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*SCM Metal Products, Inc 2601 Weck Dr, RTP, NC 27709*  
*Ecka Granules of America, LLC 500 Prosperity Drive, Orangeburg, SC 29115*  
*Telex Metals, LLC 105 Phyllis Ave, Croydon, PA 19021*  
*AmeriTi Manufacturing, LLC 19300 Filer Ave, Detroit, Michigan, 48234*  
*Thermal Spray Solutions, LLC 1105 International Plaza, Chesapeake, VA 233323*

### **US Terms and Conditions of Purchase**

**1. ACCEPTANCE OF PURCHASE ORDER. THE APPLICABLE ENTITY LISTED ABOVE THAT IS PURCHASING PRODUCTS OR SERVICES (“Buyer”) OFFERS TO PURCHASE FROM THE SELLER (“Seller”) THE PRODUCTS (“Products”) OR SERVICES (“Services”) DESCRIBED ON THE ACCOMPANYING PURCHASE ORDER (“Order”) ONLY UPON THESE US TERMS AND CONDITIONS OF PURCHASE (the “Terms”). BUYER RESERVES THE RIGHT TO CANCEL OR REVOKE THE ORDER WITHOUT NOTICE. THE ORDER SHALL BE DEEMED ACCEPTED AND SHALL BECOME A BINDING CONTRACT ON THE TERMS CONTAINED HEREIN WHEN (A) SIGNED AND RETURNED TO SELLER, OR (B) SELLER ISSUES ITS ORAL OR WRITTEN ACKNOWLEDGMENT, OR (C) SELLER COMMENCES PERFORMANCE, OR (D) SELLER OTHERWISE ACCEPTS THE ORDER OR TAKES ANY OTHER ACTION THAT RECOGNIZES THE EXISTENCE OF A CONTRACT PERTAINING TO THE ORDER. NO ORDER ISSUED BY BUYER MAY BE CONSTRUED AS AN ACCEPTANCE BY BUYER OF ANY OFFER OF SELLER. BY ACCEPTING THE ORDER, SELLER WAIVES ALL TERMS CONTAINED IN ITS QUOTATION, ACKNOWLEDGMENT, INVOICE OR OTHER DOCUMENTS, INCLUDING WITHOUT LIMITATION ELECTRONIC MAIL OR OTHER WRITTEN COMMUNICATIONS, WHICH ARE DIFFERENT FROM OR ADDITIONAL TO THOSE CONTAINED HEREIN, AND ALL SUCH DIFFERENT OR ADDITIONAL TERMS AND CONDITIONS ARE HEREBY REJECTED AND SHALL BE NULL AND VOID. NO MODIFICATION OF THESE TERMS WILL BE EFFECTIVE UNLESS IN WRITING AND SIGNED BY BOTH THE BUYER AND THE SELLER. NEITHER COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE MAY BE USED TO VARY THE TERMS OF ANY AGREEMENT. IF THE ORDER FOLLOWS A PRIOR OFFER BY SELLER, THE ORDER SHALL NOT CONSTITUTE AN ACCEPTANCE OF SELLER’S OFFER AND ANY ACCEPTANCE OF SELLER’S OFFER IS LIMITED TO THE EXPRESS TERMS IN THE ORDER OR IN THESE TERMS.**

**2. SHIPPING INSTRUCTIONS.** No charges shall be allowed for packing, crating, freight and/or any other shipping services unless so specified in the Order. Seller shall comply with Buyer's shipping instructions. Order number(s) shall appear on all correspondence, shipping labels and shipping documents, including all packing slips, bills of lading, air bills and invoices. Each shipment shall include a delivery note in duplicate listing Buyer’s Order number, item number, and Supplier number. All packing slips shall include Buyer’s part number, where applicable, description, quantity, and a statement as to whether the Order is partially or completely filled.

