

## TERMS AND CONDITIONS FOR THE PURCHASE OF GOODS

- 1. COMPLETE AGREEMENT:** This Purchase Order shall become a binding agreement upon Seller signing and returning a copy of this Purchase Order to Buyer or upon Seller commencing performance of this Purchase Order or otherwise acknowledging acceptance, whichever occurs first. This Purchase Order, together with any specifications, drawings or other documents referred to therein, which are incorporated by this reference, constitutes the entire agreement between the parties and all prior negotiations, proposals and writings pertaining to this Purchase Order or the subject matter hereof, are superseded hereby. Any reference to Seller's quotation, bid or proposal does not imply acceptance of any term, condition or instruction contained in such document. Any invoice, acknowledgement or other communication issued by Seller in connection with this Purchase Order shall be construed to be for record and accounting purposes only. Any terms and conditions stated in such communications shall not be applicable to this Purchase Order and shall not be considered to be Seller's exceptions to the provisions of this Purchase Order. Trade custom and /or trade usage is superseded by this Purchase Order and shall not be applicable in the interpretation of this Purchase Order. In the event of any ambiguities, express conflicts or discrepancies in the specifications, drawings or other documents which are a part of this Purchase Order. Seller shall immediately submit the matter to Buyer for its determination and shall comply with the determination of Buyer in such matter. All headings and numbering in this Purchase Order are for convenience of reference only. The Supplier Quality Manual, Supplier Purchasing Manual, as well as the AFCO Packaging and Labeling Standard are an integral part of this contract.
- 2. SHIPMENT AND INVOICES:** Unless otherwise specified on the face of this Purchase Order, goods must be shipped F.O.B. point of destination. Itemized packing lists shall accompany each shipment. Buyer's count shall be accepted as final and conclusive on shipments not accompanied by Seller's itemized packaging list. Partial shipments, if such are authorized by Buyer, shall not be construed as making the obligations of Seller severable. No charge shall be allowed for packing, shipment or handling unless otherwise stated in this Purchase Order. Seller shall pay for damaged goods resulting from improper packing or marking. All goods received in excess of Purchase Order requirements shall be subject to return for credit at Seller's expense. Itemized invoices each bearing Buyer's Purchase Order number must be mailed on the date of shipment to Buyer's Accounts Payable Department. A properly signed Bill of Lading or express receipt must be attached to the invoice.
- 3. DELAYS TIME OF DELIVERY IS OF THE ESSENCE FOR THIS PURCHASE ORDER:** Seller shall promptly notify Buyer of any actual or anticipated delay of delivery and take all reasonable steps to avoid or end delay without additional cost to Buyer. Where the delay is caused by acts of God, acts of civil or military authority, epidemic, war or riot which are beyond Seller's control and which Seller could not have reasonably foreseen or provided against, Buyer shall have the right to either: (I) terminate, by written notice to Seller, all or part of this Purchase Order without liability to Seller of any kind for the terminated part(s) or (ii) extend the date of delivery or performance for a period equal to the duration of the delay but Seller shall not be entitled to any extra compensation for

such delay. Seller shall not be excused from performance hereunder where alternate sources of materials, goods or services are available.

**4. TITLE:** Seller warrants full and unrestricted title to Buyer for the goods and services furnished by Seller under this Purchase Order, free and clear of any and all liens, restrictions, reservations, security interests or encumbrances. If Buyer makes progress payments to Seller under this Purchase Order, title to the goods ordered hereunder shall pass to Buyer at the time identified in this Purchase Order, title to the goods ordered hereunder shall pass to Buyer at the time identified in this Purchase Order. Seller shall clearly identify such goods by visible marking or tagging, and Buyer shall have the right, at Buyer`s option, to inspect and verify that said goods have been identified as Buyer`s property. Care, custody, and control of such goods remain with Seller until such time as Buyer takes physical possession or otherwise agrees in writing by change order to this Purchase Order. All shop drawings, patterns, tools, dies or other items made preparatory to production of any goods are Buyer`s property and shall be cared for in accordance with Buyer`s instruction and, upon demand, shall be delivered to Buyer.

