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TERMS AND CONDITIONS

1. General.

1.1 These Terms and Conditions together with any applicable supplements or addendums (collectively, the “TOCs”), as may be provided from time to time, are incorporated into and form a part of the contract for the purchase of the Goods and Services, products, equipment (the “Order”), which includes but is not limited to any applicable, executed framework, corporate, or master services agreement (each a “Framework Agreement”) or individual supply agreement, individual contract, or statement of work or service agreement (each an “Individual Contract”), accepted purchase order and/or scheduling agreement issued by Barry-Wehmiller Companies, Inc. and/or its affiliate(s). The Order shall also include any provisions incorporated by reference therein pursuant to Section 2.3 below. The terms “Buyer” and “Seller” refer to the entities designated as such, to include similar terms, on any such Order. The terms “Goods” and “Services” refer to the goods and services to be provided to Buyer by Seller as specified in the Order and includes all hard copy and/or electronic drawings or specifications provided to Buyer in connection with the Goods and Services.

1.2 Seller acknowledges that Buyer is purchasing Goods and Services for use in a tiered supply chain, or under other circumstances in which timely manufacture, procurement, and/or delivery is required, and that Buyer is relying upon Seller’s agreement to timely manufacture and/or procure and deliver to Buyer the Goods and Services at the price, in the quantities and on the other terms and conditions stated in the Order to allow Buyer to fulfill its contract to sell goods which incorporate the Goods and Services to Buyer’s Customer (as defined in Section 2.3). Accordingly, Seller may not terminate the Order before expiration.

2. Order Terms; Offer & Acceptance.

2.1 Any purchase order issued by Buyer is an offer by Buyer to purchase the Goods and Services from Seller on the terms of such purchase order. A binding contract is formed if (a) Seller accepts the purchase order within 2 weeks following Seller’s receipt of Buyer’s purchase order; or (b) Seller is deemed to have accepted the purchase order as described below. The purchase order expires if (a) and (b) don’t apply. Buyer shall have the right to rescind the purchase order and/or scheduling agreement at any time prior to Seller’s acceptance. Seller shall be deemed to have accepted the purchase order upon the earliest of: (i) Seller commencing work or performance with respect to any part of the purchase order; (ii) Seller delivering written acceptance of the purchase order to Buyer; or (iii) any conduct by Seller that fairly recognizes the existence of a contract for the purchase and sale of the Goods and Services. **The Order is limited to and conditional upon Seller’s acceptance of the terms of the purchase order, including these TOCs.**

2.2 Buyer’s purchase order does not constitute an acceptance of any offer, quote or proposal made by Seller, and Seller acknowledges and agrees that: (a) a request for quotation or similar document issued by Buyer is not an offer by Buyer; and (b) any response by Seller to a request for quotation or similar document issued by Buyer is not an offer by Seller. In the event that Seller accepts Buyer’s purchase order other than by written acceptance pursuant to subsection (ii) above, Buyer may cancel the purchase order in its sole and absolute discretion, without payment of any kind to Seller, if Seller refuses to provide written acceptance of the purchase order within five (5) business days following Buyer’s written or oral request for such confirmation. Any additional or different terms proposed by Seller, whether in Seller’s quotation, acknowledgement, invoice or otherwise, are unacceptable to and expressly rejected by Buyer, and are hereby waived by Seller and are not part of the Order. However, any proposed modification of the terms of the purchase order by Seller shall not operate as a rejection of the purchase order if Seller commences work or is otherwise deemed to have accepted Buyer’s offer as provided above, in which case the purchase order shall be deemed accepted by Seller without any such proposed modifications. Any reference in the Order to

Seller’s quote or other prior communication shall not imply acceptance of any term, condition or instruction but is solely to incorporate the description or specifications of the Goods and Services, but only to the extent that such description or specifications are not in conflict with the description and specifications in the purchase order. If the Order is found to be an acceptance of any prior offer or proposal by Seller, such acceptance shall be limited to and conditional upon Seller’s acceptance of the terms of the purchase order.

2.3 The following documents are incorporated into and shall be part of the Order: (i) any Framework Agreement or Individual Contract between Buyer and Seller; (ii) Material Releases (as defined in Section 25.1 below) issued by Buyer to Seller under the Order; (iii) prints and specifications for the Goods and Services that are provided or approved by Buyer; (iv) Buyer’s policies (as defined below), as revised by Buyer from time to time; and (v) any written agreement between Buyer and Seller which provides therein that it shall be part of the Order. As used herein, the term “Buyer’s policies” includes any statement of work applicable to the Goods and Services, quality assurance documents, logistics guidelines, packaging specifications, including but not limited to amendments or modifications to Buyer’s policies as may be implemented by Buyer during the term of the Order. The purchasing terms and conditions of Buyer’s Customer, if any, (as defined below) will also be incorporated into and shall be part of the Order. “Buyer’s Customer” means any entity to which Buyer, directly or indirectly, sells the Goods and Services, or sells any goods or services into which the Goods and Services are incorporated, including any original equipment manufacturer and any upper tier supplier to an original equipment manufacturer.

2.4 In the event of any ambiguities, express conflicts or discrepancies in the specification, drawings or other documents which are part of the Order, Seller shall immediately submit the matter to Buyer for its determination and the parties shall resolve the matter in mutual agreement. In the event of an express conflict between any Framework Agreement, Individual Contract, or Order and these TOCs, the descending order of precedence will be as follows: (1) Framework Agreement; (2) Individual Contract; (3) the purchase order; and (4) TOCs.

2.5 The terms of each Order may include and where indicated are superseded by the applicable supplement or addendum if any for the country from which the Order is issued, or as specifically indicated in the Order, the country in which Seller is located.

2.6 The parties acknowledge that the Order, the TOCs and all documents related to them that are prepared in the English language will be interpreted and enforced in the English language.

2.7 For Goods or products used in consumer products or indirect purchasing, unless otherwise specified in the Order, the term of the agreement shall be the length of the applicable original equipment manufacturer’s program production life (including model refreshes as determined by the original equipment manufacturer). If the Order states that it is a blanket order, Buyer commits to purchasing from Seller each of the Goods and Services and no more than 100% of Buyer’s requirements of the Goods and Services. Under no circumstances shall Buyer be required to purchase from Seller more than 100% of Buyer’s requirements for the Goods and Services, or, except as otherwise stated herein, any specific volume or percentage of Buyer’s requirements for the Goods and Services.