### 3. **DELIVERY-NOTICE OF DELAY.**

(a) Time is of the essence in fulfilling the Order. Failure to deliver in accordance with the delivery schedule under the Order, if not excused in writing by Buyer, shall be a material breach of the Order. Buyer reserves the right to refuse or return at Seller's risk and expense shipments made in excess of Buyer's Order or in advance of required schedules, or to defer payment on advance deliveries until scheduled delivery dates.

(b) Unless otherwise stipulated on the Order, Products shall be shipped DDP (Seller's destination) Incoterms 2020 with risk of loss passing to Buyer upon receipt of the Products by Buyer's designated destination.

(c) Seller shall notify Buyer in writing immediately of any actual or potential delay in the performance of the Order. Such notice shall include a proposed revised schedule, but such notice and proposal or Buyer's receipt thereof shall not constitute a waiver of Buyer's rights and remedies hereunder.

(d) If Seller shall be unable to deliver as scheduled, Buyer may demand delivery by fastest way and charges resulting from premium transportation shall be prepaid by the Seller.

4. **TERMINATION FOR CONVENIENCE.** Buyer may, by notice in writing, terminate the Order or work under the Order, for convenience and without cause, in whole or in part, at any time, and such termination shall not constitute default. In the event of partial termination, Seller shall not be excused from performance of the non-terminated balance of the Products or Services.

5. **TERMINATION FOR DEFAULT.** Buyer may by notice in writing to Seller, terminate the Order, in whole or in part, at any time if Seller fails (i) to perform within the time specified herein or any extension thereof; or (ii) to perform any of the other provisions of the Order, or (iii) to make progress as to endanger performance of the Order, and in any case, does not cure such failure within a period of ten (10) days from its receipt of Buyer's notice. In the event of such a termination by Buyer due to default by Seller, Seller will support Buyer to the best of its abilities in Buyer's efforts to obtain replacement Products or Services, which support will include the granting of licenses to intellectual property rights to the extent such rights are necessary for the manufacture of the Products or the provision of the Services, such licenses to be granted on terms customary in the industry.

6. **EFFECT OF TERMINATION.** Upon termination of the Order, Buyer may procure, as it deems appropriate, products or services similar to those that were to be provided under the Order, and Seller shall be liable to Buyer for the cost of such products or services.

7. **FORCE MAJEURE.** Buyer shall not be liable for any failure to perform including failure to (i) accept performance of Services or, (ii) take delivery of the Products, caused by circumstances beyond Buyer's control which make such performance commercially impractical including, but not limited to, acts of God, fire, flood, acts of war, terrorism, federal, state or local government action statute, ordinance or regulation, accident, labor difficulties or shortage, inability to obtain products, equipment or transportation or other incident(s) which makes performance impossible or impractical. If performance by Buyer is delayed three (3) or more months due to a force majeure event, either party shall have the right by written notice to the other to cancel the Order and, in such event, neither party shall be liable to the other for any losses or damages arising out of such cancellation.

### 8. **CONFIDENTIALITY AND PROPRIETARY RIGHTS.**

(a) Seller shall (i) keep confidential any proprietary and/or confidential information including without limitation any technical, process, product or financial information, capacity, production levels or production schedules, including any such information derived from or contained in any drawings, specifications, software or other data ("Confidential Information") furnished by Buyer, (ii) shall not divulge, export or use, directly or indirectly, any such Confidential Information without obtaining Buyer's express prior written consent, and (iii) shall not use such Confidential Information for purposes other than as authorized by Buyer. Seller may not advertise its business relationship with Buyer, nor use Buyer's trademarks, trade names, logos, or any other Confidential Information in Seller's advertising, promotional

materials, or electronic communications (including but not limited to websites), without Buyer's prior written consent.

