# SUPPLIER TERMS AND CONDITIONS

**Acknowledgment.** Sale or lease of any goods or equipment or the performance of services is expressly conditioned on Supplier's acceptance of these Terms and Conditions. Any additional or different terms proposed by Supplier in any document, including but not limited to terms shown on any Supplier document(s), are objected to, null and void, and rejected and will not be binding upon Company unless agreed to in writing by Company. These Terms and Conditions supersede all prior terms and conditions and shall be the sole Terms and Conditions which apply to any sale, lease, or other furnishing of products or services. Any performance of any work or delivery of any products or services shall constitute acceptance by Supplier of these Terms and Conditions. No modifications to this Agreement shall be effective unless such modification is made in writing and signed by an authorized representative of Company.

**ARTICLE 1: DEFINITIONS and INTERPRETATION**

Definitions. Capitalized words used herein have the following meanings:

"**Affiliate**" means any subsidiary or parent or holding company of any company or any other subsidiary of such parent or holding company. For the purposes of the Agreement "subsidiary" and "holding company" shall each have the meaning assigned to them under Section 1159 of the Companies Act 2006 and a company shall be treated, for the purposes only of the membership requirement contained in Subsections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of: (a) another person (or its nominee), whether by way of security or in connection with the taking of security; or (b) a nominee.

"**Agreement**" means the agreement between the Company and Supplier for the sale or lease of any Goods and/or the furnishing of any Services, the specifications, prices, and details of the order of the Goods or Services (but excluding any legal terms expressed or referenced by Supplier), as evidenced in a written Purchase Order, and in each and every instance, incorporating these Terms and Conditions together with any special terms which may be agreed in writing between the Supplier and Company.

"**Claim(s)**" shall mean any claim of every kind and nature, demand, cause of action, proceedings, judgment, award, costs (including reasonable legal fees), liability, loss, expense, penalty, fine and damages.

"**Client**" shall mean any customer to which the Company has undertaken to sell Goods or provide services and in conjunction with which the Goods and/or Services are being provided by Company.

"**Client Group**" shall mean and include the Client, its parent companies, affiliates, subsidiaries, successors, and permitted assigns including shareholders, officers, directors, partners, employees, and agents.

"**Company**" The term "Company" as used in this Agreement shall mean Forum US, Inc. and for the purposes of any Purchase Order issued by an Affiliate of Company, shall mean only the Affiliate issuing the Purchase Order.

"**Company Group**" means the Company and its Affiliates and its and their contractors of any tier and their respective Affiliates, and its and their respective officers, directors, and employees (including agency personnel), but shall not include any member of Supplier Group.

"**Delivery**" means delivery of the Goods or Repaired Goods per the Incoterms 2010, as specified in the Purchase Order. "Deliver" and "Delivered" shall be construed accordingly.

"**Delivery Date**" shall be the date specified on the applicable Purchase Order.

"**Domestic Shipment**" means any shipment of Goods originating in and delivered within the same country.

"**Goods**" means the various items of Goods offered for sale and which are the subject of this Agreement, including Goods that are not new but have been repaired or refurbished ("Repaired Goods") by Supplier.

"**INCOTERMS**" means the International Commercial Terms published by the International Chamber of Commerce (ICC).

"**Indemnify**" means to fully defend, protect, indemnify and hold harmless REGARDLESS OF THE ACTIVE, PASSIVE, CONTRIBUTORY, SOLE, JOINT OR CONCURRENT, ORDINARY OR GROSS NEGLIGENCE OF ANY PERSON INDEMNIFIED AND REGARDLESS OF WHETHER LIABILITY SUPPLIER TERMS AND CONDITIONS OF ANY KIND, INCLUDING LIABILITY WITHOUT FAULT AND BREACH OF DUTY (STATUTORY OR OTHERWISE), IS IMPOSED OR SOUGHT TO BE IMPOSED ON ANY PERSON INDEMNIFIED.

"**Indemnitees**" means any member(s) of Company Group or Client Group.

"**International Shipment**" means any shipment of Goods that crosses one or more international borders, including any import, export, temporary import, temporary export, or cross-border movement of Goods.

"**Party**" means either Company or Supplier and "Parties" mean both of them.

"**Purchase Order**" means each individual order for Goods issued, or Services performed, by Supplier pursuant to this Agreement.

"**Services**" means all operations to be performed by the Supplier, its personnel, Subsuppliers, or agents (including but not limited to the provision of goods and services in respect to the Goods or Repaired Goods) pursuant to this Agreement.

"**Subsupplier(s)**" means a contractor, supplier, manufacturer or any other Person who is engaged by Supplier in connection with this Agreement.

"**Supplier**" collectively refers to Supplier designated in the Purchase Order.

"**Supplier Group**" means the Supplier, and its Affiliates and its and their Subsuppliers and their respective Affiliates, and its and their respective officers, directors, invitees and employees (including agency personnel), but shall not include any member of the Company Group.

"**Terms and Conditions**" means Company's terms and conditions, as contained in this document.

"**Third Party**" or "Third Parties" means any person or entity other than the Company Group or Supplier Group.

"**Work**" means the Goods and/or Services to be performed or provided by Supplier under the applicable Purchase Order.

