

## **THE KINETIC CO., INC. TERMS OF PURCHASE**

The Kinetic Co., Inc. (“**Buyer**”) purchase orders are subject to these Terms of Purchase. In these Terms, “**Goods**” and “**Services**” refer to the goods or services described in Buyer’s purchase order that Buyer is to purchase from the seller named in the order (“**Seller**”), the “**Order**” refers to Buyer’s purchase order, including these Terms of Purchase, and “**Contract**” refers to any contract formed pursuant to the order.

1. **Agreement.** The Order is an offer to buy by Buyer, and Buyer rejects any prior offers to sell made by Seller. If the Order nevertheless is in legal effect an acceptance of a prior offer by Seller, then Buyer’s acceptance is conditional upon Seller’s assent to all terms of the Order that are additional to or different from the terms of Seller’s offer. By accepting the Order by acknowledgement or by shipping the Goods or performing the Services, Seller accepts and agrees and assents to all of the terms contained in the Order.
2. **Price and Payment.** Unless Buyer agrees otherwise in writing, Buyer shall not be required to pay any sales, use or other taxes arising because of Buyer’s purchase from Seller. Buyer shall not be required to pay any late charge, interest, finance charge or similar charge. Buyer’s payment of the purchase price does not indicate its acceptance of the Goods or Services. Payment terms, including discount periods, shall run from the latest of (1) the scheduled date for delivery or performance, or (2) the actual date of delivery of conforming Goods or performance of conforming Services, or (3) the date an acceptable Seller’s invoice is received, or (4) in the case of capital equipment, completion of Buyer’s final inspection and acceptance after installation or (5) in the case of tooling, Buyer’s approval of production pieces produced by the tooling at Buyer’s facility. Payment is deemed to be made for the purpose of earning the discount on the date of mailing of the Buyer’s check. The Buyer is liable only for the price indicated on the Order. If the price is omitted from the Order, Seller shall invoice at the price last quoted to Buyer or paid by Buyer for such Goods in equal quantities. No additional charges of any kind will be allowed unless specifically agreed to in writing in advance by Buyer.
3. **Delivery.** Unless Buyer agrees otherwise in writing, Seller shall deliver the Goods F.O.B. (Uniform Commercial Code term) Buyer’s facility identified on the face of the order, except that Buyer may at its option take delivery of all or any part of the Goods at Seller’s facility.
4. **Force Majeure.** Time of delivery or performance is of the essence. Except for payment of money, neither party shall be held responsible for any delay or failure in performance to the extent that the delay or failure is caused by causes beyond its control (“**Force Majeure Condition**”) including, but not limited to: fire, flood, explosion, machine breakdown, war, strike, embargo, government requirements, civil or military authority, act of God, act or omission of carriers, inability to obtain material, or other similar causes. If any Force Majeure Condition occurs, the party delayed or unable to perform (“**Delayed Party**”) shall give immediate notice to the other party (“**Affected Party**”), and the Affected Party, upon giving prompt notice to the Delayed Party, shall be excused from performance for the duration of the Force Majeure Condition, provided, however, that the Affected Party shall take all reasonable steps and cooperate with the Delayed Party to avoid or remove the



cause of non-performance and shall resume performance hereunder with dispatch when the cause is removed.

