

**Anchor Bay  
Packaging Corporation**

**SUPPLIER  
REQUIREMENTS  
MANUAL**

**ISSUED BY: Steve Hauxwell**  
**CUSTOMER SERVICE / PURCHASING MANAGER**

# ANCHOR BAY PACKAGING CORPORATION

## Supplier Requirements Manual

SUPPLIER REQUIREMENTS MANUAL REVISION RECORD			
REV LEVEL	SECTION	REVISION DESCRIPTION	DATE
A	ALL	ORIGINAL ISSUE	OCT-97
	TABLE OF CONTENTS INTRODUCTION APPENDIX – E APPENDIX – F APPENDIX – G	ADD REVISION RECORD REVISE PAGE –1 DEFINITIONS UPDATE FORM TO CURRENT REVISION STATUS UPDATE FORM TO CURRENT REVISION STATUS UPDATE FORM TO CURRENT REVISION STATUS	JAN-99
	TABLE OF CONTENTS INTRODUCTION  APPENDIX – H	REVISE TO ADD APPENDIX – H TOLERANCE CHART REVISE PAGE –1 TO ADD REFERENCE TO APPENDIX – H TOLERANCE CHART ADD APPENDIX – H TOLERANCE CHART	AUG-99
	APPENDIX – H	REVISE TOLERANCE CHART TO ADD REFERENCE TO FOAM ROLL STOCK AND FOAM SHEET STOCK.	SEPT-00
	INTRODUCTION	REVISE TO ADD SUB BULLET TITLE “TOOLING” AND ADD NEW PARAGRAPH UNDER SAME SUB BULLET TITLE TO DEFINE SUBCONTRACTOR’S RESPONSIBILITY FOR OBTAINING TOOL APPROVAL PRIOR TO PROCESSING NEW OR REVISED ORDERS WHEN TOOLING IS INVOLVED.	NOV-00
	ALL	NEW ISSUE OF ENTIRE MANUAL TO INCORPORATE NECESSARY CHANGES BROUGHT ABOUT BY THE UPGRADE OF INTERNATIONAL QUALITY STANDARD, ANSI/ISO/ASQC Q9001-1994 TO ANSI/ISO/ASQC Q9001-2000 AND THE ADDITION OF INTERNATIONAL STANDARD ANSI/ISO 14001-1996 TO OUR QUALITY AND ENVIRONMENTAL MANAGEMENT SYSTEM.	MAR-01
	APPENDIX – A	REVISE PARAGRAPH 4.3 CONTRACT REVIEW TO DEFINE THE CONTRACT REVIEW PROCESS EXPECTED TO BE PERFORMED BY SUPPLIERS / SUBCONTRACTORS AS A TWO STAGE PROCESS.	NOV-02
	APPENDIX – H	REVISE TOLERANCE CHART TO INCREASE TOLERANCE FOR DIE-CUT ITEMS “CORRUGATED” FROM 1/16 INCH TO 1/8 INCH.	JAN-05
	ALL	NEW ISSUE OF ENTIRE MANUAL TO DELETE ALL REFERENCE TO INTERNATIONAL ENVIRONMENTAL STANDARD, ANSI/ISO 14001-1996.	OCT-07
B	ALL	COMPLETE REWRITE OF ENTIRE MANUAL TO REVISE IT FOR THE ISO 9001-2008 STANDARD, TO MAKE IT CONTROLLABLE AND DISTRIBUTABLE ELECTRONICALLY, AND TO MAKE GENERAL STRUCTURE CHANGES, CONTENT IMPROVEMENTS, ADDITIONS, AND DELETIONS, THROUGH OUT THIS DOCUMENT.	FEB-11
C	APPENDIX – F	REMOVAL OF OBSOLETE FORM	AUG-14

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### **APPENDICES**

- A. Supplier Profile and Quality Management System Survey**
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- C. Tolerance Chart**
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- E. Request For Deviation/Waver**

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### **PURPOSE**

The purpose of this manual is to provide a vehicle for communicating Anchor Bay Packaging Corporation's expectations of their suppliers, of products and/or services that directly affect the continued conformity of Anchor Bay Packaging Corporation's end products and/or services.

### **SCOPE**

This manual applies to current and new suppliers of raw materials, components, finished products, and services purchased by Anchor Bay Packaging Corporation.

### **BUSINESS VISITS**

Suppliers wishing to visit Anchor Bay Packaging Corporation are expected to do the following:

- Arrange their arrivals by appointment only.
- Enter each facility via the main lobby and register.
- Follow all Anchor Bay Packaging Corporation health and safety rules.

### **INITIAL SUPPLIER EVALUATIONS**

Potential new suppliers, receiving first time requests for quotations are required to complete the following documents and return them with their quotation.

- Supplier Profile and Quality Management System Survey (Appendix – A).
- Supplier Quality Compliance Agreement (Appendix – B).

ABPC's Purchasing department uses the information contained in these completed documents along with the Quotation as criteria for evaluating potential suppliers ability to meet our contract requirements and become suppliers. Potential suppliers become suppliers when ABPC's Purchasing department issues a Purchase Order. They are added to the Approved Supplier List when they accept our Purchase Order and fulfill its requirements.

Anchor Bay Packaging Corporation reserves the right to perform periodic quality system audits at the supplier's facility throughout the life of a contract or as deemed necessary by Anchor Bay Packaging Corporation's Customer Service/ Purchasing or Quality Assurance departments.

### **SUPPLIER PERFORMANCE REVIEWS**

The on-going performance of approved suppliers is reviewed and re-evaluated at approximate six-month intervals. Reevaluation reviews consist of assessment of each suppliers past performance according to available historical evidence associated with the following criteria:

- Quality.
- Delivery.

Results of these reviews and any actions taken as a result are reported to and directed by Top Level Management. Acceptable performance is continued and unacceptable performance is dealt with on a value basis.

### **SUPPLIER COST DETERMINATION**

ABPC's procurement process is based on the total cost of procurement. The total cost of procurement may include one or more of the following as costs:

- Administrative processing cost.
- Quoted purchase price.
- Freight.
- Receiving (incoming inspection) cost.
- Costs incurred from non-conforming material.
- Costs, due to late delivery or quantity issues.

Collectively each of the above costs set the total cost of each product and service purchased by Anchor Bay Packaging Corporation.

### **ACCEPTABLE TOLERANCES**

A Tolerance Chart developed by our Design and Test Engineering department indicating acceptable dimensional tolerance limits for specific materials and/or products supplied to Anchor Bay Packaging Corporation has been included for supplier reference as part of this manual. (APPENDIX - C). All tolerances shown on the chart are applied unless otherwise specified on Anchor Bay Packaging Corporation released for production Design Specifications.

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### **TERMS AND CONDITIONS**

Anchor Bay Packaging Corporation provides each supplier with a list of terms and conditions that govern our business relationship. (APPENDIX - D)

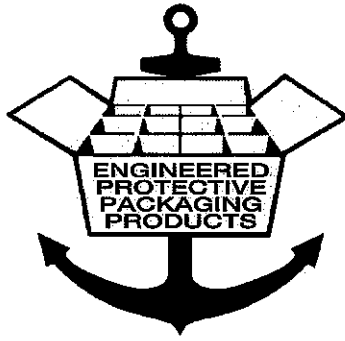
### **REQUEST FOR DEVIATION/WAIVER**

Suppliers wishing to deviate from purchase contract specifications for any reason must request and receive written approval from Anchor Bay Packaging Corporation prior to shipping. We have included a FORM 73-10 Request for Deviation/ Waiver Form, (APPENDIX - E) for this purpose.

Suppliers must not ship waver requested product until they have received the approved Request for Deviation/ Waiver Form back, stating the duration period of the approved deviation in terms of start and end dates, number of pieces, or some other limiting parameter. All shipments of wavered material must have the Request for Deviation/ Waiver reference number marked on the Packing Slip, and conspicuously on each container of product.

### **APPROVAL**

Anchor Bay Packaging Corporation's Top Level Management has approved this manual prior to publishing.



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## **APPENDIX - A**

### **Supplier Profile and Quality Management System Survey**

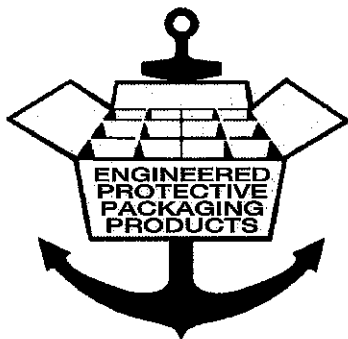
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**Appendix A**

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**See file: Supplier Profile and Quality Management System Survey**

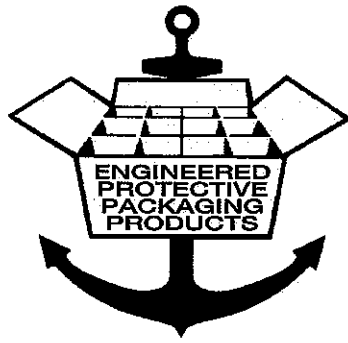




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## **APPENDIX - B**

### **Supplier Quality Compliance Agreement**



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## **APPENDIX - C**

### **Tolerance Chart**

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### TOLERANCE CHART

THE FOLLOWING TOLERANCES ARE APPLIED TO THE DESIGN AND MANUFACTURE OF ALL PACKAGING PRODUCTS.