Sale or lease of any goods or services is expressly conditioned on Supplier's acceptance of these Terms and Conditions. Any additional or different terms proposed by Supplier in any document, including but not limited to terms shown on Supplier's quote, sales order or any other Supplier document, are objected to, null and void, and rejected and will not be binding upon Company unless agreed to in writing by Company. These Terms and Conditions supersede all prior terms and conditions and shall be the sole terms and conditions which apply to any sale, lease, or other furnishing of goods or services. Supplier's performance of any work or provision of any goods shall constitute acceptance by Supplier of these Terms and Conditions. No modifications to this Agreement shall be effective unless such modification is made in writing and signed by an authorized representative of Company.

**ARTICLE 2: SUPPLY OF GOODS**

Supplier shall furnish all skills, labor, supervision, equipment, materials, supplies and/or facilities required to supply the Goods, as well as obtain and maintain all permits, licenses and/or regulatory requirements which may be required to authorize Supplier to Deliver the Goods or otherwise satisfy its obligations in this Agreement.

A Purchase Order is accepted at the earlier of: (a) the time both Parties have executed the Purchase Order by signing and providing to the other Party written confirmation of the Purchase Order; or (b) when Supplier begins to perform under the Purchase Order.

Company may, at any time, in writing, make reasonable changes to a Purchase Order. If any changes cause an increase or decrease in costs or changes to the schedule for Delivery, the Supplier must notify the Company in writing of the cost increase or delivery delay before undertaking additional work; the Parties shall negotiate an equitable adjustment in the price for the Goods or the Delivery Date, or both, which will be reflected in a revised Purchase Order issued by Company. Any failure by Supplier to notify Company of a cost or delivery impact in advance of undertaking the work shall preclude the Supplier from obtaining any adjustment in price or Delivery Date.

**ARTICLE 3: INDEPENDENT CONTRACTOR**

Supplier is an independent contractor and nothing in this Agreement creates any relationship with Company other than that of an independent contractor. Supplier's employees are neither an employee of Company nor eligible for participation in any Company employee benefit programs.

Neither Supplier nor its agents, subsidiaries, affiliates or employees are in any way the legal representatives or agents of Company and shall not have any right or authority to assume or create any obligation of any kind, expressed or implied, in the name of, or on behalf of, Company.

**ARTICLE 4: PRICING**

The pricing for Goods shall be as set forth in the Purchase Order, and no extra charges of any kind shall be allowed unless specifically agreed to in writing by Company.

Except as expressly provided for in the Purchase Order, the total price set forth in the Purchase Order for Goods purchased thereunder shall be deemed to include all compensation due to Supplier as a result of the sale including, without limitation, the cost of all taxes, duties, import fees, costs for shipping, expediting services, all labor with burdens, mark-ups, profit, travel and living costs.

**ARTICLE 5: PAYMENT AND AUDIT**

Supplier will submit, or cause to be submitted, monthly invoices in arrears to the Company with full and proper supporting documentation, and the undisputed portions of such invoices will be paid within sixty (60) days of receipt. Final invoices must be submitted within ninety (90) days of completion of shipment of the Goods or such rights to payment pursuant to such invoice shall be waived. Supplier hereby waives and releases Company from any claim for payment (whether under contract, quasi-contract, unjust enrichment, or otherwise) for Goods or Services which were invoiced for the first time more than ninety (90) days after completion of the Services or delivery of the Goods, REGARDLESS OF FAULT OF COMPANY.

Company shall have the right to audit the books and records of Supplier or any Subsupplier of any tier thereof relating to the Goods or the performance of this Agreement for a period of five (5) years from final invoice provided by Supplier. Supplier shall promptly refund to Company any overpayment disclosed by any audit conducted in accordance with this Agreement. Payment of any invoice shall be without prejudice to Company's audit rights set forth herein this Agreement. Each party shall be responsible for its own expenses incurred in connection with such audit.

Company may withhold disputed amounts, without incurring interest or penalty. Company may offset amounts it is owed from Supplier from any payment it owes to Supplier, whether under this Agreement or otherwise. Supplier agrees to waive all rights of mechanics' liens or other liens against the property of Company Group and further agrees to hold harmless Company Group from any such liens arising from Supplier's performance under this Agreement.

**ARTICLE 6: DELIVERY DATE AND PACKAGING**

**Time is of the Essence**. Supplier hereby acknowledges that compliance with the time schedule is an essential condition of this Agreement and that time is of the essence.

Supplier shall immediately notify the Company if Supplier believes that it will be unable to meet the required Delivery Date or perform any Services on the date or dates scheduled for such Services.

For any delivery made after the Delivery Date without the written authorization by Company, Supplier shall be liable for payment of liquidated damages for delay. Payments of such liquidated damages shall be without prejudice to the rights and remedies of Company under this Agreement. Such liquidated damages payments shall not be construed as a penalty, and it is agreed that they constitute a fair and genuine pre-estimate of Company's losses to the date of applying such damages. Payment of these liquidated damages shall not relieve Supplier from duly performing its obligations under this Agreement. Liquidated damages shall be applicable if the Delivery Date is not complied with, at the rate of one percent (1 %) per day elapsed from such date(s) with a limit of thirty percent (30%), assessed on the value of the delayed Goods.

