

## STANDARD TERMS AND CONDITIONS

These Standard Terms and Conditions of sale (these “**Terms**”) are applicable to all Sales Confirmations (defined below) and of any Products (defined below) of Seller. Seller and Buyer may sometimes be referred to herein individually as a “**Party**” and collectively as the “**Parties.**”

1. **Applicability.** These terms and conditions of sale (these “**Terms**”) apply to the sale and purchase of the Products between World Reach Health, LLC (“**Seller**”) and any buyer (each a “**Buyer**”), each of which is identified in the accompanying quotation, credit application, proposal, order acknowledgement, or invoice (the “**Sales Confirmation**”), a copy of which shall be attached hereto and incorporated herein for reference as **Exhibit “A.”**
  - a. These Terms are the only terms and conditions, oral or written, applying to the sale of Products to Buyer, except for additional terms consistent with these Terms on prices, quantities, delivery schedules and the description and specifications of the Products as set forth in a Sales Confirmation issued by Seller. Any specifications for a Product shall be only as set forth in a Sales Confirmation.
  - b. Seller hereby objects to and rejects any other terms and conditions appearing on, incorporated by reference in or attached to any Purchase Order (defined below), acceptance, acknowledgement, invoice, transmittal or other document other than a Seller-provided Sales Confirmation. Seller’s failure to object to any provision contained in a document or communication from Buyer shall not be a waiver of these Terms or any Seller-provided Sales Confirmation.
  - c. All proposals, negotiations, representations, quotations or agreements, if any, written or oral, regarding the sale of any Products and made prior to or contemporaneous with the date of these Terms are merged herein.
  - d. Acceptance of these Terms and any Sales Confirmation, both or either of which may be delivered to Buyer in electronic form by Seller, shall be deemed to have occurred upon the earlier of: (i) Buyer executing and/or accepting these Terms, (ii) by Buyer signing and returning Seller’s quotation, (iii) by Buyer sending Seller a purchase order in response to any quotation, (iv) when Buyer is aware that Seller has commenced performance thereunder, (iv) by Buyer’s instructions to Seller to ship the Products, (v) when Buyer accepts delivery of any Products, and/or (vi) Buyer remits full or partial payment to Seller for the Products.
2. **Purchase Orders.** Buyer shall submit purchase orders (each a “**Purchase Order**”) pursuant to such procedures as may be mutually and reasonably agreed upon in writing between the Parties, including procedures to be utilized for canceling or

modifying any such Purchase Order after submittal. Seller reserves the right, in its sole discretion, to decline to accept any order and to change and/or discontinue the marketing of any of the Products, without prior notice to Buyer.

- a. Unless mutually agreed by the Parties in writing, in the event of any conflict or inconsistency between the terms of any Sales Confirmation or these Terms, these Terms shall prevail to the extent of any such conflict or inconsistency in respect of the particular Sales Confirmation.
3. **Products.** Buyer may purchase the products (the “**Products**”) listed in each Sales Confirmation.
- a. **No Refunds / Exchanges.** Except for instances involving Nonconforming Products (defined below), or Product returns governed under a separate agreement, **all sales are final**. There shall be no refunds, returns or exchanges of the Products, unless (i) Seller, or Seller’s Vendors (defined below) fail to deliver the Products to Buyer within thirty (30) days of the date the Buyer paid Seller for the Products (or such other lengthier date as agreed or noted in a Sales Confirmation), (ii) the Products are Consigned Products (defined below), or (iii) as otherwise later agreed to in writing between the Parties.
  - b. **Consigned Products.** For the purpose of these Terms, “**Consigned Product**” means a Product that a Buyer receives and stores in proper conditions, but the Seller otherwise retains ownership and title to the Product until such Product is used by the Buyer. Returns associated with Consigned Product should be coordinated through each Buyer’s applicable sales representative or email via [sales@worldreachhealth.com](mailto:sales@worldreachhealth.com). Consigned Products must be returned unused and in its original packaging, without damage to packaging and/or the Products, and with no additional labels or materials added to the package.
  - c. **Seller Recall; FDA Recall.** Product returned due to a recall per the Seller’s instructions, the instructions of any manufacturer of the Products and/or instructions of the Food and Drug Administration (the “**FDA**”) will only be eligible if authorized by Seller’s legal department or by a governmental entity with authority to issue such instructions to Seller and/or Buyer.
    - i. In the event (a) any government authority issues a request, directive or order that any Products be recalled, (b) a court of competent jurisdiction orders such a recall, or (c) Seller reasonably determines, after consultation with Buyer, that any Products should be recalled, Buyer shall cooperate with Seller in effecting such recall as Seller may reasonably request. Seller shall have administrative responsibility for effecting any such recall.
  - d. **Non-Returnable Products.** Return of Products that would have been subject to return under separate agreement, as Consigned Products or for

Nonconforming Products, shall not be permitted for the following circumstances (each “**Non-Returnable Products**”). Non-Returnable Products will not be eligible for authorized return and Buyer will not receive credit nor be released from payment obligations in the event of an unauthorized return that is outside of the eligible return criteria set forth under separate agreement. For the avoidance of doubt, Products are not eligible for credit or replacement under the above, regardless of whether the Products otherwise satisfies the requirements in any of the section previously specified:

- i. Products that are not in their original packaging or container and/or not bearing its original label; or lot numbers or expiration dates are missing; unless (a) a certification of return circumstances that would not require the return of physical Products (e.g., loss, damage, etc.) and proper disposal, if applicable, has been submitted and Seller has approved and processed such certification or (b) Products are physically returned, but are damaged (at time of shipment by Seller) making fulfillment of this requirement impossible;
  - ii. Products involved in a fire, flood, natural disaster or obtained in a sacrifice or bankruptcy sale;
  - iii. Products that are in a deteriorated condition due to improper storage by Buyer (e.g., exposure to water, heat, cold or fire);
  - iv. Products that Seller has previously designated as “nonreturnable” by contract or notice to Buyer;
  - v. Products that have been repackaged;
  - vi. Products purchased for research or clinical trials or shipped as a no cost item (e.g., physician sample, Products replaced through separate Seller-approved Product replacement program, etc.);
  - vii. Products damaged or rendered unusable due to mishandling or error by Buyer;
  - viii. Any private-labeled products manufactured by Seller but sold by a third party. These products should be returned under the terms and conditions for returned offered by the selling entity.
- e. **FDA/AATB-Required Record Keeping.** Seller and Buyer will keep or cause to be kept in accordance with FDA and/or The American Association of Tissue Banks (the “**AATB**”) regulatory requirements books and records regarding the purchases and sales of FDA-approved Products pursuant to these Terms. All tissue utilization records will be returned to Seller. Further, to the extent, and

only to the extent required by law, until the expiration of four (4) years after the furnishing of the Products and services provided pursuant to these Terms, Seller will make available to the Secretary of the U.S. Department of Health and Human Services, the U.S. Comptroller General, and their representatives, these Terms and all books, documents and records necessary to certify the nature and extent of the costs of any Products or services provided hereunder. If Seller subcontracts its duties hereunder through a subcontract worth Ten Thousand Dollars (\$10,000.00 USD) or more over a twelve (12) month period with a related organization, the subcontract will also contain an access clause to permit access by the Secretary, Comptroller General, and their representatives to the related organizations books and records.

4. **Quantity.** The quantity (the “**Quantity**”) of Products per order will be confirmed in each Sales Confirmation.
  - a. **Over-Runs.** Over-runs and under-runs per Product type ordered may vary plus or minus 10% of the volume order quantity as contained in the Sales Confirmation. Delivered quantity within the above listed range shall be deemed to constitute fulfillment of the ordered amount.
  
5. **Prices and Payment Terms.** Buyer agrees that the payment terms described in a separate written agreement or as noted in each Sales Confirmation shall apply, unless otherwise later agreed to in writing between the Parties. Alternatively, if there is no written agreement, and no terms specified in a Sales Confirmation, then payment shall be due net thirty (30) days from the date of shipment without regard to insurance reimbursement, if any. The price per unit of each Product shall be confirmed in each Sales Confirmation (the “**Unit Price**”). The total purchase price for the Quantity of Products shall be confirmed in each Sales Confirmation (the “**Purchase Price**”). The pricing noted on each Sales Confirmation reflects the net price of supplies to the Buyer. Where applicable, this price is net after a discount or other reduction in price, and the net price as well as any discount may be reportable under federal regulations at 42 C.F.R. §1001.952(h). Buyer is hereby informed that it may have received a discount. The price net of that discount is as stated on each Sales Confirmation. If applicable, Buyer agrees that it shall fully and accurately report such discount on any claims or cost reports that it may submit to Medicare or any State Medicaid program.
  - a. **Currency; Foreign Exchange Costs.** The Unit Price for the Products shall be denominated in United States Dollars (USD) and paid in United States Dollars. Buyer shall be responsible for reimbursing Seller for any foreign exchange costs applied to the payment of the Purchase Price, or any portion thereof.
  - b. **Shipping Costs.** The Purchase Price **does not include** the cost of shipping to Buyer’s designated location, unless otherwise noted on each Sales Confirmation or otherwise later agreed to in writing. International shipping rates will vary, and are not included in the Purchase Price, unless otherwise

later agreed to in writing between the Parties, or as otherwise noted on a given Sales Confirmation.

**i. Pallet Handling Charges.**

1. A pallet handling charge of Twenty Dollars (\$20.00 USD) per pallet for in and out loading (up to \$40.00 USD total) may be applicable.
2. A pallet storage fee in the amount of Twenty-Five Dollars (\$25.00 USD) per pallet per week, which will not be pro-rated, will be applied if Buyer fails to retrieve the Products within five (5) business days of the date the Products are available, or if Buyer requests Seller to store the Products, unless otherwise later agreed to in writing between the Parties.

**c. Prices Subject to Change.** Prices in any Sales Confirmation from Seller are subject to change upon notice sent to Buyer at any time before the Sales Confirmation has been accepted. Prices for Products covered by these Terms may be adjusted by Seller, upon notice to Buyer at any time prior to shipment, to reflect any increase (or decrease) in Seller's cost of raw materials (e.g., steel, aluminum) incurred by Seller after issuance of the applicable Sales Confirmation. Any increase in Unit Prices reflected in a Sales Confirmation will require Buyer's written approval before proceeding with an order.