TYPE OF PRODUCT	MATERIALS SPECIFIED			
	CHIPBOARD	CORRUGATED	FOAM	PLASTIC CORRUGATED
DIE-CUT ITEMS	+/- 1/16 INCH	+/- 1/8 INCH	+/- 1/16 INCH	+/- 1/8 INCH
CONTOUR CUT ITEMS	N-A	+/- 1/16 INCH	+/- 1/16 INCH	N-A
PRESS-RUN ITEMS	+/- 1/16 INCH	+/- 1/8 INCH	+/- 1/4 INCH	+/- 1/8 INCH
SAW-CUT ITEMS	+/- 1/16 INCH	+/- 1/8 INCH	+/- 1/8 INCH	N-A
BUILT-UP BLOCK (BUILT-UP DIMENSION)	N-A	NT OF CORRUGATED +/- 1/8 INCH	N-A	N-A

TYPE OF PRODUCT	CUT TO LENGTH	HOLE LOCATION	ASSEMBLED FRAMES
PVC EXTRUSIONS	+/- 0.06 INCH	+/- 1/16 INCH	+/- 1/8 INCH
ALUMINUM EXTRUSIONS	+/- 1/16 INCH	+/- 1/16 INCH	+/- 1/8 INCH
VAC-FORMED ITEMS	AS PER SPECIFICATION		

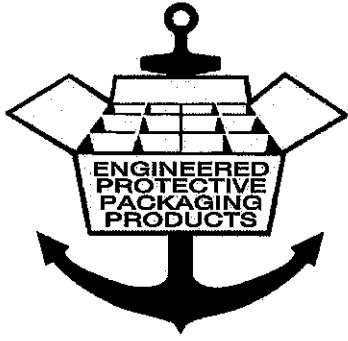
TYPE OF PRODUCT	PERFORATED	SLIT	THICKNESS
FOAM ROLL-STOCK (NO BACKING)	PERFORATION DIRECTION +/- 5% OF SPECIFIED LENGTH DIA.	SLIT DIRECTION +/- 1/4 INCH (MIN. 3 INCH)	+1/16 INCH / -1/32 INCH

TYPE OF PRODUCT	LENGTH AND WIDTH	THICKNESS
FOAM SHEET-STOCK	+/- 1/4 INCH	+1/16 INCH / -1/32 INCH

NOTE: ALL TOLERANCES ARE SPECIFIC TO EACH DIMENSION SHOWN ON THE ENGINEERING DRAWING AND SHALL NOT ACCUMULATE.

NOTE: ALL OF THE ABOVE TOLERANCES ARE APPLIED UNLESS OTHERWISE SPECIFIED ON THE ENGINEERING DRAWING.

**See file: Supplier Quality Compliance Agreement**



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## **APPENDIX - D**

### **Terms and Conditions**

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#### TERMS AND CONDITIONS

Unless otherwise agreed upon in writing and signed by the parties, the following terms and conditions ("Terms") shall apply in full between **Anchor Bay Packaging Corporation** ("Buyer"), and Seller with regard to all purchase orders, releases and orders generated there from and/or relating thereto and other associated purchase documents.

#### 1. PURCHASE AGREEMENT:

- 1.1 Buyer hereby agrees to purchase and receive and Seller agrees to sell and deliver the goods or services specified herein, in accordance with the terms and conditions of this Order, as defined below. This Order consists of the Order form or document for the purchase of Goods as issued by Buyer which incorporates these Terms, any addendums thereto signed by Buyer, other written contracts between the parties and signed by Buyer for the Goods (defined below), all Releases (defined below), Buyer's Seller Requirements Manual and such other documents specifically incorporated into or made a part of the Order, all of which are deemed to be the entire and final agreement of the parties and supersedes any prior and contemporaneous negotiation or agreements. Any Order is expressly limited to acceptance of the terms of the Order, including these Terms and any proposal for additional or different terms is hereby objected to and rejected but such proposal shall not operate as a rejection of the Order if Seller in any manner accepts the order as provided herein.
- 1.2 Seller shall be deemed to have accepted the Order, including these Terms, upon the earlier of (i) signing the Order or an acknowledgement thereof or (ii) the commencement of any performance by Seller, including ordering or purchasing any materials or supplies, commencing the performance of any services or commencing the production of any Goods (including Tooling) or samples or (iii) the shipment of any Goods, whichever first occurs.
- 1.3 THESE TERMS MAY BE LOCATED AT THE BUYER SITE. Seller acknowledges receipt of these Terms and agrees that the Buyer Site may contain additional requirements for certain items covered by this Order, including without limitation the Buyer's Supplier Requirements Manual, tolerance schedules and other items. Any such requirements shall be deemed to form a part of these Terms and the Order. Buyer may periodically update such requirements by posting revisions thereto on the Buyer Site and Buyer may from time to time post on the Buyer Site bulletins, certification requirements, nonconforming products notices, corrective actions required or demanded and other information and notices which Buyer deems necessary or relevant to the performance of the Order or otherwise. All items so posted shall be binding upon Seller from and after the time of posting. In the event of any inconsistency between this Order and the Buyer Site, the terms of this Order shall prevail, unless the requirements specified on the Buyer Site expressly provide otherwise.
- 1.4 The Seller hereby agrees that the provisions of the Order, including these Terms are the sole provisions applicable to the purchase of the Goods and that these provisions shall prevail over any additional or inconsistent terms contained or referred to in any communication at any time by the Seller in whatever form. Notwithstanding the foregoing, Buyer shall have the right to amend the Order and to make changes by faxing, e-mailing or otherwise delivering written notice thereof to Seller or posting such amendments on its website at [www.anchorbaypackaging.com](http://www.anchorbaypackaging.com).
- 1.5 It is Seller's responsibility to regularly and continually review the Buyer Site for Changes, amendments, notices and information and Seller will be deemed to have been duly notified if the applicable item is posted on the Buyer Site and agrees to be bound by all such postings.
- 1.6 The Seller agrees that the general terms of sale of the Seller shall not apply to any Order – not even in addition to these Terms, that any applicability of such general terms of sale is hereby expressly excluded.
- 1.7 Buyer is not required to post these Terms or any other items on the Buyer Site, but shall have the right to do so at any time.
- 1.8 Any reference made to Incoterms trade terms (such as EXW, DDP, etc.) is deemed to be made to the relevant terms of the Incoterms, published by the International Chamber of Commerce, pursuant to the version current at the effective date of the Order.

#### 2. DEFINITIONS:

- 2.1 The term "Affiliate" shall mean any person or entity, which controls, is controlled by or is under common control with Seller or Buyer, as the case may be.
- 2.2 The term "Customer" shall be deemed to mean Buyer's direct and indirect customers of the Goods.
- 2.3 The term "Order" shall be deemed to mean any purchase order or other agreement between Buyer and the Seller in the performance of which Goods are (or are to be) supplied to Buyer and is deemed to consist of the Buyer's form or document for the purchase of Goods as issued by Buyer ("Purchase Order") which incorporates these Terms, any addendums or amendments thereto issued by or signed by Buyer, other written contracts between the parties for the Goods and signed by Buyer (defined below), all Releases (defined below), Buyer's Supplier

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Requirements Manual and such other documents specifically incorporated into or made a part of the Order, all of which are deemed to be the entire and final agreement of the parties and supersedes any prior and contemporaneous negotiation or agreements and shall include these Terms and all other documents specifically incorporated therein.

- 2.4 The term "Goods" shall be deemed to mean all material objects to which the agreement relates, including without limitation, materials, tooling, assemblies and parts, and, where appropriate, work and services to be provided by the Seller. Goods shall include all components of the Goods, whether or not manufactured by Seller or supplied by Buyer or Buyer's Customer.

**3. SUBSTITUTIONS:**

- 3.1 Any substitution of material other than that which is specifically specified or described within an Order without prior purchasing approval will be considered a breach of the Order and Buyer shall have all rights and remedies hereunder and/or under law.

**4. TAXES:**

- 4.1 The Seller agrees to assume exclusive liability under all laws that impose taxes or other exactions on the manufacture or sale of the items to be furnished hereunder, or any component part thereto, or on any process or labor involved therein, or any services to be rendered by Seller, and to pay any and all such taxes except those that Buyer specifically agrees in writing that it is required by law to pay.

**5. ASSIGNMENT AND DELEGATION:**

- 5.1 Seller shall not assign an Order or delegate in any manner to any other person the performance of any work or the supplying of any services under an Order without the written consent of Buyer. Seller may assign monies due and to become due under an Order, provided, however, that the Buyer shall be entitled to assert against the assignee thereof all rights, claims and other defenses of every type (without limitations, rights of set off, recoupment, and counterclaim), which Buyer could assert against Seller, whether acquired prior to or subsequent to such assignment. Buyer is entitled to assign or otherwise transfer all or parts of its rights and/or obligations under the Order.

**6. SEVERABILITY:**

- 6.1 If any provision of these Terms or an Order is invalid or unenforceable under any statute, regulation, ordinance, executed order or other rule of law, such term shall be deemed reformed or deleted, but only to the extent necessary to comply with such statute, regulation, ordinance, order or rule, and the remaining provisions of these terms and conditions and the Order shall remain in full force and effect.

**7. CHANGES:**

- 7.1 The Order contains the complete and final agreement between Buyer and Seller and no agreement or other understanding in any way purporting to modify the terms and conditions hereof shall be binding upon Buyer unless made in writing and signed by Buyer's authorized representative. Notwithstanding the foregoing, Buyer shall have the right, without liability at any time, by written change order to make changes to (1) the drawings, designs, and/or specifications applicable to the Goods covered by an Order, (2) the method of shipment and/or packing, and (3) the place and time of delivery. If such changes affect the time for performance, the cost of manufacturing Goods, or the cost of furnishing such services, Buyer shall at its discretion make an equitable adjustment in the purchase price or the delivery schedule or both.
- 7.2 Other changes and any additional provisions and conditions and/or modifications ("Changes") of the Order, including these Terms, may be made from time to time by Buyer giving Seller written notice of such changes at least thirty (30) days prior to the effective date of the Changes. Seller expressly agrees that it shall be deemed to have received written notice of modifications, amendments and Changes made under this Section by Buyer posting such Changes on the Buyer Site and such notice will be deemed given and received as of the date of such posting. Such Changes shall be deemed accepted by Seller and incorporated into the Order unless Seller, within fifteen (15) days of the date of Buyer's notice, delivers its written objections to any of the Changes to Buyer. If Seller so objects, Buyer may either terminate this Order without liability by written notice to Seller setting forth the effective termination date or may continue the Order without the Changes so objected to. It is specifically agreed that all Orders and Order revisions issued on or after the date of such notice to Seller will be subject to such Changes in all respects.