In addition to Company's right to claim liquidated damages, if Goods are delayed and Supplier fails to provide Company with reasonable assurance, to be determined solely in Company's discretion, that delivery will be made within thirty (30) days of the Delivery Date, Company reserves the right to immediately terminate the Purchase Order for Supplier's default per Article 12 below.

Supplier shall inspect, package, preserve, mark, label, prepare, and Deliver all Goods in a safe, efficient, diligent, and workmanlike manner, in accordance with good commercial practices and the standards of care, skill, and diligence exercised by reputable and experienced suppliers of similar goods. Supplier shall ensure that all Goods are packaged and prepared for shipment in a manner that prevents damage, deterioration, corrosion, contamination, moisture intrusion, loss, or other impairment during handling, storage, transportation, and delivery.

Supplier shall comply with all packaging, preservation, marking, labeling, identification, traceability, shipping, and documentation requirements set forth in the applicable Purchase Order and any specifications, drawings, standards, manuals, quality requirements, packaging standards, shipping instructions, or other written requirements issued or referenced by Company at the time of the applicable Purchase Order or as subsequently provided by Company. Packaging shall be appropriate for the nature of the Goods, the intended mode or modes of transportation, the destination, environmental conditions, and all reasonably foreseeable handling, transit, and storage conditions.

For Domestic Shipments, Supplier shall comply with all applicable laws, regulations, carrier requirements, and industry standards governing the packaging, marking, labeling, transportation, and delivery of Goods, including all applicable hazardous materials requirements and the provision of all required documentation, certifications, safety data sheets, shipping papers, labels, and placards.

For International Shipments, Supplier shall comply with all applicable imports, exports, customs, transportation, packaging, marking, labeling, security, and destination-country requirements relating to the shipment of Goods. Supplier shall be solely responsible for the accuracy and completeness of all shipping, customs, import, and export documentation and for ensuring compliance with all applicable legal and regulatory requirements governing the cross-border movement of Goods. Compliance with export controls, sanctions, and import requirements shall be governed by Article 18.

Where wood packaging materials are utilized, including crates, pallets, skids, blocking, bracing, or dunnage, Supplier shall comply with all applicable phytosanitary requirements, including but not limited to International Standards for Phytosanitary Measures No. 15 (ISPM 15) and any successor standards, and shall ensure that all required markings, including valid International Plant Protection Convention (IPPC) markings, are properly applied.

Supplier shall be solely responsible for and shall reimburse the Company for all losses, damages, costs, expenses, delays, fines, penalties, duties, inspections, storage charges, demurrage, detention charges, customs assessments, rework costs, replacement costs, expedited freight charges, customer claims, and other liabilities arising from or relating to Supplier's failure to comply with this Article, including any inadequate, defective, or non-compliant packaging, marking, labeling, preservation, shipment preparation, shipping documentation, or phytosanitary requirements. Such reimbursement obligations shall not be subject to any limitation of liability set forth elsewhere in this Agreement.

The Company may reject any shipment or Goods that fail to comply with this Article. At the Company's option, Supplier shall promptly replace, repair, or repackage the affected Goods and arrange expedited shipment at Supplier's sole cost and expense. Any inspection, acceptance, use, or payment by the Company shall not relieve Supplier of its obligations or liabilities under this Article.

**ARTICLE 7: TITLE AND RISK OF LOSS**

All Goods are sold to Company per the Incoterms 2010 set forth in the Purchase Order. Notwithstanding any agreement to pay freight, transportation charges, or to make payment or advances on account, risk of loss shall pass to Company when the Goods are delivered and accepted by Company.

The transfer to Company of ownership in the Goods shall take place, whichever occurs first: (i) as soon as the goods can be identified as pertaining to the relevant Purchase Order; (ii) when Company pays for the Goods or part thereof in accordance with this Agreement; (iii) at the time of delivery to Company in accordance with this Agreement.

However, Company may accept or refuse at its sole option the ownership of any of the Goods which may not be in conformity with this Agreement.

Supplier hereby warrants that, at the time title passes hereunder, Supplier shall deliver title to the Goods to Company free and clear of any defects in title, or any lien or encumbrance thereon.

Supplier, at its sole cost and expense, shall defend, Indemnify, save and hold Company harmless, and defend title against the Claims and demands of all Persons arising out of, or in connection with, the Delivery of Goods, including taking all such actions as may be required to discharge any lien or encumbrance thereon.

**ARTICLE 8: QUALITY CONTROL & SAFETY**

All Goods shall be tested and certified in accordance with the procedures outlined in the Purchase Order.

Acceptance or rejection of the Goods shall be made as promptly as practical after Delivery, but failure to inspect and accept or reject the Goods or failure to detect defects by inspection shall not: (i) relieve Supplier of its responsibility for all requirements relating to such Goods; (ii) impose liabilities on Company for its failure to identify such defects; or (iii) limit Company's ability to rely on any remedies provided for in this Agreement, at law or in equity.

