

AMERICAN TEXTILE COMPANY, INCORPORATED
STANDARD TERMS AND CONDITIONS OF PURCHASE

1. ACCEPTANCE OF TERMS. This document creates a binding legal agreement between American Textile Company, Incorporated, a Pennsylvania corporation (“Buyer”), and the party contracting to provide goods hereunder (“Seller”). Seller agrees to be bound by and to comply with all terms set forth herein and in the purchase order to which these terms are attached and are expressly incorporated by reference, together with any written amendments, supplements, specifications and other documents referred to herein or therein, including without limitation, Buyer’s Policies and Procedures for Quality Assurance and General Requirements for Fabrics and Articles Constructed from Fabric attached hereto and incorporated by reference herein (collectively, the “Purchase Order”). Acknowledgement of this Purchase Order by any means, including without limitation, by beginning performance of the work or supply of the goods called for by this Purchase Order, shall be deemed acceptance of this Purchase Order. If Seller allows ten (10) days to lapse from the time the Purchase Order is received by Seller, neither accepting the order in the manner indicated above nor giving Buyer written notice of rejection of the order, then the Purchase Order will be deemed accepted by Seller. The terms set forth in this Purchase Order take precedence over any alternative terms in any other document connected with this transaction unless such alternative terms are: (i) part of a written agreement (“Supply Agreement”), which has been negotiated between the parties and which the parties have expressly agreed may override these terms in the event of a conflict and/or (ii) set forth on the face of the Purchase Order to which these terms are attached. In the event these terms are part of a written Supply Agreement between the parties, the term “Purchase Order” used herein shall mean any purchase order issued under the Supply Agreement. This Purchase Order may not be amended, modified or any requirement of this Purchase Order waived except by a written document manually signed by an authorized officer of Buyer and Seller that references the specific Purchase Order in question. This Purchase Order does not constitute an acceptance by Buyer of any offer to sell, any quotation, or any proposal. Reference in this Purchase Order to any such offer to sell, quotation or proposal shall in no way constitute a modification of any of the terms of this Purchase Order. ANY ATTEMPTED CONFIRMATION OR ACKNOWLEDGMENT BY SELLER THAT CONTAINS TERMS INCONSISTENT WITH OR IN ADDITION TO THE TERMS OF THIS PURCHASE ORDER IS NOT BINDING UNLESS SPECIFICALLY ACCEPTED BY BUYER IN WRITING. THIS PURCHASE ORDER EXPRESSLY LIMITS ACCEPTANCE TO THE TERMS OF THIS OFFER AND BUYER HEREBY OBJECTS TO AND REJECTS ANY DIFFERENT OR ADDITIONAL TERMS CONTAINED IN ANY RESPONSE TO THIS PURCHASE ORDER. IN ADDITION TO THE OTHER TERMS IN THIS PURCHASE ORDER, THIS PURCHASE ORDER EXPRESSLY INCLUDES ALL IMPLIED WARRANTIES AND ALL OF THE BUYER’S REMEDIES SET FORTH IN THE UNIFORM COMMERCIAL CODE. EXCEPT AS STATED ABOVE, THE TERMS OF THIS PURCHASE ORDER ARE THE SOLE AND EXCLUSIVE TERMS ON WHICH THE BUYER AGREES TO BE BOUND.

2. PRICES AND PAYMENTS.

(a) All pricing shall be set forth in detail in the Purchase Order, and the prices specified in the Purchase Order are firm, and not subject to any additional charges for packing or preparation for shipment or because of increased costs of operation, or because of any taxes or excises levied on processors, manufactures, and wholesalers or otherwise. The Purchase Order shall not, without written authorization from Buyer, be filled at higher prices than specified therein. Any price reduction made in the goods described in the Purchase Order prior to the delivery of such goods shall be applicable to the Purchase Order. Seller’s price includes all payroll and/or occupational taxes, any value added tax that is not recoverable by Buyer and any other taxes, fees and/or duties applicable to the goods and/or services purchased under this Purchase Order; provided, however, that any state and local sales, use, excise and/or privilege taxes, if applicable, will not be included in Seller’s price but will be separately identified on Seller’s invoice. If Seller is obligated by law to charge any value added and/or similar tax to Buyer, Seller shall ensure that if such value-added and/or similar tax is applicable, that it is invoiced to Buyer in accordance with applicable rules so as to allow Buyer to reclaim such value-added and/or similar tax from the appropriate government authority. Neither party is responsible for taxes on the other party’s income or the income of the other party’s personnel or subcontractors. If Buyer is required by government regulation to withhold taxes for which Seller is responsible, Buyer will deduct such withholding tax from payment to Seller and provide to Seller a valid tax receipt in Seller’s name. If Seller is exempt from such withholding taxes as a result of a tax treaty or other regime, Seller shall provide to Buyer a valid tax treaty residency certificate or other tax exemption certificate at a minimum of thirty (30) days prior to payment being due. Seller warrants the pricing for any goods or services shall not exceed the pricing for the same or comparable goods or services offered by Seller to third parties. Seller shall promptly inform Buyer of any lower pricing levels for same or comparable goods or services and the parties shall promptly make the appropriate price adjustment.

