



USA SMaP TERMS & CONDITIONS OF SALE

1. ACCEPTANCE. Buyer's issuance of an Order, payment, and/or Seller's commencement of performance, shall constitute Buyer's unqualified acceptance of these Terms and Conditions of Sale. No modification hereof shall be valid unless expressly accepted in writing by Seller. Buyer acknowledges that it has read, understands, and agrees to be bound by these Terms and Conditions of Sale. Terms and Conditions of Sale shall not be deemed to have been waived by Seller's subsequent failure to object to contrary or conflicting terms that appear on, are incorporated by reference, or are attached to the Buyer's Order or any other communications. Order fulfillment or actions toward fulfillment does not constitute acceptance of Buyer's terms and conditions. Seller reserves the right in its sole discretion to refuse orders.

2. DEFINITIONS.

- a. "Buyer" means the legal entity and/or any of its directors, officers, employees, trustees, agents, representatives, parents, shareholders, partners, members, principals, subsidiaries heirs, executors, administrators, successors, assigns, or affiliates issuing the Order to the Seller.
- b. "Change Order" means a written modification to the Order issued by the Buyer and accepted by the Seller.
- c. "DFARS" means the Defense Federal Acquisition Regulation Supplement.
- d. "FAR" means the Federal Acquisition Regulation.
- e. "Goods" means the products, parts, software, equipment, and/or other deliverables included on Order.
- f. "Order" means a contract issued by Buyer to, and accepted by, Seller.
- g. "Parties" means the Buyer and Seller together.
- h. "Seller" means the legal entity from which Buyer is purchasing the Goods.
- i. "Services" means Services to be rendered by Seller.
- j. "Work" means the Goods and/or Services provided by Seller.

3. PRICES. Prices are based on the corresponding and relative Seller quote that must be referenced on any Order. Unless otherwise specified on the Order, prices are for the specific quantity stated and do not include taxes or charges for transportation, engineering documentation, special packaging, marking, or testing. Prices include the cost of commercial packaging. Prices are fixed for the duration of the order. However, Seller reserves the right to pursue price escalation as may be allowed by a higher-tier contract or if the delivery schedule is more than twelve (12) months from Order placement. In the event of a change in quantity, Seller shall have the right to adjust unit prices based on demonstrable market changes which impact the cost of the Goods.

4. MINIMUM ORDER. Minimum order value is one thousand dollars (\$1,000) except for repair or parts orders which carry a minimum value of five hundred dollars (\$500).

5. EVALUATION CHARGES. Repair orders may be subject to an evaluation charge payable by Buyer prior to commencement of any repair.

6. QUANTITY DISCOUNTS. Quantity price discounts, if offered, are computed separately for each type of Good. If Order quantity is reduced or canceled, prices shall be increased to quoted quantity pricing level.

7. PAYMENT. Unless otherwise stated, payment terms are net 30 days from date of invoice, subject to credit approval by Seller. Notwithstanding any statement of terms or time of payment to the contrary appearing on the face of the Order, Seller reserves the right to require payment in advance of shipment or to ship C.O.D. In the event Buyer fails to pay any invoice when due, in addition to any other right reserved hereunder, Seller reserves the right to suspend or limit performance until all past due sums are paid or demand payment of the full amount remaining unpaid under the Order, which amount shall become immediately due and payable, and Seller may exercise any or all remedies available to it under applicable law and the Order. Further, Seller reserves the right to charge interest at the rate of one and one-half percent (1.5%) per month, or the maximum rate permitted by law, whichever rate is

lower, on any unpaid balance owing by Buyer from the date due until the date paid. Buyer waives its right to set-off against claims it may have against Seller and shall not withhold payment for any reason without the prior written consent of Seller. Payment will be in United States dollars.

8. TAXES AND TRADE COSTS. Prices do not include any sales, use or excise taxes, import or export duties, tariffs, or customs charges levied by any jurisdiction either inside or outside the United States which is applicable to the sale of Goods or performance of Services. Buyer expressly agrees to remit the amounts due to the appropriate jurisdiction. If tax exempt, Buyer shall supply Seller with an appropriate tax exemption certificate upon order placement. This Article shall supersede and replace the taxes requirements set forth in paragraph (k) of FAR 52.212-4.

9. CHANGES. Order scope, price or schedule cannot be changed or cancelled except with the prior written consent of both Parties and upon terms which will indemnify Seller against all loss occasioned thereby. Buyer shall compensate Seller for all additional costs incurred due to changes in design, specifications, modification, or revision of any order or product. The parties may not modify this provision orally or by their conduct. No waiver of this provision is valid unless in a writing signed by both parties.