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**8. VOLUME/SHIPPING RELEASES:**

- 8.1 Seller shall strictly comply with the dates, times, quantities and instructions contained in the Order and in any written requests from Buyer for release of a specified amount of Goods ("Releases").
- 8.2 Buyer is not required to buy exclusively from Seller and is not required to buy all of its requirements from Seller, unless the Order expressly so states.
- 8.3 If the language of the Order does not expressly commit to a specific amount, states zero, is indicated to be blanket or per release (or similar term), then: (i) Seller is obligated to supply to Buyer those requirements of Buyer as are specified in writing by Buyer in its Releases, and (ii) Buyer is required to purchase no less than one piece or unit of the Goods and no more than those quantities identified and authorized by Buyer for release under Buyer's written Releases.
- 8.4 Any estimate or forecast of volumes or term of the program under the Order, from either Buyer or Buyer's Customer, are estimates only, subject to modification from time to time, and are not binding upon Buyer. Seller assumes all risks regarding any changes thereto.
- 8.5 Seller agrees to continue to supply as set forth in Buyer's Order and written releases until, the Order is otherwise terminated by Buyer.
- 8.6 Unless specific delivery dates or warehousing time limits are provided in this Order, Seller shall not fabricate any of the Goods covered by an Order, or procure any of the materials required in their fabrication, or ship any of such Goods to Buyer, except to the extent authorized in written Releases furnished to Seller by Buyer. Buyer shall have no responsibility for Goods for which written Releases and delivery dates have not been provided. Shipments in excess of those authorized in writing may be returned to Seller and Seller shall pay Buyer for all packaging, handling, sorting, and transportation expenses incurred in connections with such shipments. Buyer may from time-to-time change shipping schedules specified in an Order or contained in such written instructions or direct temporary suspension of such scheduled shipments.
- 8.7 Notwithstanding the other provisions of this Section 8, Buyer shall have the option, in its sole and absolute discretion, to waive strict compliance with quantities stated in the Order and may accept Goods in an amount that varies from the quantity stated in the applicable Order. Any such waiver granted with regard to any delivery shall not be deemed to be a waiver of strict compliance with any subsequent or other deliveries and may not be relied upon by Seller unless in writing signed by Buyer. No course of dealing or trade usage shall be deemed to constitute a waiver of any provision.

**9. INSPECTIONS/QUALITY:**

- 9.1 Seller represents to Buyer that Seller has (or promptly shall upon request by Buyer) completed and complied with Seller's "Supplier Quality Assessment", as same may be amended from time to time by Buyer, in every respect and has done so accurately and completely. Seller agrees that Buyer, including its agents, and Buyer's Customer shall have the right to periodically enter Seller's facility at reasonable times to inspect, audit and/or test the facility, Seller's performance, any finished Goods, work in process, materials, workmanship, quality control procedures and any property of Buyer including any records and data relating to or supporting same, related to an Order. Seller shall permit such access including access to any assistance, tools and/or equipment reasonably necessary to inspect such items and confirm any processes as may be requested by Buyer.
- 9.2 Buyer's inspection of the Goods, whether during manufacture, prior to delivery or after delivery, shall not constitute acceptance of any Goods, work-in-process or finished Goods. Acceptance of initial samples from production tooling shall in no manner constitute acceptance of the Goods and does not limit Seller's warranty liability contained herein nor Buyer's rights to further inspect, test and/or reject the Goods as provided herein or under applicable law.
- 9.3 All Goods are subject to final inspection as determined by Buyer and no such preliminary or representative inspection shall be deemed a substitution or waiver thereof by Buyer. Delivery of Nonconforming Goods shall be a breach by Seller hereof and of the Order. Buyer shall have the right to inspect all such Goods and to reject any and all Goods which, in its sole judgment, are not Conforming Goods or which are otherwise defective or in breach of the Order or these Terms. Goods so rejected and/or Goods supplied in excess of quantities called for herein may be returned to Seller at its sole cost and expense and, in addition to Buyer's other rights, Buyer may charge Seller all expenses of unpacking, inspecting, testing, repacking and reshipping such Goods. Seller shall immediately notify Buyer of any non-conformance and defects, discovered or anticipated, in Goods, which have been delivered to Buyer.
- 9.4 Payment for Goods shall not constitute acceptance thereof nor in any manner limit or waive Buyer's rights or Seller's obligations. At any time, Buyer will have the right to revoke acceptance of the Goods and it shall thereafter be deemed to be Nonconforming Goods.



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- 9.5 If any inspection at any time shows that any of the Goods are Nonconforming Goods and whether or not the price has already been paid, Buyer may, in addition to all of its other rights and remedies under the Order and these Terms, revoke acceptance in whole or in part, require correction or replacement, obtain replacement Goods at Seller's cost, recover its damages (including indirect and consequential damages), return the whole or part of the delivery to the Seller at Seller's cost and expense, replace the Goods at Seller's cost, repair or modify the Goods at the Seller's cost, reduce the price for these Goods in the same proportion as and in relation to the value that the Goods actually delivered had at the time of the delivery compared to the value that Conforming Goods would have had at that time and/or render such Goods into scrap and dispose of same as Buyer deems fit. If Buyer requires replacement or correction, Seller's failure to replace or correct in a reasonable time in light of Buyer's schedules shall be a breach hereof.
- 9.6 Nothing contained in the Order shall relieve Seller's obligation of testing, inspection and quality control.
- 9.7 Any Goods, materials and components supplied by Buyer or Buyer's Customer in Seller's possession must be verified, protected and controlled. Nonconforming Customer supplied Goods, materials and components must be immediately identified, reported to Buyer, and held for review. Sellers must apply the same quality verification measures to Customer-supplied materials and components as required by Buyer as they apply to their own goods, materials and components. Seller shall be responsible for all costs involved with Buyer or Customer supplied materials and components that are damaged, lost or rendered unusable, while in their possession.

**10. CONFORMANCE:**

- 10.1 Conforming Goods are Goods, which satisfy each and every of the following:
- a. Are new and of new materials; are fit for the particular purpose intended by Buyer and/or its direct and/or indirect customer; are of merchantable quality and are free from design, material, workmanship and construction errors or defects, toxic material, consist only of first quality material and are "state of the art" at the time of each delivery; and are free of all liens, claims, restrictions, and/or encumbrances whatsoever, and
  - b. Are in strict conformity with the standard specifications of the Seller and possess the qualities of Goods which the Seller has held out to Buyer as a prototype, sample or model, and
  - c. Are in strict conformity with the specifications, requirements, drawings, tolerance schedules, quality standards and agreements or other information provided by Buyer to the Seller, down to the smallest detail and with the highest possible degree of perfection, and
  - d. Are in accordance with all Buyer standards, Buyer's Supplier Requirements Manual, the Order, including these Terms and all other Buyer requirements, and
  - e. Comply with all national, international and supranational laws, legal rules, regulations, directives and other governmental provisions regarding the Goods and any products which do or shall contain the Goods, and
  - f. Are accompanied with requisite clear written manuals, guidance notes, warnings and instructions as may be necessary to ensure the proper and safe handling, use and storage of the Goods by Buyer or its customers, including any necessary instructions and advise as to accident procedures and environmental containment measures, and
  - g. Do not breach any warranty, covenant or provision contained hereunder or otherwise given by the Seller, and
  - h. Are supplied in accordance with procedures that comply with the requirements of any certifications from time to time required by Buyer and/or other similar generally recognized system of quality assurance.
- 10.2 Seller will deliver only Goods that conform in all respects to the requirements described or referred to in the Order and are, in particular, of the quantity, quality and description required by the Order.
- 10.3 The Seller undertakes to make sure it has asked and obtained all information from Buyer in order to be clearly informed about any particular use Buyer wants to make of the Goods to be supplied. If the Seller has reasons to doubt whether the technical specifications received by Buyer are compatible with the particular use Buyer wants to make of the Goods, it will notify Buyer of this in writing timely and prior to the beginning of the execution of an Order. Seller is solely responsible for strict compliance with the above regardless of Buyer's specifications.
- 10.4 To the extent Buyer rejects Goods as nonconforming, Buyer shall have the right to reduce the quantities under the Order and/or any Release accordingly. If Seller fails to comply with Buyer's instructions as to the removal, shipping or storing of any Nonconforming Goods within three (3) days or such shorter period as may be commercially reasonable under the circumstances, after notice of nonconformity, Buyer shall be entitled, at Buyer's option, to charge Seller for storage and handling, to ship the Goods to Seller at Seller's sole cost and risk, or to dispose of the Goods, without incurring any liability to Seller. Payment for Nonconforming Goods

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shall not constitute an acceptance thereof, limit or impair Buyer's right to assert any legal or equitable remedy, or relieve Seller's responsibility for latent defects, its warranties or its obligations under the Order.

