



## Terms and Conditions of Purchase

**1. DEFINITIONS.** In these Terms and Conditions of Purchase, Tempress Technologies, Inc., is referred to as "Tempress" or "Buyer", the materials, articles, or services to be furnished will be referred to as the "Products", the order to which these Terms and Conditions are attached will be referred to as the "Purchase Order", the person or firm to which the Purchase Order is addressed will be referred to as "Vendor". Any provisions contained in any acknowledgement, invoice, or other document issued by Vendor shall not operate to vary any of the terms and conditions set forth herein unless expressly agreed to by Buyer in writing. Buyer's failure to object to terms contained in any such document or communication from Vendor will not be a waiver of the terms set forth herein. Any authorization by Buyer in writing shall be made by either a District or General Manager of Tempress.

**2. INSTRUCTIONS.** (a) Attach to invoice either the express delivery receipt or bill of lading, signed by the carrier, evidencing the fact that shipment has been made, as well as receipted freight bills covering charges for prepaid freight or express delivery. Invoices covering partial shipments must be marked partial; provided, however, that no partial shipments are permitted unless authorized by Buyer in writing; (b) Purchase Order number, release number and shipper's name must be shown on certificate of analysis, bill of lading, packing list, invoice and any other corresponding documents; (c) include one (1) copy of packing list with each shipment; (d) do not execute this Purchase Order at higher prices without written consent from Buyer. No charges are allowed for demurrage, packaging or palletizing unless by written agreement signed by Buyer; (e) The cash discount period available to Buyer shall commence on the date of the receipt of the Products or on the date of receipt of the invoice, whichever occurs later. After shipment, mail invoice in triplicate to Buyer's accounting department showing cash discount on face of invoice and have original bill of lading attached; (f) All invoices must be submitted within sixty (60) days of delivery of the shipment or completion of the work. Failure to timely submit invoices shall release Buyer of any liability to Vendor for the Products.

**3. ACCEPTANCE.** Either the written acceptance of this Purchase Order by Vendor, the shipment of any Products, the commencement of any work, or the performance of any services hereunder by Vendor, shall constitute acceptance by Vendor of this Purchase Order and its terms and conditions.

**4. PACKING, SHIPPING & DELIVERY.** Vendor shall reimburse Buyer for all expenses and damages incurred by Buyer as a result of improper packing, marking or routing. Buyer shall not pay charges for packing, crating, freight, express, cartage or other costs unless specified in the Purchase Order. Time is of the essence to Buyer. If the Products are not delivered within the time or times specified in this Purchase Order (or within a reasonable time if no time is specified), Buyer may, at its option, (a) refuse to accept such Products and terminate this Purchase Order, (b) cause Vendor to ship such Products by the most expeditious means of transportation at Vendor's sole cost, and/or (c) assess liquidated damages if provided for in the Purchase Order. Without prejudice to Vendor's obligation to deliver the Products on time, Vendor shall give Buyer notice in writing

immediately if any delay is foreseen. Buyer shall not be required to make any payment in respect of Products shipped by Vendor in advance of the specified shipping date until the date specified in this Purchase Order for such Products. Title to the Products shall pass to Buyer at the time of delivery, provided that any passing of title shall not prejudice Buyer's right to reject Products as set forth herein, and further provided that where advances or progress payments are made, title, but not risk of loss, shall pass to Buyer as soon as items are identified to the Purchase Order. All items so identified shall be adequately marked and recorded as being the property of Buyer.

**5. ASSIGNMENT.** Vendor may not assign or subcontract the Purchase Order or the performance thereof, in whole or in part, without the prior written consent of Buyer. Upon such consent, Vendor shall ensure there is a written contract between Vendor and any of its subcontractors in connection with these Terms and Conditions of Purchase which imposes terms equivalent to if not greater than those imposed on Vendor. Notwithstanding such consent, any payment to an assignee or subcontractor shall be subject to right of set-off of any claim which Buyer may have against Vendor, except to the extent that such right of set-off is expressly waived in writing by Buyer. This Purchase Order and Buyer's rights hereunder shall be freely assignable by Buyer.