(b) Unless otherwise stated on the face of this Purchase Order, payment terms are net due ninety (90) days from the later of the required date identified on the Purchase Order, the received date of the goods and/or services in Buyer’s receiving system or the date of receipt of valid invoice by Buyer. Buyer shall be entitled to reject Seller’s invoice if it fails to include Buyer’s Purchase Order number or is otherwise inaccurate, and any resulting delay in payment shall be Seller’s responsibility. Seller warrants that it is authorized to receive payment in the currency stated in this Purchase Order. No extra charges of any kind will be allowed unless specifically agreed in writing by Buyer. Buyer reserves the right to deduct from any amount due Seller for goods ordered any amount Seller owes Buyer with respect to any claims of any nature whatsoever in favor of Buyer against

Seller, whether or not related to the Purchase Order and whether now existing or hereafter arising. Buyer reserves the right to withhold any payments due Seller, without penalty or forfeiture, until all disputes (whether or not related to the Purchase Order and whether or not existing or arising in the future) between Buyer and Seller, are settled. Any assignee of Seller's rights to payment hereunder shall be subject to Buyer's rights under this paragraph.

3. **WARRANTIES.** Seller covenants, represents and warrants to Buyer, in addition to all warranties expressed or implied at law, that the goods and the use, importation, design, construction, assembly, production, shipment, sale, packaging, labeling, packing, advertising, instructions and warnings or lack thereof and other printed matter furnished or authorized by Seller, shall (a) be new and of merchantable quality, free from defects in design, workmanship and/or materials, including, without limitation, such defects as could create a risk of injury or damage to persons or property; (b) be fit and suitable for their intended end use; (c) be manufactured, packed for shipment, marked with the country of origin or other information required by law or regulation and where required, be registered, all in accordance with applicable federal, state and local laws, and the laws of any United States Commonwealth or territory where Buyer does business, including the Commonwealth of Puerto Rico, and all orders and regulations promulgated there under; (d) (i) not infringe or encroach upon any party's personal, contractual or proprietary rights, including patent, designing trademark, trade name, service mark, copyright, right of privacy or publicity or trade secret rights; collectively hereafter ("Proprietary Rights") or (ii) not have been or be the subject of any allegation by any party alleging violation of such party's Proprietary Rights; (e) not violate or breach any agreement that Seller may have with any other person or entity, including any other manufacturer, distributor or end user; (f) conform to all specifications and other descriptions set forth or incorporated in the Purchase Order and all goods provided to and accepted by Buyer as samples; (g) possess all performance qualities and characteristics claimed in advertisements or representations made, issued or authorized by Seller; (h) be in conformity with the Federal Food, Drug and Cosmetics Act, the Federal Insecticide, Fungicide and Rodenticide Act, the Federal Trade Commission Act or any other federal, state or local law, and the laws of any United States Commonwealth or territory where Buyer does business, including the Commonwealth of Puerto Rico, and all orders and regulations promulgated there under; (i) be properly stamped, tagged, labeled, or marked with such information as may be required by any applicable law, regulation or order or by Buyer; (j) be well within any expiration date indicated on the packaging of the goods; (k) have been stored under proper conditions to preserve the quality of the goods; and (l) meet all applicable requirements of all applicable United States federal, state and local laws and regulations and of all applicable laws and regulations of jurisdictions outside the United States. Seller also represents and warrants that (m) the weights, measures and sizes of all goods shall be as represented and conform to all standards, regulations and requirements of any federal, state or local governmental authorities having jurisdiction, and any United States Commonwealth or territory where Buyer does business, including the Commonwealth of Puerto Rico; (n) the prices, terms and conditions of sale hereunder and any discount, rebate or allowance for advertising or otherwise granted by Seller in connection herewith are not in violation of the Robinson-Patman Act and are in compliance with all applicable laws and regulations; and (o) no forced labor or child labor shall be or was utilized in connection with the manufacture of the goods. Seller's representations and warranties herein shall survive the delivery of goods to Buyer and any resale of goods by Buyer and any attempt by Seller to limit, disclaim or restrict any such warranties or remedies by acknowledgment or otherwise shall be null, void and ineffective. The above warranties shall apply for twenty-four (24) months from delivery of the goods, or such longer period of time as customarily provided by Seller or as provided under the Uniform Commercial Code, as extended for delays such as those due to non-conforming goods and services. The warranties shall apply to Buyer, its successors, assigns and the users of goods and services covered by this Purchase Order. If any of the goods are found to be defective or otherwise not in conformity with the warranties in this Section during the warranty period, then, Buyer, in addition to any other rights, remedies and choices it may have by law, contract or at equity, and in addition to seeking recovery of any and all damages and costs emanating therefrom, at its option and sole discretion and at Seller's expense may: a) require Seller to replace nonconforming goods with goods and/or services that conform to all requirements of this Purchase Order; b) take such actions as may be required to cure all defects and/or bring the goods into conformity with all requirements of this Purchase Order, in which event all related costs and expenses (including, but not limited to, material, labor and handling costs) and other reasonable charges shall be for Seller's account; and/or c) reject and return all or any portion of such goods. Any repaired or replaced goods shall carry warranties on the same terms as set forth above, with the warranty period being the greater of the original unexpired warranty or twenty-four (24) months after repair or replacement.

4. **PACKING AND MARKING.** Seller shall package and mark all goods with the country of origin or other information required by law or regulation and otherwise in accordance with Buyer's instructions. Seller shall pack each shipment and include such information and markings as required by the Purchase Order. Any mixed shipments shall be loaded by style number. Without limiting the foregoing, a packing list must be enclosed in all shipments showing Buyer's purchase order number and the exact quantity and description of goods shipped. If the goods are not accompanied by a packing slip, Buyer's count or weight shall be conclusive. Buyer shall have the right to verify through any reasonable means all quantities of goods (whether by weight, length, count or otherwise).