**ARTICLE 9: WARRANTIES**

Supplier gives the following warranties regarding all Goods and Services provided to Company under this Agreement:

All Goods are as described in and meet the terms, conditions and requirements of the Purchase Order, are of merchantable quality and are fit for their particular purpose. All Goods will comply with the express warranties and representations provided in Supplier's written materials and the labels affixed to the Goods.

All Goods are new and free from defects in design, workmanship and materials unless otherwise stated in the applicable Purchase Order.

The Goods or use of the Goods shall not infringe or otherwise violate any intellectual property right of a Third Party.

If Supplier is not the manufacturer of the Goods, Supplier assigns to Company all warranties given by manufacturers and vendors of the Goods (or their components) in relation to the Goods.

If any Goods do not satisfy any warranty given in this Article 9 for a period of twenty-four (24) months from delivery and acceptance of the Goods, then at Company's sole option, Supplier shall replace or repair the non-conforming Goods to Company's satisfaction, refund the full price of the non-conforming Goods, or reimburse Company for the full cost of Company's repair or replacement of the Goods. Supplier shall pay all reasonable costs incurred in repairing, replacing, retrieving, removing and reinstalling the non-conforming Goods, including shipping and import duties without regard to any limitation.

With regard to Services, Supplier shall remedy the failure by, in the Company's sole discretion, (i) re-performing the non-conforming Service at Supplier's sole expense to the satisfaction of Company or (ii) refunding or crediting Company the full price of the non-conforming Service, or any substitute Services contracted for by Company with another provider.

The warranties given in this Article 9 are applicable to all Repaired Goods or replaced Goods for a period of twenty-four (24) months from completion of the repair or replacement and to all re-performance with regard to Services.

Where Company notifies Supplier of the failure of the Goods to conform with the warranty provided in this Article 9, Supplier shall commence corrective action as soon as reasonably possible after receipt of such notice from Company. If Supplier fails to commence and diligently pursue remedial action within three (3) days of Company's notice, Company has the right to remedy the non-conforming Goods itself or engage another supplier to perform this remediation. In either case, Supplier is responsible for all costs incurred by Company and Company has the right to offset against any amounts that may become due.

The warranties set out in this Article 9 are in addition to any and all other warranties, whether express, implied or statutory, that may otherwise be applicable, including any implied warranties of merchantability, fitness for purpose or satisfactory quality.

These warranties shall automatically inure to any Client who receives any portion of the Goods or Services and such Client shall be a third-party beneficiary of this Article 9 with the right to enforce such warranties directly regardless of any formal assignment.

**ARTICLE 10: INDEMNITY**

**INTENT OF INDEMNITY PROVISIONS.** The Parties agree to allocate between them responsibility for all Claims arising out of this Agreement as set out below. **BOTH PARTIES AGREE THAT THIS STATEMENT COMPLIES WITH THE REQUIREMENT, KNOWN AS THE EXPRESS NEGLIGENCE RULE, TO EXPRESSLY STATE IN A CONSPICUOUS MANNER THAT AFFORDS FAIR AND ADEQUATE NOTICE THAT THIS AGREEMENT HAS PROVISIONS REQUIRING ONE PARTY (THE INDEMNITOR) TO BE RESPONSIBLE FOR THE SOLE OR CONTRIBUTORY NEGLIGENCE, STRICT LIABILITY, OR OTHER FAULT OF ANOTHER PARTY (THE INDEMNITEE).**

**DELIVERED GOODS AND SERVICES**

**Property.** If damage is suffered or loss is incurred in relation to property of any Person (including Indemnitees, Supplier Group and Third Parties) where that damage or loss arises from any Goods or Services subject to this Agreement, Supplier agrees to Indemnify Indemnitees from and against all Claims for such damage or loss. At Company's option, Supplier shall, where possible, repair or replace the damaged or lost property. Losses contemplated by this article include the cost of removal of wreckage.

**Injury or Death.** Supplier agrees to Indemnify Indemnitees from and against all Claims for injury to or death of any Person (including Supplier Group's employees, Indemnitees' employees and Third Parties) where that injury or death arises from any Goods or Services that are subject to this Agreement.

**Pollution Damage.** Supplier agrees to Indemnify Indemnitees from and against all Claims in relation to pollution, seepage or contamination, including clean-up costs, where those Claims arise from any Goods or Services that are subject to this Agreement.

**INTELLECTUAL PROPERTY.** Supplier agrees to Indemnify Indemnitees against claimed or actual infringement or contributory infringement of any patent, or infringement of any copyright or trademark, or misappropriation of any trade secret arising out of or in connection with the Goods supplied by Supplier Group under this Agreement or the use by Indemnitees of the Goods. Company shall promptly notify Supplier if Company or a Client is threatened with a Claim or becomes aware of any actual or potential Third-Party Claim against it or any Indemnitees concerning the matters addressed in this article based in whole or in part on the Goods or their use by Indemnitees. In addition to other obligations relating to the defense of any such Claim, neither Party shall settle or compromise any such Claim without the written consent of the other Party. In the event of any such Claim, Supplier shall perform one of the following actions at its own expense to avoid future infringement:

(1) Modify or replace any Goods that Company or a Client has built or bought or any process that Company or a Client is using which utilizes such Goods in order to avoid the patent infringement or trade secret violation. Such modification or replacement must be accomplished in a manner that is acceptable to Company or a Client and that does not detrimentally impact the performance of the affected Goods or the process which uses such Goods.

