF U.N. CONVENTION ON INTERNATIONAL SALES. Unless otherwise agreed by Seller and Buyer in writing, there is excluded from any and all orders (including any amendments or changes thereto) the application of the United Nations Convention on Contracts for the International Sales of Goods.

35. C-TPAT. If the goods are to be imported into the U.S., Seller shall confirm in writing whether or not it is C-TPAT certified. If C-TPAT certified, Seller shall also provide Buyer a copy of documentation verifying the certification. If not C-TPAT certified, Seller shall (a) confirm in writing if Seller participates, or has participated, in a WCO accredited security program administered by the Customs Administration of Seller’s country, and (b) provide a security questionnaire in Buyer’s approved format. Seller shall comply with the security criteria described in this U.S. Customs & Border Protection web site: http://www.cbp.gov/xp/cgov/import/commercial_enforcement/ctpat/security_criteria/security_criteria_foreign_manuf/. If Seller uses or contracts for transportation or logistics services in connection with the performance of an order, it shall use only those carriers which are C-TPAT certified, or which meet C-TPAT security criteria. Seller shall maintain documentation of the C-TPAT security compliance of such service providers. Seller accepts responsibility for factory and container security until such time as the goods are delivered to the ocean terminal, authorized yard, or consolidation point. Seller shall have effective controls and processes in place which are consistent with C-TPAT security criteria to insure the integrity of the shipment. These controls shall include as a minimum: (a) verification of the integrity of the shipment container and its locking mechanism; (b) the use of high security seals which meet PAS ISO 17712 standards; (c) written policies and procedures regarding the control, issue, affixation, and verification of seals; (d) the presence of at least two (2) company-authorized individuals at the time a shipment is sealed; and (e) notification to Buyer (and the customer in the case of direct shipment) of the seal number. Seller will immediately report all seal changes and the reason for changes, or the discovery of a broken or altered seal, to Buyer (and the customer in the case of direct shipment) and to the U.S. Customs Representative at the port of shipment. Seller shall permit Buyer’s representative to review and audit Seller’s compliance with the above requirements upon reasonable notice.

36. WAIVER OF JURY TRIAL. EACH PARTY HEREBY IRREVOCABLY WAIVES THE RIGHT THAT IT MAY HAVE TO A TRIAL BY JURY ON ANY CLAIM, COUNTERCLAIM, SUIT, DEMAND, ACTION, CAUSE OF ACTION OR OTHER PROCEEDING (I) ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT, OR (II) IN ANY WAY IN CONNECTION WITH OR PERTAINING OR RELATED TO OR INCIDENTAL TO ANY DEALINGS OF THE PARTIES WITH RESPECT TO THIS AGREEMENT OR IN CONNECTION WITH THIS AGREEMENT OR THE EXERCISE OF EITHER PARTY’S RIGHTS AND REMEDIES UNDER THIS AGREEMENT OR OTHERWISE, OR THE CONDUCT OR THE RELATIONSHIP OF THE PARTIES, IN ALL OF THE

FOREGOING CASES WHETHER NOW EXISTING OR
HEREAFTER ARISING AND WHETHER IN CONTRACT,
TORT OR OTHERWISE.