(b) Buyer retains title and reserves all other intellectual property and other rights to the Confidential Information. Copies may be made only with Buyer's prior written consent. Title to the copies passes to Buyer at the time such copies are created. Seller hereby agrees that Seller stores the copies on behalf of Buyer as bailee. Seller agrees to properly store at its expense all documents and other objects, including copies thereof, that were made available to Seller, to keep them in perfect condition, to obtain insurance for them and to return them to Buyer or destroy them, in each case upon Buyer's request. Seller shall confirm the complete return or destruction of the relevant object(s) in writing.

(c) Any intellectual property first made or conceived by Seller in performance of the Order that was derived from or based on the use of Confidential Information or other information supplied by Buyer shall be considered to be the property of Buyer. Seller agrees to assign and hereby assigns its entire right, title and interest in and to such intellectual property and Seller shall execute such documents necessary to perfect Buyer's title thereto.

(d) If Seller breaches its obligations set forth in this Section 8, Seller understands and agrees that monetary damages will not provide sufficient relief for said breach, and that Buyer is entitled to seek specific performance and injunctive relief against the Seller as remedies for any such breach. Such remedies are not the exclusive remedies for a breach of these obligations, but are in addition to any and all other remedies available at law or equity.

**9. BUYER'S PROPERTY.** All drawings, tools, jigs, dies, fixtures, Products, equipment and other items supplied or paid for by Buyer shall be and remain the property of Buyer ("Buyer's Property"), and Buyer shall have the right to enter Seller's premises and remove the Buyer's Property at any time. Buyer's Property shall be used by Seller only in its performance hereunder. Seller shall be responsible for the proper use of the Buyer's Property and shall maintain the Buyer's Property, provide adequate insurance for Buyer's Property for the benefit of Buyer, and shall be responsible for all loss or damage thereto, except for normal wear and tear. Immediately upon Buyer's request and without payment of any kind, Seller shall return Buyer's Property, and shall comply with Buyer's instructions relating to its return, including the method and location for its return. Seller shall be responsible for labor and other costs incidental to the return of Buyer's Property. Supplier expressly waives any right to additional notice or process relating to Buyer's exercise of its rights under this Section 9. Supplier waives, to the extent permitted by law: (i) any lien or other rights that Supplier might otherwise have on any of Buyer's Property, including molder's and builder's liens; and (ii) any objection to Buyer's repossession and removal of Buyer's Property for any or no reason, including bankruptcy or insolvency proceedings.

**10. WARRANTY.**

(a) Seller warrants that prior to providing any Services or delivering any Products, Seller fully understands the Buyer's and Buyer's customers', if applicable, intended purposes. Seller warrants that the Products and Services shall be: (a) free of any and all liens, claims, defects in title, encumbrances or other third-party claim, including but not limited to any claims of infringement or violation of a trade secret, (b) of merchantable quality, free from all defects in design and workmanship, and (c) fit for the particular purposes for which they are intended, and in strict accordance with the specifications, samples, drawings, designs or other requirements (including performance specifications) approved by Buyer. All warranties under the Order shall be for the benefit of the Buyer, its successors, assigns, customers and the ultimate users of the Products and Services. Seller shall make spare parts available to Buyer at Seller's then-current price for a period of five (5) years from the last date of shipment of the Products.

(b) Seller will reimburse Buyer for any damages caused by Seller's breach of these Terms or by nonconforming Products or Services, including, without limitation: (i) cost incurred for replacement products or services; (ii) freight costs incurred to deliver replacement Products or to expedite shipments or to return Products to Seller; (iii) costs associated with containing and correcting recalls or other large scale

issues; and/or (iv) costs resulting from production interruptions; recall campaigns, or other corrective service actions.

(c) If a governmental agency of any country, state, province or municipality requires Buyer to conduct a product recall or field fix program, or Buyer voluntarily undertakes such an action, related to the Products, Buyer will notify Seller on the later of: (i) within thirty (30) days of the start of such action or (ii) within ten (10) days of determining that the cause for such recall is Seller and Seller shall, at Buyer's option, either repair or replace related Products, and reimburse Buyer for any related costs and damages. In connection with a recall campaign, service action or other corrective action, the warranty shall be extended beyond the normal warranty duration and continue for such time period as may be dictated by Buyer or the government unit.