**6. INSPECTION.** Buyer reserves the right to visit Vendor's manufacturing or other facilities at all reasonable times and places in order to inspect work in progress which is the subject of this Purchase Order. Vendor agrees to admit to its premises such quality control personnel as may be dispatched there by Buyer and permit those representatives to make a full and complete inspection of all goods, materials, procedures, sub-assemblies, facilities, tooling and machines employed in producing the items called for in this Purchase Order. Neither Buyer's approval of Vendor's proposed design, product specifications, test plans and/or procedures, manufacturing processes, methods, tooling or facilities, nor Buyer's inspection, failure to inspect, acceptance of delivery, payment or use of the Products described herein, shall relieve Vendor of any of its obligations hereunder. Payment for Products on this Purchase Order shall not constitute an acceptance thereof but all Products shall be received subject to Buyer's right of inspection and rejection. Final inspection, testing and acceptance shall be at Buyer's plant or other places designated by Buyer in writing. Defective Products or Products not in accordance with Buyer's specifications or Products which have been damaged in shipment due to improper packing, crating, preparation or loading by Vendor or its agents (and for which Buyer does not elect reimbursement under Section 4 hereof), will be held as Vendor's property, at Vendor's risk and subject to Vendor's disposition. Products returned as defective shall not be replaced without a purchase order.

**7. PATENTS AND INVENTIONS.** Vendor shall release Buyer from any liability to Vendor for, and shall indemnify, defend and hold harmless Buyer and its customers and users of Products from and against, any and all loss, damages, liability, claims, suits, demands, costs and expenses (including attorney's fees) for actual or alleged



## Terms and Conditions of Purchase

infringements of any patent rights, copyrights, or unauthorized use of trade secrets or proprietary information in the manufacture, use or disposition of any Products furnished by Vendor, or the use of any process in the performance of services hereunder. Buyer may assume its own defense in any such suit or proceeding in which event the foregoing indemnity agreement to hold Buyer harmless shall extend to all of Buyer's costs therein, including attorney's fees and litigation costs. The preceding provision regarding Buyer's right to assume its own defense shall apply to all Indemnities as defined herein. Any and all ideas, inventions (whether or not patentable), and improvements whatsoever conceived, discovered, or developed, in whole or in part, by Vendor and Vendor's employees in connection with or attributable to performance of this Purchase Order shall be the sole and exclusive property of Buyer. Vendor agrees that it will, on demand, at Buyer's expense, assist and require and bind Vendor's employees to assist in the preparation, execution and delivery of any disclosures, patent applications, or other papers required by Buyer to obtain and enforce patents in the United States and foreign countries and to execute and deliver to Buyer any assignment or other documents which Buyer deems necessary to perfect Buyer's right, title and interest in and to said ideas, inventions, and improvements.

