

STANDARD TERMS OF PURCHASE

1. CERTAIN DEFINITIONS

As used herein, (a) "Buyer" means MasterBrand Cabinets LLC, a Delaware limited liability company, (b) "Seller" means the party with whom Buyer is contracting and includes any reference to "vendor," "subcontractor," "contractor" or "supplier" and (c) "Order" means the applicable purchase order(s) or other instrument of contracting concerning the applicable Goods and/or Services, including all documents, exhibits and/or attachments referenced therein.

2. AGREEMENT

Except as expressly modified by the Buyer in an Order, these Standard Terms of Purchase (these "Terms") are the only terms which govern the purchase of the goods (the "Goods") and/or services (the "Services") by Buyer from Seller contemplated in the Order. Each Order is Buyer's offer to Seller and does not constitute an acceptance by Buyer of any previously submitted proposal or offer to sell by Seller even if the Order references or otherwise incorporates certain description(s) and specification(s) of the Goods and/or Services from Seller's original proposal or offer to sell. Any variations to these Terms, including their applicability in whole or in part, made by Seller in its acknowledgement or acceptance of Buyer's Order in any form, including without limitation, any terms and conditions contained or linked (i) in an invoice or other Seller document, (ii) in digital communications between Buyer and Seller, or (iii) on Seller's website or online purchasing portal, including clickwrap or any similar digital indication of agreement or consent presented to Buyer, are void, shall have no effect, and are hereby objected to without need of further notice of objection, except solely to the extent such variations are expressly agreed to by the Buyer in the applicable Order. The accompanying Order and these Terms are hereinafter referred to collectively as the "Agreement".

3. SHIPPING, BILLING AND PAYMENT

- a. Seller agrees to (i) properly pack, mark and ship the Goods in accordance with the requirements of Buyer and involved carriers in order to secure the lowest transportation cost and meet delivery times, (ii) route shipments in accordance with instructions from Buyer's Transportation Department, (iii) make no charges for handling, packaging, packing, crating, demurrage, containers, storage, pallets, wrapping, transportation or drayage of the Goods unless otherwise stated in the Order, (iv) provide with each shipment packing slips with Buyer's applicable Order number marked thereon, (v) properly mark each package with the applicable Order number, the factory, plant and dock number, and where multiple packages comprise a single shipment, to consecutively number each package and (vi) promptly forward the original bill of lading or other shipping receipt for each shipment in accordance with Buyer's instructions and the applicable carrier's requirements. The packaging, labeling and shipping of all hazardous substances, including, without limitation, dangerous or explosive materials, must conform with all applicable international, federal, state and local laws and regulations. The marks on each package and

identification of the Goods on packing slips, bills of lading and invoices shall be sufficient to enable Buyer to easily identify the goods purchased.

- b. Seller further agrees to (i) promptly render, after delivery of the Goods or performance of the Services, correct and complete invoices to Buyer and (ii) accept payment by check or, at Buyer's discretion, other cash equivalent (including electronic transfer of funds) as payment therefor.
- c. Seller shall issue an invoice to Buyer no later than thirty (30) days after the completion of delivery or performance of the applicable Goods and/or Services and only in accordance with these Terms. Buyer shall pay all properly invoiced amounts due to Seller within ninety (90) days after Buyer's receipt of such invoice, except for any amounts disputed by Buyer in good faith. Without prejudice to any other right or remedy it may have, Buyer reserves the right to set off at any time any amount owing to it by Seller against any amount payable by Buyer to Seller. In the event of a payment dispute, Buyer shall deliver a written statement to Seller no later than thirty (30) days prior to the date payment is due on the disputed invoice listing all disputed items and providing a reasonably detailed description of each disputed item. Amounts not so disputed are deemed accepted and must be paid, notwithstanding disputes on other items, within the period set forth in this Section 3(c). Buyer and Seller shall seek to resolve all such disputes expeditiously and in good faith. Seller shall continue performing its obligations under this Agreement notwithstanding any such dispute.
- d. Time for payment shall not begin until correct and complete invoices are received, and Seller's cash discount privileges (if any) to Buyer shall be extended until such time as payment is due. Buyer may withhold payment pending receipt of evidence, in such form and substance as Buyer may direct, of the absence of any liens, encumbrances and claims on the Goods and/or Services under the applicable Order.
- e. Unless otherwise specifically provided in the Agreement, (i) Seller shall pay, and the price includes, all applicable sales and similar taxes which are not imposed by law on Buyer and (ii) any information or data disclosed or furnished to Buyer by Seller hereunder shall be deemed sold as part of the price hereof, non-proprietary and free of all restrictions whatsoever.