5. **SAMPLES.** For each Purchase Order, Seller shall supply to Buyer free of charge a reasonable quantity of samples of all goods to be purchased thereunder for approval by Buyer as provided below and in accordance with Buyer's quality standards and the applicable terms, conditions and specifications prior to shipment of any goods to Buyer. Buyer and/or Buyer's customer tests and inspections of such samples are a material condition of this Purchase Order; as such, no goods shall be shipped without Buyer's inspector's release or Buyer's written waiver of test/inspection with respect to each such sample; however, Buyer shall

not be permitted to unreasonably delay shipment. Buyer's failure to inspect, accept, reject or detect defects by inspection shall neither relieve Seller from responsibility for such goods or services that are not in accordance with the Purchase Order requirements nor impose liabilities on Buyer.

6. **QUALITY CONTROL; PLANT ACCESS/INSPECTION.** Seller shall implement and maintain a quality management system acceptable to Buyer. Seller's system, including the procedures, is subject to Buyer's review and evaluation throughout the period of performance of the Purchase Order, provided that Buyer's review and evaluation shall not waive or alter the obligations and liability of Seller under this Purchase Order. Without limiting the foregoing, in order to assess Seller's work quality, conformance with Buyer's specifications and compliance with this Purchase Order, upon reasonable notice by Buyer, all (i) goods, materials and services related in any way to the goods and services purchased hereunder (including without limitation raw materials, components, intermediate assemblies, work in process, tools and end products) shall be subject to inspection and test by Buyer and its customer or representative at all times and places, including sites where the goods and services are created or performed, whether they are at premises of Seller, Seller's suppliers or elsewhere; and (ii) Seller's books and records relating to this Purchase Order shall be subject to inspection by Buyer.

7. **TESTS AND REGISTRATIONS.** Seller, at its sole cost and expense, shall perform, or cause to be performed, all tests on the goods required by the Customer Product Safety Commission and any other federal, state and local laws, or the laws of any United States Commonwealth or territory where Buyer does business, including the Commonwealth of Puerto Rico, and shall maintain for a period of not less than three (3) years certificates indicating that all applicable tests have been administered and passed. Such tests shall be conducted by a nationally recognized testing agency. Seller shall make available, and at Buyer request shall furnish, to Buyer copies of such certificates and shall permit Buyer or any person or persons authorized by Buyer to inspect and make copies of all records maintained by Seller in connection with such tests. Seller shall obtain and provide to Buyer upon request any and all registration numbers, license numbers, or the like, required by any federal, state, local, foreign, provincial or territorial governmental agency or authority having jurisdiction over the goods type in question, the sale of such goods, and/or any claims made regarding the goods or any of its qualities.

8. **CHANGES.** Buyer may at any time make changes in written, electronic or facsimile form to any Purchase Order, including changes in the drawings or specifications, methods of shipment, warranties, packing, or time or place of delivery at any time. Any Seller claim for adjustment will be deemed waived unless asserted within ten (10) days from Seller's receipt of the change or suspension notification, and may only include reasonable, direct costs that will necessarily be incurred as a direct result of the change.

9. **COMPLIANCE WITH LAWS.**

(a) *General.* Seller represents, warrants, certifies and covenants (collectively "Covenants") that it will comply with all laws applicable to the goods, services and/or the activities contemplated or provided under this Purchase Order, including, but not limited to, any national, international, federal, state, provincial or local law, treaty, convention, protocol, common law, regulation, directive or ordinance and all lawful orders, including judicial orders, rules and regulations issued thereunder, including without limitation those dealing with the environment, health and safety, employment, records retention, personal data protection and the transportation or storage of hazardous materials. Seller shall also comply with good industry practices, including the exercise of that degree of skill, diligence, prudence and foresight which can reasonably be expected from a competent Seller who is engaged in the same type of service or manufacture under similar circumstances in a manner consistent with all applicable requirements and with all applicable generally recognized international standards. Seller further agrees at Buyer's request to provide certificates relating to any applicable legal requirements or to update any and all of the certifications, representations and warranties under this Purchase Order in form and substance satisfactory to Buyer. Buyer shall have the right to audit all pertinent records of Seller, and to make reasonable inspections of Seller facilities, to verify compliance with this Section. With respect to any goods or other materials sold or otherwise transferred to Buyer hereunder, Seller shall provide all relevant information, including without limitation, material safety data sheets in the language and the legally required format of the location to which the goods will be shipped and mandated labeling information, required pursuant to applicable requirements. It shall be Seller's obligation to see that all goods are marked with the country of origin or other information required by law or regulation and where required, be registered, all in accordance with applicable federal, state and local laws. Seller also shall be responsible for obtaining and complying with applicable textile visa documents or quota charge statements.