**5. RESERVATION OF RIGHTS:** The making or failure to make any inspection of or payment for the goods or services covered by this Purchase Order shall in no way impair Buyer`s right to reject non-conforming or defective goods or services, nor be deemed to constitute acceptance by Buyer of the goods or services, nor in any way affect Seller`s obligations under this Purchase Order, notwithstanding Buyer`s knowledge of any non-conformity or defect, the substantiality or ease of discovery or any such non-conformity or defect nor Buyer`s failure to earlier reject the goods or services.

**6. WARRANTY:** Seller warrants to Buyer that all goods and services covered by this Purchase Order shall conform to the specifications, drawings and other descriptions supplied or adopted by Buyer, shall be new, first class, fit and sufficient for the purpose for which they are intended as evidenced in this Purchase Order and in the drawings and specifications referred to herein, are of good materials, design and workmanship, free from defects, and shall satisfactorily fulfill the operating conditions specified herein or in connection with this Purchase Order. The term of this warranty shall be the longer of: (1) the term of warranty provided by the manufacturer of the final product into which the goods purchased herein are incorporated (hereinafter "Final Product") (for example, an automobile component that is installed as original equipment in a motor vehicle shall have the same warranty period extended with the motor vehicle); (2) the term mandated by applicable law; or (3) twenty-four months from the date the Final Product is first placed into operation. Seller shall reimburse Buyer for all costs incurred by Buyer caused by or arising out of the failure of any goods furnished hereunder to meet the warranties set forth above or otherwise incorporated into this Purchase Order. Those costs shall include by way of example, cost of : removal, dealer markups of parts and labor, repair, transportation, storage, and any other incidental and consequential damages caused by the defective product except that costs shall not include Buyer`s loss of profits. Seller shall reimburse Buyer for all such costs within forty-five (45) days of receipt of invoice therefor. The above warranties are in addition to all other warranties, express or implied, at law or equity.

**7. INSPECTION AND EXPEDITING:** Seller shall be responsible for the performance of all activities affecting quality and schedule, including those of its sub-suppliers. Buyer or Buyers' Customer reserves the right to review Seller's quality assurance and quality control procedures, and Seller shall at its expense furnish to Buyer a reasonable number of samples. The Buyer or Buyers' Customer may inspect and witness Seller's testing: Buyer or Buyers' Customer shall be granted access to all parts of Seller's plant(s) or Seller's sub-supplier's plant(s) engaged in the manufacturing or processing of this Purchase Order. The representative's inspection and witnessing of testing, the lack thereof, or lack of response shall in no way release Seller from any obligations related to this Purchase Order. Seller shall further ensure that these terms and conditions become a part of its Purchase Orders to sub-suppliers for all goods or services which are used in the products purchased under this Purchase Order. Seller and/or Seller's sub-supplier shall notify Buyer at least five (5) calendar days in advance of the date any inspection or test can be made. If, for any reason, the date should be set back, Seller shall telephone or wire Buyer immediately. Complete and accurate information is required to maintain the overall schedule. Unless otherwise stated, Seller shall furnish the status of engineering, material procurement, production and shipping information every fourteen (14) days as a minimum. SELLER SHALL NOT SHIP THE GOODS FURNISHED UNDER THIS PURCHASE ORDER WITHOUT BUYER'S FINAL INSPECTION OR A WRITTEN WAIVER OF INSPECTION FROM BUYER, VIOLATION OF THIS REQUIREMENT SHALL CONSTITUTE A REJECTION OF THE GOODS WITH SUBSEQUENT COSTS FOR RETURN OR OTHER ACTION AS WARRANTED TO THE ACCOUNT OF SELLER.