11. **INSPECTION.** All Products and Services and related documentation shall be subject to inspection and test at all reasonable times and places by the Buyer, and Buyer's customers before, during and after performance and delivery. If any inspection or test is made on the premises of Seller or any of its suppliers, Seller, without additional charge, shall provide all reasonable facilities and assistance for the safety and convenience of the inspectors in the performance of their duties. Notwithstanding the foregoing, inspection by Buyer or payment for the Products does not relieve Seller of its warranty obligations, nor does it act as acceptance of the Products. With regard to numbers of pieces, weights and dimensions, the values determined by Buyer and the equipment used by Buyer for inspection of the Products shall be decisive, unless undisputable evidence to the contrary is available.

12. **AUDIT.** Seller (which, for the purposes of this Section, includes Seller's suppliers) shall at any time, and after reasonable notice by Buyer (i) grant to Buyer, Buyer's customers and/or to any competent regulatory authority, unrestricted access to (or if requested by Buyer provide copies of) Seller's books and records (including, without limitation, agreements and technical inspection and quality records, but excluding financial books and records) related to the Products or Services provided, wherever such books and records may be located (including third-party repositories), and (ii) provide Buyer, Buyer's customers and/or any such authority the right to access, and to perform inspection, test, audit or investigation at Seller's premises, including manufacturing and test locations for the purpose of enabling Seller to verify compliance with the requirements set forth in the Order in connection with the design, development, certification, manufacture, sale, use and/or support of the Products.

13. **REJECTIONS.** If any of the Products shall be found at any time to be defective in material or workmanship, in breach of warranty or otherwise not in strict conformity with the requirements of the Order, Buyer, in addition to such other rights, remedies and choices as it may have by contract or by law, at its option and sole discretion, may (i) reject and return such Products at Seller's expense; (ii) require Seller to inspect the Products and remove and replace nonconforming Products with conforming Products; or (iii) purchase replacement Products in accordance with Section 10(b) above. If Buyer shall elect option (ii) above and Seller shall fail to promptly make the necessary inspection, removal and replacement, Buyer may, at its option, rework the discrepant Products and charge back the Seller for the required work. Reimbursement for warranty claims will be, at Buyer's option, through Seller credits, Buyer debits, or cash payments from Seller to Buyer, executed no more than thirty (30) days after notification to Seller, within the warranty period, of product failure.

14. **CHANGES.** Buyer shall have the right upon notifying the Seller to suspend or make changes from time to time to the Order including without limitation to the Products or Services or delivery date. If any such change affects the cost of such Products or Services, an equitable adjustment shall be made, but any claim by the Seller for adjustment shall be asserted within thirty (30) days from its receipt of such notice. Seller may not change any specifications, manufacturing locations, subcontractors, suppliers, physical composition of, or processes used to manufacture the Products or provide the Services without prior approval in a signed writing from Buyer.

**15. PAYMENT; TAXES.** As full consideration for the Products and Services, and the assignment of rights to Buyer as provided herein, Buyer shall pay Seller (i) the amount agreed upon and specified in the Order, or (ii) Seller's quoted price on date of shipment (for Products), or the date Services were started (for Services), whichever is lower. Payment shall not constitute acceptance. Each invoice submitted by Seller shall be provided to Buyer within ninety (90) days of completion of the Services or delivery of Products and shall reference the Order. Buyer reserves the right to return all incorrect invoices. Buyer shall receive a 2% discount of the invoiced amount for all invoices that are submitted more than ninety (90) days after completion of the Services or delivery of the Products. Buyer shall pay the invoiced amount within sixty (60) days after receipt of a correct invoice. Prices shall include, and Seller shall be liable for and pay, all taxes imposed on or measured by the Order, except for applicable sales and use taxes that are separately stated on Seller's invoice. Prices shall not include any taxes for which Buyer has furnished evidence of exemption. Where required by law, Buyer may deduct from any payments due to Seller hereunder such taxes as Buyer shall be required to withhold and pay such taxes to the relevant tax authorities.