10.5 All Goods that are not Conforming Goods shall be deemed "Nonconforming Goods".

**11. WARRANTY:**

- 11.1 Without prejudice to other remedies under the Order, the Seller expressly warrants to Buyer its successors, assigns, and Customers:
- a. That the Goods delivered will: (i) be in conformance with all specifications, drawings, samples, standards and requirements of Buyer (ii) will be new, merchantable, of good material and workmanship, (iii) will be free from defect, including without limitation in material, design and/or workmanship, (iv) shall be fit for the particular purpose intended by Buyer and/or its Customers, and (v) shall be Conforming Goods (as defined herein) in all respects.
  - b. This warranty shall continue in effect for the greater of (i) the applicable statute of limitations or (ii) the entire period of any warranty provided by Buyer or any warranty under which Buyer may have responsibility or liability, including any warranty or liability to any Customer of Buyer whether a direct customer or an indirect or ultimate customer.
  - c. That, upon any breach of the above warranty, the Seller will be liable for and promptly pay: (i) the costs of repair, modification, cover or replacement of these Goods, (ii) all loss, damage, costs and expenses of Buyer and Buyer's Customers, arising there from, (iii) all incidental, strict and consequential damages, arising there from or relating thereto, including without limitation, all shutdown costs, cost of inspection, freight or return freight costs, (iv) all liabilities, damages, charges, costs and expenses that Buyer is required to pay or perform to or on behalf of any Customer of Buyer and (v) charges of Buyer or its Customers for any warranty or agreement Buyer has issued or due to service, retrofit or product recall campaigns for which it is bound or has reasonably resolved to guarantee the safety of its commercial products or to limit damage to its reputation in the market.
  - d. That, upon any breach of this warranty, then upon, and only upon, Buyer's written request, Seller shall promptly replace or adjust such Goods free of charge or, at Buyer's option, compensate Buyer for the value of the Goods or the cost for correction of defects. Upon request of Buyer Seller shall provide Buyer with written return authorization within seventy-two (72) hours with regard to all Goods Buyer determines are nonconforming or defective. Seller shall pay Buyer all costs, losses or damages, including all incidental or consequential damages incurred by Buyer or its Customers arising out of Seller's delivery of any Goods that breach the above warranty or the Order.
  - e. Buyer may resolve any alleged warranty claim, correct allegedly defective Goods at the Seller's expense and/or replace such Goods at Seller's cost, all without Seller's approval.
  - f. Inspection, test, acceptance or use of the Goods or services furnished hereunder shall not affect the Seller's obligation under this warranty and such warranties shall survive inspection, testing, acceptance and use.
  - g. Should a defect or other breach of warranty have been discovered in any Goods delivered, within the warranty period, the Seller will be responsible hereunder for same defect in all points delivered; even if the defects are discovered after the warranty period.
  - h. Upon discovery of any Nonconforming Goods or any defective or nonconforming design or materials, Seller shall immediately notify Buyer and, when requested, to begin immediate formal corrective action in 8-Discipline format by providing Buyer's Quality Assurance Department with an initial response within 24 hours of receiving notice of the nonconformance. Seller is responsible for all costs, expenses and liabilities that arise out of each and every problem occurrence, including any cost of disposition thereof. Seller shall inform/authorize Buyer regarding disposition or any Nonconforming Goods within 7 days of the occurrence or notice of nonconformance. Buyer shall have the absolute right to dispose of or scrap all Nonconforming Goods, which are not disposed of within 7 days of the initial contact with Seller, all without notice to Seller and without any liability on the part of Buyer.
  - i. Seller's warranty shall run to Buyer its successors, assigns and Customers and users of the Goods, whether or not incorporated or processed into other goods.

**12. INGREDIENTS DISCLOSURE AND SPECIAL WARNINGS AND INSTRUCTIONS:**

- 12.1 Seller represents that it has furnished to Buyer: (1) a list of all ingredients in the Goods purchased hereunder, (2) the amount of one or more ingredients, and (3) information concerning any changes in or additions to such ingredients. Prior to and with the shipment of the Goods purchased hereunder, Seller agrees to furnish the Buyer sufficient warning and notice in writing (including appropriate labels on Goods, containers and packing) of any hazardous material which is an ingredient or a part of any of the Goods, together with such handling

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instructions as may be necessary to advise carriers, Buyer and their respective employees of how to exercise that measure of care and precaution which will best prevent bodily injury or property damage in the handling, transportation, processing, use or disposal of the Goods, containers and packing shipped to Buyer.

**13. TERMINATION:**

- 13.1 AT OPTION OF BUYER: The Order may be terminated by Buyer at its option in whole or in part, for any or no reason, at any time or from time to time upon written notice of termination to Seller.
- a. Under termination by Buyer under this Section, Seller shall immediately (i) stop all work under the Order or portion of the Order terminated and shall stop incurring costs and shall cause its suppliers to stop all such work and to stop incurring costs; and (ii) shall transfer to Buyer possession and title of all finished Goods, work in process and raw materials to be paid for by Buyer under the terms hereof. To the extent of the terminated portion of the Order and subject to any setoff rights of Buyer, Buyer shall pay to Seller the following amounts without duplication: (1) The applicable price stated in the Order for the applicable Goods which have been completed and accepted by Buyer and not previously paid for, but only to the extent there is an outstanding Order and Release for such Goods and such Goods do not exceed amounts scheduled and authorized in writing under delivery Releases under the Order to be delivered as of the date of termination, (2) The actual costs (exclusive of profit) incurred by Seller for work-in-process which cannot reasonably be used by Seller in producing supplies for itself or for its other customers (but (i) only to the extent the amount of work-in-process directly correspond to outstanding written Releases from Buyer and (ii) in Buyer's judgment, are reasonable in light of outstanding Orders, written Releases, Buyer's delivery schedules, and normal flow times, and (iii) in no event [when added to finished Goods in (1) above] exceeds amounts scheduled in writing to be delivered within ten (10) days following termination and (iv) only if same is properly allocable under recognized commercial accounting practices to the terminated portion of the Order), with all of the foregoing being reduced by the reasonable value thereof if actually used or sold by Seller, and (3) the reasonable costs incurred by Seller in protecting property in its possession in which Buyer has or may acquire an interest but only if Buyer has requested such protection in writing. The above payments shall not exceed the aggregate price specified in the applicable Order for Goods under express written delivery Release authorizations from Buyer outstanding at the date of termination, less: (1) Payments otherwise made or to be made, (2) The price of any Nonconforming, defective, damaged or destroyed Goods or Goods for which acceptance has been subsequently rejected or revoked, (3) The price of any Goods otherwise not accepted by Buyer (4) The price of any Goods that are readily marketable elsewhere, and (5) any setoff rights of Buyer.
  - b. Any materials which Seller has on hand as a result of any such termination, the costs of which are included in the settlement outlined above, shall be held by Seller subject to disposal instructions from Buyer.
  - c. Payment under this Section shall be Seller's exclusive remedy and Buyer's only liability in the event the Order is terminated under this Section. Except for the express payments specifically set out above in this Section, Buyer will not be liable for any other costs, claims, damages and/or losses whatsoever, including without limitation, capital expenses, any loss, claim or damage of any subcontractor/Seller of Seller, loss of anticipated profit, unabsorbed overhead, interest on claims, product development and engineering costs, facilities and equipment rearrangement costs or rental, unamortized costs, and general and administration burden charges from termination of an Order. In no event shall Buyer be liable for any indirect, consequential or incidental damages.
  - d. Buyer's obligations under this Section shall not apply if the Order is terminated by Buyer pursuant to the Termination For Breach Section below.
  - e. Any termination by Buyer whether by default or otherwise, shall be without prejudice to any claims for damages or other rights of Buyer against Seller, whether in the Order or otherwise, and Seller's obligations hereunder shall survive any termination.
  - f. Within ten (10) days from the effective date of termination, Seller shall submit a comprehensive termination claim to Buyer with sufficient supporting data to permit Buyer's audit, and shall thereafter promptly furnish such supplemental and supporting information, as Buyer shall request. Buyer or its agents shall have the right to audit and examine all books, records, facilities, work, material, inventories and other items relating to any termination claim of Seller. If not timely and properly submitted, Seller shall have full and forever waived and released its claim and same shall be null and void and barred from enforcement.
  - g. Seller may not terminate this Order for convenience or any other reason, except as otherwise expressly provided in this Order.

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- 13.2 **TERMINATION FOR BREACH:** Buyer has the right to terminate the Order or any part thereof, effective upon written notice to Seller, if Seller or any Affiliate of Seller; (1) repudiates or breaches any of the terms of the Order, including any breach of a warranty, (2) repudiates or breaches any other agreement with Buyer or any Affiliate of Buyer (3) fails to perform services or deliver Goods as specified (4) fails to make progress so as to endanger timely and proper completion of services or delivery of Goods, and does not correct such failure or breach within three (3) days (or such shorter period of time if commercially reasonable under the circumstances) after receipt of notice specifying such failure. In the event of termination, Seller shall immediately stop all work under the Order or portion of the Order terminated shall cause its suppliers to stop all such work and shall stop incurring costs. Buyer shall not be liable to Seller for any amount or other obligation and Seller shall be liable to Buyer for any and all collection costs, attorney fees and expenses and all other damages, including incidental and consequential damages, arising out of the Seller's breach or Buyer's termination under this Section. In addition to all of Buyer's other rights under the Order or applicable law, Buyer may purchase or manufacture similar Goods and Seller shall cover all costs thereof, including without limitation all costs of transitioning the work, obtaining approvals and all related expenses and damages and/or may require Seller to transfer title and deliver to Buyer any and all Goods produced or procured by Seller related to any Order, and Seller shall be liable to Buyer for any excess costs, damages and/or losses to Buyer. Any termination by Buyer whether by default or otherwise, shall be without prejudice to any claims for damages or other rights of Buyer against Seller, whether in the Order or otherwise, and Seller's obligations hereunder shall survive any termination.
- 13.3 **Equipment:** If the Order includes or relates to Seller's purchase of equipment or Tools that are not to be inventory or for resale, Buyer will have an absolute and immediate right to purchase said equipment for the lesser of the Seller's book value or Seller's actual cost, in either case less any amounts paid or allocated, directly or indirectly, thereto under the Order prior to termination.

**14. FORCE MAJEURE:**

- 14.1 Buyer may delay delivery acceptance occasioned by causes beyond its control, including, but not limited to, industrial disputes, strikes, lockouts, riots, mobs, fires, floods, wars, embargo, or by reason of regulations, orders or omissions of any government agency. Should such delays extend beyond six (6) months due to any of these circumstances the Buyer may cancel the respective portion of any Order for deliveries so delayed and unexecuted without incurring a liability towards Seller. Seller's performance shall not be affected by force majeure unless expressly consented to in writing by Buyer in each instance.