5. **Excess, Installment and Early Deliveries.** If Seller delivers more Goods than Buyer ordered, then, unless Buyer agrees otherwise in writing, Buyer shall not have to pay for the excess. Unless Buyer agrees otherwise in writing, Seller shall deliver all of the Goods in a single delivery and not in installments. Buyer's acceptance of a delivery that contains less than the required quantity shall not relieve Seller of its obligation to deliver the balance of the ordered Goods at the price and on the other terms that the Order specifies. If Seller delivers the Goods before the scheduled delivery date, then Buyer may, at Seller's expense and risk, either store them or return them to Seller. Buyer's acceptance of an early delivery shall not change the payment terms.
6. **Export and Import Requirements; Drawback and Refund Rights.** Seller shall prepare, maintain and, to the extent that that applicable law, regulation or customs authority requires it to do so, submit to the applicable customs authorities all information and documentation that is necessary to comply with the applicable customs and export and import requirements of each country from which the Goods will be exported and each country into which they will be imported, and Seller shall comply with all other applicable customs requirements. Whenever Buyer requests it to do so, Seller shall promptly furnish to Buyer copies of that information and documentation. Seller is solely responsible for complying with all technical compliance and country of origin requirements of each country into which the Goods are to be imported. Seller assigns and transfers to Buyer all transferable customs duty and tax drawback or refund rights relating to the Goods, including rights developed by substitution and rights that Seller acquires from its suppliers. Seller shall promptly inform Buyer of each such right and, upon Buyer's request, shall promptly provide to Buyer all documents and information that are required for Buyer to obtain each such drawback and refund. Seller at all times shall maintain, and shall cause each of Seller's suppliers and logistics providers to maintain, at each facility where the Goods are manufactured or located, strict security measures that are reasonably calculated to prevent acts of terrorism with respect to the Goods.
7. **Inspection and Tests.** Buyer's employees or agents may at any time enter Seller's premises to inspect and test the Goods, Seller's process of manufacturing of them and any materials, components or work-in-process that Seller will use in their manufacture.
8. **Hazardous Materials.** Any materials required by the Order that are deemed hazardous will be packaged, marked and shipped by Seller to comply with all existing federal, state and local regulations.
9. **Compliance with Toxic Substances Control Act.** Seller warrants that each and every chemical substance constituting or contained in the Goods sold or otherwise transferred to Buyer as a result of the Order and that is subject to the Toxic Substances Control Act is on the list of chemical substances compiled and published by the administrator of the Environmental Protection Agency pursuant to the Toxic Substances Control Act and is otherwise in compliance with the Act.
10. **Compliance with Laws and Standards.** Seller warrants that the Goods supplied under the Contract or Order will be produced in compliance with, and the Seller agrees to be bound by, all applicable federal, state and local laws, orders, rules and regulations. Seller warrants that all Goods delivered will comply with applicable OSHA standards. Seller agrees to promptly notify Buyer of any product



recall or any harmful ingredients or defects contained in Seller's products. Seller will provide a Material Safety Data Sheet (MSDS) to Buyer as required by law.

11. **Packing and Shipment.** Unless otherwise specified, when the price of the Order is based on the weight of the ordered material, such price is to cover the net weight of the material ordered only, and no charges will be allowed for boxing, crating, handling, demurrage, carting, drayage, storage, or other packing requirements. Unless otherwise specified, all material shall be packed, packaged, marked and otherwise prepared for shipment in a manner that is (1) in accordance with good commercial practice, and (2) acceptable to common carriers for shipment at the lowest rate for the particular product and in accordance with I.C.C. regulations, and (3) adequate to insure safe arrival of the product at the named destination. Seller shall mark all containers with necessary lifting, handling, and shipping information and also purchase order numbers, date of shipment, and the name of the consignee and consignor.
12. **Blanket Order.** If the face of the Order states that it is a blanket purchase order or blanket purchasing agreement, then, except to the extent otherwise expressly stated on the face of the Order, (1) Seller is obligated to deliver to or perform for Buyer all Goods or Services that Buyer orders or releases during the period or in accordance with any delivery or performance schedule specified on the face of the order, and (2) Buyer is not obligated to order, release or purchase from Seller any particular quantity or volume of Goods or Services, regardless of any estimates or projections of future purchases, and (3) Buyer may purchase any or all of the Goods or Services from others.
13. **Representations, Warranties and Agreements About Seller.** Seller represents and warrants to Buyer, and agrees, that (1) Seller has all necessary experience, qualifications, expertise, authority, licenses and permits to enable it to perform its obligations under the Contract, and (2) the Contract is the valid and binding obligation of Seller, enforceable against Seller in accordance with its terms, and (3) Seller is and, at the time of each Order will be, solvent, and (4) Seller is and shall continue to be in compliance with all equal employment and affirmative action provisions of Executive Order 11246, the Vietnam Era Veterans' Readjustment Assistance Act ("VEVRAA"), Section 503 of the Rehabilitation Act of 1973 and all implementing regulations under that Order, VEVRAA and Section 503.
14. **Gratuities.** Seller warrants that it has not offered and/or given, and will not offer and/or give, to any employee, agent and/or representative of Buyer any gratuity with a view towards securing any business from Buyer and/or influencing such person with respect to the terms, conditions and/or performance of any Contract with, and/or Order from, Buyer. Any breach of this warranty shall be a material breach of each and every Contract and/or Order between Buyer and Seller.
15. **Representations, Warranties and Agreements About the Goods and Services.** Seller represents and warrants to Buyer, and agrees, that (1) the Goods shall be new, and (2) the Goods and Services shall be merchantable, of good material, workmanship and quality, fit for the purposes for which Buyer intends them and free from faults and defects, and (3) the Goods and Services shall conform to any samples, drawings, specifications, performance criteria standards or other requirements that are referred to on the face of the Order or that Buyer has otherwise specified or agreed to in writing, and (4) the Goods, their manufacture, packaging, labeling, branding and sale and the Services shall comply with all applicable federal, state and local laws, regulations, standards and orders, including, without limitation, the Fair Labor Standards Act of 1938, as amended, and the Occupational Safety