(2) Secure for the benefit of Company or a Client irrevocable and fully paid licenses for the Goods and their use or operation in the process in order to avoid any future infringement without the need to modify or replace the Goods or the processes which use such Goods. Such licenses must be obtained at no cost to Company or a Client and on terms acceptable to Company.

**This Article 10 shall survive the termination of this Agreement or Purchase Order for any reason.**

**ARTICLE 11: INSURANCE**

At all times during this Agreement, Supplier shall obtain and maintain in full force and effect and at its sole cost and expense, including applicable deductibles or self-insured retentions, with an insurance company or companies authorized to do business in the jurisdiction where the Work is to be performed or provided or through a self- insurance program approved by Company in writing in advance, the insurances (or their equivalent acceptable to Company) of the kind and in the amounts (which shall be minimum limits) only listed below. Supplier will furnish to Company annually a certificate or certificates evidencing the insurance coverage (or their equivalent acceptable to Company) listed below. Supplier agrees that for the term of this Agreement, Supplier shall not and shall not permit any such insurance to be cancelled, altered or amended without thirty (30) days' prior written notice to Company in writing. If any such change is not acceptable to Company in its sole discretion, it may terminate this Agreement and / or any then pending purchase orders, without additional compensation or obligation to Supplier.

**Workers Compensation/Employers Liability**

(1) Minimum policy limit of US $1,000,000 per occurrence.
(2) Include U.S. L. & H. coverage where applicable.

**Comprehensive General Liability**

(1) Minimum policy limit of US $1,000,000 per occurrence.

(2) Deletion of all watercraft exclusions.
(3) Blanket Contractual liability coverage for all Indemnity obligations assumed under this Agreement.

**Excess Liability**

(4) Minimum policy limit of US $5,000,000 per occurrence or such other amount as shall be specified in the applicable purchase order.

**Automobile**

(5) Minimum policy limit of US $1,000,000 per occurrence.
(6) Covering all owned, non-owned, hired and/or rented automotive equipment for bodily injury and/or property damage.

Prior to Supplier commencing Work hereunder for Company, Supplier shall obtain from each of its insurers a waiver of subrogation in favor of each the Indemnitees and, with the exception of Workers' Compensation/Employers Coverage, the naming of the Indemnitees as additional insureds in all their capacities in each insurance policy as set forth above. The obligations of Supplier to name the Indemnitees as additional insureds shall apply regardless of the enforceability of the Indemnity obligations of Supplier in this Agreement. The limits specified above shall be minimum limits only, and the Indemnitees as additional insureds shall be entitled to the full limits of all policies actually obtained. No "other insurance" provision shall be applicable to the Indemnitees by virtue of having been named an additional insured or loss payee under any policy of insurance and Supplier's insurance shall be primary with respect to the Indemnitees. Supplier shall ensure that any endorsement naming the Indemnitees as additional insureds shall not exclude from coverage the sole negligence of the additional insureds or negligence of the additional assureds without negligence of a named assured.

**Supplier does hereby protect and Indemnify and hold harmless, the Company from any loss Company may suffer due to Supplier's failure to comply with all of the above insurance requirements, including obtaining waivers of subrogation, or due to any insurance coverage being invalidated due to Supplier's failure to comply with the terms, conditions, and warranties of the insurance.**

Supplier and Company agree that any anti-indemnity statute which makes the indemnity agreements provided herein unenforceable against Supplier personally shall not have any effect or limit the insurance obligations of Supplier under this Agreement. Company and the other Indemnitees shall still be able to take advantage of Supplier's additional insured coverage obtained for the benefit of Company (covering contractual liabilities as originally written in this Agreement) to the full extent allowed by law regardless of the enforceability of the underlying indemnity against the Supplier personally.

**ARTICLE 12: TERMINATION**

**Supplier's Default**

Company shall have the right to terminate this Agreement with immediate effect and without indemnity or liability of any nature to Supplier in the following cases:

(1) Supplier's breach of any provision of this Agreement;
(2) Supplier's failure to comply with the terms of the Purchase Order;
(3) Supplier or Supplier's parent company becomes bankrupt, insolvent or goes into liquidation, whether voluntarily or compulsorily; ceases, or demonstrates an intention to cease, to carry on its business;
(4) Supplier assigns, delegates or transfers this Agreement or any portion of the Purchase Order, in whole or in part, except as expressly permitted under this Agreement;
(5) Supplier or Supplier's parent company undergoes or is likely to undergo a material change, which, in Company's sole determination, has or could have an adverse effect on Supplier's or Supplier's parent company's credit, quality, skill, or ability;
(6) If any representation, warranty or covenant made by the Supplier in this Agreement was false or misleading when made or at any time becomes false or misleading;
(7) In case of non-compliance with the provisions of any applicable laws.

In the event of termination as provided for in the above paragraph, Company may avail itself of any and all rights as allowed at law. Company shall not be liable for the purchase price, any costs of Supplier or any other amounts as a result of termination on the basis of Supplier's default.