**16. ASSIGNMENT.** Seller may not assign any rights or delegate any of its obligations hereunder without the prior written consent of Buyer nor use any subcontractor without prior written consent of Buyer, and any such attempted delegation or assignment or subcontracting shall be void.

**17. SET-OFF.** Buyer shall be entitled at all times to set off any amount owing from Seller to Buyer or any of its affiliated companies against any amount payable by Buyer.

**18. INDEMNITY.**

(a) Seller shall be responsible for the actions and failure to act of all parties retained by, through or under Seller in connection with the performance of the Order.

(b) Seller shall, without limitation, indemnify, defend and hold Buyer and its affiliates and customers, and their respective officers, directors, employees and agents harmless from and against all claims and resulting costs, expenses (including reasonable attorneys' and related legal fees) and liability, which arise from claimed or actual infringement or violation of any trade secret or other intellectual property right, personal injury, death, damage to the environment or property loss or damage arising out of, related to, or caused by (i) Seller's action or failure to act, (ii) the Products or Services, (iii) the infringement by the Products or Services of the intellectual property rights of a third party, (iv) the breach of any of these Terms, or (v) any violation of law by Seller.

(c) Should Buyer's use, or use by its customers, of any Products or Services be enjoined, be threatened by injunction, or be the subject of any legal proceeding based on the actual or alleged infringement on the intellectual property rights of a third party, Seller shall, at its sole cost and expense: (i) substitute fully equivalent non-infringing products or services; (ii) modify the Products or Services so that they no longer infringe but remain fully equivalent in functionality; (iii) obtain for the benefit of Buyer and its customers the right to continue using the Products or Services; or (iv) if none of the foregoing is possible, refund all amounts paid for the infringing Products or Services.

**19. INSURANCE.** Without limiting Seller's duty to hold harmless and indemnify hereunder, Seller shall, for the duration of the supply relationship and for a reasonable time period thereafter, maintain as a minimum the following insurance with respect to all work to be performed under the Order for the duration of the Order: (i) Workers' Compensation Insurance, in an amount sufficient by virtue of the laws of the U.S., foreign country, state, or other governmental subdivision in which the work or any portion of the work is performed and Employer's Liability Insurance in the minimum amount of \$1,000,000 for any one occurrence; (ii) Commercial General Liability Insurance including Premises Liability and Contractual Liability, in which the limit of liability for property damage and bodily injuries, including accidental death, shall be at a minimum, a combined single limit of \$1,000,000 for any one occurrence; (iii) if Seller's vehicles are used on Buyer's premises and/or used to accomplish work under the Order or otherwise on behalf of Buyer, Automobile Liability Insurance in which the limit of liability for property damage and bodily injuries, including accidental death, shall be a combined single limit of \$1,000,000 for any one

occurrence; (iv) if Seller or its permitted subcontractors have Buyer's materials or equipment in its care, custody or control, Seller shall have and maintain All-Risk Property Insurance in an amount sufficient to meet or exceed the value of such material; and (v) if Seller is performing professional services on behalf of Buyer, Seller shall maintain Professional Liability Insurance with a limit of no less than \$5,000,000 with worldwide coverage for risks arising from the supply relationship (including, without limitation, business liability insurance, expanded product liability insurance including coverage for costs of installation and removal, inspection and sorting costs, and applicable recall costs) and shall name Buyer as an additional insured on all such insurance policies. Upon Buyer's demand therefore, Seller shall provide Buyer with proof of insurance coverage.