**15. INTELLECTUAL PROPERTY:**

- 15.1 Seller guarantees and warrants to Buyer and its Customers, that the manufacture, design, use, sale, offer for sale, replacement, cover, rebuild, sale, marketing, servicing, relocation, repair, reconstruction, reproduction, distribution, and/or having others perform any of the foregoing for its or Buyer's direct or indirect benefit, or performance of the Order (collectively "Use") does not infringe and/or is not alleged to infringe on any rights third parties may have or are in force under any local, national, supranational or international law or regulation in the area of Intellectual Property, which the term "Intellectual Property" shall include without limitation all information and matters protected by any legal, beneficial or other right, law, rule or regulation, including without limitation, any United States or foreign patent law or regulation (including unfair competition laws) and all designs, process, know-how, copyrights, patents, inventions, discoveries and improvements (whether or not patentable), trade secrets, trademarks, mask work, technical information, and any other proprietary information or rights, including all continuations, continuations-in-part, divisions, re-examinations, reissues, wherever pursued and any other proprietary information or rights (collectively "IP Rights"). Seller expressly waives any claim that any such information arose out of compliance with Buyer's specifications.
- 15.2 Seller agrees: (1) to defend, hold harmless and indemnify Buyer its successors, assigns and Customers against all claims, demands, losses, suits, damages, liability and expenses (including court costs, legal and other professional fees) arising out of any claim of infringement of any nature or unfair competition or otherwise, including any settlement thereof, including any claims that Seller has supplied only part of the Goods at issue, and/or any suit, claim or action for direct, indirect or contributory infringement of, or inducement to infringe, any IP Rights, by reason of the Use of the Goods, including infringement arising out of compliance with specifications furnished by Buyer or Buyer's Customer or for actual or alleged misuse-or-misappropriation of a trade secret, and (2) to waive any claim against Buyer or Customers arising out of any of the foregoing or any related claim or similar type of claim. Buyer may be represented and actively participate in any suit or proceeding arising out of any such claim and Seller shall pay all costs of such representation. If the use or benefit of the Goods is enjoined, restricted or subject to or threatened to be subject to any legal action, fee or

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royalty, or Buyer reasonably believes it will be, Seller shall immediately, at Buyer's option, replace the Goods with exactly equivalent non-infringing Goods as approved by Buyer or procure a royalty-free right for Buyer its Customers, successors and assigns, to continue the Use of the Goods, in addition to all of Seller's other obligations hereunder.

- 15.3 Seller grants Buyer its customers, successors and assigns, a worldwide, paid-up, unlimited, non-exclusive, royalty free, irrevocable license, including the right to sublicense to others, to use all Intellectual Property including without limitation all patented, copyrighted or otherwise protected or proprietary data or property of Seller which relates to the Goods or the Order or is conceived, used, developed, generated or delivered in the performance of the Order, to replace, cover, build, rebuild, sell, market, service, relocate, manufacture and to repair and have repaired, to reconstruct and have reconstructed, to make and have made, sell, offer for sale, reproduce, distribute, to use for any purpose, and to have others perform any of the foregoing for its direct or indirect benefit (with a right of assignment for such purposes). The rights hereunder shall survive any termination of the Order.
- 15.4 Buyer (or if Buyer elects, Buyer's Customers) will at all times remain to be the sole owner of any Intellectual Property, proprietary information, and IP Rights it made available to the Seller. Seller shall not disclose any such items to any person or entity and shall not use any such Intellectual Property, IP Rights or any other drawings, data or specifications under the Order for its own use or for or on behalf of another.
- 15.5 Seller shall promptly sell, assign and transfer to Buyer without any consideration not expressly stated herein, the entire right, title and interest in and to all Intellectual Property, IP Rights or other developments and improvements that may arise out of or result in the course of the performance of any order with Buyer. The Seller will promptly inform Buyer of any item, matter, model, procedure or activity which may be eligible for protection under Intellectual Property law or any IP Rights and undertakes to make available to Buyer all information and data necessary to file a request for the registration of the relevant Intellectual Property and IP Rights.

**16. PRICE, PAYMENT AND PRICE WARRANTIES:**

- 16.1 Unless otherwise agreed in writing, the price is firm and is not subject to any price adjustment. Prices include all customs, duties, tariffs, taxes (including income, excise and sales taxes) and expenses with regard to the sale, manufacture, distribution or provision of the Goods.
- 16.2 Payments for the Goods will in no event be due before invoiced to Buyer with details of Goods itemized and specified in accordance with the instructions of Buyer. Seller shall not invoice prior to delivery.
- 16.3 Unless otherwise agreed in writing, payment of the price and any other sum due by Buyer to the Seller shall be on open account and time of payment shall be the later of: (i) sixty (60) days after the end of the month in which the invoice, as required above, was received by Buyer, or (ii) thirty (30) days after Buyer is paid on its related PPAP invoice to its customer. If Buyer pays Seller by wire transfer, Buyer shall be deemed to have performed its payment obligations when the respective sums due have been debited to Buyer's bank account.
- 16.4 Payment of the invoice of the Seller shall never be interpreted as acceptance of the Goods or of the performance of Seller of its obligations under an Order or acceptance of any Goods or for any other reason.
- 16.5 Separate monthly statements shall be rendered promptly to such Buyer location designated by Buyer. Invoices must bear the Buyer's supplier number, complete Purchase Order number, ship-to address, product part number, shipment mode, invoice number, invoice date/ship date, unit price, quantity and unit of measure, proper extension of all items and invoice grand total.
- 16.6 Supplier acknowledges that payment may be delayed beyond its due date in the event Buyer's information requirements are not fully followed and completed. Invoices must comply with Buyer's requirements from time to time established and shall include, at a minimum: (i) Buyer's Supplier number; (ii) complete Order number; (iii) ship-to address; (iv) product part number; (v) indicate "Heat Treat" (HT) for any Heat Treated Wood Packaging Materials; (vi) shipment mode; (vii) invoice number; (viii) invoice date; (ix) ship date; (x) unit price; (xi) quantity and unit of measure; and (xii) proper extension of all items and invoice grand total.
- 16.7 Prices to Buyer under the Order shall not increase due to Seller's costs increases or for any other reason.
- 16.8 Seller warrants that the prices for the Goods under this Order are, and shall ensure that such prices remain, not less favorable to Buyer than the prices currently extended to any other customer of Seller for the same or substantially similar Goods or services in the same or substantially similar quantities and delivery requirements. If Seller reduces the prices of such same or substantially similar Goods or services during the term of this Purchase contract, Seller agrees to reduce the prices of the Goods correspondingly.
- 16.9 Seller expressly assumes the risk of any event or cause (whether or not foreseen) affecting such prices, including any foreign exchange rate changes, increases in raw materials costs, inflation, increases in labor and other manufacturing costs.

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- 16.10 Seller guarantees that the Goods remain competitive, in terms of price, technology and quality, with substantially similar goods and services available to Buyer from other Sellers.

**17. PROPRIETY INFORMATION/CONFIDENTIALITY:**

- 17.1 Design, samples, drawings, specifications, schedules, Intellectual Property or any other information supplied by Buyer or any Customer of Buyer, pricing, customer information, trade secrets, designs, know-how, technical information, service repair information, the terms and conditions of an Order or the fact that Seller supplies or has made an agreement to supply to Buyer ("Information") are proprietary to Buyer and confidential and Seller shall not disclose same to any person or entity and shall not use same for any purpose other than the fulfillment of this Order.
- 17.2 Seller will execute Buyer's or its Customer's confidentiality agreement immediately upon request and will comply with all the terms and conditions thereof.
- 17.3 Buyer retains all rights with respect to the Information, and Seller shall not acquire, nor attempt to obtain, any patent, trademark, copyright, license or other rights in respect of the Information. Seller agrees to return, immediately upon Buyer's request, all Information and all copies thereof. Copies of Information may only be made upon Buyer's written consent in each instance.
- 17.4 Seller agrees not to assert any claim against Buyer or Buyer's Customer with respect to any technical information, trade secrets, Intellectual Property or IP Rights of Seller or other proprietary information of Seller, which Seller shall have disclosed or may hereafter disclose to Buyer in connection with the Goods or the performance of an Order.

**18. INDEMNIFICATION:**

- 18.1 Seller agrees to indemnify, defend and hold harmless Buyer its agents representatives, owners, managers, officers, directors, successors, assigns, customers, agents and employees from and against any and all damages (including incidental and consequential damages), claims, suits, judgments, demands and costs, including, but not limited to, all legal expenses and attorney fees, whatsoever arising out of or relating in any way to any real, purported or alleged: (i) defects or negligence or defect in the design, manufacture, shipping or handling of the Goods to be provided pursuant to the Order, (ii) inadequate warnings related thereto, (iii) infringement of patent or copyright or other Intellectual Property, IP Rights or unfair trade practice with regard to the Goods or services or any component thereof, (iv) any environmental liability arising out of any violation of any environmental rule, law, or other regulation ("Environmental Law"), (v) breach of any term or provision of the Order, including without limitation any breach of warranty or any failure to comply with these Terms or other terms of the Order, (vi) strict liability claims, and/or (vii) any act or omission of Seller, its agents, employees or subcontractors. This indemnity is in addition to any warranty obligations of Seller or obligations of Seller upon a breach hereof. If Seller performs any work on Buyer's premises or utilizes the property of Buyer whether on or off Buyer's premises, Seller shall indemnify and hold Buyer harmless from and against any liability, claims demands or expenses (including reasonable attorney's fees) for damages to the property of or injuries (including death) to Buyer its employees or any other person arising from or in connection with Seller's performance of work or use of Buyer's property except for such liability, claim or demand arising out of the sole negligence of Buyer.