3. Price & Payment Terms.

3.1 Unless otherwise set forth in the Order, the purchase price for the Goods and Services is: (i) in U.S. Dollars; (ii) is a firm fixed price for the duration of the Order and not subject to increase for any reason, including but not limited to, increased raw material costs, increased labor or other manufacturing costs, increased development costs, currency fluctuations or



changes in volumes or program length from those estimated or expected; (iii) is inclusive of all national, federal, state, provincial, value added and local taxes and any duties and/or tariffs applicable to provision of the Goods and Services; and (iv) is inclusive of all storage, handling, packaging and all other expenses and charges of Seller. Seller shall separately invoice Buyer for any sales, value added, or similar turnover taxes or charges that Seller is required by law to pay or collect from Buyer.

3.2 Invoices shall be issued by Seller to Buyer no earlier than delivery of the Goods and Services to Buyer. Seller shall, at its sole expense, comply with Buyer's instructions and then current Buyer's policies with respect to the form, content and method for submission of invoices. Seller shall promptly submit correct and complete invoices or other agreed upon billing communications with appropriate supporting documentation and other information reasonably required by Buyer after delivery of Goods and Services.

3.3 Unless otherwise stated in the Order, Buyer shall pay invoices for Goods and Services that are properly presented and not subject to dispute according to the terms stated in the Order. If no terms are stated in the Order, Buyer shall pay net ninety (90) days, after the later of: (i) the Goods and Services being received and accepted at Buyer's facility; or (ii) Buyer's receipt of Seller's invoice. Buyer may withhold payment until a correct and complete invoice or other required information is received and verified. If the payment date is not a business day, payment shall be due the next business day thereafter. Payment shall be deemed to occur upon transmittal by Buyer of any paper draft or Buyer's wire transfer of payment into the account of Seller.

3.4 Seller acknowledges and agrees that Seller's financial condition, insolvency and/or failure to timely pay its suppliers or other creditors may create a disruption in the supply chain. In the event Buyer elects in its sole and absolute discretion to pay any of Seller's obligations in order to avoid or cure a disruption in the flow of Goods and Services to Buyer, Buyer shall have the right to withhold from and setoff against any funds due to Seller from Buyer the aggregate amount paid in respect of Seller's obligations and, if such right of setoff is insufficient for Buyer to immediately recover all such amounts, Seller shall pay to Buyer the remaining balance within ten (10) days of Buyer's payment.

3.5 The Goods and Services purchased under the Order may be identified as industrial processing and may be exempt from sales taxes. In such case, the tax identification number and/or other exemption information shall be stated in the Order or otherwise provided by Buyer. Seller shall utilize such exemption information to the maximum extent permissible by its terms.

4. Quality. Payment for Goods and Services shall not constitute acceptance of nonconforming Goods and Services, nor shall it limit or affect any rights or remedies of Buyer.

4.1 Seller shall conform to all quality control and other standards and inspection systems as established or directed by Buyer and Buyer's Customer for goods and services. Seller shall also participate in Buyer's and/or Buyer's Customer's supplier quality and development programs as directed by Buyer. If any of the Buyer's standards, policies or systems are amended, supplemented or replaced, Seller shall comply with such changes.

4.2 Seller is responsible for the performance and quality of all of its suppliers from which Seller obtains goods and services it uses to produce Goods and Services, including suppliers that Buyer and/or Buyer's Customer has directed, recommended, requested, suggested or otherwise identified to Seller as a supplier from which Seller should obtain goods and services. Seller shall maintain adequate development, validation, testing, launch and on-going supervision to assure that all Goods and Services sold to Buyer conform to all specifications, standards, prints, samples and descriptions set forth in the Order, including as to performance, fit, form, function, and materials, if applicable, and appearance. In the event that Seller ships or provides any Goods and Services that are nonconforming or breach the warranties of Section 5 below, Buyer may require Seller, at Seller's sole cost and expense, to inspect the Goods and Services in such a manner (including

the use of a third-party inspector or sorter) as Buyer determines will ensure that all future Goods and Services will conform to the Order. Any inspection or testing, the lack thereof, or lack of response shall in no way release Seller from any quality or warranty obligations under the Order.

4.3 Buyer reserves the right at any reasonable time to inspect, witness, review or otherwise audit Seller's quality assurance and quality control procedures. Buyer shall have access to all parts of Seller's plant(s) and/or Seller's supplier's plant(s) engaged in the manufacturing or processing of Goods and Services in order to inspect, witness, review or otherwise audit the quality control processes being utilized at such plant(s). Seller shall furnish to Buyer the status of engineering, material procurement, production and shipping information upon request.

4.4 If defective or nonconforming Goods and Services are rejected by Buyer, the quantities under the Order shall be correspondingly reduced unless Buyer otherwise notifies Seller, and Seller shall not replace reduced quantities without a new Material Release from Buyer directing it to do so. Following rejection of nonconforming Goods and Services, Seller shall in Buyer's sole and absolute discretion, without prejudice to any other right or remedy of Buyer: (i) accept the return, at Seller's sole expense, of the Goods and Services and refund to Buyer the full invoice price plus all transportation and other charges associated with the nonconforming Goods and Services; (ii) replace the non-conforming Goods and Services with conforming Goods and Services, with all associated costs and expenses, other than the original invoice and shipping prices, being borne by Seller; or (iii) at Seller's sole expense, correct at any time prior to shipment from Buyer's plant Goods and Services that fail to meet the requirements of the Order.

4.5 Promptly upon learning of defective or nonconforming Goods and Services, Seller shall develop, document and implement corrective actions designed to ensure that all Goods and Services are produced in accordance with all applicable quality control policies and standards of Buyer and Buyer's Customer. Seller shall immediately notify Buyer in writing when it becomes aware of any raw material, component, design or defect in the Goods and Services that is nonconforming or may be or become harmful to persons or property.

5. Warranty.

5.1 Unless otherwise specified in the Framework Agreement or Individual Contract and in addition to any other express or implied warranties provided by law or otherwise, Seller warrants and covenants to Buyer, Buyer's Customer and their respective customers, successors and assigns that the Goods and Services when delivered or provided to Buyer shall: (i) be new and conform in all respects to the Order and to all specifications, drawings, samples and other descriptions furnished by Buyer or otherwise obtained by Seller; (ii) be merchantable and free from any defects in design, workmanship and/or materials and be of highest quality and workmanship; (iii) be selected, designed, manufactured, assembled and packaged by Seller based upon Buyer's stated use and be fit and sufficient for the specific purposes intended by Buyer; (iv) conform to all applicable laws and regulations in countries where the Goods and Services (or Buyer's goods into which the Goods and Services are incorporated) are to be sold or used, and (v) be performed in a professional and workmanlike manner, consistent with all standards and specifications agreed to with Buyer and otherwise consistent with the highest industry standards.

5.2 All warranties of Seller extend to future performance of the Goods and Services and are not modified, waived or discharged by delivery, inspection, tests, acceptance and/or payment. Buyer's approval of any design, drawing, material, process or specifications shall not relieve Seller of these warranties. Seller waives any right to notice of breach. The warranties in this Section 5 are intended to and shall provide Buyer with protection from any and all warranty claims brought against Buyer by Buyer's Customer and their respective customers, successors and assigns, relating in any manner to the Goods and Services.