**20. INSOLVENCY.** If Seller ceases to conduct its operations in the normal course of business, including inability to meet its obligations as they mature, or if any proceeding under the bankruptcy or insolvency laws is brought by or against Seller, or a receiver for Seller is appointed or applied for, or an assignment for the benefit of creditors is made by the Seller, the Order shall automatically terminate without liability to Buyer, except for liability for deliveries previously made or for Products that are completed at termination and subsequently delivered in accordance with the terms of the Order.

**21. LIMITATION OF LIABILITY.** Buyer's sole liability under the Order (including its termination, expiration, or cancellation) is to pay for the Products or Services actually delivered or provided. **IN NO EVENT SHALL BUYER BE LIABLE TO SELLER FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING ANY DAMAGES DIRECTLY OR INDIRECTLY RELATED TO LOST PROFITS) ARISING OUT OF, OR IN CONNECTION WITH, THE ORDER, WHETHER OR NOT BUYER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**

**22. GOVERNMENT CONTRACTS.** If Buyer has issued the Order under a government Prime Contract, all applicable Federal Acquisition Regulation (FAR) clauses and similar applicable laws, regulations and rules are incorporated herein by reference, with the same force and effect as if they were given in full text, and shall be applicable to the Order.

**23. EXPORT/IMPORT CONTROL**

(a) If Seller is a U.S. company that engages in the business of either manufacturing or exporting defense articles or furnishing defense services, the Seller hereby certifies that it has and is currently registered with the U.S. Department of State Directorate of Defense Trade Controls (DDTC) and understands its obligations to comply with International Traffic In Arms Regulations (ITAR).

(b) Seller shall advise Buyer as to the defense article status of the Products and mark any technical data provided to Buyer in connection with the Products or Services to indicate if it is subject to ITAR controls. If any of the Products or technical data is subject to ITAR, Buyer may need to obtain an import license from DDTC, and in such instance, upon instruction from the Buyer, Seller shall, at no expense to the Buyer, delay delivery of the Products and technical data until the Buyer shall receive any necessary import license.

(c) Seller shall control the disclosure of and access to technical data, information and other items received under the Order in accordance with and otherwise comply with U.S. export control laws and regulations, including but not limited to ITAR and the Export Administration Regulations (EAR). No technical data, information or other items provided by the Buyer in connection with the Order shall be provided to any foreign persons or to a foreign entity, including without limitation, a foreign subsidiary of Seller, without the express prior written authorization of the Buyer and the Seller's obtaining of the appropriate export license, technical assistance agreement or other required documentation for ITAR-controlled technical data, information or items.

(d) Seller shall immediately notify Buyer in writing if it is or becomes listed on a Debarred, Excluded or Denied Party List or similar list of an agency of the U.S. Government, or if its export privileges are denied, suspended or revoked.

**24. COUNTERVAILING AND ANTI-DUMPING DUTIES.** Seller warrants that all sales made under the Order are or shall be made at no less than fair value under Subtitle IV of the Tariff Act of 1930 entitled “Countervailing and Anti-Dumping Duties” (19 U.S.C. Sec. 1671 and 19 U.S.C. Sec. 1673).

**25. IMPORTER OF RECORD; ULTIMATE CONSIGNEE.** Buyer shall not be a party to the importation of the products related to the transaction(s) represented by the Order and Buyer shall not in any event be designated as “importer of record” or “ultimate consignee” on any customs declaration or customs entry form. Upon request and where applicable, Seller shall provide Buyer with Customs forms, properly executed, as required for drawback claims.