**8. INSURANCE, RISK OF LOSS AND INDEMNITY.** Vendor shall assume all risk of loss or damage to the Products until acceptance of the Products in writing by Buyer at Buyer's plant or other place designated in the Purchase Order. All designs, tools, drawings and any other property of Buyer, while in Vendor's possession, shall be at Vendor's risk against loss or damage from all hazards and Vendor shall reimburse Buyer for any such loss or damage. VENDOR HEREBY RELEASES BUYER, ITS PARENT, SUBSIDIARY AND AFFILIATED ENTITIES, AND THE EMPLOYEES, OFFICERS, DIRECTORS, AGENTS, AND REPRESENTATIVES OF EACH OF THEM ("INDEMNITEES") FROM ANY LIABILITY TO VENDOR FOR, AND AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS INDEMNITEES FROM AND AGAINST ALL ACTIONS, CLAIMS, LOSSES AND EXPENSES (INCLUDING WITHOUT LIMITATION ALL COURT COSTS AND ATTORNEY'S FEES), RELATING TO ANY CLAIM OF INJURY TO OR DEATH OF PERSONS OR DAMAGE TO OR LOSS OF PROPERTY ARISING OUT OF OR RELATED TO: (A) DEFECTIVE DESIGN, MANUFACTURE, MARKETING OR WORKMANSHIP OF THE PRODUCTS; (B) THE ACTS AND/OR OMISSIONS OF VENDOR, ITS EMPLOYEES, AGENTS, SUPPLIERS OR SUBCONTRACTORS; OR (C) VENDOR'S FAILURE TO COMPLY WITH THESE TERMS AND CONDITIONS, EVEN IF INDEMNITEES' NEGLIGENCE CAUSED, OR CONTRIBUTED TO CAUSE, SUCH LIABILITY, CLAIM, OR LOSS. Unless otherwise authorized by Buyer in writing, Vendor shall maintain Comprehensive General Liability and Auto Liability insurance coverage of not less than \$2,000,000 combined single limit bodily injury and property damages per occurrence. Vendor shall maintain workers' compensation and employer's liability insurance covering all of Vendor's employees performing work with respect to the Purchase Order. Such insurance shall be primary and non-contributing with respect to any other insurance available to Indemnitees. Such insurance shall also be endorsed to

provide for a waiver of subrogation against Indemnitees and shall name Indemnitees as additional insureds on all policies with the exception of workers' compensation/employer's liability. This provision shall survive expiration or termination of the Purchase Order.

**9. VARIATION IN QUANTITY.** Unless authorized by additional Purchase Order or written change order, any variation in the quantities identified in the Purchase Order will not be accepted, and any Products received in excess thereof may be returned to Vendor at Vendor's expense.

**10. VARIATION IN PRICE.** The prices shown on this Purchase Order are firm and fixed unless otherwise agreed to in writing by Buyer. Buyer shall receive the benefit of any general reductions in Vendor's prices prior to delivery and in no event shall Buyer be charged higher prices than Vendor's customers who take delivery of similar Products in substantially the same amounts. Unless otherwise noted herein, Vendor is responsible for the prompt payment of all applicable taxes in effect at the time of sale hereunder and shall detail such taxes apart from the price of the Products on all invoices submitted. VENDOR AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS INDEMNITEES AGAINST ALL ACTIONS, CLAIMS, LOSSES AND EXPENSES, INCLUDING ATTORNEY'S FEES, ARISING OUT OF OR RELATED TO ANY FAILURE TO PAY SUCH TAXES.

**11. VARIANCE FROM SPECIFICATIONS.** Any proposed variation from specification requirements must be noted by Vendor in writing, however no variation will be accepted except by written change order.

**12. WARRANTIES.** Vendor warrants that all Products covered by this Purchase Order will conform to the specifications, drawings, samples or other description furnished by Buyer, and will be merchantable, fit for the purpose intended, of good material and workmanship and free from all defects in design, material and workmanship. Notwithstanding the foregoing, Vendor shall not be responsible for defects in design which arise directly from the specifications or designs furnished by the Buyer. Vendor shall at its sole expense, including all expenses of Buyer in returning or storing the Products, repair or replace any Products, at the election of Buyer, which (a) fail to conform to the specifications set forth in the Purchase Order, (b) otherwise prove to be defective within the later of one (1) year after installation, eighteen (18) months from the date of delivery, or such longer term as set forth in the Purchase Order; or (c) which otherwise are in breach of the foregoing warranties or of any other provision of this Purchase Order. In the event of the failure of Vendor to promptly repair or replace defective Products, Buyer, after reasonable notice to Vendor, may make such corrections or replace such Products and charge Vendor the cost incurred by Buyer in doing so. Vendor shall, for a period of five (5) years after the date of shipment of the Products sold hereunder or such shorter or longer period as may be required by law, retain all documents which relate to the design, fabrication, and testing of the Products purchased under this Purchase Order and shall upon reasonable notice make those documents available to Buyer for inspection and copying. All warranties



## Terms and Conditions of Purchase

shall inure to the benefit of and be fully enforceable by Buyer, its affiliates, and its assignees.