10. SPECIFICATIONS. It is the Buyer's responsibility to define product requirements to include providing customer's specifications, drawings, etc. and to ensure design data provided to Seller are accurate to include the correct revision level. Performance of Goods to applicable specifications shall be conclusive evidence that the Goods meet the Buyer's requirements, and the Buyer shall have no further claim against Seller. Seller reserves the right to modify design of its products, or substitute components thereof, without updating any of its catalogues or other published material. Buyer shall accept such modifications and/or substitutions providing they do not substantially and materially affect the product material, form, fit, or function.

11. TEST DATA. Unless specifically noted hereon, qualification tests and any test data are not included in the selling price. Qualification tests may be performed by Seller and test data supplied at the specific request and expense of Buyer at a price mutually agreed to by the Parties.

12. QUALITY LEVELS. Prices are based on quality levels commensurate with normal processing. If a different quality level is required, Buyer must specify requirements in the Order and pay any additional costs to Seller for compliance with same.

13. TOOLING. Unless otherwise expressly provided, Seller shall retain title to and possession of any models, patterns, dies, molds, jigs, fixtures, tools, and test equipment used, made, or obtained for the performance of the Order.

14. SECURITY INTEREST. Buyer hereby grants Seller a first priority security interest in and a lien upon all Goods sold to Buyer by Seller and the proceeds therefor (including any insurance proceeds), which shall continue until all such Goods are fully paid for in immediately available funds. Buyer shall have no right to sell, encumber or dispose of the Goods until Seller receives full payment for same. Buyer hereby grants Seller the right to file such protective financing or similar statements to confirm and record Seller's security interest in all Goods.

15. ACCEPTANCE OF GOODS AND/OR SERVICES. Within fourteen (14) days of shipment, Buyer must notify Seller in writing of any rejection of Goods and/or Services. Notice must include detailed explanation for rejection and both Buyer and Seller shall agree upon terms of rejection before any return, replacement, or reperformance occurs. If such written notification of rejection is not received by Seller within fourteen (14) days of shipment or performance, Goods and Services are deemed accepted by Buyer.

16. INSPECTIONS AT SELLER'S FACILITY. Inspection of Goods in Seller's facility by Buyer or Buyer's representative will be permitted insofar as the inspector complies with all safety and security requirements and that such inspection does not unduly interfere with Seller's production workflow. Complete details of the inspection Buyer desires must be submitted to Seller in writing in advance and Buyer shall be responsible for all inspection costs for any inspection not included in the price of the Order.

17. DELIVERY, SHIPMENT AND RISK OF LOSS. Unless otherwise specified, delivery will be made F.O.B. Origin or, if an export, EXW Seller's factory according to the delivery schedule specified subject to delays due to causes beyond Seller's control. In the absence of specific instructions, Seller will select the carrier. Risk of loss shall pass to Buyer upon shipment. All transit damage claims shall be made by the Buyer directly to the carrier. Buyer shall inspect the Goods upon receipt. Claims for shortages will be deemed to have been waived if not made in writing within ten (10) days after the receipt of the Goods. Goods will be packaged as Seller may deem proper for protection against normal handling. Extra charges will be made for preservation, waterproofing, crating, export boxing, and similar added protection of goods. Orders will be scheduled for shipment as quoted unless otherwise agreed or negotiated in writing. Any deliveries scheduled beyond 12 months will be subject to price escalation as determined by Seller. Shipping schedules are approximate. If Buyer's order does not cite desired delivery date(s) and/or does not expressly prohibit delivery in advance of schedule date(s), Buyer agrees that immediate delivery is acceptable. Offloading and handling is by Buyer at Buyer's expense. Seller may make partial shipments to Buyer and Buyer shall pay for the shipped portion of the order. Delivery dates cannot be altered by

Buyer without Seller's prior written consent. Any extension of the delivery date by Buyer will be subject to storage charges as determined by Seller, interest charges, and any applicable price increases.