and Health Act of 1970, as amended, and all environmental laws, and (5) the prices of the Goods or Services and any discounts, advertising allowances or other merchandising payments or Services that the Contract requires Seller to provide to Buyer are as favorable to Buyer as the lowest prices and the highest discounts, advertising allowances or other merchandising payments or Services that Seller provides to other buyers of comparable Goods or Services, and (6) Seller shall promptly furnish to Buyer all information and copies of documents (including, but not limited to, complaints, inquiries, test or inspection results and warnings) that Seller receives from an end-user of the Goods, a government agency, an employee or agent of Seller or any other person or source and that suggests or indicates that the Goods may not conform to the requirements of this paragraph, and (7) Seller has and follows, and will continue to have and follow, adequate quality and security procedures that will assure that the Goods and Services will comply with the foregoing warranties, representations and agreements. If Buyer requests it, Seller shall give Buyer certificates of compliance with applicable laws and regulations. Buyer's approval of a sample, drawing, specification or standard shall not relieve Seller of any of its warranties under this paragraph, including, without limitation, its warranties of merchantability, fitness and compliance with laws. Seller's warranties extend to future performance of the Goods and Services and survive inspection, tests, acceptance and payment and shall be considered to have been given not only to Buyer but also to Buyer's customers and to end-users of the Goods.

16. **Indemnity.** Seller shall indemnify and hold Buyer and its directors, officers and employees ("Representatives") harmless (and defend Buyer and its Representatives if it requests) as to any claims, liabilities, losses, damages and expenses (including, without limitation, attorneys' fees and other legal expenses) brought against or incurred by Buyer or its representatives because of (1) any breach by Seller of any of its warranties to, or agreements with, Buyer, or (2) any claim that any of the Goods or Services infringes any patent, trademark, copyright or other intellectual property right, anywhere in the world or (3) any death, injury or damage to any person or property or any recall alleged to have been caused by the Goods or Services or by Seller's manufacture of the Goods or performance of the Services.
17. **Changes.** Buyer may at any time, by written notice to Seller, change the Order or the Contract as to (1) specifications for the Goods or Services, (2) time or place of delivery or performance, (3) method of packing or shipment or (4) quantity of the Goods or extent of the Services. If this causes a change in Seller's cost or time of performance, then an equitable adjustment shall be made in the price or time for delivery or performance, or both, if Seller gives Buyer a written request for an adjustment within 20 days after Buyer notifies Seller of the change.
18. **Termination at Buyer's Option.** Buyer may terminate the Order or the Contract, in whole or in part, at any time by written notice to Seller stating the extent and effective date of termination. When Seller receives notice of termination under the preceding sentence, Seller shall, unless otherwise directed by Buyer, stop work and acquisition of materials under the Contract and protect property in Seller's possession in which Buyer has or may acquire an interest. Not later than 30 days after the effective date of termination, Seller may submit to Buyer its claim, if any, for reasonable compensation for termination. Buyer shall have the right to audit and inspect Seller's books, records and other documents that relate to the termination claim. If the parties cannot agree within a reasonable time upon the amount of fair compensation for the termination, then Buyer will pay to Seller, without duplication, (1) the Contract price for conforming Goods or Services that Seller shall have completed and delivered or performed (as applicable) in accordance with the provisions of the