5.3 The warranty period shall run to the latest of the following: (i) four (4) years from the date Buyer accepts the Goods and Services; (ii) the warranty period provided by applicable law; (iii) the warranty period



offered by Buyer to Buyer's Customer or Buyer's end users; or (iv) the warranty period Buyer's Customer offers to end-users of the Goods and Services or for the goods and services into which the Goods and Services are incorporated.

6. Remedies; Indemnification Obligation.

6.1 Unless otherwise specified in the Framework Agreement or Individual Contract, the rights and remedies reserved to Buyer in each Order shall be cumulative with and in addition to all other legal or equitable remedies available to Buyer. Seller is liable for all damages incurred by Buyer, including but not limited to compensatory, indirect, special, punitive, exemplary or consequential (as opposed to compensatory) damages, including damages for lost profits or other damages directly or indirectly related to profits, fines, penalties, charges, assessments or other costs, incurred by Buyer as a result of Seller's: (i) breach of any representation or warranty set forth in the Order; (ii) failure to timely deliver conforming or otherwise non-defective Goods and Services; (iii) failure to comply with the shipping and/or delivery or other requirements of Buyer; (iv) breach of any obligations pursuant to Section 14 and/or (v) failure to otherwise comply with the Order, even if Seller has cured the breach. Buyer's damages include reasonable legal and attorneys' fees and other professional fees, fines, penalties, settlements and judgments incurred by Buyer and other costs associated with Buyer's administrative time, labor and materials and any late or partial delivery of Goods and Services.

6.2 In any action brought by Buyer to enforce Seller's obligations in connection with the production or delivery of Goods and Services, Seller acknowledges and agrees that monetary damages are not a sufficient remedy for any actual, anticipated or threatened breach of the Order and that, in addition to all other rights and remedies that Buyer may have, Buyer shall be entitled to specific performance including injunctive relief without the requirement to post bond or other security or other equitable relief as a remedy for any such breach, in addition to recovery of Buyer's reasonable legal and/or attorneys' fees and expenses.

6.3 To the fullest extent permitted by law: (i) Seller hereby assumes the entire, sole responsibility for any injury to person, including death, or damage to property of any kind or nature caused by, resulting from or in connection with the furnishing of Goods and Services by Seller or anyone acting on its behalf; (ii) Buyer shall not be responsible for any injury to person (including death) or damage to any property resulting from Seller's possession, use, misuse or failure of any equipment, tooling or other property of Buyer furnished to Seller, and the use of any such property by Seller shall constitute acceptance by Seller of all responsibility for any claims for such injury or damage; and (iii) Seller shall defend, indemnify and hold harmless Buyer, Buyer's Customer and the end-users of the Goods and Services sold by Buyer or the end users of the goods which incorporate the Goods and Services (or, if applicable, the vehicles in which such Goods and Services are incorporated) and all of their respective agents, customers, invitees, subsidiaries, affiliates, successors and assigns, against all damages, losses, claims, liabilities and expenses arising out of or resulting from any defective Goods and Services, or from any negligent or wrongful act or omission of Seller or Seller's agents, employees or subcontractors, or any breach or failure by Seller to comply with any of Seller's representations or other terms and conditions of the Order (including any part of these TOCs).

7. Changes.

7.1 Buyer reserves the right at any time, by written notice to Seller, to make changes, or to require Seller to make changes, to drawings, specifications, sub-suppliers, samples or descriptions of Goods and Services. Buyer also reserves the right to otherwise change the scope of the work covered by the Order, including work with respect to such matters as inspection, testing or quality control. Buyer may also require Seller to source the supply of raw materials either from itself or from specified third parties. Seller shall promptly make any such requested change. In order for Seller to request a reasonable difference in price or time for performance as a result of a change described in Section 7.1, Seller must notify Buyer of its request in writing within ten (10) days after receiving notice of the change. Seller shall if requested by Buyer provide additional documentation from Seller relating to any change in specifications, price or time for

performance. After receiving all requested documentation, Buyer, in consultation with Seller, may equitably adjust the price or time for performance. If Seller does not provide timely notice to Buyer that a requested change may result in a difference in price or time for performance, Buyer's requested change shall not affect the price or time for performance.

7.2 Seller shall not make any change relating to Goods and Services, including without limitation, in the Goods and Services' contents, design, specifications, processing, packing, marking, shipping, price or date or place of delivery, except at Buyer's written instruction or with Buyer's prior written approval.

8. Excusable Delay.

8.1 Any delay or failure of either party to perform its obligations shall be excused only to the extent that the party is unable to perform due to events or occurrences beyond its reasonable control and without its fault or negligence, such as: acts of God; restrictions, embargoes, prohibitions, imposed by a governmental authority; fires; explosions; natural disasters; riots; wars; sabotage; (collectively "*Excusable Delay*"). However, in no event shall Seller's performance be excused by: (i) the change in cost or availability of raw materials, components or services based on market conditions, supplier actions or contract disputes; (ii) Seller's financial distress; (iii) Seller's bankruptcy or insolvency of one or more of Seller's suppliers; or (iv) any labor strike or other labor disruption applicable to Seller or to any of its subcontractors or suppliers. Seller, at its expense, shall use its best efforts to mitigate any adverse effects or costs to Buyer due to any actual or potential Excusable Delay, including: (a) the implementation of a production contingency plan; and (b) upon Buyer's express written authorization, increasing Seller's inventory of Goods and Services to a level sufficient to sustain deliveries during such Excusable Delay.

8.2 Seller shall use its best efforts to avoid an Excusable Delay and/or mitigate the potential effect of an Excusable Delay on Buyer and Buyer's Customer. All costs reasonably associated with the avoidance and/or mitigation of an Excusable Delay including, but not limited to, expedited shipping, logistics, labor, storage, alternative sources, taxes, customs, duties, and other extraordinary costs shall be borne exclusively by the party claiming the Excusable Delay.

8.3 Seller shall immediately give written notice to Buyer of any event or occurrence that threatens to delay or actually delays Seller's performance under the Order. Such notice shall include all relevant information with respect to such threat, including the possible duration and impact of a delay. In addition, Seller shall notify Buyer in writing: (i) of the expiration of any labor contract or collective agreement at least sixty (60) days prior thereto; and (ii) of any actual or threatened labor strike or other labor disruption as soon as Seller becomes aware of such; in each case as may be applicable to Seller or to any of its subcontractors or suppliers that are engaged in manufacturing or providing Goods and Services to Seller in connection with Seller's obligations under the Order. Notwithstanding notice and Seller's provision of a safety stock for a strike, labor disputes shall not constitute an event of Excusable Delay which shall excuse performance under the Order.

