

TERMS AND CONDITIONS OF PURCHASE

FOX METALS AND ALLOYS, INC. ("**Buyer**") and the party selling or providing goods and/or services ("**Seller**") to Buyer hereby agree to the following Terms and Conditions of Purchase:

1. Seller's Acceptance of Terms. The Terms and Conditions (as defined below) constitute the final and entire understanding and agreement between Buyer and Seller relating to the goods and materials sold by Seller to Buyer ("**Goods**") and/or the services furnished by Seller to Buyer ("**Services**"). By acknowledging receipt of Buyer's order for Goods and/or Services (the "**Purchase Order**"), shipping the Goods ordered in the Purchase Order or performing the Services set forth in the Purchase Order, Seller agrees to be bound by and to comply with all of the terms and conditions of the Purchase Order, these Terms and Conditions of Purchase, and all specifications and other documents referred to or incorporated by reference in the Purchase Order (collectively, the "**Terms and Conditions**"). Seller's acceptance is limited to the Terms and Conditions, and no different, inconsistent and/or additional terms or conditions submitted by Seller in acknowledging or accepting the Purchase Order or in issuing any sales acknowledgement, bill of lading, shipping instruction, invoice or other document in connection with the Goods or Services, whether prior or subsequent to the Purchase Order, shall modify or amend the Terms and Conditions or be valid or binding against Buyer, unless specifically accepted by Buyer in writing. In the event of any conflict, discrepancy or inconsistency between the Terms and Conditions and any document submitted by Seller, the Terms and Conditions shall govern, even if Seller's document expressly limits acceptance to Seller's terms or conditions. No course or pattern of dealings or conduct between Buyer and Seller and no usage of trade shall be relevant to determine the meaning or intent of the Terms and Conditions or shall modify or amend the Terms and Conditions, even though the accepting or acquiescing party has knowledge of the nature of the performance and an opportunity for objection. If the Purchase Order shall be deemed an acceptance of a prior offer by Seller, Buyer's acceptance is expressly conditioned on and subject to Seller's acceptance of the Terms and Conditions.

2. Price; Taxes. The prices set forth in the Purchase Order are firm and shall not be subject to increase without Buyer's prior written consent. No extra charges of any kind will be allowed, except as agreed to by Buyer in writing. If no price is set forth in the Purchase Order, it is agreed that the price shall be the last price quoted by Seller or the market price on the date of delivery, whichever is less. Unless otherwise provided on the face of the Purchase Order, the price includes (a) all costs to comply with the terms and conditions of the Purchase Order; (b) any and all taxes, including sales, use, excise, value added and other taxes; and (c) fees, duties, or other governmental impositions on the sale of the Goods or Services covered by the Purchase Order. If Buyer or Buyer's customer is required to pay any taxes or other impositions, Seller will promptly reimburse Buyer.

3. Invoicing and Payment. Seller will invoice Buyer for the amounts due under the Purchase Order. Except as otherwise set forth on the face of the Purchase Order, Buyer will pay Seller all undisputed amounts within 60 calendar days after receipt of the applicable invoice or receipt of the Goods (or performance of the services), whichever is later, or within such lesser period of time as is required by applicable law. Payments may be withheld by Buyer on account of (a) defective Goods or services not remedied by Seller, (b) claims made or filed by Buyer against Seller, (c) unsatisfactory performance, (d) failure of Seller to pay any subcontractors or suppliers, or (e) any amounts owed by Seller to Buyer or its affiliates. The act of depositing or cashing any payment made by Buyer shall constitute Seller's release of any lien rights which Seller may have against Buyer or Buyer's inventory, equipment, or property for the Goods or services for which payment was made. Seller agrees to reconcile all amounts due from Buyer in writing within 120 days of the initial invoice or 120 days after the receipt of the Goods (or performance of the services), whichever is earlier. Seller agrees that if it does not bring amounts due to Buyer's attention in writing within such timeframe, it waives any rights to such claims, regardless the validity of the claims

4. Identification; Shipping Notices. Seller's invoices, shipping notices, packaging slips, bills of lading and other documents required in the Purchase Order shall be delivered to Buyer no later than the day following delivery of the Goods or completion of the Services and shall, at a minimum, contain the following information: (a) Seller's name; (b) the Purchase Order number; (c) a description of Goods shipped and part number (if applicable) or Services performed; (d) quantity of Goods shipped and (e) (with respect to invoices only) unit price applicable to such Goods and/or Services.