**d. Cancellation Fees /Restocking Fees; Late Fees; NSF Fees; Right of Offset; Collection Costs; Delivery Withholdings.**

**i. Cancellation / Restocking Fees.** In the event Seller agrees to accept a Buyer's request to cancel any Sales Confirmation for reasons not involving Cause (defined below), Buyer, unless otherwise later agreed to in writing between the Parties, shall be required to pay Seller a cancellation/restocking fee equal to Thirty-Five Percent of One Hundred Percent (35% of 100%) of the Purchase Price noted in the applicable Sales Confirmation if the Products were available to timely ship, but have not shipped at the time of cancellation, or, in the alternative, if some Products have shipped and/or been delivered to Buyer, Buyer shall be responsible for paying Seller the entire value of the quantity of the Products that were shipped and/or delivered, plus Thirty-Five Percent of One Hundred Percent (35% of 100%) of the value of the quantity of Products that have not yet shipped (the "**Cancellation Fee**").

1. For the purposes of these Terms and Conditions applicable to Sales Confirmations involving glove Products, "**Cause**" means:

- a. Seller's Standard Global Services Report (each an "**SGS Report**") was determined to be inaccurate;
  - b. Seller materially breached, without cure, any representations and warranties contained in these Terms or other definitive agreements between the Parties; and/or
  - c. the Products were not available to ship (excluding for reasons of Force Majeure) within the timelines agreed upon in writing between the Parties.
- ii. **Holding Fees for Import Products.** Buyer acknowledges and agrees to pay Seller all actual, accountable handling fees, plus an import holding fee in the amount of One Thousand Dollars (\$1,000.00 USD) per day for each container of Products not retrieved by Buyer within the specified timelines (the "**Holding Fee**"), unless otherwise later agreed to in writing between the Parties or as otherwise noted in the applicable Sales Confirmation.
- iii. **Late Fees.** If Seller does not receive full payment by the due date, a late fee will be applied at a rate of 1.5% of the original balance per month (the "**Late Fees**").
- iv. **NSF Fees.** In the event Buyer's account does not contain sufficient funds, or where the Buyer opposes the debit charge being taken from its account without good reason, Seller reserves the right to charge Buyer an administration fee of Fifty Dollars (\$50.00 USD) per occurrence (the "**NSF Fee**").
- v. **Right of Offset.** Seller shall be afforded a right of offset to cover any past dues invoices owed by Buyer.
- vi. **Collection Costs.** Buyer hereby agrees to pay Seller for all collection costs Seller incurs to collect from Buyer any amount past due. Buyer will incur all charges, if any, related to the transfer or payment of funds to Seller's account.
- vii. **Delivery Withholdings.** Without waiving any other rights or remedies available to Seller under applicable law or otherwise, Seller may, at its option: (i) defer shipment and/or deliveries of Products until all past-due accounts of Buyer owed to Seller have been satisfied in full, or (ii) require Buyer to pay for Products prior to shipment, or ship Products on a "cash on delivery" basis if Seller determines, in its sole discretion, not to extend credit to Buyer.

- e. **Fair and Reasonable Pricing.** Buyer hereby acknowledges and agrees that the Unit Price per Product and/or the Purchase Price, as stated in each Sales Confirmation, is fair and reasonable, that the Buyer believes, based upon Buyer's independent analysis, that the Unit Price and/or the Purchase Price is competitive within the marketplace, and that the Buyer does not believe the Unit Price and/or the Purchase Price is unconscionably excessive.
- f. **Sales Tax.** All stated prices are exclusive of any taxes, fees, duties, and levies, however designated or imposed, including, but not limited to value-added and withholding taxes that are levied or based upon the amounts paid under these Terms (collectively, "**Taxes**"). Any Taxes related to the Products purchased pursuant to these Terms are the responsibility of Buyer (excluding taxes based on Seller's net income), unless Buyer presents an exemption certificate acceptable to Seller and the applicable taxing authorities. If possible, Seller will bill Taxes as a separate item on the invoice presented to Buyer. If any exemption certificate presented by Buyer is held to be invalid, then Buyer will pay Seller the amount of the Taxes and any penalties and interest related thereto within fifteen (15) business days of the date Buyer is notified by Seller. Each of the Parties shall indemnify and hold the other Party harmless from and against any loss, expense and increase in costs incurred by the other Party as a consequence of default on the part of the Party discharging its obligations for payment of any taxes, customs duties, levies and other charges for which it is responsible under these Terms and under law.
  - i. **Sales Tax Exemption.** If applicable, Buyer may provide Seller a copy of Buyer's sales tax exemption certificate.

## 6. **Delivery; Shipping.**

- a. Time is of the essence of these Terms.
- b. Seller will deliver the Products within a reasonable time after receiving Buyer's Sales Confirmation, subject to their availability. The delivery date provided by Seller for the Products is only an estimate and is based upon prompt receipt of all necessary information from Buyer. If Buyer causes Seller to delay shipment or completion of the Products, Seller will be entitled to any and all extra costs and expenses resulting from the delay. Seller will not be liable for any delays, loss, or damage in transit, and failure to deliver within the time estimated will not be a material breach of contract on Seller's part.
  - i. **COVID-19 DISCLAIMER. DUE TO THE COVID-19 PANDEMIC, THERE IS A NATIONAL SHORTAGE ON MANY OF SELLER'S REGULARLY STOCKED ITEMS, AND, AS A RESULT, BUYER ACKNOWLEDGES AND AGREES THAT SHIPPING AND DELIVERY ESTIMATES ARE SUBJECT TO CHANGE BASED UPON MANUFACTURING PRODUCTION SCHEDULES, DELIVERY INTERRUPTIONS, GOVERNMENT**

