

**FORBO FLOORING INC.
GENERAL TERMS AND CONDITIONS**

1. Applicability.

(a) These General Terms and Conditions, as amended from time to time, (the “**Terms**”) are the only terms which govern the purchase of the goods, products, materials and other items (“**Goods**”) and/or services (“**Services**”) by Forbo Flooring, Inc. (“**Buyer**”) from the seller (“**Seller**”) named or identified in: (i) a purchase order referencing these Terms; (ii) a written agreement to purchase Goods or Services between Buyer and Seller referencing these Terms; or (iii) any other order placed by Buyer for the purchase of Goods and/or Services referencing these Terms, each of which is hereinafter referred to as a “**Purchase Order**”.

(b) The Purchase Order, any other documents expressly made a part of the Purchase Order by an agreement signed by the parties, and these Terms (collectively, the “**Agreement**”) comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral, with respect to the subject matter of the Purchase Order. These Terms prevail over any of Seller’s general terms and conditions of sale regardless of whether or when Seller has submitted its sales confirmation, invoice or any other document containing such terms and conditions and these Terms expressly limit Seller’s acceptance to the terms of the Agreement. Any purported terms or conditions subsequently specified by Seller by upon acceptance or otherwise are deemed null and void and are expressly rejected. In the event of a conflict between the terms and conditions set forth in a Purchase Order and these Terms, the parties agree that these Terms shall control except to the extent, if any, that a provision in the Purchase Order explicitly provides that it is intended to override a specific provision of these Terms. Seller shall be unconditionally bound by the Terms upon the first to occur of the following: (a) Seller’s acceptance in writing (which may be in electronic form) of a Purchase Order from Buyer; (b) Seller’s acknowledgement in writing (which may be in electronic form) of a Purchase Order from Buyer; (c) Seller’s commencement of performance of the Services or delivery of the Goods; or (d) Seller’s acceptance of any payment from Buyer in the form of a deposit, a down payment, or otherwise. Buyer may withdraw the Purchase Order at any time before it is accepted by Seller.

2. Delivery of Goods and Performance of Services.

(a) Seller shall deliver the Goods in the quantities and on the date(s) specified in the Purchase Order or as otherwise agreed in writing by the parties (the “**Delivery Date**”). If no delivery date is specified, Seller shall deliver the Goods within 30 days of Seller’s receipt of the Purchase Order, which shall constitute the Delivery Date. If Seller fails to deliver the Goods in full on the Delivery Date, Buyer may terminate the Agreement or cancel a Purchase Order immediately by providing written notice to Seller and Seller shall indemnify Buyer against any losses, claims, damages, and reasonable

costs and expenses directly attributable to Seller's failure to deliver the Goods on the Delivery Date.

(b) Seller shall deliver all Goods to the address specified in the Purchase 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 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) Seller shall provide the Services to Buyer as described and in accordance with the instructions and specifications of Buyer and in accordance with the terms and conditions set forth in these Terms.

(d) Seller acknowledges that time is of the essence with respect to Seller's obligations hereunder and the timely delivery of the Goods or Services, including all performance dates, timetables, project milestones and other requirements in the Agreement.

3. Quantity. If Seller delivers more or less than the quantity of Goods ordered, Buyer may reject all or any excess Goods. Any such rejected Goods shall be returned to Seller at Seller's sole risk and expense. If Buyer does not reject the Goods and instead accepts the delivery of Goods at the increased or reduced quantity, the Price for the Goods shall be adjusted on a pro-rata basis. Buyer's acceptance of delivery Goods and/or adjustment in Price, in whole or in part, in no way constitutes a waiver or admission regarding any claims, liability or damages that may arise in relation to Seller's performance under the Agreement, regarding delivery of the Goods or otherwise. As further detailed in Section 5 below, Buyer possesses the right to inspect and reject nonconforming Goods on or after the Delivery Date. Buyer explicitly retains all rights to assert a claim for Seller's breach of the Agreement whether or not Buyer accepts delivery of Goods, in whole or in part.

