

PURCHASE ORDER TERMS AND CONDITIONS

1. **Applicability.** These ODL Purchase Order Terms and Conditions (these “Terms and Conditions”), together with (i) any additional terms or conditions set forth in a purchase order (or any revision thereof) issued by Buyer to Seller (the “Purchase Order”), (ii) any written supply agreement executed by Buyer and Seller relating to the Products (as defined below) (the “Supply Agreement”), (iii) Buyer’s policies, guidelines, manuals and requirements related to the provision of the Products and Services, all of which are incorporated herein by reference and are available and may be accessed at the appropriate links located on Buyer’s website at <https://www.odl.com/suppliers> (as may be updated and amended from time to time by Buyer, collectively, the “Buyer’s Requirements”), (iv) if Buyer will use the Products or Services in connection with Buyer’s performance under an agreement with any federal, state, or local governmental authority or agency, all terms and conditions of the agreement between Buyer and the applicable governmental entit(ies) and any Law or regulation required to be included in any such agreement (the “Government Terms”), and (v) any other document that is attached to or incorporated by reference in these Terms and Conditions (collectively, this “Contract”), apply to the purchase by ODL Incorporated (“ODL”) or one of its affiliates, subsidiaries, or divisions who is identified in the Supply Agreement or from whom a Purchase Order was issued (“Buyer”) of services (the “Services”), and/or the goods and related services (the “Products”) described in the Supply Agreement and/or the applicable Purchase Order from the seller party to whom the Purchase Order is addressed or who is otherwise a party to the Supply Agreement with Buyer for the Products and Services (the “Seller”). The term “Products” throughout these Terms and Conditions includes, without limitation, raw materials, components, intermediate assemblies, tooling, molds, equipment and end products and all services, whether or not performed in connection with any of the foregoing items.

2. **Offer and Acceptance; Precedence.**

a. **Acceptance.** Seller has read and understands this Contract. If Buyer and Seller are parties to a Supply Agreement incorporating these Terms and Conditions, Seller has accepted this Contract. If Buyer and Seller are not parties to a Supply Agreement, Seller accepts this Contract, and forms a binding agreement with Buyer, by doing any one of the following: (i) acknowledging its acceptance of the Purchase Order in writing; (ii) commencing any work under this Contract (including, without limitation, shipping the Products); or (iii) engaging in any other conduct which recognizes the existence of a contract with Buyer with respect to the subject matter of this Contract. Seller’s failure to return an acknowledgment copy of a Purchase Order, even if expressly requested by Buyer, will not preclude acceptance in accordance with the foregoing terms.

b. **Conflicting Terms.** Unless otherwise agreed by Buyer in writing, Seller’s acceptance of a Purchase Order is expressly limited to these Terms and Conditions. Any additional or different terms proposed by Seller (whether in Seller’s quotation, proposal, acknowledgement, invoice or otherwise and whether or not proposed prior to or after delivery of a Purchase Order) are hereby expressly rejected by Buyer, are not part of this Contract, and are not binding on Buyer. Any reference in this Contract to any quotation, proposal, or any other similar document provided by Seller is solely for the purpose of incorporating the description and specifications of the Products contained in such document, but only to the extent that such description and specifications do not conflict with the description and specifications contained in this Contract. The parties agree that the “battle of the forms” described in Section 2-207 of the Uniform Commercial Code will not apply to this Contract or to any invoice or acceptance form of Seller relating to this Contract.

c. **Order of Precedence.** If there is a conflict in any of the documents making up this Contract, the documents will prevail over each other in the following order of precedence: (i) any document specifically agreed to in writing and signed by the parties (including the Supply Agreement); (ii) the terms of any Purchase Order (excluding these Terms and Conditions); (iii) these Terms and Conditions; (iv) Buyer’s Requirements; and (iv) any

other requirements or documents that make up this Contract. Notwithstanding the foregoing, if any provision of the Contract is inconsistent with any Government Terms, then the Government Terms shall control.

3. **Quantity; Delivery; Transfer of Title.**

a. **Ordering.** Unless the Purchase Order, the Supply Agreement, or a separate written agreement executed by Buyer's authorized representative requires Seller to manufacture, ship, and/or provide Buyer's requirements for the Products, the Contract is not a requirements contract and (i) Seller is obligated to deliver to or perform for Buyer all Products or Services that Buyer orders or releases during the period or in accordance with any delivery or performance schedule specified on the face of the Purchase Order, (ii) Buyer is not obligated to order, release or purchase from Seller any particular quantity or volume of Products or Services, regardless of any estimates or projections of future purchases, and (iii) Buyer may purchase any or all of the Products or services from others. Buyer will determine the quantity for the Products based on the needs of Buyer's customers and market, economic, or other conditions. Buyer may provide Seller with estimates, forecasts, or projections of its anticipated future needs for the Products ("Forecasts"). The parties agree that all Forecasts, whether delivered prior to or during the Term, are for informational purposes only, are based on information provided to Buyer by Buyer's customers, do not express an intent by Buyer to purchase any minimum quantity or volume of Products, are not a commitment by Buyer to purchase any particular quantity of Products, and are not binding on either Buyer or Seller. Buyer may change the timing of scheduled shipments, or direct temporary suspension of scheduled shipments without entitling Seller to a price adjustment or other compensation.

b. **Delivery.** Unless otherwise specified on a Purchase Order, the Supply Agreement, or otherwise agreed to in writing by the parties, Seller must deliver the Products F.C.A (Incoterms 2020) Buyer's facility. Title and risk of loss to the Products passes to Buyer upon delivery of the Products. Time of delivery and quantity are of the essence. Deliveries shall be made both in quantities and at time specified in schedules furnished by Buyer (whether directly, by electronic mail, electronic data interchange, or otherwise). Buyer shall not be required to make payment for Products delivered to Buyer that are in excess of quantities and delivery schedules as specified in Buyer's releases or the Purchase Order. Such Products will be subject to rejection and return at Seller's expense, including transportation charges both ways. Seller will promptly furnish all properly completed documents and other information required to satisfy all customs, tariffs or other applicable governmental regulations including, but not limited to, customs documentation, certificates of origin, and any other document required by applicable Laws (as defined below). Should Seller experience or anticipate any delay in performing this Contract, whether or not such delay is excusable under any provision hereof, Seller shall immediately notify Buyer of such delay, its expected duration and the reasons thereof. Neither such notification nor an acknowledgment by Buyer shall constitute a waiver of any Purchase Order's delivery schedule. Without limiting any rights of Buyer under this Contract, Seller will be liable for all damages, costs, and expenses incurred by Buyer for Seller's failure to comply with Buyer's delivery requirements (including, without limitation, an expedited or premium shipment or cover damages).

4. **Marking; Packing; Shipping; Labeling.** Seller must (a) properly mark, pack, package, and ship all Products in accordance with Buyer's Requirements, the requirements of involved carriers, and any applicable Law; (b) label and/or tag each package according to Buyer's instructions and any applicable Law; and (c) provide packing slips with each shipment showing the Purchase Order number, Seller's name and number, net weight, gross weight, the number of containers, and any other information reasonably requested by Buyer. Unless otherwise agreed in writing by Buyer or set forth in a Purchase Order, Seller shall bear all costs and expenses of marking, packing or shipping the Products. Prior to shipment of the Products, Seller must provide Buyer sufficient advance warning and notice in writing (including appropriate labels on the Products, containers and packaging) of any hazardous, dangerous, or restricted material which is an ingredient in or a part of any of the Products, together with any special handling instructions as may be necessary to advise carriers, Buyer and their respective employees of how to exercise the measure of care and precaution which will best prevent bodily injury or property damage in the handling, transportation, processing, use, or disposal of the Products, containers, and related packaging shipped to Buyer. Seller shall reimburse Buyer for any liabilities, expenses, and costs incurred as a result of improper marking,

packing, routing, shipping or any other noncompliance with the Contract. If it becomes necessary for Seller to ship by a more expensive way than specified in a Purchase Order, any increased transportation costs resulting therefrom shall be paid by Seller unless the necessity for such rerouting or expedited handling has been caused by Buyer's gross negligence or intentional misconduct. Seller shall be responsible for shipping all parts to Buyer correctly labeled and attached to the box and the pallet in accordance with Buyer's Requirements. Without limitation of the foregoing, when labeling, Seller shall verify that there are two labels per container on adjacent corners. The label must be placed in the upper left-hand corner of the main side. Whenever possible, the label printing should be a bold black type with at least 25mm high letters. Each pallet should have a pallet label (Master Label) that summarizes the part number and total container on the pallet. No more than one (1) part number is to be packaged in a container or shipped on a pallet (unless noted as a mixed pallet). Shipments to or from countries (e.g., Mexico, US, Canada, EU) may require special labeling (i.e., Made in Mexico), and ODL Trade Compliance personnel should be contacted to assist in obtaining the proper labels required, as needed. If Seller is shipping materials to Buyer that are categorized as "controlled" under such regulations such as Workplace Hazardous Material Information Systems (W.H.M.I.S.), Seller must be familiar with and comply with all such regulations for packaging and shipping. Seller shall refer to Buyer's Requirements for applicable labeling requirements.