**Company's Right to Terminate this Purchase Order Without Cause.** Company may terminate this Purchase Order at any time by giving notice to Supplier, with the termination effective on the date specified in the notice (or if no date is specified, termination is effective when notice is received).

Upon Supplier's receipt of notice to terminate any Purchase Order, Supplier is obligated to take all commercially reasonable measures to mitigate the effects of termination, including promptly making every reasonable effort to either obtain termination of all outstanding contracts relating to the Goods on terms satisfactory to Company or assign those orders to Company. Company shall pay Supplier reasonable costs, as solely determined by Company, up to the date of termination.

**ARTICLE 13: RETURNS AND CANCELLATIONS**

**Rejected Goods and Returns** - Company may, at its sole discretion, reject and return to Supplier, at Supplier's sole cost and risk of loss during transit, any Goods that Company determines are not acceptable and have been Delivered due to:

(1) failure to meet the technical specifications in the Purchase Order or the Warranty set forth in Article 9;

(2) damage or destruction during transportation;
(3) improper packaging; or
(4) over shipments or other errors in shipping whereby the Goods do not comply with the applicable Purchase Order.

Supplier shall commence its replacement of any non-conforming Goods and returns immediately upon receipt of any such written request and shall Deliver such replacement Goods to the location directed by Company, all at Supplier's sole cost and expense.

Company may return conforming Goods to Supplier, so long as the Goods are in good, re-saleable condition, in original and unmarked packaging.

**ARTICLE 14: LIMITATION ON DAMAGES**

**Consequential Damages** - NOTWITHSTANDING ANY OTHER PROVISION HEREIN THESE TERMS AND CONDITIONS, IN NO EVENT SHALL COMPANY BE LIABLE TO SUPPLIER OR ANY THIRD PARTY FOR LOST PROFITS (DIRECT OR INDIRECT), INCIDENTAL, CONSEQUENTIAL (DIRECT OR INDIRECT), PUNITIVE OR SPECIAL DAMAGES (INCLUDING WITHOUT LIMITATION ECONOMIC LOSS, PHYSICAL HARM, LOSS OF PROFITS OR LOSS OF BUSINESS OPPORTUNITIES), ARISING OUT OF, RESULTING FROM, OR IN ANY WAY RELATED TO THE PERFORMANCE UNDER THESE TERMS AND CONDITIONS, WHETHER OR NOT SUCH LOSSES ARE THE RESULT IN WHOLE OR IN PART FROM THE SOLE, CONCURRENT, OR COMPARATIVE NEGLIGENCE OF ANY PERSON OR PARTY, OR ANY DEFECT IN THE PREMISES, PREEXISTING CONDITIONS, PATENT OR LATENT, BREACH OF STATUTORY DUTY, STRICT LIABILITY OR ANY OTHER THEORY OF LEGAL LIABILITY.

**Liability** - The total aggregate liability of Company with respect to any Claims arising under this Agreement, whether based upon contract, indemnity, tort (including negligence and strict liability), statute or any other basis, shall not exceed the aggregate amount of the Purchase Order to which any such Claims are associated, less any amounts already paid pursuant to such Purchase Order, and Supplier releases

Company from all other Claims, including but not limited to any Claim for attorney's fees.

**ARTICLE 15: FORCE MAJEURE**

Neither Party shall be liable for any delay or failure to perform its obligations, except for the obligation to make payment of monies when due, under this Agreement if such failure or delay is due to Force Majeure.

If either Party is delayed or fails to perform its obligations under this Agreement due to Force Majeure or the results thereof, such Party shall give seven (7) days' written notice and details of the Force Majeure in writing to the other Party.

Following notification of a Force Majeure occurrence, Company and Supplier shall meet without delay with a view to agreeing to a mutually acceptable course of action to minimize any effects of such occurrence.

"**Force Majeure**" shall mean any act, omission, cause or circumstance beyond the control of the Parties and shall include but not be limited to strikes, lockouts or other industrial disputes (whether involving its own workforce or a Third Party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions.

**ARTICLE 16: CONFIDENTIAL INFORMATION**

**Confidentiality of Company Information -** Supplier Group shall treat Company confidential information as valuable, proprietary and confidential and shall not disclose, and shall ensure that all members of Supplier Group do not disclose, any Company confidential information to any other Person without the prior written consent of Company. Supplier shall ensure that all of its employees and any Subsuppliers execute a Confidentiality Agreement when requested by Company. Notwithstanding anything to the contrary herein this Agreement, it is expressly understood that Company owns all tooling, and designs of tooling, and upon request by Company or termination of this Agreement pursuant to Article 12, Supplier Group shall return all new tooling designs to Company.

**Grant -** Company and its Affiliates shall have an irrevocable, royalty- free, perpetual, worldwide right and license, with the right to sublicense, to use Supplier information to the extent necessary to exploit and/or use the Goods delivered or Services provided under this Agreement.