**26. ORIGIN CERTIFICATION; CONFLICT MINERALS COMPLIANCE.** Seller shall provide Buyer with a certificate of origin for each and every Product sold hereunder and such certificate shall indicate the origin rule that the Seller used in making the certification. Seller acknowledges that Buyer is required to comply with and shall comply with Section 1502 of the United States Dodd-Frank Wall Street Reform and Consumer Protection Act (“the Dodd-Frank Act”) and its implementing regulations which currently include requirements related to the use of tin, tantalum, tungsten, and gold (“Conflict Minerals”). Seller shall source and track the chain of custody of all Conflict Minerals contained in any Products in accordance with the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas. At Buyer’s request, Seller shall execute and deliver to Buyer declarations in the form of the EICC-GeSI Conflict Minerals Reporting Template as adopted by EICC-GeSI or in any other form that Buyer reasonably requests. Seller shall immediately disclose to Buyer any changes to the conflict-free minerals status of any Products. If the Buyer has reason to believe the minerals in any Products are not conflict-free, Buyer shall place the Seller under contract review and research alternative supply sources and may immediately terminate the relevant Order as a termination for default under Section 5 hereof. All Products provided hereunder shall be “Conflict Free”, as defined in the Dodd-Frank Act.

**27. TOXIC, HAZARDOUS OR CARCINOGENIC SUBSTANCES; REACH; RoHS:** Seller represents and warrants that (a) the products supplied in accordance with the Order and any substances contained therein are not prohibited or restricted by, and are supplied in compliance with, any laws or regulations of any country or jurisdiction in the world, including but not limited to the United States, the European Union (“EU”), and nations adopting legislation similar to that of the EU; (b) nothing prevents the sale or transport of the products or substances contained therein in any country or jurisdiction in the world; (c) all such products and substances are appropriately labeled, if labeling is required, and have been pre-registered and/or registered and/or authorized under the EU Registration, Evaluation, Authorization and Restriction of Chemicals regulation (“REACH”) if pre-registration, registration and/or authorization is required; and (d) in accordance with the restrictions set forth in the Recycling of Hazardous Substance (“RoHS”) directives, the products and any substances contained therein do not include hazardous substances banned under RoHS, such as lead, mercury, cadmium, and hexavalent chromium and flame retardants such as polybrominated biphenyls or polybrominated diphenyl ethers. In addition to complying with REACH and RoHS, Seller shall timely provide Buyer with all relevant information on the products necessary for the Buyer and/or any downstream user (as defined in Article 3(13) of REACH) to timely and accurately fulfill their obligations under REACH and RoHS, including a list of ingredients and quantities. Seller shall take all other measures as are necessary to comply with REACH and RoHS and their respective implementing regulations, as they may be amended over time. Seller shall bear all costs, charges and expenses related to REACH and RoHS, including the pre-registration, registration, evaluation and authorization under the REACH regulation of the chemical substances that are the subject of the Order.

**28. STANDARD OF CONDUCT.** Seller (i) represents and warrants that it has reviewed Buyer’s Code of Ethics and Business Conduct found on Buyer’s website ([www.kymerainternational.com/code-of-ethics-and-business-conduct/](http://www.kymerainternational.com/code-of-ethics-and-business-conduct/)) (“Code”) which is incorporated herein by reference; (ii) agrees to abide by the principles set forth therein in the provision of Products and Services to Buyer; and (iii) represents and

warrants that it has adopted appropriate and effective policies and procedures consistent with Seller's Code. Further, Seller represents and warrants the provision of Goods and Services shall be performed in an environmentally responsible manner and to minimize adverse impacts on the environment. Seller is encouraged to conserve natural resources, avoid the use of hazardous materials where possible, and engage in activities that reuse and recycle.

**29. FIRST ARTICLE INSPECTION.** At Buyer's request, Seller shall supply First Article Inspection Reports (FAIR) for the first shipment of any new Products or parts thereof. Whenever a drawing of a Product or part thereof is revised, a FAIR shall be again required for all characteristics affected in the revision.

**30. CERTIFICATE OF CONFORMANCE.** At Buyer's request, a Certificate of Conformance stating the Products conform to all Order requirements shall accompany each shipment. The Seller shall have available for review all sub-tier certifications for products and processes that support the shipment.