**MANDATES OR OTHER EVENTS OF FORCE MAJEURE BEYOND  
SELLER'S REASONABLE CONTROL.**

- c. The Parties must mutually agree in writing to change the location(s) at which the Products are required to be delivered.
- d. Unless otherwise agreed in writing by the Parties, Seller will deliver the Products to Buyer within the domestic United States, EXW (Incoterms® 2020) at Seller's location noted in the Sales Confirmation (the "**Delivery Location**"). In the event shipping to Buyer's destination is agreed upon, Seller will use Seller's standard methods for packaging and shipping same. Buyer will take delivery of the Products within one (1) day of Seller's notice that the Products have been made available for pickup or delivered to the Delivery Location. If Buyer fails to take delivery of the Products within this one (1) day period, Buyer will pay Seller for the Products and all storage expenses incurred by Seller, unless otherwise later agreed to in writing between the Parties. Seller may, in its sole discretion, without liability or penalty, make partial shipments of Products to Buyer. Each shipment will constitute a separate sale, and Buyer will pay for the units shipped whether the shipment is in whole or partial fulfillment of Buyer's Sales Confirmation. Buyer is responsible for obtaining any import licenses and other consents required for a Product shipment at its own expense, and, will provide the licenses and consents to the Seller before shipment.
- e. The quantity of any installment of the Products, as recorded by Seller on the dispatch from Seller's place of business, is conclusive evidence of the quantity received by Buyer upon delivery, unless Buyer provides conclusive evidence to the contrary. Seller will not be liable for any non-delivery of the Products to the Delivery Location, unless Buyer gives written notice to Seller of the non-delivery within five (5) calendar days following the date that Buyer would, in the ordinary course of business, have received the Products. Seller's liability for any non-delivery of the Products will be limited to replacing the Products within a reasonable time or adjusting the invoice for the Products to reflect the actual quantity delivered.

**7. Title; Risk of Loss.**

- a. Risk of loss or damage passes to Buyer upon delivery to the carrier. If Buyer fails to accept delivery of any of the Products on the date set forth in Seller's notice that Seller has delivered the Products to the Delivery Location, or if Seller is unable to deliver the Products to the Delivery Location on the date because Buyer has failed to provide appropriate instructions, documents, licenses, or authorizations, then: (i) risk of loss to the Products will pass to Buyer; (ii) the Products will be deemed to have been delivered to Buyer; and (iii) Seller, at its option, may store the Products until Buyer takes possession of them, at which time Buyer will be liable for all costs and expenses resulting



from the failure (including but not limited to the cost of storage and insurance).

- b. Title passes to Buyer upon Buyer's payment in full for the Products.

#### **8. Inspection; Rejection of Products.**

- a. As used in this Section 8, "**Nonconforming Products**" means only the following: (i) the items shipped are different from those identified in Buyer's Sales Confirmation; (ii) the labels or packaging of the items incorrectly identifies them; or (iii) some or all of the Products are damaged beyond repair and are unusable. Buyer will inspect the Products within one (1) calendar day following receipt thereof (the "**Inspection Period**"). The Products will be deemed accepted at the end of the Inspection Period unless Buyer notifies Seller in writing of any Nonconforming Products and furnishes Seller with written evidence, photo and/or video evidence (date and time stamped within the Inspection Period) or other documentation reasonably required by Seller to demonstrate the existence of Nonconforming Products.
- b. If Buyer timely and properly notifies Seller of any Nonconforming Products, then Seller will, in its sole discretion, (i) replace the Nonconforming Products with conforming Products or (ii) credit or refund the purchase price for the Nonconforming Products, together with any reasonable shipping and handling expenses incurred by Buyer, unless otherwise later agreed to in writing between the Parties. At Seller's request, Buyer will dispose of the Nonconforming Products or return the Nonconforming Products to Seller at Seller's expense. Upon receipt of the Nonconforming Products, Seller will promptly refund the monies owed or ship the replacement Products to the Delivery Location at Seller's expense, with Seller retaining the risk of loss until delivery.
- c. Buyer acknowledges and agrees that the remedies set forth in this Section 8 are Buyer's exclusive remedies for the delivery of Nonconforming Products, and except as set forth in this Section 8, Buyer has no right to return the Products to Seller without Seller's written authorization.

#### **9. DISCLAIMER OF WARRANTY. SELLER IS SELLING TO BUYER THE PRODUCTS AND BUYER ACCEPTS THE PRODUCTS "AS-IS," AND SELLER EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO THE IMPLIED CONDITIONS AND WARRANTIES OF MERCHANTABILITY, QUALITY, FITNESS FOR A PARTICULAR PURPOSE, CORRESPONDENCE WITH DESCRIPTION OR QUALITY, TITLE, QUIET POSSESSION AND NON-INFRINGEMENT.**

- a. **Limited Warranty for Tissue Products.** Seller, or, as applicable, the manufacturer of all amnion-based tissue Products shall be subject to a one (1) year warranty after shipment that each amnion-based Products have been collected, processed and stored in compliance with all applicable laws and standards, including the AATB Standards and Title 21, Code of Federal Regulations 1271, Human Cells, Tissues and Cellular and Tissue-Based Products, and has a shelf-life of at least two (2) years from the date of shipment to Buyer.

