



BRAVO USA, INC.
Terms and Conditions of Purchase

1. These terms and conditions (“Terms”) shall apply to all purchases of goods (“Goods”) and services (“Services”, and collectively with the Goods, “Products”) by BRAVO USA, Inc. (“BRAVO”) from the seller listed in the attached purchase order (“Seller”). Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the Products covered hereby, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms. The accompanying purchase order (the “Purchase Order”) and these Terms (collectively, this “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. These Terms prevail over any of Seller’s general terms and conditions of sale regardless whether or when Seller has submitted its sales confirmation or such terms. This Agreement expressly limits Seller’s acceptance to the terms of this Agreement. Fulfillment of this Purchase Order constitutes acceptance of these Terms.

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 Seller fails to deliver the Goods in full on the Delivery Date, BRAVO may terminate this Agreement immediately by providing written notice to Seller and Seller shall indemnify BRAVO 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 BRAVO’s normal business hours or as otherwise instructed by BRAVO. Seller shall pack all goods for shipment according to BRAVO’s instructions or, if there are no instructions, in a manner sufficient to ensure that the Goods are delivered in undamaged condition.

(c) Seller shall provide the Services to BRAVO as described and in accordance with the schedule set forth in the Purchase Order 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 Products.



3. Quantity. If Seller delivers more than the quantity of Goods ordered, BRAVO may reject all or any excess Goods. Any such rejected Goods shall be returned to Seller at Seller's sole risk and expense. If BRAVO 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.

4. Shipping Terms. Delivery shall be made in accordance with the terms of the Purchase Order. The Purchase Order number must appear on all shipping documents, shipping labels, invoices, correspondence and any other documents pertaining to the Purchase Order.

5. Title and Risk of Loss. Title and risk of loss passes to BRAVO upon delivery of the Goods at the Delivery Point.

6. Inspection and Rejection of Nonconforming Goods. BRAVO has the right, but not the obligation, to inspect the Goods on or after the Delivery Date. BRAVO, 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 BRAVO rejects any portion of the Goods, BRAVO has the right, effective upon written notice to Seller, to: (a) rescind this Agreement in its entirety; (b) accept the Goods at a reasonably reduced price; or (c) reject the Goods and require replacement of the rejected Goods. If BRAVO 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, BRAVO may replace them with goods from a third party and charge Seller the cost thereof and terminate this Agreement for cause pursuant to Section 16. Any inspection or other action by BRAVO under this Section shall not reduce or otherwise affect Seller's obligations under the Agreement, and BRAVO shall have the right to conduct further inspections after Seller has carried out its remedial actions.

7. Price. The price of the Products is the price stated in the Purchase Order (the "Price"). If no price is included in the Purchase Order, the Price shall be the price set out in Seller's published price list in force as of the date of the Purchase Order. Unless otherwise specified in the Purchase Order, the Price includes all packaging, transportation costs to the Delivery Location, insurance, customs duties 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 BRAVO.

8. Payment Terms. Seller shall issue an invoice to BRAVO on or any time after the completion of delivery and only in accordance with these Terms. BRAVO shall pay all properly invoiced amounts due to Seller, unless otherwise agreed upon between the parties, within thirty (30) days after BRAVO's receipt of such invoice, except for any amounts disputed by BRAVO in good faith. Without prejudice to any other right or remedy it may have, BRAVO reserves the right to set off at any time any amount owing to it by Seller against any amount payable by BRAVO to Seller.



9. Seller's Obligations Regarding Services. Seller shall:
- (a) before the date on which the Services are to start, obtain, and at all times during the term of this Agreement, maintain, all necessary licenses and consents and comply with all relevant laws applicable to the provision of the Services;
 - (b) comply with all rules, regulations and policies of BRAVO, including security procedures concerning systems and data and remote access thereto, building security procedures and general health and safety practices and procedures;
 - (c) maintain complete and accurate records relating to the provision of the Services under this Agreement, including records of the time spent and materials used by Seller in providing the Services in such form as BRAVO shall approve. During the term of this Agreement and for a period of no less than three (3) years thereafter, upon BRAVO's written request, Seller shall allow BRAVO to inspect and make copies of such records and interview Seller personnel in connection with the provision of the Services;
 - (d) 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 perform the Services;
 - (e) ensure that all of its equipment used in the provision of the Services is in good working order and suitable for the purposes for which it is used, and conforms to all relevant legal standards and standards specified by BRAVO; and
 - (f) keep and maintain any BRAVO equipment in its possession in good working order and shall not dispose of or use such equipment other than in accordance with the BRAVO's written instructions or authorization.
10. Change Orders. BRAVO may at any time, by written instructions and/or drawings issued to Seller (each a "Change Order"), order changes to the Products. Seller shall upon receipt of a Change Order submit to BRAVO a firm cost proposal for the Change Order. If BRAVO accepts such cost proposal, Seller shall proceed with the changed services subject to the cost proposal and the terms and conditions of this 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 this Agreement.
11. Warranties.
- (a) Seller warrants to BRAVO that the Goods will: be free from any defects in workmanship, material and design; conform to applicable specifications, drawings, designs, samples and other requirements specified by BRAVO; be fit for their intended purpose and operate as intended and be merchantable; be free and clear of all liens,



security interests or other encumbrances; and not infringe or misappropriate any third party's patent or other intellectual property rights.