18. FORCE MAJEURE. Seller shall not be liable for default or for delay in deliveries due to causes beyond its control and without its fault or negligence, including but not limited to, inability to obtain material, acts of God, acts of civil or military authority, fires, unusually severe weather, floods, epidemics, quarantine restrictions, riots, wars, sabotage, labor disputes, governmental actions, freight embargoes, any preference, priority or allocation order issued by the Government, or changes in applicable law. In the event of a Force Majeure delay, delivery dates shall be extended for a period equal to the time lost by reason of such delay. Seller shall make every reasonable effort to mitigate schedule impact where possible. In no event shall Seller be liable for any delay damages resulting from a Force Majeure event. If Seller is unable to deliver the Order, in whole or in part, due to a Force Majeure event, Seller shall have the right to cancel or suspend the Order in whole or in part by giving written notice thereof to the Buyer. In the event of a Force Majeure related cancellation, Buyer shall compensate Seller for the completed portion of the Work.

19. WARRANTY.

- a. Seller warrants that, at the time of shipment, the Goods will be free from defects in material and workmanship.
- b. Seller agrees to repair or replace at its sole discretion, without charge, any Good returned to Seller at its factory, transportation prepaid, which is proven defective as to design, workmanship or material provided written notice of the claimed defect is given Seller within seven (7) calendar days of Buyer's, or end-user's, first becoming aware of the defect. Such claim must be made within one (1) year of shipment and the claimed defective item must returned in accordance with Seller's instructions.
- c. Seller's obligations are conditioned upon the proper installation, operation, and maintenance of the Goods in accordance with Seller's written directions. Goods shall not be deemed to be defective if exposed to any condition in excess of those published in the Seller's specifications.
- d. The warranty does not extend to any Goods manufactured by Seller which was subjected to misuse, neglect, accident, improper installation or to use in violation of instructions furnished by Seller.
- e. Seller will not be responsible for installation or disassembly, or any costs related to installation or disassembly even in the event Goods are proven defective.
- f. Seller's determination of defect validity shall be final. Buyer is responsible for all costs of repair or replacement of Goods proven not defective.
- g. This warranty shall be void if Goods are altered, or repair is attempted or made, by any party other than Seller or Seller's authorized service center, except with Seller's prior written consent.
- h. This warranty does not extend to items manufactured by others. Seller assumes no responsibility or liability for the integration of its Goods with any other product.
- i. Seller warrants that any software delivered hereunder, either embedded in equipment described herein or specifically designed for use in or with such equipment, will substantially provide the functions(s) set forth in the applicable specification (or absent a specification, as described in the applicable Service Bulletin). Seller will, at its option, without charge, revise or replace such nonconforming software provided: (i) Notice of the claimed defect is given Seller within one (1) year from the date of delivery and within seven (7) days of Buyer or end-user first becoming aware of the claimed defect; (ii) Software was properly installed and operated in accordance with Seller's written instructions; (iii) Software (or its host medium) is not altered (or attempted to be altered) by other than Seller or Seller's authorized service center; and (iv) Software or the host medium is not exposed to any computer virus or to any condition in excess of those published in the applicable specifications. For purposes of this software warranty, the following are excluded from coverage: (i) Expendables, including, but not limited to, batteries, cables, and accessories; and (ii) Software not manufactured by Seller or from Seller's designs.
- j. On U.S. Government orders, the warranty defined herein shall supersede and replace the warranty set forth in warranty paragraphs of FAR 52.212-4.
- k. SELLER WILL NOT BE LIABLE FOR ANY SPECIAL OR CONSEQUENTIAL DAMAGES, OR FOR LOSS, DAMAGES, OR EXPENSE DIRECTLY OR INDIRECTLY ARISING FROM THE USE OF THE GOODS OR ANY INABILITY TO USE THEM EITHER SEPARATELY OR IN COMBINATION WITH ANY OTHER EQUIPMENT OR MATERIAL OR FROM ANY OTHER CAUSE.
- l. NO OTHER WARRANTIES, EXPRESSED, IMPLIED, OR STATUTORY, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE SHALL BE APPLICABLE TO ANY GOODS SOLD OR DELIVERED HEREUNDER, AND THE FOREGOING SHALL CONSTITUTE THE BUYER'S SOLE RIGHT AND EXCLUSIVE REMEDY UNDER THIS GENERAL TERMS AND CONDITIONS OF SALE.

20. RETURNS. Goods may be returned only when specifically authorized in writing by Seller. Buyer will be charged for placing returned goods in a saleable condition, plus any sales expenses then incurred. In addition, Buyer will pay a restocking charge determined appropriate by Seller as well as all outgoing and incoming transportation costs.