**10. Buyer Not to Contact Seller's Vendors.** Unless otherwise later agreed to in writing, or unless Seller authorizes Buyer in writing (email is sufficient) to contact Seller's manufacturers, distributors, vendors, suppliers and or freight carriers (each a "**Vendor**" and collectively "**Vendors**"), Buyer will not contact a Vendor regarding the Sales Confirmation. Buyer shall not submit a Sales Confirmation or other orders directly with any Vendor. Buyer's breach of this Section 10 may constitute a material breach of these Terms. Buyer also acknowledges that the procedural restrictions contained in this Section 10 are in part to mitigate order confusion, redundancy of communications with a Vendor and to abide by any contractual protocols, if applicable, in effect between a Vendor and Seller.

**11. Representations, Warranties and Indemnification.**

- a. Each of the Parties represents and warrants to the other Party that:
  - i. Each Party, if an entity, is duly organized and in good standing under the laws of the state of its organization and was established for a valid business purpose within the meaning of the tax laws of the United States and has the right to enter into these Terms;
  - ii. Each Party's entering into and performance of these Terms does not and will not knowingly violate any of its other obligations or contracts;
  - iii. Seller represents and warrants to Buyer that Seller shall comply fully with all applicable regulations and export control laws of and shall not knowingly export or deliver any of the Products and/or related technical information covered by these Terms if such export or delivery is prohibited or restricted by any law or regulation of the United States or any other country having jurisdiction over the Products. Seller further acknowledges that Seller has been advised that U.S. law forbids the making of gifts or payments or promising anything of value to any government official or political party in order to obtain or retain business and agrees it shall not directly or indirectly, engage in such contract.
- b. Buyer will defend, indemnify, and hold harmless Seller and its parent company, their respective subsidiaries, affiliates, successors, and assigns and

their respective directors, officers, shareholders, and employees from and against any loss, injury, death, damage, liability, claim, deficiency, action, judgment, interest, award, penalty, fine, cost, fees (including import and export customs fees), 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) (“**Claims**”) arising out of or occurring in connection with the negligence or willful misconduct of Buyer or its employees or agents, or any customers of Buyer, including, but not limited to: (i) any misuse or modification of the Products by Buyer, its employees or agents and/or any customers of Buyer, (ii) any act (or failure to act) by Buyer, its employees or agents, and/or any customers of Buyer, in contravention of any safety procedures or instructions that Seller provides to Buyer, its employees or agents and/or any customers of Buyer, or (iii) the failure to store, install, operate, or maintain the Products in accordance with the instructions.

- c. Seller will defend, indemnify, and hold harmless Buyer and its subsidiaries, affiliates, successors, and assigns and their respective directors, officers, shareholders, and employees from and against any Claims arising out of or occurring in connection with the negligence or willful misconduct of Seller or its employees or agents.

**12. Intellectual Property.** Buyer shall be exclusively responsible for and shall defend, indemnify and hold harmless Seller against any claims, losses, damages and/or expenses arising out of, or relating to, any designs, logos, Universal Product Code (“**UPC**”) symbols, names, devices or words, including any wording required by any federal, state or local laws, rules or regulations, that Buyer requests or requires Seller to incorporate into or place on any Product; notwithstanding that Seller may have been consulted thereon, or performed art work or other special services in connection therewith. With respect to any Product containing a UPC Symbol, it shall be the responsibility of Buyer to furnish Seller with the correct Industry, Manufacturer, Item and Modular check numbers together with information relating to the magnification and truncation of the symbol, and Seller shall have no obligation to verify the accuracy of such numbers or information. Seller shall have the right to imprint its trademark in a suitable inconspicuous locality on any Products furnished by it.

**13. Limitation of Liability.**

- a. **IN NO EVENT WILL SELLER BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO ANY LOSS OF USE OR UNDER-UTILIZATION OF LABOR OR FACILITIES, LOSS OF REVENUE OR ANTICIPATED PROFITS, LOST DATA, AND COSTS OF PROCUREMENT OF SUBSTITUTE GOODS, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT,**

**OR OTHERWISE, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF THE DAMAGES.**

- b. EXCEPT FOR DEATH OR BODILY INJURY RESULTING FROM SELLER'S NEGLIGENCE OR WILLFUL MISCONDUCT, SELLER'S TOTAL LIABILITY FOR ALL CLAIMS ARISING OUT OF, OR RELATING TO, THE GOODS WILL BE LIMITED TO GENERAL MONEY DAMAGES IN AN AMOUNT NOT TO EXCEED THE TOTAL PURCHASE PRICE FOR THE GOODS GIVING RISE TO THE CLAIM.**

**14. No License.** The sale of the Products will not confer upon Buyer any license, express or implied, under any patents, trademarks, trade names, or other proprietary rights owned or controlled by Seller, its subsidiaries, affiliates, or suppliers; it being specifically understood and agreed that all the rights are reserved to Seller, its subsidiaries, affiliates, or suppliers. Without limiting the foregoing, Buyer will not, without Seller's prior written consent, use any trademark or trade name of Seller in connection with any the Products, other than with respect to the resale of the Products pre-marked or packaged by or on behalf of Seller.