(b) *Miscellaneous; Seller Employment Practices.* Seller Covenants that no goods or services supplied under this Purchase Order have been or will be produced: (i) utilizing forced, indentured or convict labor; (ii) utilizing the labor of persons in violation of the minimum working age law in the country of manufacture of the goods or any country in which services are provided under this Purchase Order; or (iii) in violation of minimum wage, hour of service, or overtime laws in the country of manufacture or any country in which services are provided under this Purchase Order. Seller will not employ anyone under the age of 15, and/or younger than the age for completing compulsory education, or under the minimum ages established by applicable law in the country of manufacturer, if higher than the age of 15. Furthermore, Seller any kind will not expose anyone under the age of 18 to situations in or outside of the workplace that are hazardous, unsafe, or unhealthy and will provide adequate protection from exposure to hazardous conditions or materials. If forced or prison labor, or child labor below applicable minimum working age, is determined to have been used in connection with this Purchase Order, Buyer shall have the right to

immediately terminate the Purchase Order without further compensation. Buyer expects Seller to treat every employee, customer and business partner with respect and dignity. No employee will be subject to any physical, sexual, psychological or verbal harassment or abuse. Although Buyer recognizes cultural differences exist, it is Buyer's intent not to pursue business relationships with vendors who discriminate in employment, including hiring, salary, benefits, advancement, discipline, termination or retirement on the basis of gender, race, religion, age, disability, sexual orientation, nationality, marital or maternity status, work or personal affiliations, political opinion or social or ethnic origin; Seller agrees to provide small business as well as minority and/or women-owned business utilization and demographic data upon request. Seller shall set wages, overtime pay, and legally mandated benefits and allowances in compliance with all applicable laws. Seller's workers shall be paid at least the minimum legal wage or a wage that meets applicable industry standards, whichever is greater. Buyer seeks vendors who provide written standards for safe and healthy work environments for their workers, including adequate facilities and protections from exposure to hazardous conditions or materials. These provisions must include safe and healthy conditions for any Seller-provided dormitories and residential facilities, and they must comply with local health and safety laws and standards.

(c) *Anti-Dumping.* Seller represents, warrants, certifies and covenants that all sales made hereunder are made in circumstances that will not give rise to the imposition of new anti-dumping or countervailing duties under United States law (19 U.S.C. Sec. 1671 et seq.) and similar laws in such jurisdictions or the law of any other country to which the goods may be exported. To the full extent permitted by law, Seller will indemnify, defend and hold Buyer harmless from and against any costs or expenses (including any countervailing duties which may be imposed and, to the extent permitted by law, any preliminary dumping duties that may be imposed) arising out of or in connection with any breach of this warranty. In the event that countervailing or anti-dumping duties are imposed that cannot be readily recovered from Seller, Buyer may terminate this Purchase Order with no further liability of any nature whatsoever to Seller hereunder. In the event that any jurisdiction imposes punitive or other additional tariffs on goods subject to this agreement in connection with a trade dispute or as a remedy in an "escape clause" action or for any other reason, Buyer may, at its option, treat such increase in duties as a condition of force majeure.

(d) *Importer of Record and Drawback.* Unless otherwise stated on the face of this Purchase Order, goods shall be delivered DDP named point (INCOTERMS 2000), and Seller agrees that Buyer will not be a party to the importation of the goods, that the transaction(s) represented by this Purchase Order will be consummated after importation and that Seller will neither cause nor permit Buyer's name to be shown as "importer of record" on any customs declaration. Seller also confirms that it has Non-Resident importation rights, if necessary, into the destination country with knowledge of the necessary import laws. If Seller is the importer of record into the United States for any goods, including any component parts thereof, associated with this Purchase Order, Seller shall provide Buyer required documentation for Duty Drawback purposes which includes, but is not limited to, Customs Form 7552 entitled "Certificate of Delivery" properly executed as well as Customs Form 7501 "Entry Summary" and a copy of Seller's Invoice.

(e) *U.S. Export Controls.* Seller agrees and gives assurance that no items, equipment, materials, services, technical data, technology, software or other technical information or assistance furnished by Buyer, or any good or product resulting therefrom, shall be exported or re-exported by Seller or its authorized transferees, if any, directly or indirectly, except to the consignee(s), if any, specified on this Purchase Order, unless in accordance with applicable U.S. export laws and regulations. The aforesaid obligations shall survive any satisfaction, expiration, termination or discharge of any other contract obligations.

10. DELIVERY AND PASSAGE OF TITLE.

(a) Time is of the essence of this Purchase Order. Buyer shall be entitled to recover damages that it incurs as a result of Seller's failure to perform as scheduled. Unless expressly stated to the contrary, Buyer's remedies are cumulative and Buyer shall be entitled to pursue any and all remedies available at law or equity. Time is hereby made of the essence of the Order. If delivery of goods is not completed by the date set forth in the Purchase Order, Buyer reserves the right, without liability and in addition to its other rights and remedies at law, in equity or under the terms of the Purchase Order, to purchase elsewhere and hold Seller liable for any additional loss, cost, damage or expense incurred thereby. Seller shall pay any loss, cost, damage or expense resulting from the untimely receipt of the goods ordered. Seller shall notify Buyer immediately if it is unable to ship timely. Buyer shall have the right to refuse any goods with untimely delivery and to cancel the balance of the Purchase Order for any part of the goods due after untimely delivery of any installments. By accepting the untimely delivery of any installment, Buyer shall not be bound to accept future shipments nor be deprived of its right to return goods already accepted nor to claim damages for untimely delivery. If Buyer accepts any advance shipment (other than requested by it) under any Purchase Order, payment terms on such shipment shall be computed from the required shipping date.

(b) Unless otherwise stated on the face of this Purchase Order, goods shall be delivered DDP named point with title passing at Buyer's dock or at Buyer's designated facility. All delivery designations are INCOTERMS 2000. Goods delivered to Buyer in advance of schedule may be returned to Seller at Seller's expense. NOTE: In all cases, Seller must provide to Buyer, via the packing list and the customs invoice (as applicable), the country of origin and the appropriate export classification codes including, if applicable, the Export Control Classification Number (ECCN) and the Harmonized Tariff Codes of each and every one of the goods supplied pursuant to this Purchase Order, including in sufficient detail to satisfy applicable trade preferential or customs agreements, if any.