5. Delivery and Delay. TIME OF PERFORMANCE IS OF THE ESSENCE UNDER THE PURCHASE ORDER. Buyer reserves the right to cancel all or any part of the undelivered portion of Goods or unperformed portion of the Services to be furnished under the Purchase Order if Seller (a) does not make deliveries or progress as specified in the Purchase Order or (b) breaches any of the Terms and Conditions, including, without limitation, the warranties of Seller. Seller shall advise Buyer in writing promptly of any shortage or delay in shipment of Goods or delay in the performance of any Services.

6. Transportation, Delivery and Risk of Loss. All Goods to be delivered under the Purchase Order shall be packed and packaged by Seller to ensure safe arrival at their destination and to comply with the requirements of all relevant carriers. Buyer shall not be responsible for any charge for packaging, boxing, banding, wrapping or crating, unless otherwise expressly provided in the Purchase Order. Seller shall reimburse Buyer for any additional costs or losses incurred by Buyer due to improper packing, marking, loading or routing. Delivery shall be made by Seller at such times and places and of such items and quantities as are designated in the Purchase Order unless otherwise agreed by Buyer in writing. Buyer will have no liability for payment for any Goods which are in excess of quantities specified in the Purchase Order, nor shall Buyer be liable for Services performed beyond those specified in the Purchase Order. Title and risk of loss shall remain in Seller until the Goods are delivered as specified in the Purchase Order or the Services are completed and accepted by Buyer. Notwithstanding such delivery or completion, Seller shall bear all risk of loss or damage to the Goods and/or Services from the time that Buyer gives notice of rejection of non-conforming or defective Goods and/or Services until such Goods are returned to and replaced or repaired by Seller or such Services are corrected by Seller.

7. Anticipation of Delivery Schedule: Unless otherwise agreed by Buyer in writing, Seller shall not make commitments or production arrangements in excess of the amount or in advance of the time necessary to meet the delivery schedule in the Purchase Order. It is Seller's responsibility to comply with the Purchase Order schedule, but not to anticipate Buyer's requirements. Goods shipped to Buyer in advance of the Purchase Order schedule may be returned by Buyer to Seller at Seller's expense.

8. Force Majeure. Neither Buyer nor Seller shall be liable for any delay, breach or non-performance of the Purchase Order due to any cause beyond such party's reasonable control and without its fault or negligence ("Force Majeure") including, without limitation, acts of God; war; civil disturbances; acts of any foreign, federal, state, local or other governmental authority, or any other cause outside of such party's reasonable control and without its fault or negligence, whether similar to or different from those stated herein.

9. Inspection; Acceptance.

(a) Delivery and performance shall not be deemed to be complete, and all Goods and Services will be received by Buyer subject to, Buyer's inspection and acceptance at the destination or location specified in the Purchase Order. Acceptance or rejection of the Goods and/or Services shall be made within a reasonable time after delivery or completion, but Buyer's failure to inspect and accept or reject Goods and/or Services or failure to detect defects by inspection, including latent defects, shall not relieve Seller from responsibility from providing Goods and Services that strictly conform to the Purchase Order nor impose any liability on Buyer for any Goods and/or Services that do not strictly conform to the Purchase Order. Buyer's payment for the Goods and/or Services shall not constitute acceptance.

(b) If, upon inspection, any Goods or Services are determined to be defective or non-conforming, Buyer may, at its option and upon written notice to Seller, reject the Goods and/or Services and either (a) hold rejected Goods for disposition pursuant to Seller's instructions at Seller's risk and expense, (b) return the rejected Goods and/or Services to Seller at Seller's risk and expense and receive a full refund of the purchase price, (c) require Seller to repair or replace the rejected Goods and/or Services at no cost to Buyer, and/or (d) accept the rejected Goods and/or Services and make an equitable reduction to the purchase price. Seller shall not repair or replace any rejected Goods or services without Buyer's prior written consent. In addition, Buyer shall have the right, upon written notice to Seller, to cancel any unshipped or unperformed portion of the Purchase Order without liability to Seller.