**15. Force Majeure.** Seller will not be liable for any failures or delays caused by strikes, differences with workers, or any causes beyond the reasonable control of Seller, including, but not limited to fires, pandemics (including COVID-19 as of March 15, 2020), floods, accidents, action of any governmental authority, war, insurrection or riots, or shortages of labor, energy, raw materials, production facilities, or transportation. Where delays or failures are caused by labor difficulties, Seller will not be obligated to seek or obtain any settlement that, in Seller's sole judgment, is not in Seller's best interest. In the event of any Force Majeure occurrence, the time periods applicable to each Party's obligations hereunder will automatically be extended for a reasonable time.

**16. Compliance with Laws.** Each Party will comply with all applicable laws, regulations, and ordinances, and Buyer will comply with the export and import laws and regulations in effect as of the date of shipment of the Products of any country involved in the transactions contemplated by these Terms or any Sales Confirmation.

**17. Miscellaneous.**

**a. Governing Law; Dispute Resolution.**

- i. Governing Law.** All matters arising out of or relating to these Terms is governed by and construed in accordance with the internal laws of the State of Illinois without giving effect to any choice or conflict of law provision or rule (whether of the State of Illinois or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Illinois, and the United Nations Conventions on Contracts for the International Sale of Goods.

Any legal suit, action or proceeding arising out of or relating to these Terms, subject to Section 17(a)ii below, will be instituted in the federal or State courts located in the County of Cook, State of Illinois. Each Party irrevocably submits to the exclusive jurisdiction of the Courts in the State of Illinois in any suit, action or proceeding. Seller and Buyer hereby agree to waive their right to trial by jury and covenant that neither of them will request trial by jury in any litigation.

ii. **Disputes Between Seller and Buyer.**

1. **Buyer is a United States Person or Entity.** Any claims, disputes, disagreements or other matters in question arising out of or relating to these Terms, which have a monetary value in excess of Twenty-Five Thousand Dollars (\$25,000 USD) will be resolved pursuant to **Exhibit "ARB,"** a copy of which is attached hereto and incorporated herein for reference.
2. **Seller is Not a U.S. Entity and Buyer is not a Chinese Entity.** If neither Party is a Chinese entity, and Seller is not a U.S. entity, then any controversy or claim arising out of or relating to these Terms, including, but not limited to, its breach, existence, validity, legality, enforceability, interpretation, performance, nullity, termination or expiration, (a "**Controversy**") will be settled by binding arbitration; and notwithstanding its place of execution or performance, these Terms will be governed by, and construed under and in accordance with, the Laws of the State of Illinois, USA, irrespective of any laws regarding choice or conflict of laws that direct the application of the laws of another jurisdiction. The place of arbitration will be Chicago, Illinois, unless otherwise later agreed to in writing between the Parties, under the rules prescribed by the International Centre for Dispute Resolution ("**ICDR**") in accordance with its ICDR Rules. Unless the Parties agree to a single arbitrator, the arbitration will be heard and determined by three arbitrators, who will be appointed pursuant to the ICDR Rules. The arbitration proceedings will be conducted in the English language. The award will be rendered in writing with the reasons detailed. The award may be in the nature of money damages, injunctive relief, or specific performance as decided by the arbitrator. Either Party may initiate arbitration by notifying the other in writing. The arbitrator's ruling and award from such arbitration is final; the Parties' consent to judgment upon the award; and the award may be entered in any court of competent jurisdiction.
3. **Seller and Buyer are Chinese Entities.** If either Party is a Chinese entity, the laws of China govern these Terms,

irrespective of any laws regarding choice or conflict of laws that direct the application of the laws of another jurisdiction. The Controversy will be submitted to the China International Economic and Trade Arbitration Commission in Shanghai (“CIETAC”) for final resolution by arbitration in accordance with the rules and procedures of CIETAC. The CIETAC tribunal will consist of three (3) arbitrators. The Parties will at all times comply with, and observe all requirements and rulings of, CIETAC made in relation to any Controversy submitted to CIETAC for resolution. Submission of evidentiary documents may be in copies without the need of notarization unless specifically ordered by the CIETAC tribunal. Any interim decisions or orders by the CIETAC tribunal will be binding, and sanctions may be given on failures of any party in implementing such interim decision or order. Any award or determination by the CIETAC tribunal is final and binding on both Parties. The arbitration proceedings will be conducted in the English language. The United Nations Convention on Contracts for the International Sale of Goods does not apply to these Terms or the documents related thereto.

- b. **No Third-Party Beneficiaries.** Unless otherwise expressly provided for in writing, nothing in these Terms is intended or will be construed to give any person or entity, other than the Parties, and their successors or assigns, any legal or equitable right, remedy, or claim under or with respect to these Terms or any provisions contained herein.
- c. **Notice.** Any notice, request, demand or other communication required or permitted to be given hereunder shall be in writing and personally delivered or sent by registered or certified mail, return receipt requested, or by electronic mail addressed to the parties named in each Sales Confirmation.

Either Party may, at any time, by notice to the other, designate another address for service of notice on such Party. When the letter or electronic mail is dispatched as provided for above, the notice shall be deemed to be made when the addressee receives the letter or electronic mail, or within three days after it is sent, whichever is earlier.