(c) If goods will cross an international border, Seller shall provide a commercial invoice as required for customs clearance. The invoice shall be in English, or destination country specific language, and shall include: contact names and phone numbers of persons at Buyer and Seller who have knowledge of the transaction; Buyer's order number; Buyer's order line item; release number (in the case of a blanket order); part number and detailed description of the goods; unit purchase price in currency of the transaction; quantity; INCOTERM and named location; and country of origin of the goods. In addition, all goods or services provided by Buyer to Seller for the production of goods not included in the purchase price shall be separately identified on the invoice (i.e., consigned material, etc.). Each invoice shall also include the applicable Purchase Order number or other reference information for any consigned goods and shall identify any discounts or rebates from the base price used in determining the invoice value.

(d) If goods will be delivered to a destination country having a trade preferential or customs union agreement ("Trade Agreement") with Seller's country, Seller shall cooperate with Buyer to review the eligibility of the goods for any special program for Buyer's benefit and provide Buyer with any required documentation (e.g., NAFTA or CAFTA Certificate, EUR1 Certificate, GSP Declaration, FAD or other Certificate of Origin) to support the applicable special customs program (e.g., NAFTA or CAFTA, EEA, Lome Convention, GSP, EU-Mexico FTA, EU/Mediterranean partnerships, etc.) to allow duty free or reduced duty for entry of goods into the destination country. Similarly, should any Trade Agreement or special customs program applicable to the scope of this Purchase Order exist at any time during the execution of the same and be of benefit to Buyer in Buyer's judgment, Seller shall cooperate with Buyer's efforts to realize any such available credits, including counter-trade or offset credit value which may result from this Purchase Order and acknowledges that such credits and benefits shall inure solely to Buyer's benefit. Seller shall indemnify Buyer for any costs, fines, penalties or charges arising from Seller's inaccurate documentation or untimely cooperation. Seller shall immediately notify Buyer of any known documentation errors.

11. **ORDER POSTPONEMENT.** Buyer shall have the right to require Seller to postpone shipment of goods or suspend work covered by the Purchase Order and Seller shall take all reasonable steps or minimize costs during such suspension.

12. **ORDER TERMINATION WITHOUT CAUSE.** In addition to Buyer's right to terminate a Purchase Order for cause as provided below, Buyer may terminate a Purchase Order in whole or in part at any time upon notice to Seller. On receipt by Seller of such notice, Seller shall, to the extent specified therein, stop work there under and the placement of work with subcontractors, terminate work under subcontracts outstanding there under, and take any necessary action to protect property in Seller's possession in which Buyer has or may acquire an interest. Any termination by Buyer whether for cause or otherwise, shall be without prejudice to any claims for damages or other rights of Buyer against Seller and Seller shall continue performance of the Purchase Order to the extent not terminated.

13. **RIGHT TO REFUSE GOODS.** Without limiting any other right of Buyer herein, Buyer shall have the right to reject and refuse goods that are not in strict accordance with the terms of the Purchase Order, the specifications or industry standard, or which are different in quality or quantity from that ordered, or which are shipped other than as specified under the Purchase Order or which are believed by Buyer to violate a third party's Proprietary Rights or is alleged to violate a third party's Proprietary Rights. Buyer may, at its sole discretion, either return rejected goods or hold same at Seller's risk and expense and may, in either event, charge the Seller with the cost of transportation, shipping, unpacking, examining, repacking, storing, reshipping and other like expenses. If Seller fails to accept goods returned by Buyer, then Buyer shall have the right to dispose of such goods by any means. If within thirty-six (36) days after a request by Buyer for direction regarding disposition of rejected goods, Seller does not respond to Buyer, then Buyer shall have the right to dispose of the goods by any means. Acceptance of any prior shipments contrary to the Purchase Order shall not be considered a waiver of Buyer's right to return any or all of the goods and receive full credit therefore. Authorization for substitution of style, color, size, quantity or other departure from the terms of the Purchase Order, is permitted only upon the written, signed and dated consent of Buyer. Any claims made by Buyer for defective goods, shortages, returns, damages, or other claim of set off asserted as a result of Seller's failure to comply with this Purchase Order will be charged back to Seller and the amount thereof deducted from payments to be made to Seller or, at Buyer's option, will be promptly refunded to Buyer.

14. **RIGHT TO REJECT AND RETURN GOODS.** Without limiting any other right of Buyer herein, Buyer may at any time after delivery of the goods (and whether or not the same have been accepted by Buyer) reject and return all or part of the goods if any part is found to be in a damaged or defective condition, if believed by Buyer to violate a third party's Proprietary Rights, or if alleged to violate a third party's Proprietary Rights. Seller shall refund to Buyer in full the price paid by Buyer for such returned goods. Any goods so returned shall be at Seller's risk, expense and Seller shall be responsible for all freight and handling charges.