4. **DELIVERY OF GOODS AND PERFORMANCE OF SERVICES**

- a. Time is of the essence in the performance of this Agreement. Deliveries of the Goods shall be made by Seller at such times and places and of such items and quantities as specified in Buyer's delivery schedules. Strict adherence to Buyer's stated delivery schedules is a material condition of this Agreement. Seller shall not, unless otherwise agreed in writing by Buyer, manufacture or procure materials in excess of the amount or in advance of the time necessary to meet Buyer's delivery schedule. Further, Buyer shall have no obligation to pay for any Goods delivered to Buyer which are in excess or delivered in advance of Buyer's delivery schedule. Buyer reserves the right to increase or decrease the rate of

scheduled shipments or direct the temporary suspension of scheduled shipments, neither of which shall entitle Seller to a modification of the price for the Goods and/or Services covered by this Agreement. For Orders where quantities and/or delivery schedules are not specified, Seller shall deliver the Goods in such quantities and at such times as Buyer may direct in subsequent releases.

- b. Seller shall deliver all Goods to the address specified in the applicable Order (the "Delivery Point") during Buyer's normal business hours or as otherwise instructed by Buyer. Seller shall pack all Goods for shipment according to Buyer's instructions or, if there are no instructions, in a manner sufficient to ensure that the Goods are delivered in undamaged condition. Seller must provide Buyer with prior written notice if it requires Buyer to return any packaging material. Any return of such packaging material shall be made at Seller's risk of loss and expense.
- c. Unless otherwise provided for on the face hereof, the Goods covered by the Order shall be delivered to Buyer FOB Delivery Point, and title to conforming Goods covered hereunder shall pass to Buyer upon delivery of such goods at such Delivery Point. Seller shall be responsible for all risk of loss or damage until such passage of title, regardless of whether Buyer or Seller is paying for the freight; provided, however, that Buyer shall assume the risk of loss for the Goods while being transported on Buyer's vehicles, to the extent applicable. The risk of loss for nonconforming material shall be borne by Seller at all times.
- d. If at any time it appears to Seller that any delivery schedule cannot be met, Seller shall notify Buyer as soon as possible as to the causes thereof, the action being taken to mitigate such cause of non-delivery, when on-schedule status will be regained and, at Seller's sole cost and expense, Seller shall take whatever reasonable action is necessary, with or without Buyer's request, to meet such schedules as set forth herein or to recover to the maximum extent possible any delay in meeting such schedules. Such reasonable action by Seller shall include, but not be limited to, expedited shipment.
- e. Seller shall provide the Services to Buyer as described and in accordance with the dates or schedule set forth on the applicable Order and in accordance with the terms and conditions set forth in these Terms.

5. **PREMIUM SHIPMENTS**

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, (a) promptly reimburse Buyer the difference in cost between the more expeditious method and the original method, (b) allow Buyer to reduce its payment of Seller's invoices by such difference or (c) ship the Goods as expeditiously as possible at Seller's expense and invoice Buyer for the amount which Buyer would have paid for normal shipment. Alternatively, Buyer, in its sole option, may elect to terminate the applicable Order and its obligations thereunder.