**13. CANCELLATION/SUSPENSION.** (A) For Cause: In addition to Buyer's rights to cancel set forth elsewhere in the Purchase Order, Buyer may cancel or suspend this Purchase Order, partially or entirely, effective on the date of such cancellation or such other date as Buyer may designate, for any one of the following reasons: (1) failure of Vendor to use due diligence to perform as specified; (2) failure of Vendor to deliver as specified, or within a reasonable time if no time is specified, unless such failure is caused by an event of Force Majeure, as described below; (3) in the event of any proceedings in bankruptcy, insolvency or receivership by or against Vendor or the appointment of an assignee for the benefit of creditors; (4) the cancellation of an order or contract placed with Buyer by a third party principal for Products included in this Purchase Order; or (5) the failure of Vendor to perform any provision of this Purchase Order. In the event of any such cancellation, Buyer, shall have the right: (a) to refuse to accept delivery of the Products; (b) to return to Vendor any Products already accepted, to recover from Vendor all payments made therefor and for freight, storage, handling and other expense incurred by Buyer and to be relieved from liability for any future payments to Vendor; (c) to recover any advance payments to Vendor for undelivered or returned Products; and (d) to purchase replacement Products elsewhere and charge Vendor with any resultant losses. No returned Products shall be replaced by Vendor without Buyer's written replacement order. (B) For Convenience. Buyer may cancel or suspend this Purchase Order, partially or entirely, effective on the date of such cancellation or suspension or such other date as Buyer may designate, at any time without cause or default of Vendor. Vendor shall, upon Buyer's request, immediately suspend shipments of Products. Payment for Products completed before notice of cancellation shall be made at the price specified in this Purchase Order. Vendor's verifiable additional expenses directly resulting from such cancellation or suspension shall be equitably adjusted between Buyer and Vendor and this Purchase Order modified accordingly.

**14. RIGHTS & REMEDIES.** Termination by either Buyer or Vendor shall not prejudice any claim for damages and/or non-performance Buyer would otherwise have against Vendor. The rights and remedies of Buyer set forth in this Purchase Order are not exclusive and are in addition to all rights and remedies of Buyer at law or equity.

**15. HAZARDOUS MATERIALS OR SUBSTANCES.** Vendor shall notify Buyer in advance of shipment, or at any other time it becomes known, if the Products to be furnished hereunder contain any hazardous or dangerous materials or substances. Vendor shall advise Buyer of any hazards associated with the handling, use, storage or disposal of the Products and/or any by-products thereof, and shall furnish Buyer with copies of all relevant information concerning the physical, chemical and toxicological properties of the Products, and emergency steps to be used in the event of a health, safety, or environmental incident involving hazardous materials contained in the Products.

**16. CHANGES.** Buyer may at any time specify additions, deletions or modifications (collectively "Changes") to the specifications, designs, reports, blueprints, drawings; to the quantities of Products, services or work; or to any other condition or term of this Purchase Order in writing or orally with a prompt written confirmation. Vendor shall thereupon promptly advise Buyer of the extent to which the Change will cause an increase or decrease in the cost to Vendor or the time required for Vendor to perform under this Purchase Order. Buyer will thereupon determine whether it wishes to proceed. Buyer will notify Vendor of Buyer's determination and the work will be performed by the Vendor in accordance therewith. Vendor shall not be entitled to compensation in addition to the price(s) specified in this Purchase Order, or an extension of time for performance, unless such Changes have been approved in writing by Buyer. Nothing contained in this section shall relieve Vendor from proceeding without delay in the performance of this Purchase Order as changed.