15. **BUYER'S PROPERTY.** Unless otherwise agreed in writing, all goods, Proprietary Rights and Confidential Information (defined below) supplied by Buyer or which are distinctive of Buyer's private label or licensed label merchandise or which contain any Proprietary Rights of Buyer or which are created at the request of Buyer (collectively "Special Features") shall be the property of Buyer and shall be used by Seller only for Buyer for Buyer's benefit. All goodwill accruing shall be for and inure to the benefit of Buyer. All intellectual property associated with products created by Seller which includes Special Features, Buyer's proprietary information or which was created at the request of Buyer shall be and hereby is assigned to Buyer. Buyer may use Special Features as it sees fit on or with respect to goods manufactured by others. Goods with Special Features which are not delivered to Buyer for any reason shall not be sold or transferred to any third party without Buyer's prior written authorization,

and unless and until all labels, tags, packaging and markings making use of the Special Features or otherwise identifying the goods to Buyer have been removed. All such intellectual property that is protectable by copyright will be considered work(s) made for hire for Buyer (as the phrase "work(s) made for hire" is defined in the United States Copyright Act (17 U.S.C. § 101)) or Seller will give Buyer "first owner" status related to the work(s) under local copyright law where the work(s) was created. If by operation of law any such intellectual property is not owned in its entirety by Buyer automatically upon creation, then Seller agrees to transfer and assign to Buyer, and hereby transfers and assigns to Buyer, the entire right, title and interest throughout the world to such intellectual property. Seller further agrees to enter into and execute any documents that may be required to transfer or assign ownership in and to any such intellectual property to Buyer.

16. **INTELLECTUAL PROPERTY INDEMNIFICATION.** Seller shall indemnify, defend and hold Buyer harmless from all costs and expenses related to any suit, claim or proceeding brought against Buyer or its customers based on a claim that any article or apparatus, or any part thereof constituting goods or services furnished under this Purchase Order, as well as any device or process necessarily resulting from the use thereof, constitutes an infringement of any patent, copyright, trademark, trade secret or other intellectual property right of any third party. Buyer shall notify Seller promptly of any such suit, claim or proceeding and give Seller authority, information, and assistance (at Seller's expense) for the defense of same, and Seller shall pay all damages and costs awarded therein. If use of said article, apparatus, part, device or process is enjoined, Seller shall, at its own expense and at its option, either procure for Buyer the right to continue using said article or apparatus, part, process or device, or replace same with a non-infringing equivalent.

17. **CONFIDENTIAL OR PROPRIETARY INFORMATION AND PUBLICITY.** Seller shall keep confidential any technical, process, proprietary or economic information derived from drawings, specifications and any other data and/or information furnished by Buyer in connection with this Purchase Order (the "Confidential Information") and shall not divulge, directly or indirectly, the Confidential Information for the benefit of any other party without Buyer's prior written consent. Confidential Information shall also include any notes, summaries, reports, analyses or other material derived by Seller in whole or in part from the Confidential Information in whatever form maintained (collectively, "Notes"). Except as required for the efficient performance of this Purchase Order, Seller shall not use or permit copies to be made of the Confidential Information without Buyer's prior written consent. If any such reproduction is made with prior written consent, notice referring to the foregoing requirements shall be provided thereon. The restrictions in this Section regarding the Confidential Information shall be inoperative as to particular portions of the Confidential Information disclosed by Buyer to Seller if such information: (i) is or becomes generally available to the public other than as a result of disclosure by Seller; (ii) was available on a non-confidential basis prior to its disclosure to Seller; (iii) is or becomes available to Seller on a non-confidential basis from a source other than Buyer when such source is not, to the best of Seller's knowledge, subject to a confidentiality obligation with Buyer, or (iv) was independently developed by Seller, without reference to the Confidential Information, and Seller can verify the development of such information by written documentation. Upon completion or termination of this Purchase Order, Seller shall promptly return to Buyer all Confidential Information, including any copies thereof, and shall destroy (with such destruction certified in writing by Seller) all Notes and any copies thereof. Any knowledge or information, which Seller shall have disclosed or may hereafter disclose to Buyer and which in any way relates to the goods or services purchased under this Purchase Order (except to the extent deemed to be Buyer's Property as set forth herein), shall not be deemed to be confidential or proprietary and shall be acquired by Buyer free from any restrictions (other than a claim for infringement) as part of the consideration for this Purchase Order and notwithstanding any copyright or other notice thereon, Buyer shall have the right to use, copy, modify and disclose the same as it sees fit. Seller shall not make any announcement, take or release any photographs (except for its internal operation purposes for the manufacture and assembly of the goods), or release any information concerning this Purchase Order or any part thereof or with respect to its business relationship with Buyer, to any third party, member of the public, press, business entity, or any official body except as required by applicable law, rule, injunction or administrative order without Buyer's prior written consent.

18. **TERMINATION.**

(a) *Termination for Default.* Except for delay due to causes beyond the control and without the fault or negligence of Seller and all of its suppliers (lasting not more than 60 days), Buyer, without liability, may by written notice of default, terminate the whole or any part of this Purchase Order: (a) if Seller fails to perform within the time specified or in any written extension granted by Buyer; (b) if Seller fails to make progress which, in Buyer's reasonable judgment, endangers performance of this Purchase Order in accordance with its terms; (c) if Buyer receives notice of an allegation of Proprietary Rights infringement or believes that there may be an infringement of Proprietary Rights regarding the goods that are the subject matter of the Purchase Order; or (d) if Seller fails to comply with any of the other terms of this Purchase Order. Such termination shall become effective if Seller does not cure such failure within ten (10) days of receiving notice of default. Upon termination, Buyer may procure at Seller's expense and upon terms it deems appropriate, goods or services similar to those so terminated. Seller shall continue performance of this Purchase Order to the extent not terminated and shall be liable to Buyer for any excess costs for such similar goods or services. As an alternate remedy and in lieu of termination for default, Buyer, at its sole discretion, may elect to extend the delivery schedule and/or waive other deficiencies in Seller's performance, making Seller liable for any costs, expenses or damages arising from any failure of Seller's performance. If Seller for any reason anticipates difficulty in complying with the required delivery date, or in meeting any of the other requirements of this Purchase Order, Seller shall promptly notify Buyer in writing. If Seller does not comply with Buyer's delivery schedule, Buyer may require delivery by fastest method and charges

resulting from the premium transportation must be fully prepaid by Seller. Buyer's rights and remedies in this clause are in addition to any other rights and remedies provided by law, equity or under this Purchase Order.