6. **CHANGES**

- a. Buyer may at any time make changes within the general scope of the Order. If any such change affects the time for or cost of performance by Seller, an equitable adjustment shall be made by Buyer in the delivery schedule, purchase price or both after receipt of documentation in such form and substance as Buyer may direct; provided, however, that Seller acknowledges and agrees that certain changes in delivery schedule are market dependent and are normal and anticipated in the ordinary course of business. Further, no adjustment of any kind shall be afforded to Seller with respect to changes made necessary by reason of defects or Seller's inability to meet stated specification requirements of any item for which Seller would be liable under the terms of this Agreement. Nothing herein shall excuse Seller from proceeding with the Order as changed.
- b. These Terms or any Order may only be changed or modified by a writing stating specifically that it amends this Agreement or the applicable Order and is signed by an authorized representative of Buyer and Seller.

7. **INSPECTION AND QUALITY CONTROL**

Seller agrees that Buyer shall have the right to enter Seller's facility at reasonable times to inspect the facility, Goods, materials and property of Buyer covered by this Agreement. Buyer's inspection of the Goods, whether during manufacture, prior to delivery or within a reasonable time after delivery, shall not constitute acceptance of any work-in-process or finished goods. Seller shall provide and maintain quality control, inspection, and process control systems acceptable to Buyer and its customers. If any inspection or test is made on the premises of Seller or its suppliers, Seller, without additional charge, shall provide all reasonable facilities and assistance for the safety and convenience of the inspectors in the performance of their duties. All inspections and tests on the premises of Seller or its supplier shall be performed in such a manner as not to unduly delay the work. Seller shall not make material changes to any production facility location or to its production process, including without limitation, material changes to raw materials composition, without first notifying Buyer and obtaining Buyer's written consent after affording Buyer sufficient time, as determined by Buyer in its sole discretion, to inspect the proposed location and/or changes.

8. **NON-CONFORMING GOODS**

- a. All Goods and other materials received from or on behalf of Seller hereunder shall be subject to Buyer's inspection and rejection. Payment for Goods under the applicable Order prior to inspection shall not constitute acceptance thereof, nor will acceptance relieve Seller from responsibility for latent defects. In addition to its other rights, Buyer may charge Seller all expenses of unpacking, examining, repacking, storing and reshipping defective Goods. Nothing contained within this Agreement shall relieve Seller from the obligation of testing, inspection and quality control.

- b. Buyer may reject and hold at Seller's risk and expense, subject to Seller's reasonable disposal instructions, Goods which do not conform to applicable specifications, drawings, samples or descriptions or which are defective in material, workmanship or design. To the extent Buyer rejects Goods as non-conforming, the quantities of such Goods under the applicable Order will automatically be reduced by the number of non-conforming items unless Buyer notifies Seller in writing otherwise. Seller shall not replace quantities so reduced without a new Order or schedule from Buyer, and Buyer is not responsible for payment to Seller for rejected non-conforming Goods; provided, however, that payment by Buyer for non-conforming Goods 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.
- c. Without limiting any other rights Buyer may have, Buyer may, upon rejection and at its option, require Seller to (i) repair or replace, at Seller's sole risk and expense, any Goods or items which fail to meet the requirements of applicable specifications, designs, drawings, samples, descriptions or other requirements of the applicable Order or these Terms or (ii) refund the price which may have been paid by Buyer for any such Goods.

9. **FORCE MAJEURE**

Seller will promptly notify Buyer of any actual or potential circumstance which would delay the timely performance of any applicable Order(s), and will include all relevant information to Buyer. Buyer shall not be liable for failure to take delivery of material or work or render any other performance in the event fire, accidents, labor difficulties, governmental actions, third party failures or any other conditions beyond Buyer's reasonable control render it commercially impractical for Buyer to do so.

10. **WARRANTIES**

- a. Seller represents and warrants that Seller has special skills and that Buyer is relying on the skill and judgment of Seller to select and furnish suitable Goods or Services. All written and oral statements of Seller as to functions, quality, suitability and use of the Goods or Services are warranties of Seller. Seller represents and warrants that all Goods (including packaging) and Services (including construction work) provided under the applicable Order shall (i) fully and strictly conform to specifications, drawings or descriptions furnished, specified or adopted by Buyer, (ii) be free of defects, both latent and patent, (iii) be of good material and workmanship, (iv) be merchantable and fit for the general and particular purposes for which they are required and (v) be free from the claim of any third party. If any specification or instruction, in whatever form supplied by Buyer, appears to be in conflict with any other specifications or instructions, or is insufficient or unclear, it shall be the duty of Seller to request clarification from Buyer, who shall reserve the right to determine conformity with the specification.