- d. **Partial Invalidity.** Wherever possible, each provision hereof shall be interpreted in such manner as to be effective and valid under Applicable Law, but in case any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such provision shall be ineffective to the extent, but only to the extent, of such invalidity, illegality or unenforceability without invalidating the remainder of such invalid, illegal or unenforceable provision or provisions or any other provisions hereof, unless such a construction would be unreasonable.

- e. **Captions and Headings.** The captions and section headings used in these Terms are for convenience of reference only, and, shall not affect the construction or interpretation of these Terms or any of the provisions hereof.
- f. **Further Assurances.** The Parties shall execute and deliver any and all additional papers, documents, and other instruments and shall do any and all further acts and things reasonably necessary in connection with the performance of each of their obligations hereunder to carry out the intent of these Terms.
- g. **Assignment.** Other than to one of the Party's affiliated entities, neither Party hereto shall be entitled to assign, charge or license the benefit of these Terms, and/or any rights hereunder, to any third party, without the prior written consent of the other Party hereto.
- h. **Execution in Counterparts.** These Terms may be executed in two (2) counterparts, each of which shall be considered an original instrument, but both of which together shall be considered one and the same agreement.
- i. **No Strict Construction.** The language used in these Terms will be deemed to be the language chosen by the Parties to express their mutual intent, and no rule of strict construction will be applied against any Party hereto.
- j. **Entire Agreement; Modification / Amendment.** These Terms constitutes the entire understanding between the Parties with respect to the subject matter hereof and thereof, superseding all negotiations, prior discussions and preliminary agreements, written or oral. No modification, amendment, waiver, termination or discharge of these Terms or of any of the terms or provisions hereof shall be binding upon any of the Parties hereto, unless confirmed in writing by the Parties. No waiver by either Party of any term or provision of these Terms or of any default hereunder shall affect Party's or their respective rights thereafter to enforce such terms or provisions or to exercise any right or remedy in the event of any other default, whether similar or not. Any verbal or written understanding previously agreed upon shall be null and void upon full execution of these Terms.
- k. **Legal Representation.** **THE PARTIES HEREBY REPRESENT AND WARRANT THAT THE PARTIES HAVE HAD AN OPPORTUNITY TO CONSULT INDEPENDENT LEGAL COUNSEL AND/OR HAVE BEEN REPRESENTED BY COUNSEL OF THE PARTIES' OWN CHOOSING IN THE PREPARATION AND ANALYSIS OF THESE TERMS. THE PARTIES HAVE READ THESE TERMS WITH CARE AND BELIEVES THAT EACH OF THE PARTIES ARE FULLY AWARE OF AND UNDERSTAND THE CONTENTS OF THESE TERMS AND ITS LEGAL EFFECT.**

- l. **Choice of Language.** It is by the express intention of the Parties hereto that these Terms and all its related documents and Exhibits be drafted in the English language.
- m. **Survival.** All post termination obligations of these Terms shall survive the termination of these Terms and the Termination Date as specified in these Terms.
- n. **Buyer's Decision.** Buyer has relied solely upon its own independent investigations in deciding to purchase the Products and understands that any recommendation, information or representation by Seller does not constitute personal advice and shall not be relied upon. Buyer understands that it is responsible for any decision to purchase the Products, and Seller accepts no responsibility for any loss, damage, cost, or expense as a result of any inaccuracy in any information relied upon by Buyer.



**EXHIBIT A**  
**SALES CONFIRMATIONS**

## EXHIBIT "ARB"

### ARBITRATION PROVISION

#### 1. Commencement of Arbitration.

- a. **Arbitration Procedure.** Except as otherwise provided herein, the arbitrators shall administer the arbitration proceedings in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA") then in effect. If any conflict exists between the procedures set forth herein and the Rules of the AAA, the procedures set forth herein shall be followed.
- b. **Notice of Arbitration.** The initiating party must serve a written notice of intention to arbitrate (the "**Notice of Arbitration**") on the respondent, and shall file a copy with the Chicago, Illinois office of the AAA, along with the required fee.
- c. **Selection of Arbitrator.** Within ten (10) days of service of the Notice of Arbitration on the respondent, the Parties shall mutually select and approve an arbitrator and shall serve and file a notice of appointment. No person may serve as an arbitrator unless he or she is either a retired state or federal judge, or a practicing lawyer with at least twenty (20) years of experience, including at least ten (10) years of experience in commercial litigation, business disputes and, if applicable, labor and employment law. The Covered Claim(s) shall be heard by the arbitrator (the "**Arbitrator**"), and all procedural matters and the final decision and award shall be decided by the arbitrator.
- d. **Failure to Confirm an Arbitrator.** If a party fails to confirm and/or approve of the Arbitrator within ten (10) business days of service of the Notice of Arbitration on the respondent, then the participating party shall solely select the Arbitrator, who alone shall hear and decide the Covered Claim(s). Any award rendered under such circumstances will be as valid and enforceable.
- e. **Arbitration Schedule.** Within ten (10) business days of the selection of the Arbitrator, the Arbitrator shall confer with the parties to set the arbitration schedule. Except for good cause, the arbitration hearing shall be within ninety (90) days of the selection of the Arbitrator.