**31. DATA PRIVACY.** This provision applies whenever Supplier will have access to any Personal Information that is provided to or accessible by Supplier or its agents, representatives, or subcontractors in connection with this agreement or any transactions hereunder. "Personal Information" means information relating to an identified or identifiable natural person (whether affiliated with Buyer or a third party), regardless of the medium in which the information is collected, processed, or transferred. The term includes information about a Buyer director, employee, contractor, contract laborer, customer, supplier, or other third party. Supplier shall comply with all applicable national, federal, state and provincial laws relating to data privacy, the protection of Personal Information, and the cross-border transfer of Personal Information or data, including, without limitation, the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the laws and regulations of the European Union member states under the European Union Directive 95/46/EC (the "EU Directive"), the General Data Protection Regulation ("GDPR"), and any European Union law or regulation that may be enacted to replace the EU Directive or the GDPR.

**32. COMPLIANCE WITH LAWS.** Seller warrants that the Products and the Services shall be manufactured, sold, and delivered, as applicable, in compliance with all applicable laws, rules and regulations ("Laws"), including all (a) applicable environmental Laws, (b) hazardous material Laws, (c) human rights laws; (d) conflict mineral sourcing; (e) anti-bribery and corruption; (f) applicable import and export Laws; and (g) all Laws governing ethical business practices.

**33. DISPUTES.** The Order, these Terms and the sale of Products or Services by Seller to Buyer shall be construed and interpreted according to the laws of the state of the Buyer entity listed on the Order, exclusive of its conflicts of laws principles. The exclusive forum for adjudication of any disputes shall be the federal or state courts of the state where the Buyer entity listed on the Order is located, and the parties hereby consent to personal jurisdiction and venue in such courts in any proceeding. The United Nations Convention on the International Sale of Goods shall not apply.

**34. MISCELLANEOUS PROVISIONS.**

(a) **Entire Agreement.** The Order, with such documents as are expressly incorporated by reference, and these Terms, shall be intended by the parties as a complete and exclusive statement of the terms of their agreement. No course of prior dealings between the parties, no usage of the trade, no prior or contemporaneous agreement, representation or understanding, oral or written, including without limitation, any provisions on a quotation, acknowledgment, invoice, electronic mail or other written communications or document, shall be relevant to determine the meaning of this Order even though the accepting or acquiescing party has knowledge and opportunity for objection.

(b) **Waiver.** The failure of Buyer to enforce at any time or, for any period of time, any of the provisions hereof shall not be construed to be a waiver of such provisions, nor the right of Buyer thereafter to enforce each and every such provision.

(c) **Severability.** If provision of these Terms or the Order is invalid or unenforceable under any statute, regulation, ordinance, executive Order or other rule of law, the term will be deemed reformed or deleted,



as the case may be, but only to the extent necessary to comply with applicable law. The remaining provisions of the Terms and the Order will remain in full force and effect.

(d) **Survival.** Any provisions of the Order or the Terms, which by its nature is intended to survive termination, cancellation, completion or expiration of the Order (including without limitation Effect of Termination, Confidentiality, Warranty, Remedies, Indemnity, Limitation of Liability, Entire Agreement, Compliance and Governing Law), shall continue as a valid and enforceable obligation of the parties, notwithstanding such termination, cancellation, completion or expiration.

(e) **Cumulative Rights and Remedies:** The rights and remedies herein provided shall be cumulative, and in addition to any other rights and remedies, provided at law or equity.

(f) **Relationship:** Buyer and Seller are independent contracting Parties and nothing in these Terms or the Order makes either Party the agent or representative of the other for any purpose or grants any authority to assume or create obligations on behalf of the other Party.

(g) **Notice:** The Parties shall give all notices and communications between the parties in writing by either personal delivery or sent via facsimile or certified mail, postage prepaid and return receipt requested addressed, electronic mail or regular mail to the party's address specified on the face of the Order, or to the address that a party has notified to be that party's address for the purposes of this Section. All notices shall be in English and shall be effective upon receipt.