**17. PROPRIETARY INFORMATION.** Any drawings, specifications and information attached hereto or communicated to Vendor are the property of Buyer and shall be returned at the conclusion of the Purchase Order. Neither this Purchase Order nor any drawings, designs, ideas, specifications, oral instructions or information concerning Buyer's use of the Products, or any other information and know-how associated herewith may be used, lent, copied, reproduced or communicated in any manner to any third party without Buyer's written consent. In the event Vendor permits unauthorized persons to gain access to Buyer's proprietary information, this Purchase Order, at the sole option of Buyer, may be canceled immediately. Unless otherwise expressly agreed in writing, Buyer accepts no obligation of confidentiality with respect to any drawings, ideas, specifications or other information provided by Vendor related to the Products, or for equipment, operations or designs witnessed by Buyer at Vendor's plant.

**18. FORCE MAJEURE.** If Buyer or Vendor is prevented from carrying out any of the provisions hereof by reason of acts of God, including but not limited to earthquake, hurricane, fire, flood, war, revolution, blockade, strike, riot, delay by carrier, fuel shortage, embargo, lockout or other labor disturbance, actual or potential, the operation of statutes or laws, interference of civil or military authority, or other cause beyond the reasonable control of the parties, the party so interfered with shall be excused from performing hereunder to the extent of such interference. Vendor shall insert the substance of this provision in any orders issued by it which are applicable to this Purchase Order. The party claiming Force Majeure shall give the other party prompt notice of same with reasonably complete particulars.

**19. COMPLIANCE WITH LAWS, ETHICAL BUSINESS PRACTICES.** (A) This Purchase Order is subject to all federal statutes, regulations, rules, and orders, including, without limitation the Civil Rights Act of 1974, as amended; Executive Order No. 11246 concerning Equal Employment Opportunity; 11701 Listing of Employment of the Handicapped and 11458 and 11625 concerning utilization of Minority Business Enterprises, and by acceptance of this Purchase Order, Vendor acknowledges its compliance with each such statute and Executive Order and the Federal



## Terms and Conditions of Purchase

Regulations implementing the same unless Vendor is exempt by law. If Vendor is exempt, certification of such is required. When marked "For Government Order," this Purchase Order shall also be subject to the applicable Federal Acquisition Regulations and/or Defense Federal Acquisition Supplemental Regulations and the provisions of Buyer's prime contract with the applicable governmental entity. Copies of relevant portions of such prime contract under which this Purchase Order is issued, if not attached and made a part hereof, will be furnished upon request by Vendor. Prior to the performance of any work or the rendering of any services pursuant to this Purchase Order, Vendor shall procure, at its expense, all necessary permits, certificates and licenses necessary for compliance therewith. (B) In the performance of this Purchase Order, Vendor shall make all reasonable efforts to avoid and prevent any conditions which may result in a conflict with Vendor or Buyer's best interests. (C) Vendor warrants the Products provided under this Purchase Order shall be provided in compliance with all relevant legislation, laws, regulations and any other requirements of any government authority having jurisdiction over Vendor's activities, wherever located, which are in effect at the date of the Purchase Order or which may in the future become applicable.

### **20. ANTICORRUPTION AND TRADE COMPLIANCE.**

Without limiting the generality of Section 19 (C) Vendor represents and warrants that it and its employees, agents, subcontractors, or any other party associated with Vendor have not and shall not offer, authorize, make or promise to make any payment or gift, or transfer anything of value, directly or indirectly, to (i) any governmental official or employee, including employees of government controlled entities, (ii) any official, candidate, or employee of a public international organization or political party, or (iii) to any third party knowing or having reason to know that such third party will give the payment or any portion thereof, to any of the aforementioned parties (hereinafter "Restricted Parties") in order to obtain or return business, or for any other improper purpose, in violation of any applicable anti-bribery and anti-corruption conventions and laws including but not limited to the US Foreign Corrupt Practices Act and the UK Bribery Act. Vendor warrants it will comply with all relevant laws regarding bribery and corruption including local laws related to anticorruption, anti-kickbacks, and anti-money laundering. When applicable, Vendor shall ensure there is a written agreement with its agents, subcontractors, or any other applicable party which imposes terms equivalent to those imposed in this section. Vendor warrants, to the best of its knowledge, none of its officers, employees or direct or indirect owners are Restricted Parties. Vendor shall immediately notify Buyer in writing upon becoming aware of or suspecting a Restricted Party is or becomes an officer of Vendor or acquires a direct or indirect interest. Any violation of the obligations contained in this section shall be considered a material breach and shall entitle Buyer to terminate the Purchase Order immediately without prejudice to any further rights or remedies available to Buyer. Buyer may retain such amounts owed to Vendor it reasonably believes necessary to compensate for such breach or violation and any monies paid by Buyer to Vendor in connection with such breach or violation shall be refunded to Buyer. Any modification or amendment under this Purchase