4. Shipping Terms. Seller shall ship all Goods to the Delivery Point. Seller shall retain title in the Goods, and all risk of loss and liability, until the Goods are delivered to, and unloaded at, the Delivery Point, upon which title shall transfer to Buyer; except that, if Buyer rejects the Goods or any portion thereof, the risk of loss and title shall be deemed to have remained with Seller. The Purchase Order number must appear on all shipping documents, shipping labels, bills of lading, air waybills, invoices, correspondence and any other documents pertaining to the Purchase Order. Seller shall be responsible for all duties, taxes, customs, fees and insurance for the Goods, until the Goods are delivered to, and unloaded at, the Delivery Point.

5. Inspection and Rejection of Nonconforming Goods. Buyer has the right to inspect the Goods on or after the Delivery Date. Buyer, at its sole option, may inspect all or a sample of the Goods, and may reject all or any portion of the Goods if it determines the Goods are nonconforming or defective. If Buyer rejects any portion of the Goods, Buyer has, at its sole option, the right, effective upon written notice to Seller, to: (a) rescind the Agreement and/or

cancel the relevant Purchase Order in its entirety; (b) accept the Goods at a reasonably reduced price; (c) reject the Goods and require replacement of the rejected Goods; (d) seek specific performance of Seller's obligation to deliver; or (e) pursue any action or remedy in law or equity. If Buyer requires replacement of the Goods, Seller shall, at its expense, promptly replace the nonconforming or defective Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective Goods and the delivery of replacement Goods. If Seller fails to timely deliver replacement Goods, Buyer may replace them with Goods from a third party and charge Seller the cost thereof and terminate the Agreement and/or the relevant Purchase Order for cause pursuant to Section 17(a)(v). Any inspection or other action by Buyer under this Section shall not reduce or otherwise affect Seller's obligations under the Agreement, and Buyer shall have the right to conduct further inspections after Seller has carried out its remedial actions. Any payments for Goods made prior to acceptance shall not constitute an acceptance of such Goods or impair any remedies of Buyer.

6. Price. The price of the Goods and/or Services is the price stated in the Purchase Order (the "**Price**"), or, if no prices appear, then at prices no higher than those last agreed to by Buyer. Unless otherwise specified in the Purchase Order, the Price includes all packaging, transportation costs to the Delivery Point, insurance, and fees and applicable taxes. No increase in the Price is effective, whether due to increased material, labor or transportation costs or otherwise, without the prior written consent of Buyer. Seller assumes exclusive liability for all taxes, fees, duties, withholdings or like charges now imposed or hereinafter charged.

7. Most Favored Customer. Seller represents, warrants, and agrees that the Price paid by Buyer will at all times be no higher than the price currently being paid for similar Goods or Services by any other customer of Seller. Seller shall equitably adjust any Price payable by Buyer in order to comply with this Section 7. At any time Buyer so reasonably requests, an officer of Seller shall certify in writing to Buyer that Seller is in compliance with this Section and shall provide all information that Buyer reasonably requests in order to verify such compliance. In the event Buyer finds a third-party willing to sell like Goods or Services to Buyer at a price lower than the Price being paid to Seller under the Agreement, then Buyer shall notify Seller of such lower price and, upon receipt of such notice, Seller shall have ten (10) business days to meet such lower price. In the event Seller fails to meet such lower price within ten (10) business days, then Buyer shall have the option to terminate the Agreement and/or cancel the relevant Purchase Order by delivering notice thereof to Seller, effective upon receipt, with no further liability of Buyer hereunder.

8. Payment Terms. Seller shall issue an invoice to Buyer on or any time after the completion of delivery and only in accordance with these Terms. Upon Seller's complete and correct fulfillment of the Purchase Order and Buyer's acceptance of the Goods or Services, Buyer shall pay all properly invoiced amounts due to Seller on net terms 45 days after Buyer's receipt of such invoice, with a two percent (2%) discount if payment is made within ten (10) days of Buyer's receipt of such invoice, or as may otherwise be set forth in a written credit agreement signed by both parties, 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.