5. **Inspection; Nonconforming Products; Recalls.**

a. **Inspection.** All Products are subject to Buyer's inspection and approval at the destination; *provided, however*, Seller agrees that Buyer may not perform inspections of incoming Products and waives any right to require Buyer to conduct such inspections. In addition, Buyer or third parties designated by Buyer may, upon reasonable advance notice to Seller, inspect production processes and property and conduct testing at Seller's premises (including warehouses and factories used to manufacture the Products) for the purpose of verifying Seller's performance under this Contract. Buyer's or such third party's inspection, testing or failure to inspect or test the Products does not constitute acceptance of the Products, effect any right of Buyer, or relieve Seller of any of its responsibilities or warranties including Seller's obligation of testing, inspection, and quality control.

b. **Rejection of Nonconforming Products.** Buyer may, at its option, reject or revoke acceptance of any Products that fail to conform strictly to the requirements of this Contract (including, without limitation, if the packing or packaging is nonconforming). If Buyer rejects any Products or revokes acceptance of any Products, Buyer may elect to, without any liability to Seller, at no charge to Buyer, and at Seller's cost and expense (i) require Seller to immediately replace the Products; (ii) purchase similar Products from another source and reduce the quantities of the Products under the Purchase Order (and any corresponding payment); and/or (iii) exercise any other right(s) provided to Buyer in this Contract or available at Law. Seller agrees that Seller will not charge Buyer, and Buyer has no obligation to pay Seller, to make repairs to, or replacements of, any nonconforming Products. Seller will be liable for all liabilities, damages, losses, costs and expenses associated with Buyer's rejection of the Products, including, without limitation, any costs associated with inspecting, sorting, testing, repairing or replacing Products, transportation, or effecting cover. Nonconforming Products shall not be replaced without Buyer's written permission. Nonconforming Products will be held by Buyer for disposal in accordance with Seller's instructions at Seller's risk. Seller's failure to provide written instructions within five (5) days, or such shorter period as may be commercially reasonable under the circumstances, after notice of nonconformity, shall entitle Buyer, at Buyer's option, to charge Seller for storage and handling, or to dispose of the Products, without liability to Seller.

c. **Recall.** If the Products are subject to removal from the stream of commerce or the subject of a corrective action plan or other remedial action initiated, whether voluntary or involuntary, by a government entity, Seller, or Buyer (a "Recall"), Seller shall be responsible for all costs associated with the Recall and, subject to Buyer's consent, all matters associated with the Recall, including but not limited to: (i) consumer notification and contact; (ii) all expenses and losses incurred by Buyer in connection with such Recall (and where applicable, any products with which the Products have been packaged, consolidated or commingled), including but not limited to refunds to customers, lost profits, transportation costs, the costs of Buyer's overhead, systems expenses in processing any Recall, and all other costs associated therewith; and (iii) initial and subsequent contact and reporting

of the Recall to any government agency having jurisdiction over the affected Products that are the subject of the Recall. Seller shall promptly, and in no event later than twenty-four (24) hours after its decision to initiate a Recall or its receipt of a Recall notice from a government entity, inform Buyer of the Recall in writing. Seller shall promptly inform Buyer of its becoming aware of any defect in the Products that could reasonably be expected to cause damage, illness, injury or death (whether to human, animals, or property), or the noncompliance of the Products with any applicable safety or regulatory standard or Law, whether imposed by a government entity or by Buyer. If a government agency initiates any inquiry or investigation relating to the Products, Seller shall notify Buyer immediately thereof and take reasonable steps to resolve the matter without exposing Buyer to any liability or risk.

6. **Quality.** Seller must meet or exceed all quality requirements of Buyer including, without limitation, the Buyer's Requirements. Upon acceptance of a Purchase Order, Seller acknowledges (i) it has analyzed and reviewed Buyer's specifications for the Products (if any) and the Buyer's Requirements and (ii) Buyer's specifications are sufficient and adequate to manufacture the Products in compliance with this Contract. If a quality standard is not provided in the Purchase Order or otherwise provided to Seller, Seller must manufacture the Products to the best available industry standard. At Buyer's request, Seller will furnish to Buyer, at Seller's cost, test samples of Products as may be reasonably required by Buyer to determine if the manufacture of the Products are in accordance with the Contract.

7. **Price, Invoices, and Payment.**

a. **Price.** Unless otherwise provided in the Contract, the prices for the Products as set forth in the Purchase Order (or otherwise in the Contract): (i) are fixed, (ii) constitute the total prices for the delivery, manufacture, processing, testing, weighing, inspecting, marking, storing, tagging, and/or labeling of the Products, (iii) are not subject to increase for any reason including, without limitation, changes in market conditions, increases in the cost of material, labor or overhead costs, and (iv) include all costs and expenses relating to packaging, crating, boxing, loading and unloading, customs, federal, state, provincial and local taxes (including sales, use, value-added and excise taxes), tariffs and duties, insurance and any similar fiscal contribution related to the Products. If the price listed on the Purchase Order does not include charges or fees that Seller intends to invoice Buyer, Seller must, prior to accepting any Purchase Order for the Products, notify Buyer in writing to receive an updated Purchase Order with the correct price listed. Seller's shipment of the Products is Seller's representation and warranty that the price on the Purchase Order is (x) the total price to be charged to Buyer for the Products and (y) at least as low as the price charged by Seller to other buyers. Notwithstanding the price of the Products, Seller agrees that Buyer is not required to spend any amount, or incur any costs, on promoting, marketing, or otherwise showcasing the Products.

b. **Invoices.** Seller shall issue individual invoices for each Service delivered and each shipment of Products delivered. Each invoice must be accompanied by an appropriate proof of delivery for the Products or Services delivered, which may include proof of shipment along with appropriate shipment tracking information to allow Buyer to confirm the Products were delivered. All invoices must be sent to the address or electronic mail address provided by Buyer in order to be processed for payment. All invoices for delivered Products must be in English and include, as applicable, the Purchase Order number, quantity of pieces in the shipment, the price of the Products, and the total amount due, net weights, Seller's name, and any other information necessary for identification of the Products delivered. Unless otherwise set forth in the Purchase Order, the currency in the invoice must be in U.S. dollars. Seller's submission of an invoice constitutes a written certification that the quantities of Products and the amounts contained on such invoice are true and accurate and that such Products have been delivered in accordance with, and Seller is otherwise in compliance with, the terms of this Contract. Buyer shall not be required to pay any late payment charge, interest, finance charge or similar charge.