Order is considered a reaffirmation of the foregoing warranties and representations of this section.

Vendor agrees that, in its performance under this Purchase Order, it is solely responsible for and warrants its compliance with all applicable economic sanctions as well as the import and export laws and trade regulations of the United States of America, and those of any other jurisdiction or country as may be applicable to any party including any applicable administrative requirements. Neither Vendor nor Buyer shall, directly or indirectly, sell, export, reexport, or otherwise provide the Products, under this Purchase Order to any individual, entity, destination, or for any use prohibited by the laws of the United States or any other jurisdiction or country that may be applicable without proper authorization by the appropriate governmental authorities. Vendor shall provide to Buyer copies of such compliance forms and documents as requested by Buyer verifying Vendor's compliance with such laws and regulations. Upon Buyer's request, Vendor will promptly provide all information necessary to export and import products, including, as applicable, the HTS numbers, the Export Control Classification Numbers (ECCN) and subheadings or munitions list category number, certification and or test results relating to the products or services and any other and will notify Buyer in writing of any changes to the information provided by Vendor to export and import products.

By acceptance of the Purchase Order Vendor warrants that neither it, nor any of Vendor's principals is debarred, suspended, or proposed for debarment by the Federal Government or any State Government. Further, Supplier shall provide immediate written notice to Buyer in the event that during the performance of this Purchase Order Supplier or any of Supplier's principals is debarred, suspended, or proposed for debarment by the Federal Government or any State Government.

Without limiting the generality of Section 31, the obligations of this Section 20 shall survive termination of this Purchase Order.

**To the extent permitted by law, Vendor shall release, defend, indemnify, and hold harmless Buyer for all liabilities, damages, costs (including legal fees), fines, penalties and/or expenses incurred as a result of any violation or breach of this section.**

**21. CONFLICT MINERALS.** Vendor acknowledges that Buyer is required to comply with Section 1502 of the United States Dodd-Frank Wall Street Reform and Consumer Protection Act ("the Dodd-Frank Act") and inter alia must file disclosures and reports with the United States Securities and Exchange Commission related to the use of tin, tantalum, tungsten and gold ("Conflict Minerals"). Vendor represents and warrants that it will, to the extent reasonably possible, use its best efforts to track the chain of custody of all Conflict Minerals contained in any products or materials provided by Vendor to Buyer in accordance with the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (or some other nationally or internationally recognized due diligence framework that has been established by a body or group that has followed due-process procedures, including



## Terms and Conditions of Purchase

the broad distribution of the framework for public comment but only upon notice and approval by Buyer which shall not be unreasonably withheld). Vendor's efforts shall encourage its sub-suppliers at any tier to comply with these requirements. At Buyer's request (which may be as frequently as quarterly at Buyer's discretion), Vendor must execute and deliver to Buyer declarations in the form of the EICC-GESI Conflict Minerals Reporting Template as adopted by EICC-GESI or (at Buyer's discretion) in any other form that Buyer reasonably requests. Vendors are encouraged to support industry efforts to enhance traceability and responsible practices in global mineral supply chains.

**22. GOVERNING LAW AND DISPUTE RESOLUTION.** The interpretation and performance of this Purchase Order shall be governed by and construed in accordance with the laws of the State of Texas, excluding any Texas rule of law that would make the law of any other jurisdiction applicable.