10. Warranties.

(a) Seller warrants and represents to Buyer as follows:

(i) all Goods will be new; and all Goods and Services will be free from defects in design, workmanship and materials, latent or otherwise, will conform to the specifications, samples, drawings, designs or other requirements (including performance specifications) set forth or referenced in the Purchase Order, and will comply with all applicable federal, state, municipal and local laws, ordinances, codes, rules, regulations and orders of governmental authorities;

(ii) all Goods and Services will be free of any lien, claim, charge, security interest or encumbrance of Seller or any party claiming by, through or under Seller, and Seller will convey to Buyer good and marketable title to the Goods and Services free and clear of any and all such liens, claims, charges, security interests and encumbrances; and

(iii) all Services shall conform to the standards generally prevailing in the industry applicable to such Services and shall be performed with the same degree of skill and care as other national firms providing the same or similar services, but in no event less than reasonable care.

(b) In the event of a breach of these warranties, Buyer shall have the right, at its option and in addition to all other rights and remedies, to (i) return the non-conforming Goods and/or Services to Seller at Seller's risk and expense and receive a full refund of the purchase price, (ii) require Seller to repair or replace the non-conforming Goods and/or Services at no cost to Buyer, and/or (iii) accept the non-conforming Goods or Services and make an equitable reduction to the purchase price.

(c) Any attempt by Seller to limit, disclaim or restrict any Seller warranties or any remedies of Buyer, by acknowledgment or otherwise, in accepting or performing the Purchase Order, shall be null, void and ineffective.

11. Buyer's Property. Unless otherwise agreed by Buyer in writing, all tools, equipment, materials or other personal property furnished to Seller by Buyer or invoiced by Seller and paid for by Buyer, and any replacement thereof, shall be and at all times remain the sole and exclusive property of Buyer. Such personal property shall be plainly marked or otherwise adequately identified by Seller as Buyer's property and shall be safely stored by Seller separate and apart from Seller's property. Seller shall not substitute any property for Buyer's property and shall not use Buyer's property for any purpose except in performing the Purchase Order. Buyer's property, while in Seller's custody or control, shall be held at Seller's risk and shall be kept insured by Seller at Seller's expense in an amount equal to the replacement cost with any loss payable to Buyer. Upon written request from Buyer, Seller shall, at its expense, promptly return all such property to Buyer in the same condition as originally received by Seller, reasonable wear and tear excepted.

12. Changes. If Seller considers that any written or verbal order, direction, instruction or communication from Buyer will result in any increase to the purchase price or delivery date, then Seller shall so notify Buyer in writing within five (5) days of receiving such communication, and in any event prior to taking any action for which Seller could or will claim an increase in the purchase price or delivery date or contend there has been a change to the Purchase Order. Seller's failure to so notify Buyer in writing within such period shall constitute a waiver of Seller's right to claim any increase to the purchase price and/or delivery date as a result of such communication. If Seller timely notifies Buyer in writing of the increased purchase price or delivery date, then Seller and Buyer shall negotiate a mutually agreeable change order. No change order or other modification of the Purchase Order shall be valid, binding or enforceable unless in writing and signed by Buyer and Seller.

13. Compliance with Laws. Seller shall observe and comply with all federal, state, municipal and local laws, ordinances, codes, rules, regulations and orders of governmental authorities applicable to Seller, its performance of the Purchase Order and/or the Goods and/or Services provided by Seller pursuant to the Purchase Order.