c. **Payment.** Unless otherwise agreed by Buyer in writing, Buyer will pay to Seller the undisputed portion of each conforming invoice within ninety (90) days following the date that is the later of: (i) the scheduled

date for delivery or performance, (ii) the actual date of delivery of conforming Products or performance of conforming Services, (iii) in the case of capital equipment, completion of Buyer's final inspection and acceptance after installation, and (iv) in the case of tooling, approval by Buyer of production pieces produced by the tooling. Seller agrees to accept payment by check or other cash equivalent including electronic funds transfer. Payment is deemed to be made on the date Buyer's check is mailed or funds transfer is initiated. If a payment date falls on a non-business day in the State of Michigan, the payment due date will be the next business day. Payment of an invoice shall not constitute acceptance of Products or otherwise be deemed a waiver of any breach of this Contract by Seller (including a breach of any warranty) or any amount otherwise due to Buyer, and does not limit or impair Buyer's right to assert any legal or equitable remedy. Regardless of the items listed on Seller's invoice, Buyer will only be obligated to pay for the Products listed in a Purchase Order and in the quantity required by Buyer. Buyer may withhold payment pending receipt of evidence, in such form and detail as Buyer may direct, in the absence of any liens, claim, encumbrances, or other rights on the Products. Payment of an invoice shall not constitute acceptance or otherwise be deemed a waiver of any breach of the Contract by Seller (including a breach of any warranty) or any amount otherwise due to Buyer, and does not limit or impair Buyer's right to assert any legal or equitable remedy.

d. Setoff and/or Recoupment. Notwithstanding the above, all amounts due from Buyer or its affiliates, subsidiaries or divisions ("Buyer Group") to Seller or its parent company or their affiliates, subsidiaries or divisions ("Seller Group"), whether under the Contract or any other contract between any member of the Buyer Group and the Seller Group, will be considered net of indebtedness of any member of Seller Group to any member of Buyer Group. In addition to any right of setoff, deduction or recoupment provided or allowed by Law, any member of Buyer Group may, without notice to Seller or any other member of Seller Group, set off against, and deduct and/or recoup from any payment or other amount due, or to become due, from any member of the Buyer Group to any member of the Seller Group any amounts due or to become due from any member of the Seller Group to any member of the Buyer Group, including for chargebacks or for damages, costs, expenses, or liabilities resulting from breaches by Seller of its obligations under this Contract or any other contract between the parties.

8. Audit. Upon request by Buyer, Seller will provide Buyer or its authorized representatives copies of all of Seller's books, records and accounts, in any way related to (i) Seller's performance under this Contract (including Seller's processes and procedures), (ii) the Products, or (iii) any payment or other transaction occurring in connection with this Contract, in each case, for the purpose of auditing Seller's compliance with the terms of this Contract, including Seller's charges for the Products. In addition, Seller will grant Buyer and its authorized representatives access during regular business hours, or outside of regular business hours upon reasonable request, to Seller's management personnel and facilities (including all factories and warehouses used to manufacture the Products) to monitor, inspect, and audit Seller's operational performance of this Contract including, without limitation, the quality of the Products and Seller's manufacturing processes. Seller must ensure that all Subcontractors grant Buyer with similar access to such Subcontractor's personnel and facilities. Seller agrees to cooperate fully with Buyer in connection with any audit or inspection.

9. Changes. Buyer may at any time, by written order, make changes in or addition to any one or more of the following: (i) drawings, designs, or specifications; (ii) method of shipment or packaging; (iii) time and place of delivery; or (iv) quantity of the Products or extent of the Services, and Seller will promptly make any changes. If any such change affects the cost or time of performance, Seller must provide Buyer with a written notice of a claim for adjustment, along with all sufficient information and documentation in such form and detail as Buyer may direct, regarding the effect on Seller's costs or time of performance resulting from such change within five (5) business days after Buyer's notice to Seller of such change. If necessary under the circumstances, the parties will agree on an equitable adjustment (up or down) to the price or delivery terms of the Purchase Order.

Seller may not make any changes with respect to the Products or scope of this Contract without Buyer's prior written consent, which may be given or withheld in Buyer's sole discretion; *provided, however*, if Seller learns of a possible

change to the Products that may reduce the costs to produce the Products, improve the quality of the Products, or otherwise may be beneficial to Buyer, Seller will promptly inform Buyer of the possible change in writing.

Seller shall plan and develop quality systems and manufacturing processes required for product acceptance (PPAP) based on their quote and Buyer's program timing. Any request for changes by Seller will be addressed to the respective ODL Engineering, Quality, and Purchasing personnel in accordance with Buyer's Requirements. Written approvals to a request for change must be obtained by Seller before implementing the change. A deviation may be obtained from Buyer in the form of a signed design or process concession. Seller shall communicate any issues or concerns with the design, material, performance, appearance, durability, or any other key characteristic(s) based on their expertise, knowledge, and lessons learned from similar products.

Written approvals and PPAP resubmissions are required for:

- Changes to previously approved materials or sub-supplier's material changes.
- Changes or modification of product specifications.
- Changes to process or method of manufacture.
- Changes to the inspection process, methods, or equipment.
- Change of sub-suppliers (Tier 2).
- Changes to any inputs supplied by Sellers tiers.
- New start-up after a 12-month decommissioning period.
- Transfer of manufacturing location.
- Rework processes whether in process or offline.

Sellers must attach a label when there is a new part number assigned or engineering change to the supplier part.

This must be done for the first three (3) shipments delivered to Buyer plants, verified, and approved before the Seller can be removed from this process. Seller shall be held liable for any costs incurred by the changes made without obtaining a written supplemental Purchase Order or an approved design or process concession. Seller will not be paid for Product, tooling, processing equipment, etc. until the change is approved. Seller must notify Buyer if there is a change in program timing and risk to meeting agreed upon tooling completion or PPAP date. Seller will be required to add additional resources and/or work additional hours to ensure date is met.

Seller must allow Buyer to review product and process development and planning via on-site review and confirmation during development or at any time during part production, if requested. In addition, Buyer will have the right to audit all relevant records, facilities, work or materials of Seller to verify any claim under this Section.

10. **Subcontracting.** Seller will not use any third party subcontractor (each, a "Subcontractor") to perform any of its obligations under this Contract without the prior written consent of Buyer. Any such consent of Buyer will not release Seller from, or limit any of, Seller's obligations, responsibilities, warranties, or guarantees under this Contract. If Buyer approves a Subcontractor, Seller warrants and guarantees that such Subcontractor's performance will satisfy all requirements applicable to Seller under this Contract. Seller is solely responsible for all means, methods, techniques, sequences and procedures and for coordinating all portions of the work necessary to complete this Contract. Notwithstanding Buyer's approval of a Subcontractor, Seller is solely responsible for all payments due to that Subcontractor. The direction and supervision of Seller's and any permitted Subcontractor's employees rest exclusively with Seller or such Subcontractor. Seller remains fully responsible and liable to Buyer for the acts of its Subcontractors and performance of all Seller's duties and obligations under this Contract.

11. **Proprietary Rights.**

a. **Work Product.** Upon request, Seller must furnish to Buyer all concepts, documents, reports, ideas, designs, drafts, models, patterns, packaging, samples and any other results produced in connection with Seller's

performance of this Contract (“Work Product”). Work Product does not include concepts, documents, reports, ideas, designs, drafts, models, samples, patents, trademarks, trade names, packaging, copyrights and any other results or intellectual property rights produced by Seller prior to accepting the Contract or that Seller can prove by written documentation was produced by Seller without reference to Seller’s obligations under this Contract.

b. Ownership of Work Product; Assignment and Transfer. Unless otherwise agreed in a signed writing by Buyer, all Work Product is solely owned by Buyer. Seller agrees that all copyrightable materials of the Work Product will be deemed a “work made for hire” for the purposes of Title 17 of the United States Code, Section 101 et seq. In the event that (i) any of the Work Product may not be considered “work made for hire,” or (ii) ownership of all right, title and interest to the legal rights in and to the Work Product, including, without limitation, all worldwide copyrights, industrial design rights, trademarks, patents or other intellectual property rights therein, does not vest automatically and exclusively in Buyer, then, without further consideration, Seller agrees to, and hereby does irrevocably, assign, convey, and otherwise transfer to Buyer, and Buyer’s respective successors and assigns, all such right, title and interest, in and to all Work Product and any derivative works thereof. When Products are made to Buyer’s plans and/or specifications, the plans and specifications are owned by Buyer and shall not be used by Seller for any purpose except in the performance of this Contract and shall not be disclosed to any other person without Buyer’s written consent. Seller shall not assert any claim with respect to technical information which Seller has disclosed or may hereafter disclose to Buyer in connection with the Products covered by this Contract.