**19. TOOLS AND OTHER BUYER PROPERTY:**

- 19.1 Buyer Property is defined as: All tools and materials (including, without limitation, jigs, fixtures, forms, molds, gauges, inspection equipment, templates, drawings, specifications, models, films, stamps, other audio, video and information media, software and databases) (sometimes referred to collectively as the "Tools"), together with all accessories and replacements, which are, directly or indirectly: (i) manufactured by Buyer or its Customer for the production or quality control of Goods or pursuant to the Order, (ii) provided to or by Buyer or its Customer (iii) paid for in part or in whole by Buyer (iv) in any other way financed or reimbursed by Buyer in whole or in part, or (v) to be so manufactured, paid, financed or reimbursed by Buyer, even if such act has not yet occurred. All Buyer Property is the sole property of Buyer or Buyer's Customers, as the case may be, and is freely at the disposal of Buyer and shall be held by Seller as a bailment from Buyer (with Seller as the bailee thereof) and will be conspicuously marked or tagged by the Seller "Property of Buyer" or property of Buyer's Customer as specified by Buyer if the tooling is owned by Buyer's Customer. Buyer Property shall be used exclusively for production in accordance with accepted Orders for Buyer upon Buyer's request and shall not be used for any other party other than Buyer. Seller shall treat Buyer Property properly as a good and responsible keeper and store them in such a way that they may be easily identified. As a precaution, in the event there is a dispute in the ownership of the Buyer Property, Buyer, in the alternative, is granted a security

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- interest in the Buyer Property and the express authority to file a financing statement evidencing such alternative rights.
- 19.2 Buyer shall at all times be entitled to inspect Buyer Property on the Seller's premises or retrieve them or take them back free of charge.
- 19.3 Seller shall, at its own cost (i) bear all risk of loss and damage to all Buyer Property, (ii) safeguard, store and maintain the Buyer Property in first class condition, (iii) maintain the Buyer Property in a constant state of readiness; (iv) recondition, repair and/or replace worn and/or damaged Buyer Property to the extent necessary to produce Conforming Goods and acceptable parts or otherwise comply with the provisions of the Order, in Buyer's sole judgment, which such repair, reconditioning and/or replacement shall only be made with Buyer's written prior approval and in strict conformance with Buyer's instructions and directions, (v) indemnify Buyer against all claims from any toolmaker or Seller relating to the Buyer Property, and (v) maintain sufficient insurance to cover against loss and damage by fire etc. and theft at least for the replacement value of all of Buyer Property and provide Buyer with proof of insurance on the Buyer Property and any replacements or modifications thereof in an amount equal to its replacement cost, with Buyer or its designee as additional insured and the sole loss payee, with such insurance providing that it may not be cancelled, terminated, allowed to expire or be modified without at least 30 days prior written notice to Buyer. Seller shall give prompt notice to Buyer if any Buyer Property has been lost or damaged or requires repair, reconditioning or replacement.
- 19.4 Except as provided above, Buyer Property must not be improved, replaced, repaired, altered or scrapped, shall not (unless the Buyer Property is clearly marked as property of Buyer in a manner satisfactory to Buyer) be commingled with Seller's or anyone else's property and shall not be removed from Seller's physical possession without Buyer's prior written approval. Buyer shall have the right to enter Seller's property at all reasonable times to inspect and audit Buyer Property and all records regarding them. All replacements of, modifications or attachments to Buyer Property shall belong to Buyer. The cost of changes to any Buyer Property to the extent necessary to make design and specification changes authorized by Buyer in writing shall be borne by the Buyer.
- 19.5 Seller shall not utilize Tooling or other Buyer Property until Seller has received written confirmation from Buyer that the Tooling or other Buyer Property has been approved by Buyer's Design Engineering Department. Such evidence shall consist of a design specification that among other details, indicates "D/C PROOF APPROVAL" with the Design Engineer's identification mark and date of approval in the space provided on the form. Seller shall be responsible for all costs and related liabilities should Seller process any Order or commence any performance there under or incur any expense with regard thereto without the required evidence of Buyer's approval.
- 19.6 All Buyer Property shall be deemed personally and shall be kept free and clear of all claims, liens, mechanics liens or any other rights or interests of Seller or any third party.
- 19.7 Immediately upon completion or termination of the Order, or upon any twenty-four (24) hours written notice by Buyer, Seller shall properly pack, mark and ready any Buyer Property for shipment and, at Buyer's option, deliver it to any location requested by Buyer DDP (as defined in the 2010 Incoterms) to Buyer's designated location or permit Buyer on its premises to recover same at Seller's cost. Seller shall bear the entire risk of loss of and damage to Buyer Property and shall fully indemnify Buyer from all loss, damage and/or casualty thereto. In no event shall Seller's obligation to return Buyer Property to Buyer or as directed by Buyer be subject to any set off or counterclaim whatsoever.
- 19.8 Buyer is granted the absolute right and option to take possession of and free and clear title to any property of Seller (that is not Buyer Property) used for the special production of the Goods upon payment to Seller of the net book value thereof, less amounts Buyer has paid therefore or has been allocated to the value thereof, directly or indirectly.
- 19.9 Buyer has the absolute right to audit all orders and invoices related to Buyer Property including all of Seller's books and records and Seller expressly grant Buyer access thereto for such purposes.

**20. BREACH/REMEDIES:**

- 20.1 The rights and remedies reserved to Buyer in these terms and conditions shall be cumulative, and additional to all other or further remedies provided in law or equity. Seller shall be in breach of the Order if (i) it breaches or fails to fully perform or comply with any provision, representation, warranty, covenant, agreement, or condition of the Order, (ii) it fails to make progress so as to endanger performance of the work, (iii) it fails to provide Buyer upon request, reasonable assurances of future performance, (iv) it ceases to conduct its operations in the normal course of business, (v) it becomes insolvent or makes a general assignment for the benefit of creditors or files or has filed against it a petition of bankruptcy or for reorganization or pursues any other remedy under any other law relating to the relief for debtors or in the event a receiver is appointed for Seller's property or business, (vi) it sells or transfers or offers to sell or transfer a material portion of its assets or

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if a controlling interest in the Seller is sold or otherwise transferred or a change in control of Seller is otherwise effected; and/or (v) it fails to remain competitive with respect to quality, technology, delivery, service or pricing of the Goods. In addition to all rights and/or remedies for breach of warranty, indemnity or otherwise stated herein, if the Seller is in breach of the Order, Buyer is, without prejudice to any other rights allowable under the law or equity, entitled to, but shall not be obligated to, immediately exercise and realize one or more of the following remedies (all of which Seller agrees to promptly perform and comply with in all respects):

- a. Declare the Order terminated, wholly or partially.
  - b. Require Seller remedy any lack of conformity of the Goods by repairing, modifying or replacing such Goods, if this can be done within a period not unreasonable to Buyer and if not causing unreasonable inconvenience, this to be decided at the sole discretion of Buyer.
  - c. Return all Goods to Seller at Seller's expense for repair, replacement or full refund, at Buyer's option.
  - d. At Buyer's option, have the Seller reduce Nonconforming Goods into scrap and dispose of them at Buyer's election and for Buyer's benefit.
  - e. Repair or modify the Goods itself or have the Goods repaired or modified by a third party to remedy any breach or nonconformance of the Goods, all at the expense of the Seller.
  - f. Replace or cover the Goods with same or similar goods and charge Seller the cost thereof.
  - g. Exercise all rights and remedies under Section 11 relating to breach of warranty.
  - h. Exercise its rights to setoff pursuant to these Terms.
  - i. Exercise all other rights and remedies provided in the Order, including these Terms, or provided in law and/or equity, including specific performance.
  - j. Resolve any alleged warranty claim, correct allegedly defective Goods at the Seller's expense and/or replace such Goods at Seller's cost, all without Seller's approval.
  - k. Perform such obligations without waiving or releasing Seller from such obligations. Buyer and its agents, including any person or entity appointed by Buyer for this purpose, shall be entitled to enter upon Seller's premises to perform this Order, to remove any Buyer Property and all other materials necessary to perform such obligations, all at Seller's sole cost and expense, and Seller shall pay Buyer all costs, damages and expenses incurred directly or indirectly in connection with the foregoing, including legal and other professional fees, administrative time, labor and materials, which shall be payable to Buyer on demand or, at Buyer's sole option, may be set off against any amounts then owing by Buyer to Seller.
  - l. Delay payment of invoices from Seller until Seller is in full compliance with the Order and such delay shall not excuse Seller's continued performance.
  - m. Recover from Seller all losses and damages to Buyer its successors, assigns and/or its Customers, arising out of such breach, including without limitation all strict, incidental and consequential damages, which shall include without limitation all excess scrap costs, personal injury claims, property damages, costs of recalls or other corrective actions, shutdown costs, cover and replacement costs, delay costs, repair costs, overtime expenses, premium freight and extra operational expenses, together with all costs and expenses and legal fees incurred in enforcing its rights.
- 20.2 Buyer will not be obliged to grant Seller any period of grace or cure. The above remedies are not exclusive and exercise of one shall not preclude the exercise of any other right or remedy. Termination of the Order shall in no event preclude Buyer's recovery of any other damages or enforcement of any other remedies provided for in the Order or these Terms and all such rights and remedies shall survive termination.
- 20.3 Buyer shall have complete access to and possession of all documents, invoices, drawings, specifications, contracts, vendor information and other information and documentation in any manner necessary for or relating to the Seller's performance of this Order so as to assist Buyer in performing any of the obligations of Seller hereunder or in transitioning any work or services under this Order, in whole or in part, to another Seller.
- 20.4 In the event of a termination of the Order, if requested by Buyer whether it is for breach or otherwise, the Seller shall, if requested by Buyer, supply Buyer with all the Goods ordered by Buyer prior to the termination, in accordance with the provisions of the Order.