21. CANCELLATION. Orders may not be cancelled except upon written notice and upon payment to Seller of Seller's cancellation fee, which shall include all costs and expenses incurred by Seller prior to the receipt of the cancellation notice including, but not limited to, all received or in-process materials which cannot be restocked, all supplier and subcontractor restocking fees, all commitments to Seller's suppliers and subcontractors, all fully burdened labor and overhead expended by Seller, storage charges and a reasonable profit charge. Such cancellation fee could equal the total price of the order. Seller's determination of such cancellation fee shall be conclusive.

22. TERMINATION.

- a. Termination for Cause. If either party commits a material breach of any provision of the Order and if such breach is not cured within ten (10) days after receiving written notice from the other party specifying such breach in reasonable detail, the non-breaching party shall have the right to terminate the Order by giving written notice thereof to the party in breach, which termination shall go into effect immediately on receipt.
- b. Termination on Insolvency. Either party has the right to terminate the Order if the other party becomes insolvent, fails to pay its bills when due, makes an assignment for the benefit of creditors, goes out of business, or ceases production.

23. ASSIGNMENT. The Order shall not be assigned in whole or in part by either party without obtaining the written consent of the other party.

24. CONFIDENTIALITY.

- a. If the Buyer and Seller have signed a prior confidentiality agreement concerning the subject-matter of the Order, said confidentiality agreement shall prevail over conflicting terms herein.
- b. If no prior confidentiality agreement exists as of placement of the Order, throughout the duration of performance of the Order and for a duration of five (5) years following Order completion, termination, or rescission, the Parties agree not to communicate, to any persons other than those required for the performance of the Order, any proprietary documents, specifications, plans, and other written and/or oral information, in any form and/or on any medium whatsoever, received from the other Party.
- c. This restriction shall not apply to any proprietary or confidential information which is already known by the receiving party, is or becomes publicly available through no fault of the receiving party, or is required to be disclosed by government or judicial order. All proprietary and confidential information provided to a party under the Order shall be returned to the disclosing party or destroyed promptly upon completion, termination, or rescission of the Order.
- d. Regarding confidential information that constitutes a trade secret, the obligations in this Article will continue for so long as such information constitutes a trade secret under applicable law.
- e. Information provided by Seller to Buyer remains the property of Seller. Buyer shall not disclose any Seller provided information to third parties without the prior written consent of Seller.
- f. If Buyer becomes aware of any compromise of Seller's information, Buyer shall take appropriate immediate actions to investigate and contain the compromise and any associated risks, including prompt notification to Seller after learning of the compromise. Any costs incurred in investigating or remedying compromises of Seller's information shall be borne by Buyer.
- g. Any Seller provided information identified as proprietary or subject to restrictions on public disclosure by law or regulation shall be encrypted (i) if transmitted via the Internet, or (ii) during electronic storage if potentially accessible by the Internet or otherwise by non-authorized users.

25. INFRINGEMENT, PATENT AND COPYRIGHT INDEMNIFICATION.

- a. Seller agrees that it will defend, at its own expense, all suits against Buyer for infringement of any United States patent or copyright covering, or alleged to cover, the Goods described herein in the form sold by Seller and Seller agrees that it will pay all sums which, by final judgment or decree in any such suits, may be assessed against the Buyer on account of such infringement, provided that Seller shall be given (i) immediate written notice of all claims of any such infringement and of any suits brought or threatened against Buyer and (ii) authority to assume the sole defense thereof through its own counsel and to compromise or settle any suits so far as this may be done without prejudice of the right of the Buyer to continue the use, as contemplated, of the Goods so purchased. If in any such suit is held to constitute an infringement and the use of Goods is enjoined, or if in the light of any claim of infringement Seller deems it advisable to do so, Seller may either procure the right continue the use of the same for the Buyer, or replace the same with non-infringing Goods, or modify said Goods so as to be non-infringing, or, if the foregoing options are not reasonably available, take back the infringing Goods and refund the purchase price less a reasonable allowance for use, damage or obsolescence.
- b. To the extent Goods are manufactured in accordance with designs and/or specifications furnished by Buyer, Buyer hereby indemnifies and holds harmless Seller from all expenses, damages and costs assessed against Seller in any patent infringement action.