c. License. To the extent the Products incorporate any copyrights, industrial design rights, trademarks, trade secrets, patents or other intellectual property rights (collectively, “Intellectual Property”) that is owned, invented, authored, licensed to, or developed by Seller and necessary for Buyer to incorporate the Products into the products Buyer sells to its customers, Seller hereby grants Buyer and its customers a nonexclusive, royalty-free, irrevocable, worldwide right and license, with the right to grant sublicenses, to use such Intellectual Property, and to make, have made, use, sell, offer for sale, or import into the United States (and all other countries in which Seller may have rights in such Intellectual Property) any processes, services, suppliers, or inventions incorporating or embodying the Products, for the sole purpose of fulfilling Buyer’s requirements to its customers or in furtherance of Buyer’s responsibilities under this Contract or any contract that relates to the Products furnished under this Contract. The foregoing license does not permit Buyer to use Seller’s Intellectual Property on a stand-alone basis and does not grant Buyer the right to separately exploit Seller’s Intellectual Property.

d. Use of Buyer’s Name. Seller shall not use Buyer’s name, trademarks, service marks, logos, any description that would reveal Buyer’s identity, or other form of identification of Buyer, whether registered or not in any way, including, but not limited to, any advertisements, press releases, announcements, customer lists (including customer lists on any website) or materials of a public or promotional nature or in soliciting other clients nor make any direct or indirect public reference to the Purchase Order or any other agreement between Seller and Buyer without first obtaining Buyer’s written consent, which may be withheld in Buyer’s sole discretion. In addition, Seller agrees that it shall not negatively reference or disparage Buyer.

12. Confidentiality.

a. Existing NDA Governs. If a confidentiality agreement or non-disclosure agreement (the “NDA”) exists between Buyer and Seller covering the Products, this Contract, or the relationship between Buyer and Seller, the term of such NDA shall be and is hereby extended to be co-terminus with this Contract, and such NDA is incorporated herein by reference and shall govern the use and disclosure of any confidential or proprietary information exchanged between Buyer and Seller.

b. No NDA. If there is no NDA between Buyer and Seller covering this Contract, the following terms apply: all Intellectual Property and all other confidential and proprietary information provided by Buyer to Seller under this Contract including, without limitation, any samples, drawings, know-how, processes, and other technical,

business, or financial information, whether provided orally, in writing, by demonstration, or otherwise (collectively, “Confidential Information”): (i) is owned by Buyer; (ii) must be kept confidential by Seller and may not be disclosed by Seller to third parties without the express prior written consent of Buyer; *provided, however*, Seller may disclose Buyer’s Confidential Information to Seller’s employees, attorneys, agents, and Subcontractors who have a “need to know” the Confidential Information for purposes of carrying out Seller’s obligations under this Contract as long as such individual and entities are bound by confidentiality terms no less restrictive than those contained in this Contract; and (iii) may not be used by Seller other than is required for Seller to perform its obligations under this Contract. The confidentiality restrictions in this Section 12.b do not apply to information which is (A) already known by Seller prior to the date of this Contract and without breach of the confidentiality restriction that Seller was subject; (B) acquired by Seller from a third party which was not, to the knowledge of Seller, under an obligation to Buyer not to disclose such information; (C) which is or becomes publicly available through no breach by Seller of confidentiality restrictions to which Seller is or was subject; or (D) independently developed by Seller without the use of Buyer’s Confidential Information. Notwithstanding the above, Seller may disclose Buyer’s Confidential Information if required by a judicial or government request, requirement, or order as long as (x) to the extent not prohibited by law, Seller gives Buyer written notice prior to such disclosure and (y) Seller only discloses that portion of Confidential Information required to comply with such requirement, request, or order. Upon the termination or expiration of this Contract, Seller agrees to return, or destroy (to the extent feasible), Buyer’s Confidential Information in Seller’s possession.

13. **Representations and Warranties.**

a. **General Representations and Warranties.** Seller represents and warrants : (i) Seller is solvent, is not under any threat of insolvency, is able to pay its obligations as they become due, and will notify Buyer immediately if Seller becomes insolvent or otherwise becomes unable to pay its obligations; (ii) Seller’s business license is validly issued from the requisite governing authority; (iii) neither Seller, its principal operators, nor its Subcontractors are included on any searchable denied party or politically exposed person watch list database and will not be at any time during Buyer’s relationship with Seller; (iv) Seller is not prohibited from consummating the transactions contemplated herein by (A) any applicable Law, agreement, instrument, or restriction; or (B) a judgment, order, or decree of any governmental authority having jurisdiction over Seller or its property; (v) Seller’s performance of its obligations under each Purchase Order will not be in violation of or cause a default under any applicable Law, agreement, instrument, covenant, condition, restriction, judgment, order, or decree; (vi) Seller has the right and authority to enter into this Contract and to make all of the grants and assignments and to undertake the obligations required by the Contract; and (vii) Seller knows of no condition that would be likely to limit Seller’s ability to perform this Contract.

b. **Warranties For Products & Services.** Seller represents and warrants to Buyer its customers that all Products will: (i) conform, in all respects, to the specifications (including all colors, fabrics, sizes, qualities, and treatments or any other specific specifications for the Products as set forth in a Purchase Order or the Supply Agreement), standards, drawings, samples, descriptions, quality requirements (including any fit, form and function requirements), furnished, specified or approved by Buyer for the Products or otherwise provided by Seller to Buyer for the Products; (ii) be useable and merchantable; (iii) be of good quality and workmanship; (iv) be free from defects, latent or otherwise, in design (unless Buyer provided the entire design), materials and workmanship; (v) comply with all applicable Laws and industry standards and will be manufactured, processed, tested, certified, weighed, packaged, wrapped, inspected, marked, sold, stored, tagged, shipped, labeled, ticketed and registered accurately in compliance with, and will contain (and be placed in packaging that contains) all notices, warnings, or other disclosures required by all Laws; (vi) be new, of the highest quality, and conveyed by Seller to Buyer with good title, free and clear of all liens, claims, encumbrances, interests or other rights of Seller or third parties; (vii) not, either upon delivery or in the future, infringe upon, violate or misappropriate any present or future patent, trademark, service mark, trade secret, copyright, proprietary or other intellectual property right of any third party, in each case, to the extent designed by Seller; (viii) be fit and sufficient for the particular purposes (A) intended by Buyer and Buyer’s customer and (B) applicable to the design, function and use of the Products; (ix) be comprised

of, and will only contain, those statements that are truthful, accurate, and not misleading and that have been substantiated, if necessary, at the time that such statements and claims are made; (x) be sold to Buyer at no less than fair value under U.S. anti-dumping law, and no foreign government has provided a countervailing subsidy for the Products actionable under applicable Laws; (xi) be genuine and in their original manufactured condition containing all original manuals and information; and (xi) not be the result of forced labor, child labor, or prison labor and meet all other social compliance criteria and labor standards as determined by Buyer and applicable Laws. Seller hereby assigns to Buyer all assignable warranties, representations and indemnities granted to Seller by manufacturers of the Products (and any components thereof) shipped to Buyer hereunder and all remedies for breach of such warranties, representations and indemnities. To the extent Seller is not permitted to assign any such warranties, representations and indemnities to Buyer, Seller will enforce same on behalf of Buyer at Buyer's direction. Seller further warrants and represents that any Services performed by Seller or by a Subcontractor pursuant to this Contract shall be performed on a professional basis, consistent with the best practices in the industry, in compliance with all Law, and in a diligent, workmanlike, and expeditious manner.