8.4 During any delay or failure to perform by Seller, Buyer may at its option and at Seller's expense: (i) purchase Goods and Services from other sources and reduce its schedules to Seller by such quantities, without liability to Seller; (ii) require Seller to deliver to Buyer at Buyer's expense all finished Goods and Services, work in process and parts and materials produced or acquired for work under the Order; and/or (iii) have Seller provide Goods and Services from other sources in quantities and at a time requested by Buyer and at the price set forth in the Order. In addition, Seller, at its sole expense, shall take all necessary actions to ensure the supply of Goods and Services to Buyer for a period of at least forty-five (45) days during any anticipated labor disruption or resulting from the expiration of Seller's labor contracts.

9. Termination.

9.1 Unless otherwise specified in the Framework Agreement or Individual Contract, Buyer may terminate the Order for Cause, without



liability to Seller, which shall be effective upon delivery of written notice or upon such other date specified by Buyer in writing. "Cause" for termination includes the following actions: (i) Seller breaches any representation, warranty, covenant, or other term of the Order; (ii) Seller repudiates, breaches or threatens to breach any of the terms of the Order; (iii) Seller fails to deliver, or threatens not to deliver, Goods and Services in accordance with a Material Release; (iv) Seller fails to meet applicable quality requirements so as to endanger timely and proper performance of the Order; (v) Seller makes an assignment for the benefit of creditors; (vi) proceedings in bankruptcy or insolvency are instituted by or against Seller; (vii) Seller requests accommodations from Buyer, financial or otherwise, in order for Seller to meet its obligations under the Order; (viii) Seller enters or offers to enter into a transaction or series of transactions that would cause a sale of a material portion of the assets used by Seller for the production and/or provision of Goods and Services to Buyer; (ix) Seller enters or offers to enter into a merger, sale or exchange of stock or other equity interests that would result in a change in control of Seller within the meaning of Section 409A of the Internal Revenue Code and regulations issued thereunder, and other applicable legislation, in which case Seller shall notify Buyer within ten (10) days after entering into any related negotiations (or the first period in which such negotiations can be made public consistent with applicable law) that could lead to such a transaction, provided that upon Seller's request, Buyer shall enter into an appropriate nondisclosure agreement related to information disclosed to Buyer in relation to such transaction; or (x) at any time in Buyer's sole judgment Seller's financial or other condition or progress on the Order shall be such as to endanger timely performance.

9.2 In the event Buyer elects not to terminate the Order in connection with an event that would constitute Cause for termination, Buyer may make such equitable adjustments in the price, payment terms, sole supply relationship and delivery requirements under the Order as Buyer deems appropriate to address changes in Seller's circumstances, including Seller's continuing ability to perform its obligations regarding warranty, nonconforming Goods and Services or other requirements under the Order, provided that Buyer must provide Seller with notice and details regarding the adjustments.

9.3 Buyer also may, at its option and in its sole and absolute discretion, immediately terminate all or any part of the Order at any time and for any reason upon seven (7) days written notice to Seller. Upon receipt of notice of termination, whether under Section 10.1 above or this Section 10.3, unless otherwise directed by Buyer, Seller shall: (i) promptly terminate all work under the Order on the effective date of termination; (ii) transfer title and deliver to Buyer or its designee the finished Goods, the work in process, and the parts and materials that Seller reasonably produced or acquired according to quantities ordered by Buyer and that Seller cannot use in producing Goods and Services for itself or for others; (iii) verify and settle any claims by subcontractors for actual costs incurred directly as a result of the termination; (iv) take actions reasonably necessary to protect property in Seller's possession in which Buyer has an interest; and (v) upon Buyer's request, fully cooperate with Buyer in transferring the production of Goods and Services to a different supplier.

9.4 Upon termination by Buyer under Section 9.3, Buyer shall pay only the following without duplication: (i) the Order price for all finished and accepted Goods and Services in the quantities ordered by Buyer in Material Releases that conform to the Order for which Seller has not been paid; (ii) Seller's reasonable actual cost of merchantable and useable work-in-process and the parts and materials transferred to Buyer under Section 10.3; (iii) Seller's reasonable actual, documented costs of settling claims regarding its obligations to its subcontractors required under the Order, to the extent directly caused by the termination, but limited to the amount of the firm quantities of Goods and Services and raw materials/components specified in Material Releases issued by Buyer and then currently outstanding; and (iv) Seller's reasonable actual cost of carrying out its obligations under Section 10.3.

10. Limitation on Buyer's Obligations to Seller for Termination.

BUYER SHALL HAVE NO LIABILITY OR OBLIGATION FOR, AND SHALL NOT BE REQUIRED TO PAY SELLER DIRECTLY OR INDIRECTLY IN RESPECT OF, CLAIMS BY SELLER OR SELLER'S SUBCONTRACTORS, FOR LOSS OF ANTICIPATED PROFIT, FAILURE TO REALIZE ANTICIPATED PRODUCTION VOLUMES, REVENUES OR SAVINGS, UNABSORBED OVERHEAD, INTEREST ON CLAIMS, PRODUCT DEVELOPMENT AND ENGINEERING COSTS, TOOLING, FACILITIES AND EQUIPMENT REARRANGEMENT COSTS OR RENTAL, UNAMORTIZED CAPITAL OR DEPRECIATION COSTS, OR GENERAL ADMINISTRATIVE BURDEN CHARGES RESULTING FROM OR RELATED TO THE TERMINATION OR EXPIRATION OF THE ORDER, EXCEPT AS OTHERWISE EXPRESSLY AGREED IN A SEPARATE ORDER.

11. Insurance.

Unless otherwise specified in the Framework Agreement or Individual Contract, Seller shall maintain and require its subcontractors to maintain, the following insurance coverages: (i) commercial general liability insurance; (ii) comprehensive automobile liability insurance; (iii) property all risk/business interruption insurance; (iv) workers compensation and employer's liability insurance covering all employees engaged in the performance of this Order for claims arising under any applicable workers' compensation, occupation disease or health and safety laws and or regulations; and (v) such other insurance coverage as may be requested from time to time by Buyer in its sole and absolute discretion. In each case Seller's insurance coverage will be in such amounts sufficient to cover obligations set forth herein or in such amounts reasonably requested by Buyer. Seller's insurance coverage shall be primary and non-contributory with respect to Buyer and its affiliates. Such insurance coverage shall among other things provide full fire and extended coverage insurance for the full replacement value of all Seller's Property and all bailed Buyer's Property. Seller hereby waives all mechanics' liens and claims, rights of subrogation, and agrees that none shall be filed or maintained against Buyer's premises on account of any Goods and Services and shall cause all its subcontractors, materialmen and suppliers (and subcontractors of such parties) to provide similar waivers and agreements in form satisfactory to Buyer. If requested by Buyer in writing, Seller shall furnish to Buyer a certificate showing full compliance with the requirements set forth in this Section 11 or certified copies of all insurance policies after the commencement of the Order and then annually thereafter or within ten (10) days of Buyer's written request. The existence of insurance shall not release Seller of its obligations or liabilities under the Order.