- c. Seller will have no liability for any claim based upon or arising out of the (i) combination, operation, or use of any Goods in a manner for which it was not designed nor contemplated; (ii) or (ii) any modification of any Goods by the Buyer or any third party that causes the Goods to become infringing. This is the entire obligation of Seller with respect to infringements.
- d. Seller shall be the exclusive owner of all inventions, technology, designs, works of authorship, mask works, technical information, software, business information and other information (collectively, "intellectual property") conceived, developed, or otherwise generated in the performance of this Contract. Seller shall also retain all rights in any intellectual property developed or licensed by it independent of the work being performed in connection with the Order or any Order.
- e. This Article shall supersede and replace the Patent Indemnity set forth in paragraph (h) of FAR 52.212-4.

26. SOFTWARE LICENSE. Software delivered hereunder, either embedded in equipment described herein or specifically designed for use in or with such equipment, is copyrighted by Seller and shall remain the sole and exclusive property of Seller. Seller grants the Buyer a perpetual, worldwide, nonexclusive license to use the software only in or with the specific equipment for which it was delivered. The Buyer shall not copy, modify, or disassemble the software, or permit others to do so. Buyer shall not transfer the license granted hereby or possession of the software except as part of or with the Goods, such transfer being subject to the restrictions contained herein. Seller may terminate this license upon written notice for violation of any of the terms of the foregoing license.

27. INDEMNIFICATION. Buyer assumes the entire responsibility and liability for, and agrees to release, indemnify, defend and hold harmless Seller, its affiliates and their respective officers, agents, employees, successors, and assigns, from and against any and all losses, expenses (including without limitation, reasonable attorneys' and other professional fees), costs, damages (including consequential and incidental damages), demands, liabilities, suits and claims in connection with or arising out of any actual or alleged personal injury (including death) or illness and/or damage or destruction to property (including loss of use) by whomsoever suffered, sustained or alleged to have been sustained by reason of (i) any act, error or omission, whether negligent or not, of Buyer or its agents, employees, suppliers, subcontractors and consultants, provided that such injury, illness, death, damage or destruction is not occasioned by the sole negligence of Seller or its agents, employees and subcontractors; or (ii) any failure of Buyer or its agents, employees, suppliers, subcontractors, or consultants to comply with any applicable law.

28. INSURANCE. Each party agrees to maintain insurance in commercially reasonable amounts calculated to protect itself and the other party to the Order from any and all claims of any kind or nature for damage to property or personal illness or injury, including death, made by anyone, that may arise from activities performed or facilitated by the Order, whether these activities are performed by that company, its employees, agents, or anyone directly or indirectly engaged or employed by that party or its agents.

29. LIMITATION OF LIABILITY. Seller will not be liable for any loss, damage, cost of repair, incidental, exemplary, punitive, special, or consequential damages of any kind, whether or not based upon express warranty or implied warranty (except for the obligations assumed by Seller under the Warranty Article), contract, negligence, any other tort, or strict liability arising in connection with a claim or putative claim in connection with an order by Buyer. In no event will Seller be liable to Buyer for any amount in excess of the Order's purchase price under any circumstance.

30. INDEPENDENT CONTRACTOR. The Seller's relationship with the Buyer is that of an independent contractor and nothing in the Order will be construed to create a partnership, joint venture, agency or employer-employee relationship.

31. GOVERNING LAW AND VENUE.

- a. The Order shall be construed in accordance with, and the rights of the Parties shall be governed by, the laws of the state of Seller's manufacturing facility, and specifically excludes the provisions of the 1980 U.N. Convention on Contracts for the International Sale of Goods. For purposes of determining venue in the event that legal action is brought by either party for the Order, the Parties specifically agree to bring any and all legal action(s) regarding interpretation, enforcement, and/or any other aspect of the Order or other claims related to the Order in the federal or state courts of the Seller's manufacturing facility, and each party waives any objection to the laying of venue of any such proceeding in those courts.
- b. Nothing herein shall prevent Seller from seeking and obtaining injunctive and other equitable remedies to prevent or restrain any breach or threatened breach of the following Articles of these Terms and Conditions of Sale: Confidentiality, Insurance, and/or Indemnification. Buyer agrees and acknowledges that in the event of any such breach or threatened breach, Seller will suffer irreparable damage for which there is no adequate remedy at law, and thus Seller shall be entitled to the injunctive and other equitable remedies set forth herein, without the necessity of posting any bond.
- c. EACH PARTY, KNOWINGLY AND AFTER CONSULTATION WITH COUNSEL, FOR ITSELF, ITS SUCCESSORS AND ASSIGNS, WAIVES ALL RIGHT TO TRIAL BY JURY OF ANY CLAIM ARISING WITH RESPECT TO THE ORDER OR ANY MATTER RELATED IN ANY WAY THERETO.