- b. Seller represents and warrants that the Goods and all other material and work furnished hereunder shall be of the highest grade and quality unless otherwise specified and, that all Goods supplied hereunder will have been produced in compliance with, and Seller agrees to be bound by, meet and comply with all applicable federal, state and local laws, orders, rules and regulations including, without limitation, all standards of the Occupational Safety and Health Act of 1970, Fair Labor Standards of 1938, Title VII of the Civil Rights Act of 1964, Executive Order 11246, Motor Vehicle Safety Act, Toxic Substance Control Act, each as amended, all of which are hereby incorporated by reference, and it agrees upon request to issue Buyer a certificate to such effect as Buyer may require.
- c. Seller represents and warrants that the prices for the Goods sold to Buyer hereunder are not less favorable than those currently extended to any other customer for the same or similar Goods in similar quantities. In the event Seller reduces its price of such Goods during the term of this Agreement, Seller agrees to reduce the prices hereof correspondingly. Seller warrants that the prices shown on each applicable Order are complete and no additional charges including, without limitation, charges for shipping, labeling, custom duties, insurance or taxes, shall be made without Buyer's written consent.
- d. Seller warrants to Buyer that it shall perform the Services using personnel of required skill, experience and qualifications and in a professional and workmanlike manner in accordance with best industry standards for similar services and shall devote adequate resources to meet its obligations under this Agreement.
- e. The warranties set forth in this Section 10 are cumulative and in addition to any other warranty provided by law or equity. Any applicable statute of limitations runs from the date of Buyer's discovery of the noncompliance of the Goods or Services with the foregoing warranties. If Buyer gives Seller notice of noncompliance pursuant to this Section, Seller shall, at its own cost and expense, promptly (i) replace or repair the defective or nonconforming Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective or nonconforming goods to Seller and the delivery of repaired or replacement Goods to Buyer, and, if applicable, (ii) repair or re-perform the applicable Services.

11. **SELLER'S OBLIGATIONS REGARDING SERVICES**

Seller shall (a) before the date on which the Services are to start, obtain, and at all times during the term of this Agreement, maintain, all necessary licenses and consents and comply with all relevant laws applicable to the provision of the Services, (b) comply with all rules, regulations and policies of Buyer, including security procedures concerning systems and data and remote access thereto, building security procedures, including the restriction of access by Buyer to certain areas of its premises or systems for security reasons, and general health and safety practices and procedures, (c) maintain complete and accurate records relating to the provision of the Services under this Agreement, including records of the time spent and materials used by Seller in providing the Services in such form as Buyer shall approve and, upon Buyer's written request, allow Buyer to inspect and make copies of such records and interview Seller personnel in connection with the provision of the

Services, (d) obtain Buyer's written consent prior to entering into agreements with or otherwise engaging any person or entity, including all subcontractors and affiliates of Seller, other than Seller's employees, to provide any Services to Buyer (each such approved subcontractor or other third party, a "Permitted Subcontractor"), which approval shall not relieve Seller of its obligations under the Agreement, (e) require each Permitted Subcontractor to be bound in writing by the confidentiality provisions of this Agreement, (f) ensure that all persons, whether employees, agents, subcontractors or anyone acting for or on behalf of Seller, are properly licensed, certified or accredited as required by applicable law and are suitably skilled, experienced and qualified to perform the Services, (g) ensure that all of its equipment used in the provision of the Services is in good working order and suitable for the purposes for which it is used, and conforms to all relevant legal standards and standards specified by Buyer and (h) keep and maintain any Buyer equipment in its possession in good working order and shall not dispose of or use such equipment other than in accordance with Buyer's written instructions or authorization.