c. Incorporation of Other Warranties. Seller agrees that the representations, warranties, and guarantees provided by Seller to Buyer under these Terms and Conditions or otherwise for the Products: (i) are in addition to all other representations, warranties, and guarantees, whether express or implied, provided by Law; (ii) extend to the Products' future performance; (iii) survive Seller's delivery of the Products and Buyer's receipt, inspection, testing, acceptance, use of the Products and Buyer's payment for the Products; (iv) may not be limited or disclaimed by Seller; (v) do not commence until the Products are received by Buyer's ultimate end-user; and (vi) are continuing in nature and shall not be affected or limited in any way by Buyer's extension of express or implied warranties to its customers except to the extent that any such warranties expressly extend beyond the scope of the Seller's representations, warranties or guarantees, express or implied, to Buyer. Buyer's approval of Seller's designs, materials, processes, drawings, specifications, Subcontractors, or similar requirements will not be construed to relieve Seller of any warranties. The warranty period for Seller's warranties under these Terms and Conditions are the longer (x) the period provided by law or (y) the warranty period required by Buyer's customers for the products the Products are incorporated into (including any products supplied by Buyer). Any applicable statute of limitations on Buyer's claims for breach of warranty will commence no earlier than the date Buyer or its customer discovers the breach of the applicable warranty.

d. Rights Upon Breach of Warranty. In addition to any rights and remedies of Buyer specified in this Contract or available at Law, in the event of a breach of Seller's warranties or guarantees, Buyer shall have the right, at its option, to take the following actions: (i) retain the defective Products or Services in whole or in part with an appropriate adjustment in the price for the Products; (ii) require Seller to repair or replace the defective Products, or re-perform the Services, in whole or in part at Seller's sole expense, including all shipping, transportation, and installation costs; (iii) correct or replace the defective Products with similar items and recover the total cost relating thereto from Seller, including the cost of product recalls; or (iv) reject the defective Products or Services. For the avoidance of doubt, Seller is responsible for all costs and expenses related to fulfilling its warranty obligations hereunder.

e. No Buyer Warranty. **SELLER ACKNOWLEDGES THAT ANY SPECIFICATIONS, STANDARDS, DRAWINGS, SAMPLES, DESCRIPTIONS, OR OTHER QUALITY REQUIREMENTS PROVIDED BY BUYER RELATING TO THE GOODS, AND ANY INTELLECTUAL PROPERTY ASSOCIATED THEREWITH, IS PROVIDED BY BUYER TO SELLER ON AN "AS IS, WHERE IS" BASIS, AND THAT BUYER MAKES NO REPRESENTATIONS, WARRANTIES OR COVENANTS WHATSOEVER WITH RESPECT THERETO, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE OR ANY OTHER WARRANTIES THAT MAY BE IMPLIED UNDER APPLICABLE LAW, ALL OF WHICH ARE HEREBY EXPRESSLY DISCLAIMED.**

14. **Buyer's Property; Tools; and Ownership of Fixtures.**

a. Buyer's Property. The right, title and interest to all supplies, materials, tooling, jigs, dies, gauges, fixtures, molds, patterns, equipment, designs, drawings, specifications, spare parts, trial parts, ancillary products and other items owned by Buyer and other items furnished or paid in full by Buyer to Seller for use in its performance hereunder, or for which Seller is reimbursed by Buyer or its customers ("Buyer's Property"), shall be owned by Buyer. Seller shall not purchase on the account of or charge Buyer for any Buyer's Property except as authorized in a Purchase Order. Title to Buyer's Property that is not already owned by Buyer shall transfer to Buyer upon Buyer's payment in full for such property. All replacement parts, additions, improvements, and accessories to Buyer's Property shall become part of Buyer's Property.

b. Seller Obligations. Seller shall: (i) properly maintain, at its expense, in good condition and repair, normal wear and tear excepted, the Buyer's Property on Seller's premises; (ii) not use the Buyer's Property for any purpose other than for performance under the Purchase Order; (iii) affix asset identification tags to the Buyer's Property identifying it as the Buyer's Property and displaying the asset identification information provided by the Buyer with respect to such asset; (iv) permit Buyer to affix or remove any identification tags to and from the Buyer's Property at any time at Buyer's expense; (v) refrain from commingling the Buyer's Property with the property of Seller or with that of a third party; (vi) adequately insure the Buyer's Property against loss or damage, including maintaining full fire and extended coverage insurance for re-placement value and naming Buyer's Property as an additional insured; and (vii) not move the Buyer's Property to an-other location whether owned by Seller or a third party, without the prior written consent of Buyer. Seller shall provide Buyer notice of unusual wear of Buyer's Property. Buyer has the right to the sole, unencumbered, unqualified, and absolute possession of Buyer's Property at any time as elected by Buyer and Seller will immediately release to Buyer upon request, and Buyer may retake immediate possession of Buyer's Property at any time with or without cause and without payment of any kind unless otherwise provided in the Contract. Upon conclusion of this Purchase Order, Buyer's Property shall be promptly returned to Buyer, at Buyer's expense, in as good condition as when received, ordinary wear and tear accepted.

c. Tools. Unless otherwise herein agreed, when Seller: furnishes special dies, tools, gauges, fixtures, molds, patterns and/or materials that are necessary for the particular production of the Products or materials covered by this Contract, Buyer will have the option to take possession and title to such items upon paying the Seller the unamortized cost thereof; provided further that this option shall not apply if the Products hereby ordered are the standard Product of the Seller, or if substantial quantities of like Products are being sold by Seller to others.

d. Product Resale. If Seller provides Buyer with any materials, equipment, or fixtures to assist in any way with the resale of any Products purchased from Seller, then unless otherwise agreed in writing, Buyer will be considered the sole owner of such materials, equipment or fixtures, without charge, free and clear of any interest, of Seller. This provision will apply regardless of whether the materials, equipment, or fixtures are shown on a Purchase Order. Seller must pay for all samples and freight for samples that are part of the usual means of doing business. This includes samples for planogram, specification approval, production samples, ad samples and any other samples that need to be modified or corrected. Notwithstanding anything to the contrary, Seller acknowledges that Buyer is not required to spend any amount on promoting or marketing or otherwise showcasing the Products supplied by Seller.

15. Compliance with Laws.

a. General. Seller will comply with, perform all of its obligations under this Contract in accordance with, and ensure the Products and any related packaging conform fully to, any applicable statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, other requirement or rule of law of any federal, state or local government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any arbitrator, court or tribunal of competent jurisdiction whether now in force or hereinafter enacted of the country of origin, the country(ies) of sale and delivery to the end consumer, the country(ies) of offer for sale to the end consumer, the country(ies) of delivery to Buyer, the country of transit, and any state, province or other subdivision of any of the foregoing, and any agency or entity of the foregoing

(collectively, “Laws”) including, without limitation, the Fair Labor Standards Act, the Wool Products Labeling Act, the Fair Packaging and Labeling Act, the Federal Trade Commission Act, the Magnuson-Moss Warranty Act – Federal Trade Commission Improvement Act, the Fur Products Labeling Act, the Textile Fiber Products Identification Act, the Toxic Substances Control Act (including any regulation issues thereunder (Title VI) or state equivalent including the regulations issued by the California Air Resource Board), Occupational Safety and Health Act of 1970, the California Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65), the Consumer Product Safety Act, the Consumer Product Safety Improvement Act of 2008, the Hazardous Materials Transportation Act of 1975, the Flammable Fabrics Act, the U.S. Federal Hazardous Substance Labeling Act, the Endangered Species Act of 1973, U.S. Dodd Frank Act, Section 1502, all of the regulations and standards issued under the foregoing statutes, and any other all Laws relating to environmental matters, data protection and privacy, wages, hours and conditions of employment, Subcontractor selection, discrimination, occupational health/safety, or the sale, shipment, storage or marketing of Products. Seller shall ensure that all of its Subcontractors (as permitted) are in compliance with all applicable Laws. Upon Buyer’s request, and without limiting Seller’s obligations hereunder, Seller will provide Buyer with: (i) written certification of Seller’s compliance with the foregoing; (ii) written certification of the origin of any ingredients or materials in the Products; and (iii) any additional information regarding the Products requested by Buyer such that Buyer may comply in a timely manner with its obligations under applicable Law.