9. Seller's Obligations Regarding Goods and Services. Seller shall:

(a) Before the date on which the Services are to start or Goods are to be provided, obtain, and at all times during the term of the Agreement, maintain, all necessary licenses, permits and consents and comply with all relevant laws applicable to the provision of the Goods or 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 the Agreement, including records of the time spent and materials used by Seller in providing the Services in such form as Buyer shall approve. During the term of the Agreement and for a period of two years thereafter, upon Buyer's written request, Seller shall 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, which may be given or withheld in Buyer's sole discretion, 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**"). Buyer's approval shall not relieve Seller of its obligations under the Agreement, and Seller shall remain fully responsible for the performance of each such Permitted Subcontractor and its employees and for their compliance with all of the terms and conditions of the Agreement as if they were Seller's own employees. Nothing contained in the Agreement shall create any contractual relationship between Buyer and any Seller subcontractor or supplier;

(e) Require each Permitted Subcontractor to be bound in writing by the confidentiality provisions of the Agreement, and, upon Buyer's written request, to enter into a non-disclosure or intellectual property assignment or license agreement in a form that is reasonably satisfactory to Buyer;

(f) Ensure that all persons, whether employees, agents, subcontractors, or anyone acting for or on behalf of the Seller, are properly licensed, certified or accredited as required by applicable law and are suitably skilled, experienced and qualified to provide the Goods or perform the Services;

(g) All results and proceeds of the Services performed under an Agreement, including any Goods, and all other ideas, concepts, marks, techniques, inventions, processes, works of authorship or trade secrets conceived, developed, discovered or created by Seller, solely or jointly with others, during the course of performing Services for or on behalf of Buyer (collectively, the "**Work Product**"), and all copyrights, trademarks, patents, trade secrets, know-how, and other intellectual property rights (collectively, the "**Intellectual Property Rights**") therein shall be exclusively owned by Buyer. Seller acknowledges and agrees that any and all Work Product will be considered

a “work made for hire” as that term is defined in Title 17 of the United States Code and all copyrights therein shall automatically and immediately vest in the Buyer. To the extent that any Work Product does not constitute “work made for hire,” Seller hereby irrevocably assigns to Buyer, and shall cause its personnel, including without limitation, Permitted Subcontractors, to irrevocably assign to Buyer, in each case without additional consideration, all such right, title, and interest throughout the world in and to the Work Product, including all Intellectual Property Rights therein. Seller shall cause its personnel, including without limitation, Permitted Subcontractors, to irrevocably waive, to the extent permitted by applicable law, any and all claims such personnel may now or hereafter have in any jurisdiction to so-called “moral rights” or rights of droit moral with respect to the Work Products. Upon request of Buyer at any time during or after performance of the Services, Seller will take such further actions, including execution and delivery of instruments of conveyance, as may be appropriate to evidence, perfect, record or otherwise give full and proper effect to any assignments of rights under or pursuant to this Agreement.

(h) Ensure that all of its tools and equipment used in the provision of the Goods and the Services are in good working order and suitable for the purposes for which they are used, and conform to all relevant legal standards and standards specified by the Buyer;

(i) Unless otherwise specified in the Purchase Order, provide all the tools and equipment required for the provision of the Goods or the performance of the Services;

(j) Keep and maintain any Buyer tools and equipment in its possession in good working order and shall not dispose of or use such equipment other than in accordance with the Buyer’s written instructions or authorization;

(k) Unless otherwise specified in the Purchase Order, purchase all materials required and suitable for the provision of the Goods or the performance of the Services in accordance with Buyer’s specifications, under Seller’s account, and transport all materials to the place of performance of the Services, upon arrival at which ownership of the materials transfers Buyer; and

(l) Ensure the Services are performed in a safe and secure manner.