**8. PATENTS:** Seller shall, at its sole expense, indemnify, hold harmless and defend Buyer, its officers, employees, successors and customers from and against any suit or proceeding brought against Buyer based on a claim that the manufacture, use or sale of any goods or services or any part thereof supplied under this Purchase Order, constitutes infringement of any patent, copyright, trademark or proprietary information right of others, and Seller shall pay all damages and costs awarded therein against Buyer. Seller shall be promptly notified, in writing, of the suit or proceeding and shall be given adequate authority, information and assistance, at Seller's expense, for the defense of same, subject to the right of Buyer to participate at its expense and to be fully advised by Seller in advance of all actions taken. In case said goods or any part thereof are, in such suit, held to constitute infringement or the sale or use of said goods or parts thereof are enjoined,, regardless of whether such determination constitutes a final judgement, Seller shall, at its expense, either procure for Buyer the right to sell and use said goods or part thereof; replace the same with substantially equal but non-infringing goods: or, if approved by Buyer, remove said goods and refund the purchase price and the transportation and installation costs thereof. The preceding shall not apply to any goods, or any part thereof, manufactured to designs furnished and required by Buyer, nor shall it apply to claims that the sale or the use of a process or use of a combination of the goods supplied by Seller hereunder with other goods infringes any patents, if such process or other goods were not supplied by Seller and Seller's supplying the goods hereunder does not constitute contributory patent infringement.

- 9. INDEMNITY:** For and in consideration of the covenants of Buyer under this Purchase Order, including the agreement of Buyer to pay to Seller the amounts which may become due and payable under the terms of this Purchase Order, Seller hereby agrees to assume the risk of and to release, defend, indemnify and save harmless Buyers and the related entities, directors, officers, employees, agents and assigns of Buyer (“Indemnitees”) from and against all loss, damage, liability, cost and expense (including reasonable attorney’s fees) arising out of any injury or death to any person or damage to any property, including damage to or failure of the goods furnished hereunder or damage to other components caused by such failure, resulting from or in any way connected with the performance of this Purchase Order or Seller’s breach of this Purchase Order or the goods furnished hereunder, regardless of whether or not such loss, damage, liability, cost or expense is caused in part by an Indemnitee. Neither this Article nor any other provision of this Purchase Order shall be construed in any circumstances to constitute an indemnification against any loss, damage, liability, cost or expense caused solely by the negligence of such Indemnitee. The indemnity obligations in this Purchase Order shall be deemed to be modified as required to exclude indemnification which is expressly prohibited by applicable law. Seller acknowledges receipt of specific payment of Ten Dollars (\$10.00), incorporated into the purchase price, as legal consideration of Seller’s indemnity under this Article and all other indemnities as may be provided in this Purchase Order.
- 10. CHANGES:** Buyer shall have the right to make changes in the specifications and drawings for goods or services covered by this Purchase Order. If Seller believes that any such change affects the price or delivery date for such goods or services, Seller shall so notify Buyer in writing, with adequate supporting documentation, within (5) calendar days after receipt of said written direction. Seller shall suspend performance of the change unless thereafter released, in writing, by Buyer to perform said change, and Buyer and Seller shall mutually agree, in writing, upon an equitable adjustment in the price and/or delivery date to reflect the effect of such change. Seller’s request for any adjustments shall be deemed waived unless submitted in writing within such five (5) calendar days after Seller receives direction to make such changes. Seller shall not suspend performance of the unaffected portion of this Purchase Order while Buyer and Seller are in the process of making such changes and any related adjustments, or at any time thereafter unless so instructed in writing by Buyer. If released in writing by Buyer, Seller shall comply with and perform such change in accordance with the terms of this Purchase Order during the time Seller and Buyer require to mutually agree upon an equitable adjustment. No substitutions shall be made in this Purchase Order without the prior written authority of Buyer. No agreement or understanding modifying the conditions or terms of this Purchase Order shall be binding upon Buyer nor shall extra compensation be paid by Buyer unless the agreement or understanding is made in writing.
- 11. CANCELLATION FOR DEFAULT:** In the event Seller shall fail to perform any of its obligations under this Purchase Order, be adjudged bankrupt, make a general assignment for the benefit of its creditors, or if a receiver shall be appointed on account of Seller’s insolvency, or in the event Seller is in default of any provision or requirement of this Purchase Order, Buyer may, by written notice to Seller, without prejudice to any other rights or remedies which Buyer may have, cancel further performance by Seller

under this Purchase Order. In the event of such cancellation, Buyer may complete the performance of this Purchase Order by such means as Buyer selects, and Seller shall be responsible for any additional costs incurred by Buyer in so doing. Seller shall deliver or assign to Buyer any work in progress as Buyer may request. Any amounts due Seller for goods and services completed by Seller in full compliance with the terms of this Purchase Order prior to such cancellation shall be subject to offset Buyer`s additional costs of completing the Purchase Order and other damages incurred by Buyer as a result of Seller`s default. Waiver by Buyer of any default of Seller shall not be considered to be a waiver by Buyer of any provision of this Purchase Order or of any subsequent default by Seller.