12. Buyer's Property.

This Section 12 shall only apply if there is no applicable bailment agreement in force between the parties.

12.1 "Buyer's Property" shall mean and include: all information and materials, including tooling which has been furnished by Buyer to Seller or for which Seller has been reimbursed by Buyer (such as fixtures, gauges, jigs, patterns, castings, cavity dies, molds, with all related appurtenances, accessions, and accessories, collectively herein referred to as "Tooling"), packaging, documents, standards, specifications, samples, models, trade secrets, manufacturing processes, marketing and pricing data, proprietary information and other materials and items (including whether or not such materials are in any way modified, altered or processed) furnished by Buyer either directly or indirectly to Seller to perform the Order, along with any and all Goods and Services, Tooling, deliverables, data, and Intellectual Property Rights (as defined in Section 14.1) which are property of Buyer under the terms of the Order. Buyer's Property shall be and remain the sole and exclusive property of Buyer.

12.2 With respect to Buyer's Property in the custody or control of Seller or Seller's suppliers, contractors or agents: (i) Seller shall use it or permit its use only for the production or provision of the Goods and Services for Buyer; (ii) Seller, at its own expense, shall keep Buyer's Property in good working condition and house, maintain, repair and replace it as necessary so that such Buyer's Property shall remain in the same condition as it was when it was received by Seller, except for normal wear and tear; (iii) Seller shall keep such Buyer's Property fully insured for the benefit of Buyer at all times while in Seller's possession; and (iv) Seller shall keep Buyer's Property, and cause any of its suppliers, contractors or agents in possession of such



Buyer's Property to keep such Buyer's Property, segregated from all other assets and labeled as being the property of Buyer. Seller shall not release, relocate or dispose of Buyer's Property to any third party without the prior, express, written permission of Buyer. Seller shall promptly notify Buyer of the location of Buyer's Property if located at any place other than Seller's facility.

12.3 Seller shall have only temporary possession of Buyer's Property as a bailee at will. Seller shall execute, deliver and perform Buyer's tooling agreement or other bailment agreement as Buyer may, from time-to-time, reasonably request.

12.4 Buyer shall have the right to enter Seller's premises, or the premises of any of Seller's suppliers, contractors or agents in possession of Buyer's Property, to inspect Buyer's Property and Seller's records regarding Buyer's Property. Seller agrees neither to create nor permit any liens on Buyer's Property and Seller agrees to immediately sign any UCC-1 forms or other documents reasonably required by Buyer to perfect Buyer's rights granted herein. Seller grants to Buyer a limited and irrevocable power of attorney, coupled with an interest, to execute and record on Seller's behalf any notice financing statements with respect to Buyer's Property that Buyer determines are reasonably necessary to reflect and protect Buyer's interest in Buyer's Property.

12.5 Seller shall assume all risk of death or injury to persons or damage to property arising from its use of Buyer's Property. **TO THE EXTENT PERMITTED BY LAW, BUYER SHALL HAVE NO LIABILITY TO SELLER OR ANYONE CLAIMING BY OR THROUGH SELLER FOR ANY INDIRECT, INCIDENTAL OR CONSEQUENTIAL OR OTHER DAMAGES OF ANY KIND WHATSOEVER RELATING TO OR ARISING FROM BUYER'S PROPERTY SUPPLIED BY BUYER. BUYER DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO SUCH BUYER'S PROPERTY, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND SELLER WAIVES, FOR ITSELF AND ITS SUCCESSORS AND ASSIGNS, ALL CLAIMS OF NEGLIGENCE AND STRICT LIABILITY.**

13. **Tooling.** To the extent that an Order requires a Seller provide Tooling, then **Addendum I – Tooling**, attached hereto and incorporated herein, shall apply to any such Order and be incorporated as part of these TOCs.

14. Intellectual Property.

14.1 "Intellectual Property" shall mean and include patents, copyrights, trademarks, trade names, trade dress, trade secrets, copyrights, know-how, concepts, ideas, discoveries, inventions (whether or not patentable), processes, developments, designs, dimensions, tolerances, suggestions, materials, improvements, works of authorship, artwork, software, documentation, intellectual property/proprietary rights, rights in other tangible and intangible assets of a proprietary nature, domain names, company names, and the like. "Intellectual Property Rights" means all forms of Intellectual Property protection or proprietary rights available throughout the world, including, without limitation, utility patents, design patents, patent applications, design registrations, utility models, industrial designs, copyrights, trademarks, trade dress, trade secrets, and rights in domain names. "Background IP" means a party's Intellectual Property Rights, whether registered or unregistered, under any applicable law that exist prior to the effective date of the Order, are acquired thereafter but independently of the Order, or developed by a party, at any time, without any use, knowledge of, or reference to, the other party's confidential information or other information obtained in connection with the Order, including all updates, improvements, modifications and derivative works thereof.

14.2 Seller warrants that the Goods and Services and the sale and/or use thereof (including without limitation before or after incorporation into products during manufacture) are original to Seller and do not and shall not infringe any third-party's Intellectual Property Rights.

14.3 Seller agrees: (i) to defend, hold harmless and indemnify Buyer and its owners, shareholders, affiliates, officers, directors, members, managers, partners, employees, attorneys and agents and any of their respective successors and assigns (each a "Buyer Indemnified Party") against any suit, claim or action for actual or alleged direct or contributory

infringement of or inducement to infringe or violate any third party's Intellectual Property or Intellectual Property Rights and against any resulting damages or expenses (including attorney's and other professional fees and expenses, settlements and judgments) arising out of or relating to the manufacture, sale or use of the Goods and Services, including cases where the Goods and Services or use thereof form only a portion of the claimed instrumentality or conduct; (ii) to waive any claim against any Buyer Indemnified Party, including any hold-harmless or similar claim, in any way related to a third-party claim asserted against such Buyer Indemnified Party for infringement of any Intellectual Property Right, including any claim against Buyer that the infringement arose out of compliance with Buyer's specifications; and (iii) that if the sale or use of the Goods and Services is enjoined or, in Buyer's sole and absolute judgment, is likely to be enjoined, Seller shall, at Buyer's election in its sole and absolute discretion and at Seller's sole expense, procure for Buyer the right to continue using the Goods and Services, replace the same with equivalent non-infringing goods or modify such Goods and Services so they become non-infringing.