10. Change Orders. Buyer may, at any time, by written instructions and/or drawings issued to Seller (each a “**Change Order**”), order changes to the Services. Seller shall within seven days of receipt of a Change Order submit to Buyer a firm cost proposal for the Change Order. If Buyer accepts such cost proposal, Seller shall proceed with the changed Services subject to the cost proposal and the terms and conditions of the Agreement. Seller acknowledges that a Change Order may or may not entitle Seller to an adjustment in the Seller’s compensation or the performance deadlines under the Agreement.

11. Warranties.

(a) Seller warrants to Buyer that for a period of 12 months from the Delivery Date, all Goods will:

- (i) be free from any defects in workmanship, material and design;
- (ii) conform to applicable specifications, drawings, designs, samples and other requirements specified by Buyer;
- (iii) be fit for their intended purpose and operate as intended; and
- (iv) be merchantable.

(b) In addition, Seller warrants to Buyer that all Goods will at all times after the Delivery Date:

- (i) be free and clear of all liens, security interests or other encumbrances; and
- (ii) not infringe or misappropriate any third party's patent or other intellectual property rights.

(c) Seller warrants to Buyer that for a period of 12 months from the completion of Services, all Services and Work Product will:

- (i) be free from any defects in workmanship, material and design;
- (ii) conform to applicable specifications, drawings, designs, samples and other requirements specified by Buyer; and
- (iii) be fit for their intended purpose and operate as intended.

(d) In addition, Seller warrants to Buyer that all Services and Work Product will at all times after the completion of the Services:

- (i) be free and clear of all liens, security interests or other encumbrances; and
- (ii) not infringe or misappropriate any third party's patent or other intellectual property rights.

(e) 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 generally recognized industry standards for similar Services and shall devote adequate resources to meet its obligations under the Agreement.

(f) If any Goods are under any warranty or a vendor's indemnification agreement from the manufacturer or the original seller thereof, Buyer shall be entitled to the benefit of the warranty or vendor's indemnification agreement to the extent that it is available to the transferee of Seller, and Seller shall execute such instruments as may be reasonably required to transfer the warranty or vendor's indemnification agreement to Buyer.

(g) The warranties set forth in this Section 11 survive any delivery, inspection, acceptance or payment of or for the Goods or Services by Buyer. The warranties set forth in this Section 11 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 reperform the applicable Services.

(h) Notwithstanding the foregoing, if Buyer determines that the Goods cannot be repaired or replaced, or the Services cannot be repaired or reperformed, by Seller without compromising the timeliness or quality of the Goods or Services, or endangering individuals' safety or wellbeing, Buyer may perform the repair or replacement of the Goods, or the repair or reperformance of the Services, or Buyer may retain a third-party to perform the repair or replacement of the Goods, or the repair or reperformance of the Services, the cost and expense of which shall be due and payable by Seller to Buyer.

12. Indemnification. Seller shall defend, indemnify and hold harmless Buyer and Buyer's parent company, their subsidiaries, affiliates, successors or assigns and their respective directors, officers, shareholders and employees (collectively, "**Indemnitees**") against any and all loss, injury, death, damage, liability, claim, deficiency, action, judgment, interest, award, penalty, fine, cost or expense, including reasonable attorney and professional fees and costs, and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers (collectively, "**Losses**") arising out of or occurring in connection with (a) the Goods and/or Services purchased from Seller, (b) Seller's negligence, willful misconduct or breach of the Agreement, and/or (c) any claim that Buyer's or an Indemnitees' use or possession of the Goods or use of the Services infringes or misappropriates the patent, copyright, trade secret or other intellectual property right of any third party.

13. Settlements; Additional Indemnification. In no event shall Seller enter into any settlement without Buyer's or Indemnitee's prior written consent. For the avoidance of doubt, the indemnification set forth in Section 12 is separate from and in addition to the indemnification set forth in Section 16(d).