Contract and that Buyer shall not have paid for and (2) the actual costs that Seller incurs and that are properly allocable or apportionable under recognized commercial accounting practices to the terminated portion of the Contract, but not to exceed the Contract price for the terminated portion of the Contract, less (a) any payments that Buyer made and (b) the value to Seller of any raw materials, work-in-process and finished goods that Seller retains and that are allocable to the terminated portion of the Contract under such practices. Buyer will pay these amounts after Seller delivers to Buyer any completed Goods. If Buyer shall have made payments of the purchase price to Seller that in the aggregate exceed the total amounts payable by Buyer to Seller under the preceding provisions, then Seller shall promptly refund the excess to Buyer. Termination under this paragraph shall terminate only Seller's obligation and right to deliver Goods or provide Services under any provision of the Contract other than this paragraph and shall not terminate or impair Seller's other obligations, or any of Buyer's rights, under the Contract.

19. **Buyer's Remedies.** Without limiting other rights and remedies available to it, Buyer may, at its option, (1) return nonconforming Goods to Seller, at Seller's risk and expense, and require Seller either to give Buyer full credit against the price or promptly to repair or replace the Goods at Seller's risk and expense, or (2) retain nonconforming Goods and set off losses against any amount that Buyer owes Seller or (3) repair or replace nonconforming Goods and charge Seller with the expense. If at any time (a) Seller defaults in the performance of any of Seller's obligations to Buyer under the Contract or under any other agreement between Seller and Buyer, or (b) Seller repudiates the Contract or (c) any warranty or representation that Seller made to Buyer in or in connection with the Contract is false or misleading in any material respect, then Buyer may terminate the Contract, in whole or part, without liability to Seller, and Seller shall promptly pay to Buyer all damages that Buyer incurred as a result of the termination and as a result of the event or circumstance on the basis of which Buyer terminated. If Buyer does terminate the Contract, then Seller, if and to the extent that Buyer demands, shall immediately deliver to Buyer all finished and unfinished Goods and all work-in-process and raw materials that Seller acquired for use in the manufacture or processing of the Goods and all designs, drawings, specifications and software that Buyer is purchasing from Seller under the Contract, including all work-in-process, all source, object and pseudo codes, all preexisting programs intended to be incorporated in the software and all intellectual property rights in the foregoing. Buyer's payment of part or all of the purchase price shall not be a precondition to Seller's obligation to make the delivery. After Seller has made the delivery and Buyer has determined its damages (including, without limitation, any cost of "cover" or of completing the manufacture or processing of the Goods), then Buyer will pay to Seller any excess of (1) any unpaid part of the purchase price properly allocable to any conforming Goods, work-in-process and raw materials that Seller delivered to Buyer over (2) Buyer's damages. Buyer's termination under this paragraph shall terminate only Seller's obligation and right to deliver Goods or provide Services other than as this paragraph requires and shall not terminate or impair Seller's other obligations, or any of Buyer's rights, under the Contract. In addition to Buyer's rights described in these Terms of Purchase, Buyer has all of the other rights and remedies that the law gives to buyers, including the right to recover incidental and consequential damages that result from Seller's breach. Buyer shall not lose any right just because it does not exercise it. Buyer shall have the full statutory period of limitations to bring any action that arises out of Buyer's agreement with Seller. A reasonable time for Buyer to reject or revoke acceptance of the Goods is not less than one year from the date of delivery. A reasonable time for Buyer to notify Seller of any breach is not less than two years from when Buyer discovers the breach. Payment of Seller's invoice shall not constitute acceptance of supplies and shall be subject to adjustment for errors, shortages, defects in the supplies, and/or other failure(s) of Seller to meet the





requirements of the Order.