14. Indemnification. Seller shall indemnify, defend and hold harmless Buyer, its affiliates, and its and their respective shareholders, directors, officers, employees, agents, representatives, successors and assigns (collectively, the “**Buyer Indemnitees**”) from and against any and all claims, demands, actions, causes of action, suits and other proceedings asserted or instituted against the Buyer Indemnitees as well as any and all losses, damages, liabilities, costs and expenses (including reasonable attorneys’ fees) of any kind or nature whatsoever suffered or incurred by the Buyer Indemnitees, due to (a) any injury (including sickness and disability) to or death of any person or loss of or damage to any property, which may arise out of, result from or relate to, or is alleged to have arisen out, resulted from or related to, directly or indirectly, (i) any negligence or acts in the performance of or failure to perform the Purchase Order by Seller, its subcontractor or suppliers, or its or their respective employees, agents, or representatives or anyone for whom Seller may be legally liable or (ii) any nonconforming or defective Goods and/or Services; (b) any breach of Seller’s representations and warranties contained in the Terms and Conditions or any Purchase Order or other failure of Seller to observe or perform any covenant, condition or agreement contained in the Terms and Conditions; or (c) any failure of Seller to observe or comply with any federal, state, municipal and local laws, ordinances, codes, rules, regulations and orders of governmental authorities applicable to Seller, its performance of the Purchase Order and/or the Goods and/or Services.

15. Insurance.

(a) Seller, at its sole expense, shall at all times during performance of the Purchase Order maintain the following minimum insurance coverage: (i) Worker’s Compensation Insurance providing statutory benefits under the laws of the state in which the Purchase Order is performed; (ii) Employer’s Liability Insurance with limits of not less than \$1,000,000 each occurrence, \$1,000,000 each employee and \$1,000,000 annual aggregate; (iii) Commercial General Liability Insurance providing coverage for premises, operations, products/completed operations, contractual liabilities and independent contractors with combined single limits of liability for personal injury and property damage of not less than \$1,000,000 each occurrence and \$2,000,000 annual aggregate; (iv) Business–Automobile Liability Insurance providing coverage for all owned, non-owned, borrowed and hired vehicles with combined single limits of liability for personal injury and property damage of not less than \$1,000,000 each accident; and (v) Umbrella/Excess Liability Insurance in such amounts as may reasonably be requested by Buyer.

(b) Seller’s insurance shall (i) be provided by reputable insurers with a rating by A.M. Best of at least A-, (ii) with the exception of Workers’ Compensation Insurance and Employer’s Liability, name the Buyer Indemnitees as additional insureds, and (iii) provide for severability of interests, by endorsement or otherwise. Seller’s insurance shall be primary and non-contributory to any insurance maintained by Buyer. Seller, for itself and its insurers, hereby waives any rights of subrogation against the Buyer Indemnitees.

(c) Seller’s insurance coverages shall be written on an occurrence basis and shall be maintained without interruption from the date of commencement of the Purchase Order until expiration of the warranty. Prior to commencing the Purchase Order, Seller shall submit to Buyer certificates of insurance evidencing the insurance coverage required under this Section 15.

16. Bankruptcy; Insolvency. If Seller (a) ceases to conduct its operations in the normal course of business, (b) applies for or consents to the appointment of a receiver, trustee or liquidator of it or of all or substantially all of its assets, (c) files a voluntary petition in bankruptcy, or admits in writing its inability to pay its debts as they come due, (d) has an involuntary petition in bankruptcy filed against it which is not dismissed within thirty (30) days of filing, (e) makes a general assignment for the benefit of creditors, (f) files a petition or an answer seeking a reorganization or an arrangement with creditors or seeking to take advantage of any insolvency law, or (g) performs any other act of bankruptcy, then, in any such event, Seller shall be in default and Buyer may terminate the Purchase Order immediately upon notice to Seller without liability, except for conforming Goods delivered and/or conforming Services completed prior to such termination.

17. Termination for Convenience. Buyer may terminate all or any part of the Purchase Order for its convenience at any time by written notice to Seller. Upon such termination, Seller shall immediately cease all activity under the Purchase Order and Buyer and Seller shall negotiate and agree in writing upon reasonable termination charges, which charges will be identified by Seller in writing to Buyer within thirty (30) days of such

termination. In no event shall Buyer's liability in connection with such termination exceed the purchase price set forth in the Purchase Order.