(b) *Termination for Insolvency/Prolonged Delay.* If Seller ceases to conduct its operations in the normal course of business or fails to meet its obligations as they mature or if any proceeding under the bankruptcy or insolvency laws is brought by or against Seller, a receiver for Seller is appointed or applied for, an assignment for the benefit of creditors is made or an excused delay (or the aggregate time of multiple excused delays) lasts more than 60 days, Buyer may immediately terminate this Purchase Order without liability, except for goods or services completed, delivered and accepted within a reasonable period after termination (which will be paid for at the Purchase Order price).

(c) *Obligations on Termination.* Upon expiration or after receipt of a notice of termination for any reason, Seller shall immediately: (1) stop work as directed in the notice; (2) place no further subcontracts or purchase orders for materials, services or facilities hereunder, except as necessary to complete the continued portion of this Purchase Order; and (3) terminate all subcontracts to the extent they relate to work terminated. After termination, Seller shall deliver to Buyer all completed work and work in process, including all designs, drawings, specifications, other documentation and material required or produced in connection with such work and all of Buyer's Confidential Information as set forth herein.

19. INDEMNITY AND INSURANCE.

(a) *Indemnity.* Seller shall defend, indemnify, release and hold harmless Buyer, its directors, officers, employees, agents representatives, successors and assigns, whether acting in the course of their employment or otherwise, against any and all suits, actions, or proceedings, at law or in equity, and from any and all claims, demands, losses, judgments, fines, penalties, damages, costs, expenses, or liabilities (including without limitation claims for personal injury or property or environmental damage, claims or damages payable to customers of Buyer) arising from any act or omission of Seller, its agents, employees, or subcontractors, except to the extent attributable to the sole and direct gross negligence of Buyer. Seller further agrees to indemnify Buyer for any attorneys' fees or other costs that Buyer incurs in the event that Buyer has to file a lawsuit to enforce any indemnity or additional insured provision of this Purchase Order.

(b) *Insurance.* Seller shall maintain the following insurance: (i) Comprehensive General Liability in the minimum amount of \$3,000,000 combined single limit per occurrence with coverage for bodily injury/property damage, including coverage for contractual liability insuring the liabilities assumed in this Purchase Order, products liability and completed operations, contractors protective liability, where applicable, collapse or structural injury and/or damage to underground utilities, where applicable; (ii) Business Automobile Liability Insurance covering Comprehensive Automobile Liability covering bodily injury/property damage and all owned, hired and non-owned automotive equipment used in the performance of the Purchase Order in the amount of \$2,000,000 combined single limit each occurrence; (iii) Employers' Liability in the amount of \$1,000,000 each occurrence; (iv) Property Insurance covering the full value of all goods and services owned, rented or leased by Seller in connection with this Purchase Order and covering damage to property in Seller's care, custody and control; and (v) appropriate Workers' Compensation Insurance protecting Seller from all claims under any applicable Workers' Compensation and Occupational Disease Act. Coverage similar to Workers' Compensation and Employers' Liability shall be obtained for each local employee outside the United States where work in connection with this Purchase Order is performed. Buyer shall be named as additional insured under Seller's Comprehensive General Liability policy for any and all purposes arising out of or connected to this Purchase Order. Upon request, Seller shall furnish Buyer an endorsement showing that Buyer has been named an additional insured and a certificate of insurance completed by its insurance carrier(s) certifying that insurance coverages are in effect and will not be canceled or materially changed except ten (10) days after Buyer's written approval. Seller hereby waives subrogation. All insurance specified in this section shall contain a waiver of subrogation in favor of Buyer, its Affiliates and their respective employees for all losses and damages covered by the insurances required in this section, including coverage for damage to Buyer's property in Seller's care, custody or control.

20. **ASSIGNMENT AND SUBCONTRACTING.** Seller may not assign (including by change of ownership or control, by operation of law or otherwise) this Purchase Order or any interest herein including payment, without Buyer's prior written consent. Seller shall not subcontract or delegate performance of all or any substantial part of the work called for under this Purchase Order without Buyer's prior written consent. Should Buyer grant consent to Seller's assignment or subcontract, such assignee or subcontractor shall be bound by the terms and conditions of this Purchase Order. If Seller (with Buyer's written consent) subcontracts any part of the work under this Purchase Order outside of the final destination country where the goods purchased hereunder will be shipped, Seller shall be responsible for complying with all customs requirements related to such subcontracts, unless otherwise set forth in this Purchase Order.