**23. RIGHT TO AUDIT.** For a period of at least two (2) years after final payment by Buyer under this Purchase Order, Vendor shall maintain all records and accounts directly relevant to the charges paid by Buyer hereunder. During this period Buyer shall have the right at all reasonable times to audit such records and accounts to verify that the charges for which Buyer was invoiced hereunder were proper. For the purposes of ensuring compliance with Section 20, Vendor shall permit, upon the request of and at the sole discretion of the Buyer, audits by independent auditors acceptable to Buyer, and agree that such auditors shall have full and unrestricted access to, and to conduct reviews of, all records related to the Products provided under the Purchase Order and to report any violation of the United States Foreign Corrupt Practices Act, UK Bribery Act or any other applicable laws and regulations.

**24. SAFETY AND HEALTH.** Vendor, by accepting this Purchase Order, certifies that the Products furnished hereunder are in full compliance with all applicable provisions of the Occupational Safety and Health Act of 1970, as amended and all applicable standards issued pursuant thereto, including those referenced in that Act but issued under other legislation, and applicable state and local occupational health and safety laws.

**25. FREIGHT.** Additional freight costs resulting from Vendor's inability to ship the complete order as a single shipment are for the Vendor's account, unless partial shipments are specifically authorized in writing by Buyer.

**26. STORAGE OF PRODUCTS.** Buyer may delay delivery of the Products for up to ninety (90) days. In the event of Buyer's delay in delivery Vendor shall: (i) store the Products in a clean, dry, and secure location, unless otherwise agreed in writing by Buyer, (ii) segregate the Products from items belonging to entities other than Buyer, if the Products are of a nature which may be segregated, and (iii) mark, or otherwise indicate in a manner to make it evident to Vendor's

creditors, that such Products belong to Buyer. Buyer shall have access to such Products twenty-four hours a day, seven days a week. While the Products are being stored by Vendor, costs related to storage, insurance and risk shall be for the Vendor's account. If Buyer requests a delay in delivery longer than ninety (90) days, Buyer and Vendor shall agree on further storage terms, but the risks inherent in such storage shall remain with Vendor. Storage of Buyer's Products shall be considered a bailment and not subject to the terms and conditions of the Uniform Commercial Code or similar law, as the same may be codified in applicable state law pertaining to sales and/or secured transactions.

**27. WAIVER.** No claim of waiver, modification, supplement, amendment, consent or acquiescence with respect to any provision of this Purchase Order or the transactions contemplated hereunder shall be effective unless made by Buyer in writing. No waiver of any of the provisions of this Purchase Order by Buyer should be deemed or shall constitute a waiver of any other provisions, nor shall any such waiver constitute a continuing waiver.

**28. BINDING UPON ASSIGNS.** Subject to the limitations on assignment stated herein, this Purchase Order shall inure to the benefit of and be binding upon the parties hereto, their successors and assigns.

**29. MISCELLANEOUS.** Vendor shall at all times remain an independent contractor for all purposes. If any provision herein is or becomes invalid or illegal in whole or in part, such provisions shall be deemed amended, as nearly as possible, to be consistent with the intent expressed in this Purchase Order, and if such is impossible, that provision shall fall by itself without invalidating any of the remaining provisions not otherwise invalid or illegal. Paragraph headings or titles are included for ease of reference and do not constitute any part of the text or affect its meaning or interpretation.

**30. ENTIRE ORDER.** This Purchase Order, including these Terms and Conditions, the specifications and any additional terms and conditions incorporated into and attached hereto, constitutes the sole and entire agreement between the parties. Vendor's quotation is incorporated in and made a part of this Purchase Order only to the extent of specifying the nature and description of the Products ordered, and then only to the extent that such items are consistent with the other terms of this Purchase Order. No other terms or conditions shall be binding upon Buyer unless accepted by Buyer in writing.

**31. SURVIVABILITY.** The allocations of responsibility, indemnity obligations, exclusions and limitations of damages, and any other provision set forth in this Purchase Order that is intended to survive termination shall not be affected by the expiration or termination of this Purchase Order.