20. **Buyer's Property.** Any designs, drawings, specifications, methods of manufacture, intellectual property, documents and other information and any tooling, equipment or other property that Buyer furnishes to, or acquires from, Seller in connection with Seller's manufacture of the Goods or performance of the Services ("**Buyer Property**") are and shall at all times be Buyer's sole and exclusive property. Seller shall (1) maintain the Buyer Property in good condition, and (2) mark the Buyer Property "**PROPERTY OF THE KINETIC CO., INC.**", and (3) not commingle the Buyer Property with property of Seller or third parties, and (4) allow Buyer to inspect and examine the Buyer Property at any time and (5) return the Buyer Property to Buyer upon its request.
21. **Insurance.** Seller shall maintain insurance coverage(s) that will fully protect both Seller and Buyer from any and all claims and liabilities of any kind or nature for property damage, personal injury, death and economic damage, to any person that arises from the Goods or their use or the performance of the Services or any activities connected with the Services. Before commencing work, Seller shall furnish Buyer with certificates of insurance from companies meeting an A.M.Best rating of at least B+ VII showing that Seller is covered by Workers' Compensation as required by law; Employers Liability and Occupational Disease insurance with limits of \$500,000 per occurrence, Commercial General Liability with limits of not less than \$1,000,000 per occurrence for bodily injury and \$500,000 per occurrence for property damage. Additional insurance may be required in certain situations and will be noted in the Contract or Order. No exceptions to these coverages may be made unless approved in writing by Buyer.
22. **Prepayment.** If Buyer pays any part of the purchase price of the Goods before Seller delivers them to Buyer, then (1) title (but not risk of loss) to each item of the Goods shall pass to Buyer upon identification of the item to the Contract, and (2) to the extent necessary to protect Buyer's title to the Goods, Seller grants Buyer a security interest in the Goods to secure Seller's obligation to deliver them to Buyer and all of Seller's other present and future obligations to Buyer and (3) Seller shall obtain from each person that holds a security interest in or lien upon the Goods a written agreement releasing that security interest or lien or subordinating it to Buyer's interest in the Goods.
23. **Work on Premises.** If Seller's performance of Services or delivery or installation of Goods involves operations by its employees or subcontractors on Buyer's premises or the premises of a customer of Buyer, then (1) Seller shall at all times enforce strict discipline and maintain good order among all persons engaged in the activity on the premises and shall cause them to comply with all fire prevention and safety rules and regulations in force at the premises and (2) Seller shall keep the premises free from accumulation of waste materials and rubbish that its employees or subcontractors cause and upon completion shall promptly remove all of Seller's equipment and surplus materials and (3) Seller's employees or subcontractors must wear safety glasses with permanently mounted side shield at all times when on the plant floor and (4) Seller's employees or subcontractors must wear safety shoes at all times when on the plant floor and (5) if the Seller's employees or subcontractors are working on a machine they must have and use their own lockout and (6) smoking is only allowed on the shop floor; it is not allowed in any enclosed offices, rooms or toilet facilities regardless of whether they are accessible directly from the plant floor or the main office; smoking is not permitted anywhere in the offices or reception area; the patio located east of the 1970/1991 offices is a non-smoking area.