b. Anti-Bribery. Seller’s performance of this Contract is subject to the United States Foreign Corrupt Practices Act (“FCPA”) as well as other applicable anti-bribery laws. Neither Seller nor any Subcontractor acting on its behalf will violate the FCPA or any other anti-bribery law for the benefit of or on behalf of Buyer or Seller. Seller will not, directly or indirectly, pay, offer to pay, or authorize the payment of any money or transfer of anything else of value to (i) an officer, employee, agent or representative of any government, including any department, agency or instrumentality of any government or any government-owned or government-controlled entity or any person acting in an official capacity on behalf thereof, or any political party, any official of a political party or public international organization, or any candidate for political office (each, a “Government or Political Official or Entity”); or (ii) any other person or entity while knowing or having reason to believe that some or all of the payment or thing of value will be offered, given or promised, directly or indirectly, to any Government or Political Official or Entity for the purpose of improperly influencing any act or decision of such Government or Political Official or Entity in his, her or its official capacity. Relevant acts or decisions include a decision to do or not do any act in violation of the lawful duty of such person or entity, or inducing such person or entity to use his, her or its influence with the government or instrumentality thereof to affect or influence any act or decision, in order to obtain, retain or direct any business or to secure any other improper business advantage. Additionally, Seller will not directly or indirectly make, provide, offer or authorize any payment or anything else of value to any Government or Political Official or Entity for the purpose of expediting or securing the performance of a routine governmental action by such Government or Political Official or Entity. Seller must immediately notify Buyer of any actual or suspected breach of this Section.

c. Export. Seller agrees to comply with all applicable U.S. export control Laws including, but not limited to, the requirements of the International Emergency Economic Powers Act, 50 U.S.C. 1701 et seq., the Export Administration Act, 50 U.S.C. app. 2401-2420, and the Export Administration Regulations, 15 C.F.R. 730-774, including the requirement for obtaining any export license or agreement, if applicable (collectively, “Export Controls”). Without in any way limiting the foregoing, Seller agrees that it will not transfer any Export Controlled item, data, or services, to include transfer to foreign persons employed by or associated with, or under contract to Seller or Seller’s lower-tier suppliers, without authority of an export license, agreement or applicable exemption or exception.

16. Force Majeure. Any delay or failure of either party to perform its obligations under this Contract will be excused to the extent that the delay or failure was caused by an event beyond such party’s control, without such party’s fault or negligence and that by its nature could not have been foreseen by such party or, if it could have been foreseen, was unavoidable (which events may include natural disasters, acts of God, acts of a governmental

entity, embargoes, explosions, riots, wars, acts of terrorism, fires, or floods, epidemics, pandemics, quarantine restrictions, or freight embargoes) (each, a “Force Majeure”). Notwithstanding anything in this Section 16 to the contrary, (i) labor problems of Seller or its Subcontractors, including, without limitation, lockouts, strikes and slowdowns, (ii) the inability of Seller or its Subcontractors to obtain power, materials, labor, equipment or transportation, (iii) Seller’s or its Subcontractor’s financial inability to perform, (iv) changes in the cost or availability of materials, components, services, or market conditions, and (iv) Seller actions or contract disputes with Subcontractors are not, in each case, a Force Majeure and will not, in each case, excuse performance by Seller under this Contract or otherwise excuse performance by Seller on theories of force majeure, commercial impracticability, or otherwise, and Seller expressly assumes these risks. Seller must give Buyer prompt notice of any event or circumstance that is reasonably likely to result in a Force Majeure and the anticipated duration of such Force Majeure. Seller must use all diligent efforts to end the Force Majeure, ensure that the effects of any Force Majeure are minimized, and resume full performance under this Contract. During any Force Majeure, Buyer may, at its option (x) purchase the Products from other sources and reduce the quantities (and any corresponding payment) set forth in a Purchase Order without liability to Seller or (y) have Seller provide the Products from other sources at the price set forth in this Contract. If requested by Buyer, Seller will, within five (5) days of such request, provide adequate assurances that the delay will not exceed thirty (30) days. If the delay lasts more than thirty (30) days or Seller does not provide adequate assurance (within a commercially reasonable time not to exceed ten (10) days from the date of the request) that the delay will cease within thirty (30) days, Buyer may immediately cancel this Contract (or the applicable Purchase Order) without liability to Seller of any kind or nature.

17. **Insurance.** Seller must carry and maintain, at its own expense, the following insurance coverage in reasonable amounts: workers compensation, comprehensive general liability (including products/completed operations, contractual liability, person injury, and blanket contractual liability), and automobile liability. Seller will name Buyer as an additional insured under all such insurance policies. Seller must also fully insure any and all property of Buyer which is in Seller’s possession (including any work-in-process for which Buyer has paid for whether or not title has passed) against loss or damage to the extent of its insurable value, without deductible, at Seller’s cost, and designate Buyer as the loss payee. All insurance coverage shall be primary coverage to Buyer regardless of any other coverage Buyer receives or is entitled to receive. Seller shall not cancel, allow to lapse, or reduce the foregoing insurance without Buyer’s prior written consent. Upon request, Seller shall provide Buyer with certificate of insurances evidencing the required insurance coverages.

18. **Event of Default.** The following occurrences shall constitute events of default by Seller (each, an “Event of Default”): (i) Seller repudiates, breaches, or threatens to repudiate or breach any of the terms of this Contract or any of its obligations hereunder including, without limitation, Seller’s warranties or guarantees; (ii) Seller fails to timely perform any of its obligations under this Contract or fails to provide Buyer with adequate and reasonable assurance of Seller’s ability to timely perform any of Seller’s obligations under this Contract including Seller’s ability to deliver Products conforming to the requirements of this Contract; (iii) Seller conditions the continued full performance of its obligations under this Contract on Buyer’s agreement to modify the terms of this Contract; (iv) Seller becomes insolvent or there is filing of a voluntary or involuntary petition in bankruptcy by or against Seller, or there is an appointment of a receiver or trustee for Seller, or there is an execution of an assignment for the benefit of Seller’s creditors, provided that such petition, appointment or assignment is not vacated or nullified within thirty (30) days of such event; (v) Buyer is prohibited or prevented from distributing the Products due to Buyer’s or Seller’s loss of rights to use the Intellectual Property of a third party in connection with the purchase, display, design, manufacture, delivery, labeling, packaging, placement, advertising, promotion, transportation, marketing, distribution, offer for sale or sale of Products; or (vi) Seller sells all or substantially all of its assets to, or fifty percent (50%) or more of its voting shares are sold (whether directly or indirectly) to, an entity that is a competitor of any entity in the Buyer Group. Upon the occurrence of an Event of Default under subsections (i)-(iii) of this Section, such occurrence shall not be deemed an Event of Default if Seller corrects such failure or cures such breach (to the extent correctable or curable) within a commercially reasonable time period (but in no case exceeding ten (10) days). All Events of Default will be deemed to occur on the date the specific event occurs and any written notice from Buyer describing an Event of Default is only provided to Seller as a courtesy

and will not be deemed to start any cure period unless expressly set forth in the written notice from Buyer.