18. Buyer's Information.

(a) Any and all information Seller receives from or on behalf of Buyer, regardless of how and in what form it is embodied or provided, including, but not limited to, information regarding Buyer's business, products, operations, financial position, trade secrets, know-how, intellectual property, customers, suppliers, prospects, purchase price, pricing structure, marketing plans, product and service developments, policies and procedures and other information, is and shall remain Buyer's sole and exclusive property. Buyer considers all such information to be confidential and/or proprietary. Seller may use Buyer's information solely in connection with Seller's performance of the Purchase Order. Seller shall protect Buyer's information using the same degree of care Seller uses to protect its own confidential information of a similar nature, but no less than a reasonable degree of care. Seller shall not disclose any of Buyer's information to any third party without Buyer's prior written consent. Seller may distribute, disseminate or disclose Buyer's information only to those of its directors, officers, employees, agents and representatives (collectively, "**Representatives**"), who have a need to know such information to perform the Purchase Order, and Seller shall notify such Representatives of and require them to adhere to the terms of this Purchase Order. Seller shall be responsible any breach of this Purchase Order by those Representatives to whom it disseminates any of Buyer's information.

(b) Upon request of Buyer, Seller shall promptly return or destroy (with such destruction certified in writing) all of Buyer's information and any copies, summaries, notes, reports, analyses or references related thereto or derived therefrom.

(c) Seller's obligations in this Section 18 shall not apply to any of Buyer's information that (i) is in the possession of Seller on a non-confidential basis at the time it is disclosed by Buyer, (ii) is or becomes publicly available, except by virtue of a breach of this Agreement or other confidentiality obligation of Seller, (iii) was or is obtained by Seller from a source other than Buyer not in violation of any obligation of confidentiality to Buyer, or (iv) is independently developed by Seller without use of or reference to Buyer's information and Seller can verify such development by written documentation.

(d) No termination of this Purchase Order or return or destruction of Buyer's information will affect the obligations of Seller under this Section 18, which shall survive termination or completion of this Purchase Order and continue in effect as provided herein.

19. Intellectual Property. Seller shall indemnify, defend and hold harmless the Buyer Indemnitees from any and all claims, demands, actions, causes of action, suits and other proceedings asserted or instituted against the Buyer Indemnitees as well as any and all losses, damages, liabilities, costs and expenses (including reasonable attorneys' fees) of any kind or nature whatsoever suffered or incurred by the Buyer Indemnitees which may arise out of, result from or related to, or is alleged to have arisen out of, resulted from, or related to, directly or indirectly, any actual or alleged infringement, misappropriation or violation of any patent, copyright, trademark, trade secret, know how or other intellectual property right by any of the Goods and/or Services furnished under the Purchase Order, except to the extent such infringement, misappropriation or violation results from (a) Seller's manufacture of Goods and/or performance of Services pursuant to proprietary designs furnished by Buyer or (b) any modification of the Goods and/or Services by any party other than Seller or a party authorized Seller.

20. Publications. Neither party shall issue any press release nor make any public announcement relating to this Purchase Order or any transactions contemplated hereby without the prior written consent of the other party.

21. Default.

(a) Buyer may by written notice of default to Seller: (a) terminate the whole or any part of the Purchase Order in any one of the following circumstances: (i) if Seller fails to deliver the Goods or perform the Services within the time specified in the Purchase Order or any extension thereof granted by Buyer in writing, or so

fails to make progress as to endanger timely performance of the Purchase Order in accordance with the Terms and Conditions; (ii) if Seller fails to perform any of the other provisions of the Purchase Order, and does not cure such failure within a reasonable period not to exceed ten (10) days after notice from Buyer specifying such failure, or (iii) if Seller breaches any representation or warranty contained in the Terms and Conditions and (b) procure, upon such terms as Buyer shall deem appropriate, Goods and/or Services in substitution of those so terminated. Seller shall continue performance of the Purchase Order to the extent not terminated and shall be liable to Buyer for any damages suffered or incurred by Buyer as a result of such default.