14. Limitation of Buyer's Liability. IN NO EVENT SHALL BUYER BE LIABLE FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR LOST PROFITS ARISING OUT OF OR RELATED TO THE AGREEMENT, INCLUDING ANY PURCHASE ORDER, WHETHER BASED IN TORT, CONTRACT OR ANY OTHER THEORY, AND REGARDLESS OF WHETHER BUYER WAS INFORMED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES. Nothing in the Agreement shall exclude or limit (a) Seller's liability under Sections 2 through 13 and 15 through 19 of these Terms, or (b) Seller's liability for fraud, personal injury or death caused by its negligence or willful misconduct.

15. Insurance.

(a) During the term of the Agreement and for a period of one year thereafter, Seller shall, at its own expense, at all times during the performance of any Services, the manufacture and sale of any Goods, and Buyer's use of any Goods or Services, provide and maintain in effect the insurance policies and minimum limits of coverage designated below (all dollar figures in United States currency) with insurance companies authorized to do business in the state in which work is being performed, with an A.M. Best's Insurance Rating at a minimum of A- with a financial size category of Class VII or better, or as otherwise acceptable to Buyer: (i) Worker's Compensation Insurance as required by the applicable law of the state in which the Services are being performed, including employer's liability with a minimum limit of One Million Dollars (\$1,000,000) for death or bodily injury by accident, and One Million Dollars (\$1,000,000) for death or bodily injury by disease; (ii) Commercial General Liability Insurance maintained on an occurrence basis covering death and bodily injury, real and personal property damage, personal and advertising injury, ongoing and completed operations and contractual liability for bodily injury, death, property damage, and other personal injury and advertising injury, with minimum coverage of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate; (iii) Business Automobile Liability Insurance covering bodily injury, death and property damage liability, including coverage for all owned, non-owned, and hired vehicles with a minimum combined single limit of One Million Dollars (\$1,000,000) per occurrence; (iv) Professional Liability Insurance for errors and omissions with a minimum limit of Five Million Dollars (\$5,000,000) per occurrence or per claim and Five Million Dollars (\$5,000,000) in the aggregate; and (v) Umbrella and/or Excess Liability insurance on an occurrence basis with limits not less than Five Million Dollars (\$5,000,000) per occurrence and Five Million Dollars (\$5,000,000) in the aggregate in excess of the limits provided by Seller's Employer's Liability, Commercial General Liability, and Business Automobile Liability.

(b) Certificates of Insurance, including endorsements evidencing the insurance maintained by Seller as required herein, shall be furnished to Buyer upon request, and within a reasonable time after any such coverage is renewed or replaced. Seller shall provide Buyer with thirty (30) days' prior written notice in the event of cancellation, non-renewal or reduction in coverage that causes Seller to no longer be in compliance with any of the requirements set forth in this Section. Nothing in this Section shall be deemed to preclude Seller from selecting a new insurance carrier or carriers or obtaining new or amended policies at any time provided that the above insurance coverage is maintained. Seller shall ensure that Buyer, its affiliates, and its and their officers, directors, employees and agents, are named as additional insureds as to all insurance coverage required hereinabove and such coverage shall be on a primary and noncontributory basis with waivers of any right of subrogation.

16. Compliance with Law.

(a) Seller shall comply with all applicable laws, regulations and ordinances. Seller shall maintain in effect all the licenses, permissions, authorizations, consents and

permits that it needs to carry out its obligations under the Agreement. Seller shall comply with all export and import laws of all countries involved in the sale of the Goods under the Agreement or any resale of the Goods by Seller. Seller assumes all responsibility for shipments of Goods requiring any government import clearance. Buyer may terminate the Agreement and/or cancel the relevant Purchase Order if any governmental authority imposes antidumping or countervailing duties or any other penalties on Goods.