24. **Services.** If the order covers Services, then (1) Seller is an independent contractor, and neither Seller nor any of Seller's employees or agents shall be considered agents or employees of Buyer and (2) Seller shall furnish, at Seller's expense, all labor, materials, equipment, transportation, facilities and other items that are necessary to perform the Services.
25. **Confidentiality and Non-Use.** Seller shall not sell or offer to sell or otherwise provide to anyone other than Buyer any Goods made in accordance with any drawings, designs or specifications that Buyer furnishes to Seller or that incorporate, embody or are made in accordance with any of Buyer's intellectual property. Seller shall maintain the confidentiality of, and shall not disclose or use or permit to be disclosed or used or to be viewed by any third party (including any of Seller's suppliers), the Goods, any designs of or specifications for the Goods, any Buyer Property or any information concerning Buyer's business, operations or activities, including, without limitation, information concerning Buyer's present or proposed products, product developments, plans, strategies, finances, know-how, sales, customers and marketing or sales techniques ("**Confidential Information**"), except that Seller may disclose Confidential Information to a third party (other than a competitor of Buyer or a subsidiary or affiliate of a competitor) to the extent disclosure is necessary in order for Seller to perform its obligations under the Contract. If Seller breaches or threatens to breach this paragraph or Paragraph 20 then Buyer's remedies at law will be inadequate. Therefore Buyer shall have the right of specific performance or injunctive relief, or both, in addition to any and all other remedies and rights at law or in equity, and Buyer's rights and remedies shall be cumulative. Seller's obligations under this paragraph shall survive the cancellation, termination, or other completion of this Order.
26. **Intellectual Property.** All inventions (whether or not patentable), devices, technologies, ideas, improvements, processes, systems, trademarks, trade names, trade dress, service marks, names, software and other works and matters that Seller creates or develops in the course of Seller's performance of the services or Seller's design or development of the goods for Buyer, including all proprietary rights in the foregoing ("**Intellectual Property**") shall be Buyer's sole property, and Seller assigns, and agrees to assign, to Buyer all right, title and interest that Seller now has or in the future acquires in the Intellectual Property. All copyrightable works that Seller creates or develops in the course of Seller's performance of the Services or Seller's design or development of the Goods for Buyer shall be considered "works made for hire" within the meaning of the federal Copyright Act of 1976, as amended, and under the equivalent laws of any other country. To the extent that any such copyrightable work is not considered a "work made for hire," it shall be the sole property of Buyer, and Seller assigns, and agrees to assign, to Buyer all right, title and interest that Seller now has or in the future acquires in it and in all copyright rights in it. Seller shall sign and deliver to Buyer all assignments and other documents, and Seller shall take all other actions, that Buyer requests for the purpose of perfecting Buyer's ownership of and title to the Intellectual Property and in any copyrightable work that is not considered a "work made for hire" and in all copyright rights in it. If the Goods or their design are subject to any pre-existing patent rights or other proprietary rights that Seller holds, then Seller grants to Buyer an irrevocable, non-exclusive, royalty-free license of the patent rights and other proprietary rights to the extent necessary to enable Buyer to modify, repair or rebuild any or all of the Goods. This license is in addition to all licenses impliedly granted to Buyer as a purchaser of the Goods. Seller shall not use Buyer's name or any trademark, trade name, service mark or trade dress that Buyer owns or that is licensed to Buyer or to any affiliate of Buyer, without Buyer's express, written consent, and Seller shall not sell to anyone other than Buyer any Goods bearing any such trademark, trade name, service mark or trade dress.