#### 2. **Discovery.** Discovery will be handled expeditiously, according to the following terms and conditions:

- a. **Depositions.** Depositions shall not be taken by any party, unless otherwise later mutually agreed to in writing between the Parties.

- b. **Documents.** Each party shall be entitled to limited document discovery. Only documents that are directly relevant to the disputed issues and refer or relate directly to the Matters (as defined in the Engagement Agreement), which are the subject of these Terms may be requested. Any document request shall be narrowly tailored to cause the least possible expense, burden, disclosure of confidential information and inconvenience to the parties on which they are served. If financial data is sought, only documents sufficient to establish the contested issue shall be required to be produced. The schedule for propounding and responding to document requests shall be determined by the Arbitrator. Should disagreement arise with respect to the scope of any document request, the Arbitrator shall resolve such disagreement, in conformity with these Terms.
  - c. **Written Interrogatories.** Each party shall be limited to ten (10) written interrogatories, without subparts, unless otherwise later mutually agreed to in writing between the parties. The schedule for propounding and responding to interrogatories shall be determined by the Arbitrator.
  - d. **Requests for Admission.** The parties agree that no requests for admission shall be propounded by any party.
  - e. **Subpoenas.** The parties agree that the Arbitrators shall, to the fullest extent permitted by law, have the power to issue subpoenas to third parties to compel testimony at the arbitration hearing or the production of documents prior to or at the arbitration hearing, subject to the same limitations on document discovery set forth in Section 2(b) hereof.
3. **Dispositive Motions.** The Arbitrators shall have the discretion to hear and determine at any time prior to the arbitration hearing any issue of law asserted by any party to be dispositive of any claim, in whole or in part, in accordance with such procedure as the Arbitrator may deem appropriate.
4. **Hearing Memoranda.** Pre-hearing memoranda shall be permitted at the discretion of the Arbitrator. Each party shall be permitted to submit a post-hearing memorandum within fifteen (15) days following the completion of the arbitration hearing. Rebuttal memoranda, if any, shall be submitted twenty-one (21) days following the completion of the arbitration hearing.
5. **Witness Lists.** Ten (10) days before the arbitration hearing, each party shall serve a witness list identifying the name, address, occupation, work experience, and relationship to the party, if any, of each witness on its direct case and describing the subject matter and substance of that witness's anticipated testimony.
6. **Arbitration Hearing.** During the arbitration hearing, the Arbitrator shall hear the oral testimony and cross-examination of each party's witnesses. Rebuttal witnesses may be heard to directly refute the testimony of any such witness. A full stenographic

record shall be taken of these proceedings, and the Federal Rules of Evidence shall apply. The costs of the stenographic record will be shared equally between the parties.

7. **Governing Law.** The Arbitrator's decision shall be made pursuant to the substantive law of the State of Illinois, without regard to its choice of law rules.
8. **Written Decision and Award.** The Arbitrators shall issue a written decision and award (the "**Decision and Award**") within forty-five (45) days of the submission of the final, post-hearing memoranda. This Decision and Award shall be signed and dated by the Arbitrator and shall set forth the Arbitrator's reasoning in support of each issue necessary to the Arbitrator's decision.
  - a. **Remedies.** Except as expressly limited herein, the Arbitrator shall have the power to grant any remedy or relief they deem just and equitable, including but not limited to injunctive relief, whether interim and/or final, and any provisional measures ordered by the Arbitrator may be specifically enforced by any court of competent jurisdiction. Notwithstanding the foregoing, the Arbitrator shall not have the power to award punitive or exemplary damages of any kind, and any limitation on the availability of equitable or injunctive relief (including any waiver thereof) contained in these Terms shall be binding on the Arbitrator.
  - b. **Fees, Costs and Attorneys' Fees.** The parties agree to equally pay the fees and costs of the arbitration. All fees and costs relating to the Arbitrator will be paid by the parties in equal shares, except that the Arbitrator may award such fees and costs to the prevailing party. Each party's attorneys' fees and costs shall be borne by that party, except (i) that if the Arbitrator determines a party's position on the Covered Claim(s) to be without substantial justification, they may award attorneys' fees and costs affiliated with that particular matter to the other party (with said fee award being capped at Twenty Thousand Dollars (\$20,000)).
  - c. **Final and Binding.** The parties agree that the Decision and Award shall be final and binding.
9. **Enforcement of Arbitrator's Award.** Following the issuance of the Arbitrator's Decision and Award, either party may petition any court of competent jurisdiction in the County of Cook, State of Illinois, to confirm the Decision and Award.
10. **Emergency Relief.** Applications for emergency relief made prior to the appointment of the Arbitrator shall be made in accordance with the AAA's Optional Rules for Emergency Measures of Protection.
11. **Confidentiality.** All aspects of the arbitration proceedings, including but not limited to any testimony, all documents, and the culminating Decision and Award, shall be

completely confidential, except that confidential information may be disclosed, as necessary, to the parties' legal counsel and financial or tax advisors. For purposes of any judicial proceedings on the Decision and Award, including without limitation confirmation proceedings, the parties stipulate and agree to request a court order or orders requiring that all records of the arbitration proceedings, including without limitation the Decision and Award and all court filings disclosing any aspect of the arbitration proceedings ("**Confidential Records**"), be filed under seal. Pending a ruling on any such request, the parties agree to file all Confidential Records conditionally under seal.