(b) Seller warrants to BRAVO 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 this Agreement.

(c) These warranties survive any delivery, inspection, acceptance or payment of or for the Products by BRAVO. The warranties set forth in this Section are cumulative and in addition to any other warranty provided by law or equity. If BRAVO 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 BRAVO, and, if applicable, (ii) repair or re-perform the applicable Services.

12. **General Indemnification.** Seller shall defend, indemnify and hold harmless BRAVO and BRAVO's 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 the Products purchased from Seller or Seller's negligence, willful misconduct or breach of the Terms. Seller shall not enter into any settlement without BRAVO's prior written consent.

13. **Intellectual Property Indemnification.** Seller shall, at its expense, defend, indemnify and hold harmless BRAVO and any Indemnitee against any and all Losses arising out of or in connection with any claim that BRAVO's or Indemnitee's 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. In no event shall Seller enter into any settlement without BRAVO's or Indemnitee's prior written consent.

14. **Insurance.** During the term of this Agreement, Seller shall, at its own expense, maintain and carry insurance in full force and effect which includes, but is not limited to, commercial general liability (including product liability) in a sum no less than One Million Dollars with financially sound and reputable insurers. Special insurance coverage for product liability and product recall may be required by BRAVO for certain supplies. Upon BRAVO's request, Seller shall provide BRAVO with a certificate of insurance from Seller's insurer evidencing the insurance coverage specified in these Terms. Seller shall provide BRAVO with fifteen (15) days' advance written notice in the event of a cancellation or material change in Seller's insurance policy. Except where prohibited by law, Seller shall require its insurer to waive all rights of subrogation against Seller's insurers and Seller. Compliance with Law. 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 this Agreement.

15. Termination. In addition to any remedies that may be provided under these Terms or by law, BRAVO may terminate this Agreement with immediate effect upon written notice to the Seller, either before or after the acceptance of the Goods or the seller's delivery of the Services, if Seller has not performed or complied with any of these Terms, in whole or in part. 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, then the BRAVO may terminate this Agreement upon written notice to Seller. If BRAVO terminates the Agreement for any reason, Seller's sole and exclusive remedy is payment for the Goods received and accepted and Services accepted by BRAVO prior to the termination.

16. Waiver. Failure by either party to require strict performance hereunder will not be deemed a waiver of that party's right to subsequently require strict performance.

17. Confidential Information. All non-public, confidential or proprietary information of BRAVO, including but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by BRAVO 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 this Agreement is confidential, solely for the purpose of performing this Agreement and may not be disclosed or copied unless authorized in advance by BRAVO in writing. Upon BRAVO's request, Seller shall promptly return all documents and other materials received from BRAVO. BRAVO 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; (b) known to Seller at the time of disclosure; or (c) rightfully obtained by BRAVO on a non-confidential basis from a third party.

18. Force Majeure. Neither party shall be liable to the other for any delay or failure in performing its obligations under this Agreement to the extent that such delay or failure is caused by an event or circumstance that is beyond the reasonable control of that party, without such party's fault or negligence, and which by its nature could not have been foreseen by such party or, if it could have been foreseen, was unavoidable ("Force Majeure Event"). Seller's economic hardship or changes in market conditions are not considered Force Majeure Events. Seller shall use all diligent efforts to end the failure or delay of its performance, ensure that the effects of any Force Majeure Event are minimized and resume performance under this Agreement. If a Force Majeure Event prevents Seller from carrying out its obligations under this Agreement for a continuous period of more than thirty (30) business days, BRAVO may terminate this Agreement immediately by giving written notice to Seller.



19. **Assignment.** Seller shall not assign, transfer, delegate or subcontract any of its rights or obligations under this Agreement without the prior written consent of BRAVO. 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. BRAVO may at any time assign or transfer any or all of its rights or obligations under this Agreement without Seller's prior written consent to any affiliate or to any person acquiring all or substantially all of BRAVO's assets.

20. **Relationship of the Parties.** The relationship between the parties is that of independent contractors. Nothing contained in this 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.

21. **No Third-Party Beneficiaries.** This 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 this Agreement.

22. **Governing Law; Submission to Jurisdiction.** This order and the parties' respective performance obligations hereunder are governed by and construed in accordance with the laws of the State of South Carolina. Any judicial proceeding arising out of or related to this order or the Products shall be instituted and maintained in the federal or state courts for Laurens County, South Carolina, and each party submits to the exclusive jurisdiction of such courts. The parties exclude the application of the United Nations Convention on Contracts for the International Sale of Goods.

23. **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 to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by 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 this 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.

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

25. **Survival.** Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Agreement.



26. Amendment and Modification. These Terms may only be amended or modified in a writing stating specifically that it amends these Terms and is signed by an authorized representative of each party.