12. **TOXIC SUBSTANCES. MSDS. INGREDIENTS DISCLOSURE AND SPECIAL WARNINGS AND INSTRUCTIONS**

- a. Seller warrants that each chemical substance delivered under an applicable Order shall, at the time of sale, transfer or delivery, be on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Agency pursuant to Section 8 (B) of the Toxic Substance Control Act (Public law 94-469).
- b. Seller shall submit to Buyer, prior to and with each shipment, Material Safety Data Sheets prepared in accordance with the OSHA Hazardous Communication Standard, 29 CFR 1919.1200.
- c. If requested by Buyer, Seller shall promptly furnish to Buyer in such form and substance as Buyer may direct (i) a list of all ingredients or components, as applicable, in the Goods purchased hereunder, (ii) the amount of one or more of the ingredients or components, as applicable, and (iii) information concerning any changes in or additions to such ingredients or components, as applicable. Should Seller not have immediate access to this information, Seller shall delay shipment until such time as Seller has contacted the party which does have the information, and is able to obtain it and furnish it as requested to Buyer.
- d. Prior to and with the shipment of the Goods purchased under an applicable Order, Seller agrees to furnish to Buyer sufficient warning and notice in writing (including appropriate labels on Goods, containers and packing) of any hazardous material which is an ingredient or component, as applicable, of any of the Goods, together with such special handling 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. **OFFSET TRADE**

Seller shall inform Buyer of foreign content in Seller component(s), including, but not limited

to, the country of origin and dollar value of material and labor therein.

14. **TERMINATION**

- a. Buyer may at any time terminate this Agreement or any Order, in whole or in part, for its sole convenience, by written notice to Seller, whereupon Seller shall terminate work pursuant to the terms of such notice. Seller shall promptly advise Buyer of the quantities of applicable work and material on hand or purchased prior to termination and the most favorable disposition that Seller can make thereof. Seller shall comply with Buyer's instructions regarding disposition of such work and material. All claims by Seller based on such termination must be asserted, in writing and in full, within sixty (60) days from the date of notification of the termination, or shall be waived. Buyer shall pay Seller the purchase order price of finished work and the cost to Seller (excluding profit and losses) of work in process and raw material, less, however, the (i) agreed value of any items used or sold by Seller with Buyer's consent and (ii) reasonable value or cost (whichever is higher) of any defective, damaged or destroyed work or material and any items sold or used by Seller without Buyer's consent. Buyer will make no payments for finished work, work in process or raw material fabricated or procured by Seller unnecessarily in advance or in excess of Buyer's delivery requirements. Seller shall not be paid for any work done after its receipt of the notice of termination nor for any costs incurred by its subcontractors or Sellers which could reasonably have been avoided. The payment provided under this clause shall constitute Buyer's only liability in the event this Agreement or any Order is terminated as provided herein.
- b. To the extent an applicable Order covers items normally carried in inventory by Seller (as distinguished from items specially made to Buyer's specification), Buyer shall have no liability for any termination of such Order, in whole or in part, prior to actual shipment and for any termination, within ten (10) days after receipt by Buyer, its liability shall be limited to returning said items and reimbursing Seller for direct costs of handling and transportation.
- c. Buyer may terminate this Agreement or any Order, in whole or in part, for cause in the event of a default by Seller, including, without limitation, a failure of Seller to comply with any of the terms and conditions of this Agreement or to provide Buyer, upon request, with an adequate assurance of future performance. In the event of a termination for cause, Buyer shall not be liable to Seller for any amount, but Seller shall be liable to Buyer for any and all damages sustained by reason of the default which gave rise to the termination.
- d. Buyer may terminate this Agreement or any Order without liability with respect to any portion not completed in the event of any proceeding by or against Seller in bankruptcy, reorganization, or insolvency or for the appointment of a receiver or any assignment for the benefit of creditors (collectively "Insolvency").
- e. If it should be finally determined that Buyer has improperly terminated this Agreement or any Order issued pursuant hereto for default or Insolvency, such termination shall be deemed a termination for Buyer's sole convenience.