19. **Termination.**

a. **Termination.** In addition to any other rights or remedies of Buyer under this Contract or applicable Law, Buyer may terminate this Contract, in whole or in part (i) upon an Event of Default (subject to the provisions of Section 18) (a “Termination for Cause”) or (ii) at any time for any reason prior to shipment of the Products under the applicable Purchase Order by providing written notice to Seller (a “Termination for Convenience”). For clarity, Buyer may terminate a Purchase Order without terminating the Supply Agreement and a termination of a Purchase Order does not terminate the Supply Agreement unless otherwise set forth in the termination notice from Buyer; *provided, however*, a termination of a Supply Agreement will be deemed to automatically terminate all outstanding Purchase Orders. Buyer shall have the right to a Termination for Cause or a Termination for Convenience notwithstanding the existence of a Force Majeure event. The effective date of any termination will be on the date of Buyer’s written notice of termination or such later date as set forth in the notice. In the event Buyer did not have a right to a Termination for Cause, Seller agrees any termination notice by Buyer to Seller will be deemed a Termination for Convenience. Buyer shall have no obligation to Seller, Subcontractors, or any other entity of any kind upon a Termination for Cause other than as set forth in Section 19.b. Upon a Termination for Convenience, the parties’ obligations are set forth in Section 19.b and Section 19.c. Notwithstanding anything contained herein, to the full extent permitted by applicable Law and in recognition of Buyer’s commitments to various third parties are made in reliance of Seller’s commitments under this Contract, Seller has no right to terminate this Contract or any Purchase Order.

b. **Obligations on Termination.** Upon any expiration or termination of this Contract, (i) Seller will immediately return and deliver to Buyer (A) any or all drawings, designs and all other documents provided by Buyer, and (B) any other property of Buyer (including “Buyer’s Property”), (ii) Buyer shall have the right to inspect Seller’s premises to confirm that Seller has returned all such materials to Buyer, and (iii) subject to these Terms and Conditions, Buyer will pay Seller any undisputed amounts for conforming Products that have been delivered to Buyer as of the date of termination.

c. **Termination Claim.** Upon a Termination for Convenience, (i) Seller shall immediately stop all work under this Contract or Purchase Order, as applicable, and shall immediately cause any and all of its Subcontractors to cease such work, and (ii) Buyer will, subject to this Contract, and if the Products are manufactured specifically for Buyer and are not saleable to other customers of Seller in the ordinary course of business despite Seller’s best efforts to sell such Products, pay to Seller, without duplication, (A) the value of all finished and conforming Products and Services which had been delivered by Seller to fulfill any Purchase Order prior to the date of termination; and (B) the actual amount of Seller’s costs necessarily and reasonably incurred in contemplation of the performance of the cancelled portion of the Purchase Order less any amount saved by Seller as a result of such cancellation and any amounts which could have reasonably been mitigated by Seller, including, without limitation, work done after the receipt of the notice of cancellation, costs incurred by Seller’s suppliers or Subcontractors that Seller could reasonably have avoided, and amounts realized by Seller from sale of Products to third parties in accordance with the Contract. Notwithstanding the foregoing, payments made under this Section will not exceed the Purchase Order costs less any discounts or other deductions. Buyer will not be liable, and will not be required to make payments to Seller (whether arising for a Termination for Convenience, Termination for Cause, or otherwise) directly or indirectly, on account of claims by Seller’s Subcontractors, for loss of anticipated profit, unabsorbed overhead, interest on claims, product development and engineering costs, facilities and equipment rearrangement costs or rental, unamortized depreciation costs, general and administrative burden charges, or any other charges from termination of this Contract, the Purchase Order, or otherwise. Seller shall furnish to Buyer Seller’s termination claim, which shall consist only of the approved items listed above, within thirty (30) days after the date of Buyer’s notice of termination or such claim shall be deemed waived by Seller. Buyer may audit Seller’s records before or subsequent to payment to verify Seller’s termination claim. Any payment of a termination claim will not be deemed a waiver of any of Buyer’s other rights arising under this Contract or applicable Law. A

termination claim is Seller's sole and exclusive remedy for a Termination for Convenience. Seller's failure to timely submit a termination claim shall be a bar to any future action on such claim.

20. **Indemnification.** In addition to any other indemnification set forth in this Contract or available at Law, Seller will indemnify, defend, reimburse, and hold harmless Buyer, its present and future directors, officers, shareholders, members, employees, attorneys, agents, representatives, parents, affiliates, subsidiaries, customers, and their users (each an "Indemnified Party") for, from, and against any and all claims, costs, demands, losses, indirect and direct damages (including lost profits, incidental, consequential, and punitive damages), liabilities, causes of action, judgments, settlements, awards, fines, penalties, assessments, and expenses (including costs of defense, mediation, settlement and reasonable attorneys' and other professionals' fees), however described or denominated, incurred by the Indemnified Parties or brought by any third party (including, without limitation, federal, state, or local governmental authorities or Seller's employees, Subcontractors, laborers, agents, and assigns) against an Indemnified Party arising out of, incidental to, or resulting from Seller's performance of this Contract or supply of the Products including (i) any negligent or willful act or omission of Seller or its respective Subcontractors, agents, employees or other representatives; (ii) Seller's, its Subcontractors', agents', employees' or representatives' commission of any Event of Default or other breach of any provision of this Contract (including, without limitation, Seller's warranties or any Recalls); (iii) Seller's, its Subcontractors', agents', employees' or representatives' violation of any Law; (iv) a request or demand by Seller to modify or change the terms of this Contract or legal proceedings involving Seller that in the reasonable judgment of Buyer may impact Seller's continued or future performance under this Contract (including, without limitation, if Seller is a party to a court case or proceedings in which Buyer is required to appear, participate, or monitors in order for Seller to continue performance under this Contract); or (v) any seizure, detention or destruction of any Products, whether under the authority of any governmental authority, court order, or with the commercially reasonable approval of Buyer or Buyer's customer. Notwithstanding anything contained herein, Buyer shall have the right to select and retain counsel of its choosing in defense of the foregoing and to enter in any settlement or compromise related to the foregoing.

21. **Remedies.** The rights and remedies reserved to Buyer in this Contract shall be cumulative, and in addition to all other or further remedies provided at Law. Without limiting the foregoing, should any Products fail to conform to the warranties set forth herein or are alleged to or are determined to cause injury to third parties, Seller shall, if requested by Buyer, reimburse Buyer for any damages caused by such nonconforming Products (including any claims or expenses charged to Buyer by Buyer's customer), including, but not limited to, costs (including all reasonable attorney's or other professional fees), expenses and losses incurred by Buyer in (a) inspecting, sorting, containing, repairing or replacing such nonconforming Products, (b) claims or litigation arising from personal injury, bodily injury (including death), or property damage caused by such nonconforming Products, and (c) conducting Recalls. If requested by Buyer, Seller shall, without charge to Buyer, administer and process warranty charge-backs for nonconforming Products in accordance with Buyer's directions. In addition, Seller shall reimburse Buyer for all liability, claims, demands or expenses (including reasonable attorney's or other professional fees) arising from or relating to Seller's breach or anticipatory repudiation of this Contract (including, without limitation, any damages or costs incurred by Buyer relating to the Products, packaging, packing, ticketing, labeling, or notices failing to comply with applicable Laws) or any other contract between Seller and Buyer, a request or demand by Seller to modify or change the terms of this contract, or legal proceedings involving Seller that in the reasonable judgment of Buyer may impact Seller's continued or future performance under this Contract, or if Seller is a party to a court case or proceedings in which Buyer appears, participates, monitors or becomes a party. Without limiting any rights or remedies of Buyer under this Contract or at Law, in the event that Seller fails or refuses to deliver Products, or otherwise repudiates any provision of this Contract, Seller agrees that Buyer may seek specific performance of Seller's obligations under this Contract (including permanent or temporary injunctive relief) without the need to post a bond or any other type of security. In the event this Contract is issued or renewed after Seller becomes a debtor in bankruptcy, Buyer shall be entitled to all of its attorney's or other professional fees arising from or relating to the bankruptcy case, including for monitoring the case.

22. **Duty to Advise.** Seller will promptly notify Buyer in writing of any of the following events or occurrences, or any facts or circumstances reasonably likely to give rise to any of the following events or occurrences: (a) any failure by Seller to perform any of its obligations under this Contract; (b) any delay in delivery of Products under this Contract; (c) any defects or quality problems relating to the Products; (d) any deficiency in Buyer specifications, samples, prototypes or test results relating to this Contract; (e) any failure by Seller, or its Subcontractors or common carriers, to comply with applicable Laws, including with respect to transportation of Products; (f) any changes in Seller's corporate structure or organization (including any direct or indirect change in control or ownership of Seller (by operation of law or otherwise)); and (g) a sale of substantially all of Seller's assets or a sale of substantially all of Seller's assets that are necessary to perform this Contract.