14.4 Buyer shall maintain exclusive title, right and interest in and to its products and goods, its Background IP, whether or not incorporated into products, services and/or confidential information of Buyer, but specifically excluding Seller's Background IP or confidential information of Seller. Except as otherwise agreed in a separate written agreement or this Section 14, Seller and its affiliates maintain all title, right and interest in and to its Background IP. For the avoidance of doubt, Seller's Background IP shall include all Intellectual Property Rights relating to the Goods and Services that were owned or controlled by Seller or its affiliates prior to any discussions with or Seller's receipt of any materials from Buyer, as evidenced by Seller's written documentation.

14.5 Unless otherwise agreed to by Buyer in a separate written agreement, all Intellectual Property and all other deliverables prepared or developed by Seller in performance of the Order hereunder, and any and all Intellectual Property Rights relating thereto shall be the sole and exclusive property of Buyer, subject to Seller's limited right to use the same pursuant to Section 14.6 below. Seller shall promptly disclose in an acceptable form and assign to Buyer all such Intellectual Property. Seller shall cause its employees to promptly sign any papers necessary to enable Buyer to file applications for patents throughout the world and to record rights in and to such Intellectual Property. To the extent that the Intellectual Property includes any works of authorship created by or on behalf of Seller, such works shall be considered "works made for hire", and to the extent that such works do not qualify as "works made for hire", Seller hereby assigns to Buyer all right, title, and interest in all copyrights and moral rights therein. Seller shall ensure that the terms of its contracts with its subcontractors and employees are consistent with the terms of this Section.

14.6 Buyer hereby grants to Seller a limited, non-transferable, non-sublicensable, revocable, non-exclusive right to utilize the Buyer's Background IP as provided by Buyer only to the extent necessary for Seller to fulfill its obligations under the Order, and for no other purpose whatsoever. Upon termination or expiration of the Order for any reason, all rights to use Buyer Background IP granted pursuant to this Section 14.6 shall automatically terminate effective as of the date of termination or expiration of the Order.

15. Confidential and Proprietary Information; Record Retention.

15.1 Any information, data, or knowledge that Buyer may have disclosed or may hereafter disclose to Seller, or to which has been granted access or may hereafter be granted access, in connection with the Order and any and all Goods and Services to be rendered and/or work to be performed pursuant to the Order is and shall be deemed confidential and proprietary information of Buyer. Seller shall not, without authorization in writing from Buyer, communicate or disclose such confidential and proprietary information of Buyer or use such information for any purpose other than to perform its obligations under the Order. Seller agrees to safeguard the confidential and proprietary information of Buyer by using reasonable efforts, consistent with those used in the protection of its own proprietary information of a similar nature, to prevent its disclosure to third parties. Seller agrees to cause its employees, contractors, officers, directors,



agents and representatives to be bound by and comply with the foregoing restrictions regarding the use or disclosure of such confidential and proprietary information.

15.2 The restrictions and obligations of Section 15.1 shall not apply to information that: (i) is already publicly known at the time of its disclosure by Buyer; (ii) after disclosure by Buyer becomes publicly known through no fault of Seller; or (iii) Seller can establish by written documentation was properly in its possession prior to disclosure by Buyer or was independently developed by Seller without use of or reference to any of Buyer's information. Notwithstanding anything to the contrary in these TOCs, any confidentiality or non-disclosure agreement between the parties that predates the Order shall remain in effect except as expressly modified by the Order, and to the extent of a conflict between the express terms of such an agreement and this Section, the terms of that agreement shall control.

15.3 All documents containing proprietary information relating to the Goods and Services produced or acquired by Seller in connection with this Agreement shall belong to Buyer. All drawings, know-how, and confidential information supplied to Seller by Buyer and all rights therein shall remain the property of Buyer and shall be kept confidential by Seller.

15.4 Seller agrees not to assert any claim against Buyer or its suppliers with respect to any technical information that Seller has disclosed or may disclose to Buyer in connection with the Goods and Services covered by the Order, except to the extent the technical information is a trade secret that is identified and expressly covered by a separate written confidentiality and/or license agreement signed by Buyer, or is covered by a valid patent expressly disclosed to Buyer in writing prior to or at the time of the Order.

15.5 Seller shall, within five (5) business days of Buyer's request or the expiration or termination of the Order, return all confidential and proprietary information (including all copies, notes and/or extracts thereof). This Section shall survive termination of the Order.

15.6 Seller shall keep all relevant documents, data and other written information relating in any manner to the Goods and Services for at least three (3) years following the later of the last delivery of the Goods and Services or the date of the final payment to Seller under the Order.

16. Personal Data Privacy; Data Protection.

16.1 In connection with the Order and any and all Goods and Services to be rendered and/or work to be performed pursuant to the Order, Seller may obtain certain information relating to identified or identifiable individuals ("Personal Data"). For purposes of these TOCs, "Personal Data" shall include any information relating to (i) any identified or identifiable natural person, and (ii) identified or identifiable legal entity (where such information is protected similarly as personal data personal information or personally identifiable information under applicable data privacy laws). Seller shall have no right, title or interest in Personal Data obtained by it as a result of performance under an Order. Seller warrants that Seller shall, and shall ensure, that any Seller's affiliates with access to Personal Data: (a) collect, access, maintain, use, disclose, process and transfer Personal Data in accordance with the requirements set forth in this Section 16 and for the sole purpose of performing Seller's obligations under the Order; (b) comply with Buyer's instructions regarding Personal Data, as well as all applicable data protection, cyber security, data breach, and privacy laws, regulations and international accords or treaties (collectively, "Legal Requirements"), and refrain from engaging in any behavior which renders or is likely to render, Buyer in breach of such Legal Requirements; (c) promptly notify Buyer of any Security Incident (as defined below) or requests from an individual or data protection regulator or similar authority with respect to Personal Data, and work with Buyer to promptly and effectively handle such requests; and (d) when data is received directly or indirectly from the European Economic Area, Buyer's European affiliates, or Buyer's affiliates located in the United Kingdom, abide by Buyer's standard contractual clauses related to processing or exporting Personal Data in or from a member state of the European Union or the United Kingdom to a data recipient outside of the EEA or the United Kingdom, which subjects it to obligations under the EU General Data Protection Regulation ("GDPR") and/or the United Kingdom General Data Protection Regulation.

16.2 To the extent that Seller processes Personal Data, Seller has implemented and maintains reasonable administrative, organizational, physical, and technical safeguards designed: (i) to maintain the security, confidentiality availability and integrity of such Personal Data; (ii) to protect such Personal Data from known or reasonably anticipated threats or hazards to its security and integrity, including (without limitation), to protect against theft, accidental loss, alteration, disclosure and all other unlawful forms of processing, and (iii) to ensure that any data processing activities do not constitute unfair, deceptive or abusive acts or practices with respect to such Personal Data.