15. **INDEMNIFICATION: INSURANCE**

- a. Seller agrees to exculpate, defend, indemnify and hold harmless Buyer, its affiliates and their respective directors, managers officers, shareholders, members, employees and customers from and against all third party claims, liabilities, lawsuits, damages, expenses (including attorney's fees and other defense costs) and penalties, including those based on Buyer's or its customer's negligence, which arise, directly or indirectly, out of (i) alleged defects in material, workmanship, or design of the Goods or work furnished hereunder, (ii) violations of federal, state or local laws, orders, rules or regulations arising out of the use or resale of the Goods and/or Services furnished hereunder, (iii) personal injuries or death of Seller or Seller's agents, employees or subcontractor's personnel and damage to or destruction of Seller's or it's subcontractor's property arising out of the use or resale of the Goods and/or Services furnished hereunder, (iv) the infringement by the Goods and/or Services furnished hereunder of any United States or foreign patent or trademark, (v) the breach by Seller of any of its representations, warranties and obligations hereunder and (vi) any act or omission of Seller, its agents, employees and/or subcontractors. Buyer may, at its option, be represented by and actively participate through its own counsel in any such suit or proceedings and the costs of such representation shall be paid by Seller. Should the manufacture, use or sale of the Goods and/or Services ordered be made the subject of any infringement suit or claim as described in (iv) above, Seller agrees, at its own expense, to procure for Buyer the right to continue the use of such Goods or Services, or replace them with substantially equivalent non-infringing Goods or Services, or to modify the Goods or Services so they become non-infringing.
- b. Seller shall maintain such comprehensive general liability insurance, including products liability and completed operations insurance, workman's compensation and employer liability insurance and automobile liability insurance as will adequately protect Buyer against such damages, liabilities, claims, losses, and expenses. Seller shall, upon request, furnish to Buyer certificates of insurance evidencing its insurance coverage.

16. **CONFIDENTIALITY**

- a. Seller agrees not to, at any time, directly or indirectly, use or disclose to anyone any Buyer Confidential Information (as defined herein). For purposes of this Agreement, Buyer's "Confidential Information" means all confidential and/or proprietary information of Buyer, and specifically includes, but is not limited to, Buyer's ideas, concepts, inventions, products, prototypes (including prototypes tested by Seller), designs, drawings, plant/facility layouts, manufacturing processes and techniques, customer and supplier information, blueprints, distribution techniques and systems, materials, pricing information, sourcing information, formulations, ingredients, specifications, know-how, testing apparatus, testing procedures, test results, machinery, equipment, advertising and marketing programs and techniques, business plans, forecasts, budgets, costs and financial information and employee information.
- b. Buyer's Confidential Information shall not include any information that (i) is or

subsequently becomes publicly available without breach of this Agreement by or on behalf of Seller, (ii) is known by Seller prior to disclosure by Buyer as evidenced by Seller's written records created prior to such receipt of Confidential Information from Buyer, (iii) is received by Seller in good faith from a third party lawfully in possession of the Confidential Information and having no obligation to maintain the confidentiality thereof or (iv) is independently developed by Seller through persons or entities who had no access to any Confidential Information, as evidenced by their written records. Further, Seller may disclose Confidential Information pursuant to a judicial or other governmental order or as required by law, provided that Seller provides Buyer as much advance notice of the possibility of such disclosure as practical under the circumstances in order to allow Buyer a reasonable opportunity to attempt to stop such disclosure or seek a protective order concerning the disclosure, and Seller undertakes reasonable efforts to maintain the confidentiality and non-disclosure of the Confidential Information.