- 12. CANCELLATION FOR CONVENIENCE:** Buyer shall have the right to cancel, for its convenience, further performance of all or any separable part of this Purchase Order at any time by written notice to Seller. On the date of such cancellation stated in notice, Seller shall discontinue all work pertaining to this Purchase Order, shall place no additional orders, and shall preserve and protect materials on hand purchased for or committed to this Purchase Order, work in progress and completed work both in Seller`s and in its suppliers plants pending Buyer`s instruction, and shall dispose of same in accordance with Buyer`s instructions. Cancellation payment to Seller or refund to Buyer, if any shall be promptly and mutually agreed to by Buyer and Seller, shall be based on that portion of the work satisfactorily performed to the date of cancellation, including reimbursement for reasonable overhead and profit on such work, reasonable and necessary expenses resulting from the cancellation, as substantiated by documentation satisfactory to and verified by Buyer, disposition of work, material on hand and amounts previously paid by Buyer. Seller shall not be entitled to any loss of profits, contribution to overhead, or incidental, consequential or other damages because of such cancellation. Seller shall deliver or assign all goods with all applicable warranties or dispose of goods as directed by Buyer prior to final payment.
- 13. LAWS AND REGULATIONS:** Seller warrants that all goods and services supplied pursuant to this Purchase Order will comply with all applicable federal and state laws, ordinances and regulations, including but not limited to those concerned with labor, environment and safety. Seller shall provide all permits, certificates and licenses which may be required for the performance of this Purchase Order. Seller also warrants that all goods furnished by Seller in performance of this Purchase Order shall comply fully with the Occupational Safety and Health Act of 1970 (84 USC 1590), as amended, and State plans approved under this Act: the Toxic Substance Control Act (15 USC 2601): and the regulations promulgated under both Acts, to the extent applicable to such equipment and in addition to any other rights or remedies which Buyer may have. "All wood packaging materials shipped must comply with treatment and marking requirements of IPPC ISPM # 15 and the following statement must be on documentation provided with each shipment, "Any wood packaging materials contained in this shipment complies with the treatment and marking requirements of IPPC ISPM #15." According to the Animal and Plant Health Inspection Service ("APHIS") regulations ( 7 C.F.R. Section 319.40-3(b) (1) ), solid wood packing material ("SWPM") such as crating, pallets, drums, cases and skids, imported from any country, other than China and Hong Kong, can be imported without fumigation providing the SWPMs are completely free bark and are not used with regulated articles. C-TPAT Requirements. For Seller`s goods to be imported in

the United States, Seller shall accept, implement, and comply with all applications, recommendations or requirements of the United States Customs Service's Customs-Trade Partnership Against Terrorism (C-TPAT) initiative (for information go to [http://www.cbp.gov/xp/cgov/import/commercial\\_enforcement/ctpat/](http://www.cbp.gov/xp/cgov/import/commercial_enforcement/ctpat/)). At Buyer's or the Customs Service's request, Seller shall certify in writing its acceptance, implementation, and compliance with the C-TPAT and any accompanying recommendations and guidelines. Seller shall indemnify and hold Buyer harmless from and against any liability, claims, demands or expenses (including attorney's fees or other professional fees) arising from or relating to Seller's failure to accept, implement or comply with C-TPAT.

Contractors: authorized workers

The contractor, as a condition of providing goods/services to AFCO, agrees to the following: The contractor has responsibility for the completion of I9's for their workers, subcontractors, etc. The contractor is not providing unauthorized workers. The contract indemnifies AFCO (the employer), its parent companies, affiliates, etc. for any penalties, assessments, etc. for knowingly hiring unauthorized workers and I9 violations.