21. **BANKRUPTCY OF SELLER.** Any sums payable to Seller shall be subject to all claims and defenses of Buyer, and Buyer may deduct and set off against any such sums all present and future indebtedness of Seller to Buyer. In addition to the foregoing set off rights between Buyer and Seller, Buyer shall be entitled to set off all obligations owed to Seller, Seller's divisions, departments, subsidiaries, affiliates and other related entities (the "Related Entities") against any claims Buyer may have against any or all of the Related Entities, as if: (i) a debt existed from Buyer to the Related Entities or any one of them, (ii) Buyer had a claim against the Related Entities or any one of them, and (iii) the debt and the claim are mutual obligations. For the purpose of this section, Seller and each of the Related Entities expressly consent to the set off rights afforded herein as they

affect the Related Entities. The parties further agree that these set off rights will be applicable and fully enforceable in the event Seller or any of the Related Entities commence a voluntary bankruptcy proceeding or become the subject of an involuntary bankruptcy petition under Title 11 of the United States Code. Buyer shall provide a copy of the deduction statements for debt it has taken against the Seller's account as a result of any deductions or set offs. Seller shall be deemed to have accepted each such deduction or set off unless Seller, within 90 days of receipt of the deduction statement notifies Buyer in writing as to why a deduction or set off should not be taken and provides documentation of the reason(s) given. Buyer shall not be liable to Seller for any related interest of late charges pending resolution of the contested set off. In the event that either a voluntary or involuntary bankruptcy petition is commenced by or against Seller and/or any of the Related Entities under the Title 11 of the United States Code, or under any other federal or state law governing the reorganization, liquidation, assignment for the benefit of creditors, or other similar disposition of Seller or the Related Entities, Seller and the Related Entities unconditionally and irrevocably consent, to the relief from the automatic stay so as to allow Buyer to exercise its rights and remedies under the Purchase Order, including but not limited to exercising its right of set off as set forth herein. In such event, Seller and the Related Entities hereby agree that they shall not, in any manner, oppose or otherwise delay any motion filed by Buyer for relief from the automatic stay. The provisions of this section constitute a material inducement for Seller and Buyer to enter into this agreement.

22. **GOVERNING LAW.** This Purchase Order shall in all respects be governed by and interpreted in accordance with the substantive law of the Commonwealth of Pennsylvania, U.S.A., excluding its conflicts of law provisions. The parties expressly exclude application of the United Nations Convention on Contracts for the International Sale of Goods.

23. **DISPUTE RESOLUTION.** Except for claims seeking equitable relief, the parties shall attempt to amicably resolve any controversy, dispute or difference arising out of this Purchase Order. Except for claims seeking equitable relief, any unresolved dispute shall be referred to a qualified independent arbitrator acceptable to both parties. Any arbitration under this Agreement shall take place in Pittsburgh, Pennsylvania, USA. The arbitrator will have no authority to award any damages that are excluded by the terms of this Agreement. In the event that a suitable independent arbitrator cannot be identified and agreed on by both parties within twenty (20) days of the first demand by a party for arbitration, then the parties agree that a single arbitrator will be appointed by the American Arbitration Association (AAA). All arbitration proceedings shall be conducted in accordance with the Commercial Arbitration Rules of the AAA, but shall be administered by AAA only if AAA appoints the arbitrator. The arbitrator may award attorney's fees and costs as part of the award. The award of the arbitrator shall be final and binding and may be entered as a judgment in any court of competent jurisdiction. All proceedings shall be conducted in the English language, unless otherwise stated in this Purchase Order. The award shall be final and binding on both Buyer and Seller, and the parties hereby waive the right of appeal to any court for amendment or modification of the arbitrators' award.

24. **WAIVER.** No claim or right arising out of a breach of this Purchase Order can be discharged in whole or in part by a waiver or renunciation unless supported by consideration and made in writing signed by the aggrieved party. Either party's failure to enforce any provisions hereof shall not be construed a waiver of a party's right thereafter to enforce each and every such provision.

25. **NON-SOLICITATION.** Seller agrees that it will not offer employment to, employ, hire or otherwise engage the services of any person who is or has been within the preceding 180 days an employee of Buyer (except in the case of a response to a non-targeted, general solicitation).

26. **ENTIRE AGREEMENT.** This Purchase Order, with documents as are expressly incorporated by reference, is intended as a complete, exclusive and final expression of the parties' agreement with respect to the subject matter herein and supersedes any prior or contemporaneous agreements, whether written or oral, between the parties. No course of prior dealings and no usage of the trade shall be relevant to determine the meaning of this Purchase Order even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. The term "including" shall mean and be construed as "including, but not limited to", unless expressly stated to the contrary. The invalidity, in whole or in part, of any of the foregoing articles or paragraphs of this Purchase Order shall not affect the remainder of such articles or paragraphs or any other article or paragraph of this Purchase Order, which shall continue in full force and effect. Further, the parties agree to give any such article or provision deemed invalid, in whole or in part, a lawful interpretation that most closely reflects the original intention of Buyer and Seller. All provisions or obligations contained in this Purchase Order, which by their nature or effect are required or intended to be observed, kept or performed after termination or expiration of an Purchase Order will survive and remain binding upon and for the benefit of the parties, their successors (including without limitation successors by merger) and permitted assigns. Seller shall perform the services required under this Purchase Order as an independent contractor and shall have exclusive control and direction of the persons engaged by Seller to perform such services. Seller assumes full responsibility for the acts and omissions of such persons. Seller shall have exclusive liability for the payment of and compliance with regulations pertaining to local, state, and federal or other governmental entity payroll taxes or contributions, and taxes for unemployment insurance, workers' compensation, social security and/or similar or related protection for such persons, as required by applicable law.