17. **FEEDBACK**

Buyer may from time to time provide to Seller suggestions or services in furtherance of this Agreement or related to the Confidential Information, including without limitation, analyzing, refining, modifying and improving product concepts, initiating new product ideas, creating new product aesthetics, creating new functional product features, creating design and/or engineering documentation of product concepts in functional prototypes for new product concepts, performing engineering analysis of new product concepts, assisting with product tooling releases, and making suggestions for improving production processes, enhancing business models, as well as other information (collectively, "Feedback"). The parties agree that all Feedback is and shall be given entirely voluntarily. Feedback that may be subject to protection as intellectual property and that is conceived by Seller in connection with performance of Services or manufacture of Goods for Buyer and that is based upon Buyer's Confidential Information, shall be treated as the Confidential Information of Buyer and covered by this Agreement as "Proprietary Feedback." All and only Proprietary Feedback shall be considered as "work made for hire" under applicable law for the benefit of Buyer, and shall be deemed, as between the parties, the Confidential Information of Buyer and covered by this Agreement, excluding Feedback that falls within an exception set forth in Section 16 above (which, nonetheless, shall be deemed voluntarily disclosed). Feedback, even if treated or designated as confidential by Seller, or covered by an exception under Section 16 above, shall not, absent a separate written agreement, create any confidentiality obligations for Buyer. Seller represents that it has the unrestricted right to disclose any Feedback, free of all claims of third parties, and that such disclosure is not in violation of any secrecy agreement with any third party. Buyer shall be free to use, disclose, reproduce, license or otherwise distribute and exploit the Feedback, as Buyer sees fit, entirely without obligation or restriction of any kind on account of intellectual property rights or otherwise, except as provided in a separate subsequent written agreement between the parties. Seller hereby assigns, and will cause its agents to assign, to Buyer all right, title and interest in all and only the Proprietary Feedback, including without limitation all patents, registrations and copyrights, and agrees to execute or have executed any documentation necessary to ensure that such rights arise in Buyer.

18. TOOLS & GAUGES

Unless otherwise agreed to by Buyer in writing, Seller, at its own expense, shall furnish, keep in good condition and replace when necessary, all tools, jigs, dies, gauges, fixtures, molds and patterns ("Tools") necessary for the production of the Goods under each Order. Seller shall insure the Tools with full fire and extended coverage insurance for the replacement value thereof. Seller grants Buyer an irrevocable option to take possession of and title to the Tools that are special for the production of the Goods upon payment to Seller of the book value thereof less any amounts which Buyer has previously paid to Seller for the cost of such Tools; provided, however, that this option shall not apply if such Tools are used to produce Goods that are the standard stock of Seller or if a substantial quantity of the Goods are being sold by Seller to others.

19. BUYER'S PROPERTY

- a. The specifications, drawings, designs, technical and manufacturing data and materials, including Tools, furnished to Seller or specifically paid for by Buyer for use with an applicable Order placed with Seller, including all patent, trademark, copyright, trade secret, and other rights thereof (collectively, the "Technical Data"), are the property of, and title to the same shall be retained by, Buyer and all other Confidential Information transmitted to Seller by Buyer in connection with this Agreement (collectively with technical Data referred to as the "Buyer's Property"), are disclosed and provided to Seller on the condition that they be treated as Buyer's Confidential Information and shall not, without Buyer's prior written consent, be reproduced, copied or used for any purpose detrimental to Buyer, and provided that all copies and reproductions of Buyer's Property shall be segregated and clearly identified as the property of Buyer. Buyer's Property shall be used by Seller only to complete each applicable Order and, together with all copies and reproductions thereof, shall be returned to Buyer, or disposed of in accordance with the instructions of Buyer, upon the earlier of the completion or termination of this Agreement or upon request of Buyer. Seller authorizes Buyer, at Buyer's discretion, to sign and file a UCC-1 Financing Statement covering the foregoing described property of Buyer. Buyer reserves the right at any time and for any reason to come upon the premises of Seller to demand, or reclaim possession of the same.
- b. Seller assumes all risk and liability for loss or damage to Buyer's Technical Data, except for normal wear, and agrees to permit inspection and supply detailed statements of inventory upon request of Buyer. Seller shall at all times cover said items with full fire and extended coverage insurance and, upon request, furnish to Buyer certificates of insurance evidencing such coverage.
- c. Notwithstanding any document marking to the contrary, any information which Seller may have disclosed or may hereafter disclose to Buyer incidental to the placing and filling of each applicable Order shall not, unless otherwise specifically agreed upon in a written nondisclosure agreement between the parties, be deemed to be confidential or proprietary information, and accordingly, Buyer shall not be liable for any use or disclosure thereof (other than liability which may result from a claim by Seller for patent infringement by Buyer).