27. **Press Release and Advertising.** Press releases, exhibitions and/or advertising of any kind naming Buyer and/or regarding this Order shall not be made by Seller without the prior written consent of Buyer.
28. **Unsafe or Unfit Goods.** If a governmental agency declares that any of the Goods or any material included in any of the Goods or any packaging or supplies used in connection with the Goods, or if Buyer at any time believes in good faith that any of the Goods or any such material, packaging or supplies, (i) does not or may not conform with an applicable consumer product safety standard or (ii) is or may be otherwise unsafe or unfit for the intended use of the goods, then, without limiting other rights and remedies that are available to Buyer under these Terms of Purchase or applicable law, (1) Seller shall give Buyer written notice of any such declaration and shall furnish to Buyer copies of the declaration and of all relevant notices, documents and correspondence, and (2) Seller shall stop including the material in the goods, and (3) Buyer may terminate the order or the Contract, without liability to Seller, by giving written notice to Seller, which shall be effective immediately or on any later date that the notice specifies, and (4) if Buyer does terminate, then (a) Buyer's obligations under the Contract shall terminate immediately and Buyer shall not be obligated to pay Seller damages or other compensation by reason of the termination and (b) Seller shall, unless Buyer directs otherwise, stop work and acquisition of materials under the Contract and protect property in Seller's possession in which Buyer has or may acquire an interest, and (5) Buyer shall have the right (a) to recall (i.e. purchase or repurchase) any or all of the Goods from its customers and end-users and any others having possession of the Goods, and Seller shall reimburse Buyer for all costs that Buyer incurs in doing so and shall assist Buyer and any applicable governmental agency in the recall, to the extent that Buyer requires Seller to do so, and (b) to return to Seller, at Seller's expense, all such Goods, packaging or supplies that Seller shall have previously delivered to Buyer and to require Seller to refund the price to Buyer, whether or not Buyer would then have the right under applicable law to reject or to revoke acceptance of those Goods, packaging or supplies, and (6) to the extent that Buyer requests, Seller shall assist Buyer in any or all aspects of a recall, including, without limitation, developing a recall strategy and preparing and furnishing reports, records and other information, and (7) if Seller demonstrates to Buyer's satisfaction that there is a safe and fit substitute for any such material, packaging or supplies and that the substitute conforms to all of the requirements of the Contract and that Seller can and will use the substitute in or with respect to the Goods, then Buyer shall have the right, but no obligation, in Buyer's sole discretion, to reinstate the Contract and to require Seller to perform in accordance with the Contract, except that Seller shall use the substitute Goods or materials, and (8) whether or not Buyer terminates and/or reinstates the Contract, Seller shall pay to Buyer an amount equal to all damages that Buyer incurs by reason of the declaration by the governmental agency and/or such good faith belief by Buyer and any resulting recall or delay in performance or return of Goods to Seller and/or any termination of the Contract by Buyer.
29. **Other Terms.** Seller shall not have and waives any security interest in or lien (including any statutory or common law lien) upon any Buyer Property or the Goods. Seller may not delegate or subcontract any of its obligations under the Order or the Contract without Buyer's written consent. Buyer may deduct, recoup and set off any amounts that Buyer at any time owes to Seller under the Contract from and against any damages or other amounts that Seller then owes to Buyer, whether under the Contract or otherwise and whether or not Seller shall have assigned to another ("**Assignee**") its rights to receive amounts that Buyer is required to pay under the Contract. All such rights of an Assignee shall be subject to all of the terms of the Contract and to all claims and defenses that Buyer at any time has against Seller, whether arising under the Contract or otherwise. If at any time Buyer



has reasonable grounds for insecurity as to Seller's performance, then Seller shall provide adequate assurance of due performance within 10 days after Buyer demands the assurance, which shall be considered to be a reasonable time. Buyer shall continue to have all of its rights under the Contract even if it does not fully and promptly exercise them on all occasions. Buyer's failure to exercise, or Buyer's waiver of, a right or remedy on one occasion is not a waiver of that right or remedy with respect to any future occasion.

30. **Validity.** If any provision in these Terms of Purchase is invalid or unenforceable in any respect, the validity and enforceability of the remaining provisions of these Terms of Purchase shall not be affected.
31. **Applicable Law.** The order and the Contract shall be governed by, and interpreted according to, State of Wisconsin law, excluding the United Nations Convention on Contracts for the International Sale of Goods. Any state or federal court in Milwaukee County, Wisconsin may handle any action based upon or arising out of the order or the Contract, and Seller irrevocably consents that the court shall have personal jurisdiction over Seller and waives any objection that the court is an inconvenient forum.
32. **Complete Agreement.** Seller has not made any promises or representations to Buyer, and Buyer has not made any to Seller, that are not in the Order. Any change in, or waiver of, any provision of the order or the Contract must be contained in a writing signed by an authorized officer of Buyer.