17. Supplier Code of Conduct. Seller agrees to comply with all applicable requirements and obligations provided for in Buyer's Supplier Code of Conduct available at <https://www.barrywehmiller.com/suppliers>, which is expressly incorporated into these TOCs by this reference.

18. Compliance With Laws.

18.1 Seller warrants that Seller, and all Goods and Services furnished by Seller under the Order shall comply with all applicable local, state, federal and all other applicable laws, ordinances and regulations, including those concerned with data privacy, data security, labor, environment and safety, as those laws, ordinances and regulations are amended from time to time. Seller shall provide all permits, certificates, licenses, insurance approvals and inspections which may be required for the performance of the Order.

18.2 Seller also warrants that all Goods and Services furnished by Seller in performance of the Order shall comply fully with the Occupational Safety and Health Act of 1970 (as amended from time to time) and State plans approved under this Act; the Toxic Substances Control Act (as amended from time to time); and the regulations promulgated under both Acts, to the extent applicable to such equipment and in addition to any other rights or remedies which Buyer may have. Seller also warrants all Goods and Services fully comply with all federal and state environmental regulations including, without limitation, state laws regulating the amount of mercury. Seller shall promptly notify Buyer in the event that any environmental factors associated with Seller's Goods and Services, products and/or processes may adversely impact Buyer or its employees, either directly or indirectly. Such impacts may involve, but are not limited to, direct exposure to toxic substances in Seller's Goods and Services, products and/or processes, and/or negative publicity or litigation arising from Seller's use of endangered species or other environmentally sensitive materials.

19. NDAA Compliance.

19.1 The terms of this Order require that the Goods and Services provided conform to applicable laws and regulations. The applicable laws and regulations include, but are not limited to, Section 889(a)(1)(B) Parts A & B of the 2019 National Defense Authorization Act, ("NDAA") which are implemented in regulations FAR 52.204-24, FAR 52.204-25, DFARS 252.204-7016, DFARS 252.204-7017 and DFARS 252.204-7018. Seller is obligated to independently review the foregoing NDAA laws and regulations which, absent an exception or waiver, broadly prohibit federal executive branch agencies from contracting with entities that supply or use any equipment, system or services that use "covered telecommunications equipment or services" as a substantial or essential component of any system. Seller warrants and represents the Goods and Services provided pursuant to this Order are in conformance with all laws and regulations and agrees that nonconformance is a material breach of contract.

19.2 Seller specifically shall comply, and certify compliance, with FAR 52.204-25 which prohibits contracting for the sale of covered telecommunications equipment or services. The reporting requirements in FAR 52.204-25(d)(1) and DFARS 252.204-7018(d) stipulate the Seller must notify Buyer immediately upon discovery of any covered telecommunications equipment or services being used as a substantial or essential component of any system as applicable to this Order. Seller agrees to cooperate in good faith with Buyer inquiries of Seller regarding NDAA compliance, including timely responding to Buyer's information requests.

19.3 Seller represents that any Goods and Services delivered to Buyer



do not contain any covered telecommunications equipment or services as defined in the NDAA.

20. Buyer's Limited Liability to Seller.

Buyer's sole liability under the Order (including its termination, expiration or cancellation) is to pay for the Goods and Services in accordance with Section 3 and to pay the specific termination related amounts described in Section 9.4. **IN NO EVENT SHALL BUYER BE LIABLE TO SELLER FOR ANY DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO COMPENSATORY, INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL (AS OPPOSED TO COMPENSATORY) DAMAGES, LOST PROFITS OR OTHER DAMAGES DIRECTLY OR INDIRECTLY RELATED TO PROFITS, OR LIABILITIES OF ANY KIND IN CONNECTION WITH THE ORDER, WHETHER FOR BREACH OF CONTRACT, TORT LIABILITY, LATE PAYMENT, PROPERTY DAMAGE, PERSONAL INJURY, ILLNESS, OR DEATH OR OTHERWISE.**

21. Assignment.

21.1 Seller may not, without Buyer's prior written consent: (i) assign or delegate (including without limitation by subcontract) its obligations under the Order; or (ii) enter or offer to enter into a transaction that includes a sale of a substantial portion of its assets used for the production of the Goods and Services for Buyer or a merger, sale or exchange of stock or other equity interests that would result in a change of control of Seller. In the event of any approved assignment (including without limitation subcontract), sale or delegation authorized by Buyer, Seller shall retain all responsibility for Goods and Services, including all related warranties and claims, unless otherwise expressly agreed in writing by Buyer.

21.2 Buyer shall have the right to assign any benefit or duty under the Order to any third party upon notice to Seller with or without Seller's consent.

22. No Publicity. Seller shall not advertise, publish or disclose to any third party (other than to Seller's professional advisors on a confidential and need-to-know basis) in any manner the fact that Seller has contracted to furnish Buyer the Goods and Services covered by the Order or any terms of the Order (including prices), or use any trademarks or trade names of Buyer in any press release, advertising or promotional materials, without first obtaining Buyer's written consent.

23. Relationship of the Parties. Seller and Buyer are independent contracting parties and nothing in the Order shall make either party the employee, agent or legal representative of the other for any purpose. The Order shall not grant either party any authority to assume or to create any obligation on behalf of or in the name of the other. Seller shall be solely responsible for all employment and income taxes, and statutory deductions and withholdings, insurance premiums, charges and other expenses it incurs in connection with its performance of the Order, except as expressly provided in a written agreement signed by Buyer. All employees and agents of Seller or its respective contractors are employees or agents solely of Seller or such contractors, and not of Buyer, and are not entitled to employee benefits or other rights accorded to Buyer's employees. Buyer is not responsible for any obligation with respect to employees or agents of Seller or its contractors.

24. Governing Law; Dispute Resolution.

24.1 Any and all disputes, controversies, differences, or claims arising out of or relating to the Order (including the formation, existence, validity, interpretation (including of this Section 24), breach or termination thereof) or the Goods and Services contract shall be governed and construed in accordance with the law of the State of Missouri without regard to provisions concerning conflict of laws, and the parties agree that any action arising from or in any way related to the Order shall be commenced only in courts located within the State of Missouri.

25. Material Releases; Delivery.

25.1 Seller shall manufacture and ship Buyer's requirements for the Goods and Services in such quantities and at such time as identified by Buyer as firm orders in scheduling agreements, manifests or other similar

releases ("Material Releases") that are transmitted to Seller from time to time during the term of the Order, and after consideration by Buyer of agreed upon lead times. Material Releases are incorporated into, and are an integral part of, the Order and are not independent contracts. No charge shall be allowed for packing, shipment, storage or handling unless otherwise stated in the Order. All Goods and Services received in excess of the quantities in a Material Release shall be subject to return for credit at Seller's expense. Buyer shall not be responsible for payment for Goods and Services in excess of the quantities specified in the Material Releases. Seller agrees to accept all risks associated with lead times for raw materials and/or subcomponents if beyond the quantities specified in the Material Releases.