- 14. EQUAL EMPLOYMENT OPPORTUNITY:** Seller shall comply with all applicable federal laws, regulations, and rules including but not limited to those relating to equal employment opportunity and the employment of minorities, women, the handicapped, and certain veterans, and contracting with women-owned or small and disadvantaged business concerns.
- 15. HAZARDOUS MATERIALS:** Seller shall notify Buyer in writing upon receipt of this Purchase Order if any goods furnished are subject to laws or regulations relating to hazardous or toxic substances, or, when disposed of, to regulations governing hazardous wastes, or to any other environmental or safety and health regulations. Seller shall furnish all appropriate shipping certification and instructions for shipping, safety, handling, exposure and disposal in a form sufficiently clear for use by Buyer's nontechnical personnel and sufficiently specific to identify all action which the user must take concerning the material. The following certification shall be made on the bill of lading: "This is to certify that the above named articles are properly classified, described, packaged, marked and labeled and are in proper condition for transportation according to any applicable transportation regulations."
- 16. MECHANICS' LIENS:** Seller's obligations under this Purchase Order shall include keeping premises of Buyer free from all claims, liens and encumbrances. Seller, for itself and all of its contractors and suppliers of any tier, waives all rights of lien against the property and premises of Buyer for labor performed or for goods furnished for the work.
- 17. SUSPENSION OF PERFORMANCE:** Buyer may, at any time, by written notice to Seller, suspend further performance of all or any portion of this Purchase Order by Seller. Such suspensions shall not exceed one hundred eighty (180) consecutive calendar days each nor aggregate more than two hundred seventy (270) calendar days. Upon receiving any such notice of suspension, Seller shall promptly suspend further performance of this Purchase Order to the extent specified and, during the period of such suspension, shall properly care for and protect all work in progress and materials, supplies and equipment Seller has on hand for performance of this Purchase Order. Seller shall use its best efforts to utilize its material, labor and equipment in such a

manner as to mitigate costs associated with suspension. Buyer may, at any time, withdraw the suspension as to all or part of the suspended performance by written notice to Seller specifying the effective date and scope of withdrawal, and Seller shall, on the specified date of withdrawal, resume diligent performance of the work for which the suspension is withdrawn. If Seller believes that any such suspension or withdrawal of suspension justifies modification of the Purchase Order price or time for performance, Seller shall comply with the section entitled CHANGES. In no event shall Seller be entitled to any loss of prospective profits, contributions to overhead or any incidental, consequential or other damages because of such suspension or withdrawals of suspension.

**18. SPARE PARTS:** During the term goods are supplied hereunder and for a period of 10 years after Buyer has completed the last purchase of goods, Seller will supply all of the Buyer`s service and replacement requirements for the goods at the last valid prices plus any actual cost differential for manufacturing and packaging, such cost differential to be negotiated but in no case to exceed 20 percent (20%).

**19. SERVICE WORK:** In the event this Purchase Order requires the performance of service work or installation of goods by Seller upon any property, premise or project of Buyer, Seller shall examine the premises to determine whether they are safe for such services and shall advise Buyer promptly of any situation it deems to be unsafe. Before any work is performed under this Purchase Order, Seller shall provide written proof of the following insurance coverages: Worker`s Compensation in amounts required by law and Employer`s Liability Insurance with minimum limits of \$100,000 per occurrence; Comprehensive General Liability with a combined single limit of \$1,000,000 per occurrence for bodily injury and property damage, protecting Seller against bodily injury, including death, and property damage arising out of Seller`s operations; Automobile Liability Insurance with a combined single limit of \$ 1,000,000 per occurrence for bodily injury and property damage covering use and operation of owned, non-owned and hired vehicles. If Seller sublets any of the work to a third party, Seller (i) shall maintain in full force and effect during the term of this Purchase Order, Buyer`s Protective Liability coverage with the same limits as specified for Comprehensive General Liability above, and (ii) shall require such third party to furnish the same insurance and indemnity as are required of Seller hereunder and show evidence thereof on a certificate satisfactory to Buyer.