(b) Seller represents and warrants that in connection with Seller's manufacture and distribution of the Goods and/or performance of the Services: (i) no Goods delivered nor Services provided were created, performed or otherwise in any way derived from child labor; (ii) Seller's employees shall be remunerated in accordance with that which may be expected from a reasonably acting business in a comparable position; (iii) Seller shall, in its recruitment policy and the treatment of personnel, not discriminate on the basis of gender, race, color, religion, creed, ancestry, age, national origin, marital or veteran's status, sexual orientation, ethnic diversity or non-job related handicap or disability; (iv) Seller shall not pay bribes in any form whatsoever; (v) Seller will not use any "conflict minerals" (as such term is defined in the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010); (vi) Seller will prohibit the use of slave labor and human trafficking in the manufacture and supply of the Goods and in the performance of the Services, and will take all necessary or required steps to prevent the use of slave labor and human trafficking in the manufacture and distribution of the Goods and in the performance of the Services; and neither Seller nor any director, officer, agent, employee or affiliate of Seller has violated or is in violation of any anti-corruption law, rule or regulation applicable to Seller, including the U.S. Foreign Corrupt Practices Act.

(c) Buyer and Buyer's representatives shall be entitled to conduct audits from time to time at Seller's facilities, with not less than five (5) days prior notice to Seller, including audits to determine Seller's compliance with the foregoing warranties, quality systems audits, Goods specific audits, and process audits.

(d) Seller agrees to indemnify Buyer and hold Buyer harmless from and against all fines, penalties, response and remedial costs, and other damages or injuries assessed against or costs incurred by Buyer resulting from any breach by Seller of any of the foregoing representations, warranties, covenants and agreements.

(e) The Uniform Computer Information Transactions Act and the U.N. Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

(f) To the extent applicable, Buyer hereby requires Seller, and Seller agrees and covenants to comply with, any and all Federal Acquisition Regulation contract clauses and other Federal agency-specific contract "flow-down" clauses deemed necessary for flow-down by Buyer to Seller to enable Buyer to comply with its government contracting obligations.

17. Termination.

- (a) In addition to any remedies that may be provided under these Terms:
- (i) Buyer may cancel a Purchase Order thereunder with immediate effect upon written notice to the Seller within two (2) business days of Seller's acceptance of the Purchase Order;
 - (ii) If Seller has not yet substantially performed under the Purchase Order and is not in default under the Agreement, Buyer may cancel a Purchase Order with immediate effect upon written notice to the Seller;
 - (iii) If Seller has substantially performed under a Purchase Order and is not in default under the Agreement, Buyer may cancel a Purchase Order with immediate effect upon written notice to Seller, upon receipt of notice of such cancellation, Seller shall stop all performance hereunder except as otherwise directed by Buyer, and Buyer shall negotiate in good faith a reasonable compensation not to exceed an amount equal to those reasonable and documented costs incurred by Seller prior to cancellation, provided, however, that such amount, plus any prior payments, shall in no event exceed the Price of the Goods and/or Services. All Goods and Services completed or partially completed prior to cancellation shall become property of Buyer, or at Buyer's option, the salvage value of the Goods and/or Services may be deducted from the amount due Seller by reason of the cancellation;
 - (iv) If Seller is not in breach of the Agreement, Buyer may terminate the Agreement upon thirty (30) days' written notice to Seller;
 - (v) Buyer may terminate the Agreement and/or cancel the relevant Purchase Order, each, in whole or in part, either before or after acceptance of the Goods or Services, if Seller has not performed or failed to comply with any terms of the Agreement and does not cure such failure within a period of ten (10) days (or such longer period as Buyer may authorize in writing) from Seller's receipt of written notice (which may be an electronic notice) of such failure. Upon a termination or cancellation pursuant to this Section 17(a)(v) Buyer shall have no further obligations, monetary or otherwise, to Seller; and
 - (vi) If the Seller becomes insolvent; files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors; undergoes a change in control where voting or other control of Seller is acquired, directly or indirectly, in a single transaction or series of related transactions; undergoes a transaction where all or substantially all of Seller's assets are acquired by any other entity; or Seller is merged with or into another entity to form a new entity, Buyer may terminate the Agreement in its entirety and/or cancel the relevant Purchase Order by giving written notice (which may be an electronic notice) of termination to Seller, which shall become effective immediately.

(b) If Buyer terminates the Agreement or cancels a Purchase Order for any reason, Seller's sole and exclusive remedy is payment for the Goods received and accepted and Services accepted by Buyer prior to the termination.