(b) In lieu of termination for default, Buyer, at its sole discretion, may elect to (i) extend the delivery or performance schedule and/or (ii) waive the deficiencies in Seller's performance, in both of which cases Buyer shall be entitled to an equitable reduction in the purchase price.

(c) If Seller, for any reason, anticipates difficulty in complying with the required delivery or completion date, or in meeting any other requirement of the Purchase Order, Seller shall promptly notify Buyer in writing, which notification shall include details of the causes of such difficulty or delay and the expected delivery or completion date. If Seller does not comply with Buyer's delivery schedule, Buyer may require delivery by expedited means, and any charges resulting from expediting, including premium transportation, shall be the responsibility of Seller.

22. Cumulative Remedies. The rights and remedies of Buyer in the Terms and Conditions shall not be exclusive, but are cumulative with and in addition to any and all other rights and remedies available to Buyer under the Purchase Order, at law or in equity, including, but not limited to, Buyer's rights as specified in the Uniform Commercial Code.

23. Set-Off. Buyer shall be entitled at all times to set-off any amount owing at any time from Seller to Buyer against any amount payable to Seller at any time by Buyer in connection with the Purchase Order or any other agreement between Seller and Buyer.

24. Dispute Resolution. Any and all disputes, controversies or claims arising out of or relating in any way to the Purchase Order, or the breach, termination, invalidity or interpretation thereof or the transactions contemplated thereby shall be referred to and finally resolved by arbitration under the Commercial Rules of Arbitration of the American Arbitration Association (the "**Rules**"). The number of arbitrators shall be one who shall be appointed in accordance with the Rules. The place of arbitration shall be held in Buyer's principal place of business. The arbitrators' fees and expenses shall be paid by the non-prevailing party.

25. Taxes. Unless the Purchase Order specifies otherwise, the purchase price includes, and Seller is liable for and shall pay, all taxes, value added taxes, impositions, tariffs, duties, charges and exactions imposed on or measured by the Purchase Order, except for sales or use taxes on sales to Buyer ("**Sales Taxes**") provided that Buyer specifically agrees in writing to pay such Sales Taxes and further provided such Sales Taxes are separately stated on Seller's invoice. The purchase price shall not include any taxes, impositions, charges or exactions for which Buyer has furnished a valid exemption certificate or other evidence of exemption.

26. Conflict Minerals. All Goods sold to Buyer must be "DRC conflict free" (as defined by applicable rules). Any required conflict mineral content must be from recycled or scrap sources that originate from outside of the DRC Covered Countries (as defined by applicable rules). Goods that contain conflict minerals that originated in a DRC Covered Country will be deemed non-conforming and unacceptable. Seller agrees that on Buyer's request it will (a) provide Buyer with the information Buyer deems necessary to comply with the requirements of Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("**Act**") (Pub. L. 111-203, 124 Stat. 1376 (July 21, 2010)) relating to disclosure and reporting obligations concerning the use of "conflict minerals" and (b) undertake due diligence on its supply chain and any other measures as necessary to obtain the information for Buyer to comply with such requirements.

27. Origin Control Clause. Seller represents and warrants that neither it nor any person or entity that owns or controls it is a designated target of economic trade sanctions promulgated by the US, EU, UN, or the country of origin of the Goods ("**Sanction Laws**"). Seller undertakes (a) that Seller and its agents and representatives will fully comply with all applicable Sanction Laws in their performance of the Purchase Order; and

(b) that the Goods will not directly or indirectly originate from, be provided by or be transported on a vessel, or with any carrier, owned, controlled, flagged or chartered by any country, person or entity that would cause Buyer, or any affiliate of Buyer, to be in contravention of any applicable Sanction Laws. Seller agrees to cooperate with Buyer's reasonable requests for information or documentation to verify compliance with this Section 27.