**21. GOVERNMENT COMPLIANCE:**

- 21.1 Seller agrees to comply with all federal, state and local laws, executive orders, rules, regulations and ordinances that may be applicable to Seller's performance of its obligations under an Order.
- 21.2 Seller agrees that (1) in the manufacture and sale of Goods to Buyer, Seller shall comply with all applicable federal, state, and local laws, orders, conventions, standards and regulations of all jurisdictions, including all countries of origin or delivery ("Laws") relating to the Goods, their manufacture, use, sale, importation, exportation, labeling, or otherwise, including without limitation, any Laws relating to equal employment opportunity, veterans' rights and jobs listing provisions, child labor, wages and hours, affirmative action, and all



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- laws and regulations relating to occupational safety and health, (2) the Goods sold by Seller to Buyer shall conform to the requirements of all Laws, and (3) this Order shall be deemed to incorporate by reference all the clauses required by the provisions of said Laws binding upon Seller.
- 21.3 Seller warrants that each and every chemical substance constituting or contained in the products sold or otherwise transferred to the company under an Order is on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Agency pursuant to the Toxic Substances Control Act and is otherwise in compliance with said act. All materials used in manufacture shall satisfy current government and safety constraints on restricted, toxic and hazardous materials, as well as environmental, electrical and electromagnetic considerations applicable to the country of manufacture and sale.
- 21.4 Seller shall have a process to assure that governmental and safety constraints on restricted, toxic and hazardous substance are complied with relative to the Goods and the manufacturing process.
- 21.5 All on-site work of Seller shall be conducted in a manner, which is protective of the environment. All Laws, which in any manner relate to the environment, hazardous substances or the health and safety of the public ("Environmental Laws"), must be fully and strictly complied with. All waste materials must be properly disposed of. Any potential environmental impact must be fully disclosed to Buyer in writing prior to the commencement of work and all methods that can provide proper protection and prevent violations or accidents must be incorporated in Seller's work. Seller must submit all records relating to all environmental impacts and compliance with all Environmental Laws as required by any such Environmental Law or by Buyer.
- 21.6 Seller, at its sole cost and expense, shall strictly comply with and shall obtain and maintain at all times all certifications, licenses, registrations and similar accreditations of and/or relating to customs, import/export, security, and related Laws, now existing or hereafter enacted or enforced, including without limitation the following: (i) Seller shall obtain and at all times under this Order maintain all certifications, registrations and similar accreditations of NAFTA and AALA as may be required by Buyer to fully comply with all customs, tariffs, import and other applicable Laws, and shall evidence and supply same to Buyer at Buyer's request, (ii) Seller shall at all times under this Order comply with all applicable recommendations or requirements of the United States Bureau of Customs and Border Protection's Customs-Trade partnership Against Terrorism (C-TPAT) at Buyer's or the Customs and Border Protection's request, and Seller shall certify in writing its compliance with the foregoing, and (iii) all export and import licenses and authorizations necessary or required for the export or import of the Goods. Seller shall indemnify and hold Buyer harmless from and against any liability, claim, demand, fine, delay, loss or expenses (including attorney's or other professional fees) arising from or relating to Seller's failure to fully comply with all of the foregoing.
- 21.7 Seller warrants that the Goods will be made in compliance with all Laws.
- 21.8 All provisions of any Law that is required to be incorporated herein is so incorporated to the extent required.

**22. NO IMPLIED WAIVER:**

- 22.1 The failure of either party at any time to require performance by the other party of any provision of an Order shall in no way affect the right to require such performance at any time thereafter, nor shall the waiver of either party of a breach of any provision of an Order constitute a waiver of any succeeding breach of the same or any other provision.

**23. RELATIONSHIP OF PARTIES:**

- 23.1 Seller and Buyer are independent contracting parties and nothing in the Order shall make either party the agent or legal representative of the other for any purpose whatsoever, nor does it grant either party authority to assume or to create any obligation on behalf or in the name of the other.

**24. INSURANCE:**

- 24.1 Seller shall maintain insurance coverage in amounts not less than the following: (1) Worker's Compensation - Statutory Limits for the state or states in which an Order is to be performed (or evidence of authority to self-insure), (2) Employer's Liability - \$250,000, (3) Comprehensive General Liability (including Products/Completed Operations and Blanket Contractual Liability) - \$1,000,000 per person, \$1,000,000 per occurrence Property Damage, or \$1,000,000 per occurrence Personal Injury and Property Damage combined single limit, and (4) Automobile Liability (including owned, non-owned and hired vehicles) - \$1,000,000 per person, \$1,000,000 per occurrence Personal Injury and \$1,000,000 per occurrence Property Damage, or \$1,000,000 per occurrence Personal Injury and Property Damage combined single limit. At Buyer's request, Seller shall furnish to Buyer certificates of insurance setting forth the amount(s) of coverage, policy number(s) and date(s) of expiration for insurance maintained by Seller and, if further requested by Buyer, such certificates will provide that Buyer shall be an additional loss payee and shall receive ten (10) days prior written

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notifications from the insurer of any termination or reduction in the amount or scope of coverage. Seller's purchase of appropriate insurance coverage or the furnishing of certificates of insurance shall not release Seller of its obligations or liability under an Order. In the event of Seller's breach of this provision, Buyer shall have the right to cancel the undelivered and/or unperformed portion of any Goods covered by an Order and shall not be required to make further payments except for Conforming Goods delivered or rendered and accepted by Buyer prior to cancellation.

#### **25. DUTY DRAWBACK RIGHTS:**

- 25.1 The Order includes all related customs duty and import drawback rights, if any, (including rights developed by substitution and rights which may be acquired from Seller's suppliers) which Seller can transfer to Buyer. Seller agrees to timely inform Buyer of the existence of any such rights and upon request to supply such documents as may be required to obtain such drawback. Buyer retains any and all custom duty drawback rights (by substitution or otherwise) which are transferable from Seller to Buyer and same shall at all times be reserved for and credited to Buyer.

#### **26. SET OFF:**

- 26.1 In addition to any right to set off provided by law, all amounts due or to become due Seller or any Affiliate of Seller under the Order or arising out of any other agreement shall be, at Buyer's option, considered net of any liability or indebtedness of Seller or any Seller Affiliate due or to become due Buyer or any Buyer Affiliate either under the Order or arising out of any other agreement. Buyer may at any time deduct any such amounts from any sums due or to become due to Seller or any Seller Affiliate.

#### **27. CUSTOMER REQUIREMENTS:**

- 27.1 Where the Goods are or will be sold, or incorporated into goods or services that are or will be sold, by Buyer, Seller shall take such actions and comply with such requirements as Buyer deems necessary and within Seller's control to enable Buyer to meet Buyer's obligations thereto. In the event such Customer's requirements exceed any requirement herein, Seller shall be responsible for such additional requirements in its Order with Buyer, including without limitation requirements pertaining to packaging and labeling requirements; warranties and warranty periods; intellectual property rights and indemnification; confidentiality; access to facilities and records; and replacement and service parts.
- 27.2 If the Customer requested that Seller be the source from whom Buyer purchases the Goods: (i) in addition to Buyer's other rights and remedies, Buyer will only be required to pay Seller for the Goods after and to the extent of, and in proportion to, Buyer's actual receipt of payment from the Customer for those Goods; (ii) any lengthening of the Customer's payment terms to Buyer for those Goods will automatically lengthen the payment terms as between Buyer and Seller by the same amount of time; and (iii) within three (3) business days of any reduction in price or change in specifications or other terms negotiated or proposed with Customer, Seller shall immediately reduce its invoices to reflect any price reduction, and, if Buyer consents in writing, the specifications shall be modified accordingly.

#### **28. ADVERTISING:**

- 28.1 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 Goods or services herein ordered, or use any trademarks or trade names of Buyer in Seller's advertising or promotional materials. In the event of Seller's breach of this provision Buyer shall have the right to cancel the undelivered portion of any Goods covered by an Order and shall not be required to make further payments except for conforming Goods delivered or rendered prior to cancellation.

#### **29. CERTIFICATE OF CANADIAN VALUE ADDED:**

- 29.1 Upon request, Seller shall furnish promptly "Certificate of Canadian Value Added" and other required documentation in accordance with government regulations. Seller agrees to indemnify Buyer and/or its customers against all loss resulting directly or indirectly from Seller's delay in completing and returning such certificate to Buyer and from incorrect information therein furnished by Seller.

#### **30. DELIVERY AND TERMS OF DELIVERY**

- 30.1 All deliveries must be made strictly in compliance with the Order and Buyer's delivery schedules as issued by Buyer from time to time. At such scheduled delivery date and time the Seller must deliver the Goods, hand over any documents relating to them and transfer clear title and full possession of the Goods in compliance with

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- the Order. The Seller warrants that the Goods delivered are free from any right, lien or claim of a third party.
- 30.2 If no other delivery terms are determined in the Order, the Seller shall place the Goods at Buyer's disposal at the Buyer's plant address stated in the Order, Delivered Duty Paid (DDP).
- 30.3 The Seller shall notify Buyer in writing as soon as it becomes apparent that there is a risk the Seller will not be able to deliver the Goods in conformity with the Order. Late delivery will be prima facie evidence of the default of the Seller.
- 30.4 Except as provided in Section 8.7 of these Terms, Buyer is not obligated to accept partial deliveries and shipments of greater or lesser quantity than ordered may be returned at Seller's expense.
- 30.5 If delivery is not completed pursuant to Buyer's schedule and in accordance with the requirements of the Order or any Release included therein, Buyer in addition to its other rights and remedies hereunder can take such actions as it deems necessary to meet such schedules, including expedited shipping and routing at Seller's cost and expense. If Seller's acts or omissions result in Seller's failure to meet Buyer's delivery requirements and Buyer requires a more expeditious method of transportation for the Goods than the transportation method originally specified by Buyer, Seller shall, at Buyer's option, (i) promptly reimburse the Buyer the difference in cost between the more expeditious method and the original method, (ii) reduce its invoices to Buyer by such difference, or (iii) ship the Goods as expeditiously as possible at Seller's expense and only invoice Buyer for the amount which Buyer would have paid for normal shipment.
- 30.6 Seller shall not ship any Goods except as are expressly authorized to be shipped by the Order or by Buyer's written Releases. Buyer accepts no liability for Goods which have been delivered in excess of Buyer's written release request and such Goods can be returned, shipping charges collect, to the Seller at its expense or, at Buyer's option and at Seller's risk and cost, held by Buyer in storage until the next scheduled deliver date, with payment withheld accordingly.
- 30.7 Additionally, Buyer shall not be responsible for any procurements or commitments made by Seller in advance of those specifically authorized by Buyer in writing as necessary to comply with Buyer's schedules as set forth in the applicable Order.