Safety, Health, and Environmental Regulations and Policies. While on the premises Buyer, Seller and its employees and agents shall comply with all applicable safety, health, environmental laws, regulations, ordinances and polices and with Buyer`s safety, ISO and plant rules. Seller shall keep said premises and the vicinity thereof clean of debris caused by its work, and upon completion of its work, shall leave the premises clean and ready for use. Upon request of Buyer and at no expense to Buyer, Seller shall promptly remove from said premises any person under the control of Seller who violates any of the aforesaid safety, health or plant laws, regulations, ordinances or rules, who may cause or threaten a breach of the peace, or who is otherwise objectionable to Buyer. It is the obligation of the buyer to ensure that all employees, agents, etc. working on sellers premises or on the seller`s behalf obtain proper training of all applicable safety, health and environmental ISO regulations, ordinances, policies and rules.

- 20. INDEPENDENT CONTRACTOR:** Seller shall act as an independent contractor and not as an agent or employee of Buyer and shall not contract any portion of the work to a third party without the written consent of Buyer.
- 21. GRATUITIES:** Buyer may, by written notice to Seller, terminate the right of Seller to proceed or continue under this Purchase Order if it is found that gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by Seller, or any agent or representative of Seller, to any officer or employee of Buyer with a view toward securing this Purchase Order or securing favorable treatment with respect to the awarding, amending or making of any determinations with respect to the performance of this Purchase Order. In the event this Purchase Order is terminated as provided in this provision, Buyer shall be entitled to the same remedies against Seller as Buyer could pursue in the event of a breach of this Purchase Order by Seller.
- 22. CONFIDENTIAL INFORMATION:** This Purchase Order and the documents incorporated herein and all information designated as confidential or proprietary shall be deemed "Confidential Information" . Seller agrees to maintain and keep all Confidential Information in confidence and not to disclose it to any third party or use such information for any other purpose except as authorized by Buyer for the performance of this Purchase Order. Seller shall not publicize the existence or scope of this Purchase Order without Buyer`s written consent. Seller shall require these same agreements on the part of any sub-supplier to whom the information is disclosed. Seller shall return all Confidential Information and copies thereof to Buyer upon written request.
- 23. MISCELLANEOUS:** Neither this Purchase Order nor any portion hereof shall be assigned or delegated without Buyer`s prior written consent and any such assignment delegation shall be void. Buyer`s failure to insist on performance of any term, condition or instruction, or failure to exercise any right or privilege, or its waiver of any breach shall not thereafter waive any such term, condition, instruction, right, privilege or breach. This Purchase Order shall be subject to the law and jurisdiction of Buyer`s principal place of business. The invalidity of any part of these terms and conditions shall not affect the validity of the remaining provisions.
- 24. ARBITRATION:** The parties agree to submit all disputes between them arising out of or related to this Purchase Order or the breach, alleged breach or interpretation thereof to binding arbitration. Within thirty (30) days after either party has notified the other in writing that is is submitting a dispute to arbitration, one arbitrator shall be selected under the then current rules of the American Arbitration Association ("AAA") pertaining to commercial disputes. The arbitration shall be held in the state of Buyer`s principal place of business and shall be conducted in accordance with the Commercial Arbitration rules of the AAA except the AAA shall not have authority to make any award for damages excluded herein. The arbitration award shall be by a written decision and shall be final and binding, and enforceable by any court of competent jurisdiction.
- 25. RIGHT TO OFFSET:** Buyer, without waiver or limitation of any rights or remedies of Buyer, shall be entitled from time to time, to deduct from any amounts due or owing by

Buyer to Seller in connection with this Purchase Order, or any other Purchase Order or Contract with Buyer, any and all amounts owed by Seller to Buyer.

26. **SECURITY:** If Buyer makes any advance or progress payment to Seller under this Purchase Order, upon Buyer`s request, Seller agrees to execute a Security Agreement and Financing Statement (both in form satisfactory to Buyer) granting a Security Interest to Buyer, effective in all states of fabrication or manufacture, in the proceeds, raw materials and goods which are purchased, manufactured or otherwise obtained pursuant to the Purchase Order.