**Equitable Relief -** Supplier acknowledges and agrees that due to the unique nature of the Company confidential information, there may be no adequate remedy under applicable laws for any breach of the obligations set out in Article 16, and that any breach of these obligations may allow Supplier or another Person to compete unfairly with Company resulting in irreparable harm to Company. Accordingly, Supplier agrees that upon any breach (or threat of a breach), Company is entitled to immediate equitable relief, including a restraining order and preliminary injunction, and Company may seek indemnification from Supplier for any loss or harm in connection with any breach or enforcement of Supplier's obligations provided in Article 16, or for the unauthorized use or release of Company information. Supplier shall notify Company immediately upon the occurrence of any unauthorized release of Company information or other breach of Article 16.

**No License -** Company information may only be used for the purpose of carrying out this Agreement and for no other reason. Other than what is expressly granted in this Agreement, Supplier Group shall have no rights or license, by implication or in any other way, to any intellectual property now or subsequently owned by Company or its Affiliates. The Supplier shall not have any right of use, other than for the purposes of this Agreement, whether directly or indirectly, of any patent, copyright, proprietary right or confidential know-how, trademark or process provided by the Company Group (whether or not owned by the Company Group or a Third Party) in relation to this Agreement and the intellectual property rights in such shall remain with the Party being the owner of such patent, copyright, proprietary right or confidential know how, trademark or process.

**ARTICLE 17: LAW**

This Agreement (including all schedules, exhibits, attachments and Purchase Orders), and all matters arising out of or relating to this Agreement, whether sounding in contract, tort, or statute, are governed by and construed in accordance with, the laws of the State of Texas (including its statute of limitations), excluding any choice of law rules or principles which would refer the matter to the laws of another jurisdiction, and shall be performable in Harris County Texas. The Parties agree that the United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. **IN CONNECTION WITH ANY MATTER ARISING OUT OF OR RELATING TO THIS AGREEMENT (INCLUDING ALL SCHEDULES, EXHIBITS, ATTACHMENTS OR PURCHASE ORDERS), WHETHER SOUNDING IN CONTRACT, TORT, OR STATUTE, EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF—AND AGREES TO BRING ANY ACTION, LITIGATION, OR PROCEEDING ONLY IN—THE COURTS OF THE STATE OF TEXAS IN HARRIS COUNTY, TEXAS AND THE FEDERAL COURTS IN AND FOR THE SOUTHERN DISTRICT OF TEXAS SITTING IN HOUSTON, TEXAS. FOR ARBITRATION LOCATION, SEE ARTICLE 19 BELOW).**

**ARTICLE 18: MISCELLANEOUS**

**Company's Affiliates** – Company may, without the prior consent of Supplier, but upon reasonable prior notice to Supplier, assign all or part of this Agreement to an Affiliate, provided that such assignee agrees in writing to be bound by the provisions of this Agreement. Any assignment by Company will be effective as a release and novation of Company with respect to the duties and liabilities under this Agreement.

**Subcontracting** – Supplier shall not subcontract or otherwise delegate any performance of any benefit or obligation arising under this Agreement without Company's prior written consent. Even when consent is granted, Supplier shall be responsible for all acts or omissions of its employees, agents, Subsuppliers in relation to the performance of this Agreement and any such acts or omissions shall be deemed those of Supplier. Supplier will ensure its Subsuppliers comply with the applicable provisions of this Agreement. Assignment
- The Supplier shall not be entitled to assign its rights and obligations under this Agreement (or sub-contract its performance of this Agreement) without the prior written consent of the Company. The Company may assign its rights and obligations under this Agreement or sub-contract the performance of its obligations under this Agreement.

**No Waiver** - A Party's right to require strict performance in accordance with this Agreement shall not be affected by any previous waiver or course of dealing.

**Severability** - The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement. If any part of this Agreement cannot be legally enforced, the Parties agree that the provision will be deemed modified as necessary to make it enforceable while remaining as consistent as possible with the intent as expressed in this Agreement.

**Third-party Beneficiaries** – Other than the Client's rights under Articles 9 and 10, there are no third-party beneficiaries to this Agreement.

**Entire Agreement** - This Agreement (including all schedules, exhibits, attachments, and Purchase Orders) is the entire agreement with respect to the Goods and any prior agreements, oral or written, are no longer effective. This Agreement overrides the general terms and conditions on either Party's standard forms or invoices. In the event of any conflict or inconsistency among or between any of the documents comprising this Agreement, this Agreement shall prevail unless otherwise agreed to in writing signed by both Parties. Any errors, inconsistencies, omissions or discrepancies in the documents comprising this Agreement shall not relieve Supplier of its responsibilities to Deliver the Goods specified in a Purchase Order. Each Party hereby acknowledges that it has not entered into any Purchase Order in reliance upon any representation made by the other Party not embodied in this Agreement.

**Code of Conduct** - Supplier has read and shall comply with the terms of the Company's Code of Conduct; Human Rights Policy and Supplier Code of Conduct; and such other policies and procedures supplied by the Company (the "Policy"). A copy of the Code of Conduct and Policy can be found on the Company's website.