18. Waiver. No waiver by Buyer of any of the provisions of the Agreement is effective unless explicitly set forth in writing and signed by an authorized representative of the Buyer. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from the Agreement operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

19. Confidential Information. All non-public, confidential or proprietary information of Buyer, including but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Buyer to Seller, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" in connection with the Agreement is confidential, solely for the purpose of performing this Agreement and may not be disclosed or copied unless authorized in advance by Buyer in writing. Upon Buyer's request, Seller shall promptly return all documents and other materials received from Buyer. Buyer shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain other than by breach of the Agreement by, or other wrongful act of, the Seller; (b) known to Seller at the time of disclosure without restriction on use or disclosure prior to receipt of such information; or (c) rightfully obtained by Seller on a non-confidential basis from a third party.

20. Force Majeure. No party shall be liable or responsible to the other party, or be deemed to have defaulted under or breached the Agreement, for any failure or delay in fulfilling or performing any term of the Agreement, when and to the extent such party's (the "**Impacted Party**") failure or delay is caused by or results from the following force majeure events ("**Force Majeure Event(s)**"): (a) acts of God; (b) flood, fire, earthquake, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order, law, or action; (e) embargoes or blockades in effect on or after the date of this Agreement; (f) national or regional emergency; and (g) strikes, labor stoppages or slowdowns or other industrial disturbances, unless such strikes, labor stoppages or slowdowns or other industrial disturbances occurred at the Impacted Party in which case such strikes, labor stoppages or slowdowns or other industrial disturbances shall not be considered Force Majeure. The Impacted Party shall give notice within seven days of the Force Majeure Event to the other party, stating the period of time the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event that the Impacted Party's failure or delay remains uncured for a period of 30 consecutive days following written notice given by it under this Section 20, the other party may thereafter terminate the Agreement upon 15 days' written notice.

21. Assignment. Seller shall not assign, transfer, delegate or subcontract any of its rights or obligations under the Agreement without the prior written consent of Buyer. Any

purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the Seller of any of its obligations hereunder. Buyer may at any time assign or transfer any or all of its rights or obligations under the Agreement without Seller's prior written consent (a) to any affiliate or (b) in connection with the transfer, sale or divestiture of substantially all of Buyer's business to which the Purchase Order or the Terms pertain (whether by asset sale, stock sale, merger or otherwise).

22. Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in the Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

23. No Third-Party Beneficiaries. The Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of the Agreement.

24. Governing Law. All matters arising out of or relating to the Agreement, including each and every Purchase Order issued hereunder, are governed by and construed in accordance with the internal laws of the Commonwealth of Pennsylvania without giving effect to any choice or conflict of law provision or rule (whether of the Commonwealth of Pennsylvania or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the Commonwealth of Pennsylvania.

25. Submission to Jurisdiction. Any legal suit, dispute, claim, action or proceeding arising out of or relating to the Agreement shall be filed exclusively in the Luzerne County Court of Common Pleas or in the United States District Court for the Middle District of Pennsylvania, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, dispute, claim, action or proceeding.

26. Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder (each, a "**Notice**") shall be in writing and addressed to the parties at the addresses set forth on the face of the Purchase Order or invoice or to such other address that may be designated by the receiving party in writing, with an additional copy of any Notice to Buyer also being sent via email to Buyer's Chief Financial Officer at the then-current email address of Buyer's Chief Financial Officer. All Notices shall be delivered by email, personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in the Agreement, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.

27. Severability. If any term or provision of the Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of the Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

28. Survival. Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination, cancellation or expiration of the Agreement or a Purchase Order including, but not limited to, the following provisions: Warranties, Indemnification, Settlements; Additional Indemnification, Limitation of Buyer's Liability, Insurance, Compliance with Laws, Confidential Information, Governing Law, Submission to Jurisdiction, and Survival.

29. Amendment and Modification. The terms of an Agreement may only be amended or modified in writing stating specifically that it amends the Agreement and is signed by an authorized representative of each party.