32. EXPORT CONTROL. Buyer shall immediately notify Seller if at any time Buyer's export privileges are denied, suspended, or revoked. Buyer acknowledges that the Goods are not destined for delivery to an end user in a prohibited country under OFAC, EAR,

or ITAR or to an entity located in such country. Exportation of information and/or Goods, which includes release to foreign nationals within the United States, without first obtaining approval or license from the Department of State for items controlled by the International Traffic in Arms Regulations (ITAR), or the Department of Commerce for items controlled by the Export Administration Regulations (EAR), may constitute a violation of law. Buyer shall provide a suitable end user statement with any export order. Seller will secure all export licenses and permits required by the United States Government, except in those cases where the Buyer already holds a valid export license or agrees to obtain one. The costs for licenses and permits shall be borne by the Buyer. Buyer will secure all licenses and permits required by the country of import. The delivery schedule is contingent upon securing all necessary licenses and permits. Failure to obtain a required license or permit in support of the delivery schedule without fault or negligence of the Parties, shall necessitate an adjustment in the delivery schedule without penalty or damages.

33. COST ACCOUNTING STANDARDS. Audit of any proprietary indirect cost data may be accomplished through the responsible Defense Contract Audit Agency (DCAA) representative, or a mutually agreeable third-party auditor from a nationally recognized firm of certified public accountants. In no event will Seller be required to disclose proprietary cost data directly to Buyer unless Buyer is the U.S. Government and Seller is the prime contractor.

34. U.S. GOVERNMENT CONTRACTS. If the Goods are for ultimate sale to the U.S. Government and purchased as Commercial Items as defined by FAR 52.202-1, Seller agrees to comply with FAR 52.212-5 providing Buyer defines, on the face of the Order, which clauses referenced in paragraphs (b) and (c) apply, and Seller accepts same in writing. FAR 52.212-4 shall only be as detailed in the articles of these Terms and Conditions of Sale. All other U.S. Government flow downs shall be negotiated by the Parties and agreed to in writing.

35. CONFLICT AND ORDER OF PRECEDENCE. If these Terms and Conditions of Sale conflict with any term or condition set forth in any related Order or other document, the term or condition set forth herein shall control unless otherwise specified by the Parties. Any inconsistency in the Order and its related documents shall be resolved by giving precedence in the following order: 1-these Terms and Conditions of Sale; 2-the Seller's specifications and instructions; 3-the Buyer's terms and conditions, if any; 4-other documents, exhibits, and attachments; and 5-the prime contract, if any.

36. WAIVER. No failure by either party to exercise, and no delay in exercising, any right, power, or privilege hereunder will operate as a waiver hereof, nor will any single or partial exercise of any right or privilege hereunder preclude further exercise of the same right or the exercise of any right hereunder. A waiver on one or more occasions of any of the provisions hereof shall not be deemed a continuing one.

37. NOTICES. All notices shall be in writing and shall be delivered personally, by certified or registered mail, by electronic mail, or by a recognized overnight delivery service. Any notice must be delivered to the parties at their respective addresses. The date that notice shall be deemed to have been made shall be the date of delivery, when delivered personally; on written verification of receipt if delivered by overnight delivery or electronic mail; or the date set forth on the return receipt if sent by certified or registered mail.

38. LANGUAGE. The Parties mutually agree that the Order and all correspondence herein shall be written and communicated verbally in the English language and each Party warrants that they or their designated agents are fluent in the English language and fully understand the contents of the Order.

39. SEVERABILITY. If any provision of the Order is found to be invalid, illegal, or unenforceable, then, notwithstanding such invalidity, illegality or unenforceability, the Order and the remaining provisions shall continue in full force and effect. In this event the Parties will agree upon a valid, binding, and enforceable substitute provision which shall be as close as possible to the commercial interests of the invalid or unenforceable provision.

40. HEADINGS. The headings used in the Order are inserted for the convenience of the Parties and shall not define, limit, or describe the scope or the intent of the provisions of the Order.

41. COUNTERPARTS. The Order may be executed in multiple counterparts, any one of which will be considered the original, but all of which will constitute one and the same instrument.

42. SURVIVABILITY. Any provision of the Order that logically ought to survive termination or expiration of the Order shall survive, including but not limited to, all rights and obligations under the Order with respect to restrictions on the use of Goods and Services, protection of intellectual property rights, payment of fees, confidentiality, governing law, limitations of liability and indemnifications shall survive the expiration or termination of the Order.