**Export Laws** - The Supplier shall be responsible for and shall save, Indemnify, defend and hold harmless the Company from and against all Claims in connection with any failure by the Supplier to comply with applicable export control regulations or the Supplier's export license arising from, relating to or in connection with this Agreement. The Supplier represents that it is knowledgeable and has expertise regarding all export control laws, regulations, procedures, international sanctions, embargoes and restrictions, prohibited party lists and international shipping practices applicable to the Supplier, including but not limited to the laws of the United Kingdom and the laws of the United States of America ("Export Controls"), and confirms its obligations to the Company to monitor and screen all customers, suppliers, subcontractors and other parties and entities, including banks and vessels, which the Supplier interfaces with, selects, or uses in connection with the Agreement for compliance with the requirements of all Export Controls. The Supplier shall promptly alert the Company to any violations

or suspected violations of Export Controls and shall obtain all necessary licenses, permits, forms and applications required pursuant to Export Controls. The Supplier further represents that it is not currently aware of and shall continually monitor any transactions it or its customers, suppliers or subcontractors are involved in for possible violations of Export Controls and shall report any questionable transactions or suspicious circumstances immediately to the Company insofar as they relate to this Agreement. The Supplier agrees to keep records of its export control related activities for a period of five (5) years and records pertaining to export licenses, re-export licenses, and project licenses for a period of five (5) years from the expiration date of such license. The Supplier shall make such records available to the Company upon request for inspection and copying.

**Anti-Corruption** - Supplier agrees to comply with the U.S. Foreign Corrupt Practices Act of 1977, as amended (the "FCPA"), U.K. Bribery Act 2010 ("UKBA"), and all other anti-corruption and/or anti-bribery laws applicable in the jurisdiction in which Supplier is selling the Goods. Supplier hereby declares that it has read and understood the provisions of the FCPA and, on that basis, it further represents and covenants that neither it nor any of its employees or agents have taken or will take any action to cause Supplier to be in violation of the FCPA. Specifically, Supplier hereby certifies that it has not paid, nor offered or agreed to pay, nor has caused to be paid, or offered or agreed to be paid, directly or indirectly, in respect of this Agreement, any political contributions, fees or commissions to any public or governmental employee or official anywhere for the purpose of influencing such official's act or decision to provide business to Supplier or Company.

**ARTICLE 19: DISPUTE RESOLUTION**

**Mediation** - In the event Supplier or Company contend that the other has committed a material breach of this Agreement, the party alleging such breach shall, as a condition precedent to filing any lawsuit, request mediation of the dispute. The mediation will be held in Houston, Texas or other mutually agreeable location. To initiate, the request for mediation shall be in writing, and shall request that the mediation commence not less than thirty (30) or more than ninety (90) days following the date of the request, except upon written agreement of the parties. If a party fails to attend mediation in compliance with this provision, that party waives any right(s) to demand or collect any legal costs for any subsequent litigation, including but not limited to court costs, arbitration costs, charges, expenses, attorneys' fees, and expert fees.

**Trade Compliance** - In addition to and without limiting Supplier's obligations under the Export Laws provision of Article 18, Supplier shall perform all obligations under this Purchase Order in compliance with applicable export controls, customs, sanctions, import, and trade regulations. Supplier shall provide Company with current and accurate Country of Origin (COO), Harmonized Tariff Schedule (HTS/HTSUS) classifications, Export Control Classification Numbers (ECCN), and any other trade-related information reasonably required for compliance purposes. Supplier shall secure governmental approvals, licenses, or authorizations required for activities within Supplier's responsibility and shall promptly advise Company of any restrictions affecting the Goods or Services. Supplier shall fully defend, protect, Indemnify and hold harmless Company against all Claims resulting from Supplier's violation of this Article or from inaccurate or incomplete compliance information provided by Supplier, regardless of the active, passive, contributory, sole, joint or concurrent, ordinary or gross negligence of any Person Indemnified.

**Arbitration** - All Claims, disputes, controversies, disagreements, grievances, or other matters (of any and every kind or type, whether based on contract, tort, statute, regulation, or otherwise) arising out of or relating in any way to this Agreement (including the construction, validity, interpretation, termination, enforceability, or breach of this Agreement) and that have not been resolved by agreement of the parties shall be resolved by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The parties acknowledge that this Agreement evidences a transaction involving interstate commerce and that this agreement to arbitrate is enforceable under 9 U.S.C. §§ 1, et seq. The arbitration shall be presided over by a single arbitrator. The place of arbitration shall be in Houston, Texas, in a location set by mutual agreement or as ordered by the arbitrator. The arbitrator shall decide any questions or issues concerning the validity or enforceability of this agreement to arbitrate, the conduct of the arbitration and the arbitrability of any dispute. Absent agreement of the parties to the contrary, the arbitrator is hereby specifically empowered and authorized by the parties to award injunctive relief and compensatory damages, including attorney's fees, expert witness fees, and arbitration costs, to the extent allowed by the Agreement or applicable law. The arbitrator does not have authority to (i) award consequential, punitive, or exemplary damages; (ii) apply or consider the law of other states outside of Texas; or (iii) apply a cause of action or remedy not expressly provided for under existing Texas state law.

**Legal Costs** - In the event of any dispute involving Supplier and Company under any of the provisions of this Agreement, the prevailing party is entitled to recover its reasonable court costs, arbitration costs, charges, expenses, attorneys' fees, and expert fees.

This article shall survive the termination of the Agreement for any reason.