**31. PACKING, MARKING AND SHIPPING:**

- 31.1 All Goods shall be packed, marked and shipped in accordance with the requirements of the common carrier transporting such supplies and the requirements of the Order, including good commercial practice and in such a manner that they are properly protected, clearly marked and labeled, are acceptable to common carriers at their lowest rate, in accordance with all applicable regulations, including disclosure and labor regulation statements and Buyer's standards, and can be loaded, transported and unloaded in an ordinary and safe manner. All Goods shall be packaged so that at the point of use they are production ready, damage free, and in compliance with the requirements of the Order, utilizing the transportation method designated by Buyer and assuming in-transportation, storage and in-plant movement.
- 31.2 Seller is solely responsible for the design of its packaging. Package design must conform to or allow for: (i) piece count (i.e. standard number of pieces per container) shall not vary and containers are to be shipped completely filled; and (ii) sufficient vertical strength and stability to withstand tiered heights of 100 inches in transit and four high stacking in storage.
- 31.3 Seller shall be allowed to ship with used, remanufactured or reconditioned pallets or corrugated packing, provided same are in compliance with Laws, do not contain any toxic or regulated substance and are clean and in good condition. Metal bands shall not be used unless prior written approval has been obtained from Buyer.
- 31.4 If Buyer so requests, Seller shall at his own expense and risk arrange to take back the packaging material after delivery.
- 31.5 Cartons must be palletized unless volumes are insufficient to complete one full-palletized layer. Cartons are to be palletized in full layers only (no pyramiding). Additional cartons must be shipped loose – weight not to exceed 40 lbs (18kg). Cartons must not overhang their pallet base. Pallets must provide 4-way entry. Single or double winged pallets must be used for stretch wrapped unit loads.
- 31.6 Palletized loads must be adequately secured by stretch/shrink wrap, banding or other stabilizing techniques. The use of "belly" banding of corrugated boxes in order to achieve load stability, is prohibited.
- 31.7 All quotations from Seller and all Orders shall assume expendable packaging unless otherwise expressly stated therein.
- 31.8 Goods must be kept clean or protected from transportation, storage and/or plant environment, and must be covered.
- 31.9 Packaging materials used must be made from the least difficult recyclable material available.
- 31.10 Seller shall be responsible for the compliance with the relevant Laws relating to the packaging and carriage of the Goods. Properly completed Material Data Sheets shall accompany the initial shipment to Buyer and a copy

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thereof shall be sent by Seller to Buyer's Purchasing Department at the time of such shipment. Updates and/or revisions shall be forwarded in the same manner no later than the delivery of the respective Goods.

- 31.11 Seller undertakes to conclude and maintain sufficient insurance coverage in respect to the carriage of the Goods. Seller undertakes to assign its rights to payments under this policy to Buyer at its first request. If not agreed differently, the insurance will cover the costs of replacement of the Goods.
- 31.12 In any event, all Goods and shipments shall be at risk of Seller for loss and/or damage until the Goods are clearly identified according to the Order, whether by markings on the Goods, by shipping documents, or otherwise, and are delivered in conformance with the Order to Buyer's plant or as otherwise designated by Buyer and delivery is accepted by Buyer. Seller shall be liable for any damages arising during shipment, whether discernible on delivery and inspection or latent in nature. Title and risk of loss in all cases pass from Seller at Buyer's designated location. Passing of title upon such delivery shall not constitute acceptance of the Goods by Buyer.
- 31.13 Country of origin shall be documented, including code section references for the applicable country's Goods. Seller shall furnish to Buyer all certificates of origin or domestic value-added and all other information relating to the costs and places of origin of the Goods and the materials contained therein or used in the performance thereof, in full compliance with all customs, tariffs and other applicable laws, rules and regulations. Seller shall at all times be in full compliance therewith and shall indemnify Buyer arising from any delay in delivering such items to Buyer any failure to fully comply as provided above and/or any errors or omissions contained in such items.
- 31.14 Any transportation charges paid by Seller for which it is entitled to reimbursement shall be added to Seller's invoice, as a separate item and the receipted freight bill shall be attached thereto.
- 31.15 Each shipment must include packing slips, bills of lading, and invoices bearing the applicable Purchase Order number and the location of the plant to which Goods are to be shipped.
- 31.16 Seller shall use transportation mode and carrier designated by Buyer.
- 31.17 No charge shall be made by Seller for containers, crating, boxing, bundling, dunnage, or storage unless otherwise provided in an Order.
- 31.18 Packaging shall include labels and identification which conforms to the following: (i) labels and identification shall be in accordance with all Laws; (ii) labels and identification shall be in accordance with Buyer's or Buyer's Customer's requirements, where applicable; (iii) labels and identification shall be in accordance with human and bar code reading; (iv) labels and identification shall be in English unless otherwise specified; and (v) labels and identification must be located as specified in the Shipping/Parts Identification Label Standard, AIAG B3.

**32. LIMITATION OF BUYER'S LIABILITY, STATUTE OF LIMITATIONS:**

- 32.1 In no event shall Buyer be liable for anticipated profits or for incidental or consequential damages. Buyer's liability on any claim of any kind for any loss for damage arising out of or connected with or resulting from this agreement or from the performance or breach thereof shall, in no case exceed the price allocable to the Goods or services or unit thereof which gives rise to the claim. Buyer shall not be liable for penalties of any description. Any action resulting from any breach on the part of Buyer as to the Goods or services delivered pursuant to an Order must be commenced within one (1) year after the cause of action has accrued. All rights of Seller to commence any court action or proceeding with respect to an Order shall terminate one (1) year after the cause of action has accrued.

**33. ASSURANCE OF ADEQUATE PERFORMANCE:**

- 33.1 Buyer's obligation of payment or acceptance of delivery shall be suspended if at any time Buyer has a reasonable doubt that the Seller's performance will not be in accord with the provisions of an Order. Upon notice to this effect, Seller shall provide satisfactory assurance to Buyer of its intent and ability to perform. If such assurances are not received within a reasonable time after notice and demand, Buyer may, at its option, treat this Order as breached by Seller, or as canceled.

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**34. IMPEDER:**

- 34.1     Seller agrees that it will not impede or bring any action against Buyer or Buyer's Customers or to employees of either based on any claim by any person for personal injury or death that occurs in the course or scope of employment of such person by Buyer or Buyer's Customers and that arise out Goods furnished under an Order.

**35. ARBITRATION:**

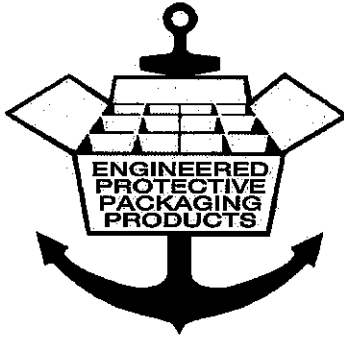
- 35.1     At the sole option of Buyer, any dispute or controversy arising under, out of, in connection with, or in relation with an Order, including these Terms, or any amendment or breach thereof ("Claim"), shall be determined and settled in the Metropolitan Detroit area by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Any award rendered therein shall be final and binding on the parties, and judgment may be entered thereon in any court having jurisdiction thereof. If Buyer does not elect arbitration, any Claim arising from this Order may be brought by Buyer at its option, either: (i) in any court having jurisdiction over Seller or, (ii) in any court having jurisdiction over any of Buyer's locations, in which event Seller consents to jurisdiction and service of process in accordance with applicable procedures. Any Claim by Seller against Buyer may be brought by Seller only in the court having jurisdiction over the location of Buyer in Macomb County, Michigan, being the applicable district court for such Buyer location, the Circuit Court for the County of Macomb, Michigan or the U.S. District Court for the Eastern District of Michigan (collectively "Courts"). Nothing herein shall prevent or be deemed to prohibit Buyer from electing arbitration but also pursuing its equitable rights, including injunctive relief or specific performance, in the Courts. Seller irrevocably waives and agrees not to raise any objection it might now or hereafter have to any such claim or proceeding in any such court, including any objection that the place where such court is located is an inconvenient forum or that there is any other claim or proceeding in any other place relating in whole or in part to the same subject matter.

**36. GOVERNING LAW:**

- 36.1     All Orders are to be governed by and construed according to the laws of the State of Michigan excluding any conflict of law provisions.
- 36.2     The UN Convention on Contracts for International Sale of Goods shall not apply to the Order nor to these Terms.

**37. SUPPLIER REQUIREMENTS MANUAL:**

- 37.1     Seller shall fully comply with all the terms of Buyer's Supplier Requirements Manual as established from time to time by Buyer and which shall be either posted on the Buyer Site or delivered to Seller. Seller agrees that such Manual may be amended from time to time by posting such amendments on the Buyer Site or delivering a copy of such amendments to Seller. Seller shall be subject to all such amendments from the time of posting or delivery, whichever first occurs.



**Anchor Bay  
Packaging Corporation**

## **APPENDIX - E**

### **Request for Deviation/Waiver**

**ANCHOR BAY  
PACKAGING CORPORATION  
SUPPLIER REQUIREMENTS MANUAL  
Request for Deviation/Waiver**

**RFD/W No.** \_\_\_\_\_  
**DATE:** \_\_\_\_\_

<b>To:</b> Anchor Bay Packaging Corporation 30905 23-Mile Road New Baltimore, Mi. 48047		<b>From:</b> (Supplier) _____ _____	
<b>Attn:</b> Customer Service/Purchasing (586) 949-4040		<b>Phone No.</b> _____	
<b>Part No.:</b>	<b>Part Name:</b>		<b>Drawing / Spec. No.:</b>
<b>Program or Project:</b>	<b>Contract / P.O. No.:</b>		<b>Rev.</b>
<b>Description Deviation / Waiver / Sketch:</b>			
<b>Reason for Deviation / Waiver:</b>			
<b>Length of Time Requested For Deviation:</b>		<b>Requested Number of Units To Be Supplied:</b>	
		<b>Supplier Contact:</b>  <b>Name:</b> _____  <b>Phone No.</b> _____  <b>Fax No.</b> _____	
<b>Requested By (supplier) Signature and Date:</b>			
<b>Engineering:</b> _____		<b>Date:</b> _____	
<b>Quality Assurance:</b> _____		<b>Date:</b> _____	
<b>ANCHOR BAY PACKAGING CORPORATION USE ONLY</b>			
<b>Design Engineering:</b> _____		<b>Date:</b> _____	
<b>Quality Assurance:</b> _____		<b>Date:</b> _____	
<b>Manufacturing:</b> _____		<b>Date:</b> _____	
<b>Purchasing:</b> _____		<b>Date:</b> _____	
		<b>APPROVED</b> _____	
		<b>REJECTED</b> _____	