28. Anti-Bribery. Seller will comply with all applicable laws, regulations, orders, judicial decision, conventions and international financial institution rules regarding anti-corruption, anti-bribery, ethical business conduct, money laundering, political contributions, gifts and gratuities and lawful expenses to public officials and private persons, agency relationships, commissions, lobbying, books and records and financial controls ("***Anti-Corruption Laws***"). The Anti-Corruption Laws include, without limitation, the Foreign Corrupt Practices Act, a law of the United States of America, and the United Kingdom Bribery Act, a law of the United Kingdom.

29. Waiver. Any waiver of the Terms and Conditions, to be valid or binding, must be in writing and signed by the party against which such waiver is to be enforced, and shall not constitute a continuing waiver of any other breach or default, and the making by Buyer of any payments with knowledge of any breach or default shall not constitute a waiver thereof. No omission or delay by either party in exercising any right, power or privilege shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise thereof or exercise of any other right, power, or privilege.

30. Governing Law and Venue. THE PURCHASE ORDER SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE IN WHICH BUYER IS LOCATED WITHOUT REGARD TO ITS CHOICE OF LAW OR CONFLICTS OF LAWS PROVISIONS. The following international conventions will not apply to the Purchase Order: (a) Uniform Law on International Sale of Goods and Uniform Law on Formation of Contracts for International Sale of Goods, both concluded at the Hague on 1 July 1964; (b) United Nations Convention on Contracts for International Sale of Goods of 1980; and (c) United Nations Convention on Limitations Period in the International Sale of Goods, concluded in New York on 14 June, 1974, and Protocol Amending the Convention on Limitations Period in the International Sale of Goods, concluded in Vienna on 11 April, 1980.

31. Prevailing Party. In the event of any claim, dispute or controversy arising out of or relating to the Terms and Conditions, the prevailing party shall be entitled to recover its attorneys' fees and court costs from the non-prevailing party.

32. Assignment and Third Party Rights. Neither party may delegate or assign its rights or obligations without the other party's prior written consent, except that Buyer may assign its rights and obligations to an affiliate upon prior written notice to Seller. Any delegation or assignment without such written consent shall be null and void, and without any legal force or effect. Notwithstanding Buyer's consent to any assignment or delegation by Seller, the Terms and Conditions shall be fully binding on Seller, its successors and permitted assigns. The Terms and Conditions shall not be deemed or construed as granting or conferring any rights in or providing any basis for claims by third parties.

33. Severability. If any provision contained in the Terms and Conditions or the application thereof to the parties shall be finally determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such provision shall be deemed severed and deleted from the Terms and Conditions and replaced with a like provision that is valid, legal and enforceable to the fullest extent permitted by applicable law and the validity, legality and enforceability of the remaining provisions of these Terms and Conditions and any other application thereof to the parties shall not in any way be affected or impaired thereby.

34. Acceptance/Enforceability of Copies. Buyer may, at Buyer's sole discretion, accept a facsimile copy, electronic copy, or photocopy of any Purchase Order between Seller and Buyer in lieu of an original document. Seller consents to Buyer's use of such copy and waives any right to object to the use of a copy in place of the original and any right to require Buyer to subsequently produce an original document.

35. Limitation of Liability. **IN NO EVENT OR CIRCUMSTANCE WHATSOEVER SHALL BUYER BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE OR SPECIAL DAMAGES OF ANY TYPE OR NATURE EVEN IF BUYER HAS REASON TO**

KNOW OF THE POSSIBILITY OF SUCH DAMAGES. BUYER'S TOTAL LIABILITY ARISING OUT OF OR IN ANY WAY RELATED TO THE PURCHASE ORDER, WHETHER BASED IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE AND/OR GROSS NEGLIGENCE), STRICT LIABILITY, OR ANY OTHER CAUSE OF ACTION, SHALL IN NO EVENT EXCEED THE PURCHASE PRICE FOR THE GOODS OR SERVICES TO WHICH SUCH LIABILITY RELATES.

36. Entire Agreement. The Terms and Conditions constitute the final and entire agreement between Buyer and Seller with respect to their subject matter, and supersede all prior or contemporaneous discussions, negotiations, understandings and agreements, whether written or oral, with respect to such subject matter. The Terms and Conditions may be amended, modified, revised or supplemented only by written instruments signed by both parties hereto.

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