20. **REMEDIES**

The rights and remedies reserved to Buyer in this Agreement shall be cumulative, and additional to all other or further remedies provided in law or equity.

21. **DUTY DRAWBACK RIGHTS**

This Agreement 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 inform Buyer of the existence of any such rights and upon request to supply such documents as may be required to obtain such drawback.

22. **SET OFF**

In addition to any right of setoff provided by law, all amounts due Seller shall be considered net of indebtedness of Seller to Buyer and its subsidiaries, and Buyer may deduct any amounts due or to become due from Seller to Buyer and its subsidiaries from any sums due or to become due from Buyer to Seller.

23. **ADVERTISING. PUBLICITY**

Seller shall not, without the prior written consent of Buyer, publish in any manner the fact that Seller has provided or contracted to provide materials or services to Buyer or any part of the subject matter of this Agreement or use the name of any trademark of Buyer in any of Seller's advertising, promotional activities or publications.

24. **GOVERNMENT CONTRACTS**

If any applicable Order is for Goods or Services under a government contract or subcontract, all contract provisions applicable hereto and required by law, order, regulation or Buyer's government contract or subcontract are hereby incorporated herein by reference as fully as if set forth herein in full. When necessary to make the context of such provisions or clauses applicable to this Agreement, the terms "Contractor," "Contract," and "Government" or "Contracting Officer" (or terms of similar import) shall mean, respectively, Seller, this Agreement and Buyer.

25. **GENERAL PROVISIONS**

- a. Buyer's failure to insist on the performance of any of the terms or conditions, or to exercise any right or privilege, or Buyer's waiver of any breach hereunder shall not thereafter waive any other terms, conditions or privileges of the same or similar type.
- b. In no event shall Buyer be liable for anticipated profits, for incidental or consequential damages or for penalties of any description. Any action resulting from any breach on the part of Buyer must be commenced within one (1) year after the cause of action has occurred.
- c. This Agreement and each Order issued pursuant hereto shall be governed by the Uniform Commercial Code and construed and governed in accordance with the laws of the State of Indiana, United States of America, excluding its choice of law statutes.

Jurisdiction and venue for any suit between the parties hereto arising out of or connected with this Agreement, or the goods or services furnished hereunder, shall be in the State of Indiana, or the courts of the state where Seller's principal place of business is located, as Buyer may elect. The United Nations Convention on the International Sale of Goods does not apply to this Agreement.

- d. This Agreement is issued to Seller in reliance on Seller's personal performance and Seller may not assign or delegate this Agreement or its obligations under this Agreement without Buyer's prior written consent.
- e. Seller and Buyer are independent contracting parties and nothing in this Agreement shall make either party the agent or legal representative of the other in any purpose whatsoever, nor does it grant either party an authority to assume or to create any obligation on behalf of or in the name of the other.
- f. If any term of this Agreement or any Order issued pursuant hereto becomes invalid or unenforceable under any statute, regulation, ordinance, executive 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 all other provisions of this Agreement or the applicable Order shall remain in full force and effect.
- g. BUYER AND SELLER EACH HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT TO TRIAL BY JURY IN CONNECTION WITH ANY DISPUTE ARISING WITH RESPECT TO THIS AGREEMENT AND/OR ANY ORDER ISSUED PURSUANT HERETO.
- h. This Agreement comprises the entire Agreement between Buyer and Seller with respect to the purchase of the Goods and/or Services contemplated in the applicable Order, and supersedes all prior and contemporaneous understandings, agreements, negotiations, representations and warranties, and communications with respect thereto, both written and oral.