23. **General Terms.**

a. **Notices.** All notices, claims and other communications to Buyer required or permitted under this Contract will be (i) made in writing, (ii) mailed, sent or delivered in accordance with the Supply Agreement, and (iii) effective only upon receipt by Buyer. Seller's failure to provide any notice, claim, or other communications to Buyer in the manner and within the time period specified in this Contract will constitute a waiver by Seller of any and all rights and remedies that otherwise would have been available to Seller upon making such notice, claim, or other communication.

b. **No Advertising; Customer Communications.** Seller shall not, without first obtaining the written consent of Buyer, in any manner advertise or publish the fact that Seller has contracted to furnish Buyer the Products or use any trademarks or trade names of Buyer in Seller's advertising or promotional materials. Seller may not make direct contact with Buyer's customers with respect to the subject matter of this Contract unless specifically directed to by Buyer or where Seller has obtained Buyer's written permission prior to any contact.

c. **Severability.** If any clause in this Contract is determined by a court of competent jurisdiction to be invalid, the invalidity of such clause shall not affect the validity of the remainder of this Contract.

d. **Assignment.** Seller may not assign this Contract (by operation of law or otherwise), whether whole or in part, or assign or delegate it rights or obligations under this Contract (by operation of law or otherwise), whether whole or in part, in each case, without Buyer's prior written consent, which may be withheld in Buyer's sole discretion. Any purported assignment in violation of this Section will be null and void and of no force or effect.

e. **Governing Law; Venue.** This Contract, and all related documents and matters arising out of or relating to this Contract, are governed by, and will be construed in accordance with, the Laws of the State of Michigan, without regard to any conflict of law provisions. The parties agree that the United Nations Convention on Contracts for the International Sale of Products does not apply to this Contract. Buyer and Seller each irrevocably and unconditionally agree that the sole and exclusive forum and venue for any legal or equitable action or proceeding arising out of or in connection with this Contract will lie in the United States District Court for the Eastern District of Michigan, the courts in the State of Michigan sitting in Kent County, and any appellate court with jurisdiction over such courts. Each party hereby irrevocably and unconditionally (i) waives any objection which it may have or hereafter have to the laying of the venue of any such suit, action or proceeding and any claim that any such suit, action or proceeding has been brought in an inconvenient forum including, without limitation, any defense of *forum non conveniens*, international comity, or any other defense based on the location of the parties and (ii) submits to the sole and exclusive personal jurisdiction of such courts. To the extent Seller is located outside of the United States of America, Seller agrees that any breach of this Contract and any resulting injury will be deemed to occur in the State of Michigan, United States of America.

f. **Waiver.** Except as otherwise provided in this Contract, the failure of either party at any time to require performance by the other party of any provision of this Contract shall in no way affect the right to require performance at any time thereafter, nor shall the waiver of either party of a breach of any provision of this Contract

constitute a waiver of any succeeding breach of the same or any other provision.

g. Relationship of Parties. Seller and Buyer are independent contracting parties and nothing in this Contract will make either party the agent or legal representative of the other for any purpose, nor does it grant either party any authority to assume or to create any obligation on behalf of or in the name of the other. Seller's personnel will in no event be considered employees of Buyer and Seller will remain responsible for all wages, taxes, benefits, payroll deductions, remittances and other obligations with respect to its personnel. Unless ODL is expressly identified as the Buyer in the Supply Agreement or the Purchase Order, Seller acknowledges and agrees that neither ODL nor any other subsidiary, affiliate, or division of ODL (other than the specified Buyer) will have any liability to Seller under this Contract (including the Supply Agreement and Purchase Order) and Seller hereby waives all claims, liabilities, and demands against such parties.

h. No Third Party Beneficiary. Except as otherwise provided in this Contract, the parties acknowledge and agree that the rights and interests of the parties under this Contract are intended to solely benefit Buyer and Seller.

i. Interpretation. For purposes of this Contract (i) whenever the word "including" (or any variation thereof) is used, it is deemed to be followed by the words "without limitation"; (ii) the word "or" is not exclusive; (iii) section headings are for convenience or reference only, and do not affect the meaning of this Contract; (iv) references to "Sections" are to sections in these Terms and Conditions unless otherwise indicated; (v) words such as "herein" and "hereunder" refer to the Contract as a whole; and (vi) any agreement, instrument, statute, law, regulation or rule defined or referred to herein shall be deemed to mean such agreement, instrument, statute, law, regulation or rule as from time to time amended, modified or supplemented, and includes, in the case of agreements and instruments, references to all attachments thereto and instruments incorporated therein.

j. Survival. Sections 1-8, 10-15, 17-21, and 23 (together with any other section or provision that by its terms should survive and remain valid) of the Terms and Conditions shall survive and remain valid after the expiration or termination of this Contract.

k. **LIMITATION OF LIABILITY. EXCEPT AS EXPRESSLY STATED HEREIN, BUYER WILL NOT BE LIABLE FOR, UNDER ANY CIRCUMSTANCE, ANY LOST PROFIT, GOODWILL, OR SIMILAR COMPENSATION FOR THE TERMINATION OR CANCELLATION OF THIS CONTRACT. IN NO EVENT SHALL BUYER BE LIABLE TO SELLER OR ANY OTHER THIRD PARTY, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR UNDER ANY OTHER LEGAL OR EQUITABLE THEORY, FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT THIS CONTRACT OR OTHERWISE RELATING TO THE GOODS OR SERVICES, INCLUDING, WITHOUT LIMITATION, PERSONAL INJURY OR PROPERTY DAMAGES, ATTORNEY'S FEES OR ANY OTHER RELATED COSTS OR EXPENSES, ANY DIRECT OR INDIRECT LOSS OF PROFITS, REVENUE, OR BUSINESS OPPORTUNITY, DOWNTIME, DELAY DAMAGES OR ANY OTHER ECONOMIC LOSS, REGARDLESS OF WHETHER SUCH LOSS OR DAMAGE WAS FORESEEABLE BY BUYER OR BUYER WAS ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGE. SELLER MAY NOT BRING A CLAIM, DISPUTE, LAWSUIT, DEMAND OR OTHER CAUSE OF ACTION BASED UPON THE TRANSACTIONS UNDER THE PURCHASE ORDER (INCLUDING DEBIT MEMORANDUMS, CHARGEBACKS OR ANY OTHER FINANCIAL PENALTIES ASSESSED BY BUYER) MORE THAN ONE YEAR AFTER THE CAUSE OF ACTION HAS ACCRUED.**

l. **CONSULTATION WITH COUNSEL. BUYER AND SELLER ACKNOWLEDGE THAT THEY HAVE BEEN GIVEN THE OPPORTUNITY TO CONSULT WITH COUNSEL OF THEIR CHOICE BEFORE ENTERING INTO THIS CONTRACT AND ARE DOING SO WITHOUT DURESS, INTIMIDATION, OR COERCION AND WITHOUT RELIANCE UPON ANY REPRESENTATIONS,**

WARRANTIES, OR COMMITMENTS OTHER THAN THOSE REPRESENTATIONS, WARRANTIES, OR COMMITMENTS SET FORTH IN THIS CONTRACT.

m. **JURY TRIAL WAIVER.** BUYER AND SELLER ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED. EACH OF BUYER AND SELLER, AFTER CONSULTING (OR HAVING THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF ITS CHOICE, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR OTHER LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS CONTRACT OR ANY OTHER DOCUMENT PERTAINING TO THIS CONTRACT.

n. **Entire Agreement.** This Contract, including any attachments, exhibits or supplements attached hereto or incorporated herein by specific reference (including those attached to or incorporated by reference in the Terms and Conditions), constitutes the entire agreement between Seller and Buyer with respect to the subject matter of this Contract and supersedes all prior or contemporaneous oral or written discussions, understandings, representations and agreements. This Contract is being entered into among competent persons who are experienced in business. Therefore, no provision in this Contract may be construed against any party as the drafter. Except as set forth in the Agreement, this Contract may only be modified in writing signed by Buyer's authorized representative.

*****End of ODL Incorporated Purchase Order Terms and Conditions *****

**** NOTE:** This document is posted on the ODL supplier web page at <https://www.odl.com/suppliers> and any future revisions must be updated there as soon as it is issued.