25.2 Time and quantities are of the essence under the Order. Seller agrees to 100% on-time delivery of the quantities and at the times specified by Buyer as contained on the Material Releases. Buyer is not obligated to accept early deliveries, late deliveries, partial deliveries, excess deliveries or any other delivery that is not a 100% on-time delivery ("Nonconforming Deliveries"). If Buyer elects in its sole and absolute discretion to accept one or more Nonconforming Deliveries, such acceptance shall not constitute a waiver of Buyer's right to reject any other shipment which does not conform to the Material Release. Seller agrees to be responsible for any additional costs incurred by Buyer or fines imposed on Buyer by Buyer's Customers, as a result of any Nonconforming Deliveries.

25.3 Buyer may change the delivery rate of previously scheduled shipments or direct temporary suspension of scheduled shipments with a notice of least 30 days prior to previously scheduled delivery date. Change in data shall not entitle Seller to modify Seller compensation, price or other terms or conditions set forth in the Order. If, as the result of any of Seller's acts or omissions, Seller shall fail to timely meet Buyer's delivery requirements and more expeditious methods of transportation for the Goods and Services are available, Seller shall ship the Goods and Services by a transportation method that will meet Buyer's delivery requirements or, if that is not possible, by the most expeditious transportation method possible. In either case, Seller shall be solely responsible for any incremental costs due to the more expeditious transportation method.

25.4 Unless otherwise agreed upon, all pricing and shipments are to be made FCA (as defined in *Incoterms 2020* published by the International Chamber of Commerce) to Buyer's designated destination.

25.5 Seller warrants full and unrestricted title to Buyer for the Goods and Services delivered by Seller, free and clear of any and all liens, restrictions, reservations, security interests or encumbrances.

25.6 Seller shall comply with the Buyer's delivery and packaging instructions, as they may be changed or updated from time to time by Buyer in its sole and absolute discretion. Seller shall: (i) properly pack, mark, and ship Goods and Services according to the requirements of Buyer, the involved carriers and the laws and regulations of the country of manufacture and the country of destination; (ii) route all shipments according to Buyer's instructions; (iii) label or tag each package according to Buyer's instructions; (iv) provide papers with each shipment showing the Order number, amendment or release number, Buyer's part number, Seller's part number (where applicable), number of pieces in the shipment, number of containers in the shipment, Seller's name and number, and the bill of lading number; and (v) promptly forward the original bill of lading or other shipment receipts for each shipment according to Buyer's instructions and carrier requirements. Buyer's count shall be accepted as final and conclusive on shipments not accompanied by Seller's itemized packing list. Partial shipments, if authorized by Buyer, shall not be construed as making the obligations of Seller severable.

26. Goods and Services Discontinuation. If Seller intends to discontinue or consolidate production of any Goods and Services that Buyer has purchased from Seller within the preceding twenty-four (24) months or to modify any such Goods and Services in such a way as to necessitate a renewed release of the Goods and Services by Buyer or Buyer's Customer, Seller shall notify Buyer in writing prior to the intended discontinuation of production or modification of the Goods and Services:

- Non-Buyer-specific Goods and Services: twelve (12) months prior to



discontinuation of production/modification;

- Buyer-specific Goods and Services: twenty-four (24) months prior to discontinuation of production/modification;
- Buyer is permitted to place a reasonable last-time order for its residual requirements within the twelve (12) or twenty-four (24) month period, and Seller is obligated to fulfill such order.

indemnify and hold Buyer harmless from and against any damages, losses or claims that arise out of the E-Signature contemplated hereby.

27. Miscellaneous.

27.1 No Waiver. Buyer's failure to insist on the performance by Seller of any term or failure to exercise any right or remedy reserved in the Order, or Buyer's waiver of any breach or default hereunder by Seller shall not, thereafter, waive any other terms, conditions, rights, remedies, breaches or defaults, whether of the same or a similar type or not.

27.2 Severability. If any provision of the Order, or portion of any provision, is declared or found to be unenforceable, the balance of the Order or such provision shall be interpreted and enforced to the greatest extent possible as if the unenforceable provision or portion had never been a part hereof.

27.3 Survival. The obligations of Seller to Buyer survive termination of the Order, except as otherwise provided in the Order.

27.4 Notices. A written notice is used by the parties to provide a required notice or instructions to each other, or to authorize an exception, deviation or waiver of a pre-existing obligation or requirement under the Order. A written notice is also used by either party to provide any notice to the other party that is required to be in writing. In the case of Buyer, any written notice is valid only if signed by a representative of Buyer's purchasing activity. A written notice may be signed manually or electronically. A written notice may be provided by: (i) first class mail; (ii) courier service; (iii) fax; or (iv) standard e-mail. A written notice using method (i) or (ii) is effective as of the date of delivery and using method (iii) or (iv) is effective as of the date of transmission.

27.5 Interpretation. No provision may be construed against Buyer as the drafting party. Section headings are for convenience or reference only, and do not affect the meaning of the Order.

27.6 Entire Agreement; Modifications; Buyer's Website. The Order is the entire agreement between the parties respecting the Goods and Services and supersedes any prior agreements, negotiations or understandings of the parties respecting the Goods and Services, whether written or oral. These TOCs may only be modified by: (i) a written amendment executed by authorized representatives of each party; or (ii) by Buyer (a) for changes within the scope of Section 7, by an amendment to the Order issued by Buyer or (b) from time to time by posting revised TOCs to Buyer's Website. Such revised TOCs shall apply to all purchase order revisions/amendments and new Orders issued on or after the effective date thereof. Seller shall be responsible to review Buyer's Website periodically.

27.7 Seller's Representations; Warranties, and Additional Covenants. Seller represents and warrants that there is no outstanding litigation, arbitrated matter or other dispute to which Seller is a party which, if decided unfavorably to Seller, would reasonably be expected to have a material adverse effect on Buyer's or Seller's ability to fulfill its respective obligations under this Agreement. Seller covenants that each express representation and warranty of Seller in this Agreement shall remain true and correct during the term and any extension thereof. To the extent that Seller becomes aware that any such representation or warranty becomes untrue in any material respect during the term, Seller shall notify Buyer of the facts and circumstances surrounding such situation.

27.8 Electronic Signature & Counterparts. Buyer has instituted a process by which the Order and any corresponding agreements may be executed using an electronic signature (hereinafter referred to as "E-Signature"). As a condition of Buyer's acceptance of any E-Signature, Seller acknowledges and agrees that: any E-Signature is the legal equivalent of Seller's manual signature; Seller is legally bound by the terms and conditions bearing Seller's E-Signature; the Order and/or agreement will be electronically executed by authorized signers of the Seller. Seller shall