



## **TERMS AND CONDITIONS OF THE PURCHASE OF GOODS AND/OR SERVICES**

### 1. **Definitions.**

- a. **“Goods”** means all (or any) of the goods to be purchased by Purchaser and delivered by Seller as more fully set forth in a Purchase Order.
- b. **“Incoterms”** means the 2010 edition of the official International Chamber of Commerce Rules for the interpretation of trade terms.
- c. **“Intellectual Property Rights”** means any and all rights in and/or to; (i) patents; (ii) inventions, discoveries, utility models and improvements whether or not capable of protection by patent or registration; (iii) formulas, processes, compositions of matter, formulations, methods of use or delivery, data, reports, specifications and computer programs or models; (iv) copyright and related rights; (v) moral rights; (vi) design rights; (vii) trademarks and service marks; (viii) business or trade names, domain names, rights in get-up, rights to goodwill or to sue for passing off or unfair competition; (ix) database rights; (x) confidential information, know-how, trade secrets; and (xi) other intellectual property rights; in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
- d. **“Purchaser”** means French-Gerleman Electric Company (d/b/a French Gerleman).
- e. **“Purchaser’s Customers”** means any entity (i) to which Purchaser, directly or indirectly, sells the Goods, or sells any goods or services into which the Goods are incorporated; and/or (ii) who is or becomes the ultimate beneficiary of the Services.
- f. **“Seller”** means the vendor, contractor, seller or other person or legal entity to which the Purchase Order is addressed.
- g. **“Services”** means all (or any) of the services to be performed by Seller as requested by Purchaser as more fully set forth in a Purchase Order.
- h. **“Terms and Conditions”** means the terms and conditions set out in this document.

2. **Governing Terms and Conditions.** The work order and/or purchase order attached hereto and issued by Purchaser for the receipt of Services and/or the purchase of Goods, is made expressly subject to these Terms and Conditions. Such purchase order and/or work order, together with any attachments and exhibits, specifications, drawings, designs, notes, instructions and other information, whether physically attached or incorporated by reference (collectively, the **“Purchase Order”**) and these Terms and Conditions, constitutes the entire and exclusive agreement between Purchaser and Seller for the purchase of the Goods and/or the performance of the Services (collectively, the **“Work”**). Any such Purchase Order shall specifically identify the Goods to be delivered and/or the Services to be provided by Seller, and the Work shall be performed by Seller strictly in accordance with such Purchase Order and these Terms and Conditions. These Terms and Conditions and other matters appearing on any Purchase Order shall apply to the purchase by Purchaser from Seller of all Goods or Services set out on the Purchase Order to the exclusion of all other terms and conditions, including (i) any terms or conditions which are implied by trade, custom, practice or course of dealing or which Seller may purport to apply; or (ii) any prior, additional, contrary or inconsistent terms or conditions contained in any order confirmation, acknowledgment, estimate, shipment, invoicing document or other written correspondence of Seller, even if Seller purports to condition its acceptance of the Purchase Order on Purchaser’s agreement to such different or additional terms.
3. **Specifications.** All specifications, drawings, designs and data submitted to Seller by Purchaser electronically or otherwise in connection with the Purchase Order and pursuant to the performance of the Work are incorporated in and made a part of these Terms and Conditions and are, and shall remain, the sole and exclusive property of Purchaser.
4. **Acceptance.** In no event shall the Purchase Order be binding on Purchaser until Seller accepts the Purchase Order in writing or starts to perform the Work in accordance with the specifications of the Purchase Order. If Seller does not accept the Purchase Order in writing (or provide written notice that it has commenced performance of the Work) within ten (10) days of Seller’s receipt of the Purchase Order, then Purchaser may, at its option, reject any Goods delivered and/or Services performed thereafter without any liability and/or obligations related thereto. Purchaser may withdraw the Purchase Order at any time before it is accepted by Seller.
5. **Changes.** Purchaser may make changes to the Purchase Order at any time, whether by oral or written request to Seller. If any such change causes an increase or decrease in the cost of or the time required for performance of the Work, an equitable

adjustment will be made in the purchase price or delivery schedule, or both. Any such changes will be denominated as a "revision" to the Purchase Order. Only Purchaser shall be permitted to issue revisions and, if issued, each such revision will be further subject to these Terms and Conditions.

6. **Delivery of Goods and/or Performance of Services.** Seller shall deliver the Goods and/or perform the Services in the quantities and on the date(s) specified in the Purchase Order or as otherwise agreed in writing by Purchaser and Seller (the "**Delivery Date**"). Timely delivery of the Goods and/or performance of the Services is of the essence. If Seller fails to deliver the Goods and/or perform the Services in full on the Delivery Date, Purchaser may terminate the Purchase Order immediately by providing written notice to Seller and Seller shall indemnify Purchaser against any losses, claims, damages, and reasonable costs and expenses directly attributable to Seller's failure to deliver the Goods and/or perform the Services on the Delivery Date. All Goods shall be delivered to and all Services shall be performed at the address specified in the Purchase Order (the "**Delivery Location**") during Purchaser's normal business hours or as otherwise instructed by Purchaser.
7. **Packaging; Shipping; Inspection and Rejection of Goods.**
  - a. **Packaging.** The Goods shall be packed for shipment according to Purchaser's instructions or, if there are no instructions, in a manner sufficient to ensure that the Goods are delivered in an undamaged condition. Seller must provide Purchaser prior written notice if it requires Purchaser to return any packaging material. Any return of such packaging material shall be made at Seller's expense.
  - b. **Shipping Terms.** Delivery of the Goods shall be made DDP Delivery Location (in accordance with Incoterms). Seller shall give written notice of shipment to Purchaser when the Goods are delivered to a carrier for transportation. Prior to or contemporaneously with the delivery of the Goods to Purchaser, Seller shall provide Purchaser with all shipping documents, including the packing list, air waybill, bill of lading and any other documents necessary to release the Goods to Purchaser.
  - c. **Title and Risk of Loss; Inspection and Rejection.**
    - i. Unless otherwise specified on the face of the Purchase Order, title to the Goods and risk of loss thereof, will pass to Purchaser only upon their delivery to the Delivery Location and upon inspection and acceptance by Purchaser. The carrier handling delivery of the Goods must be approved by Purchaser, which approval will not be unreasonably withheld and the cost of transportation shall be included in the cost of the Goods, unless otherwise specified on the face of the Purchase Order.
    - ii. Purchaser has the right to inspect the Goods on or after the Delivery Date. Purchaser, at its sole option, may inspect all or a sample of the Goods, and may reject all or any portion of the Goods if it determines the Goods are nonconforming or defective. If Purchaser rejects all or any portion of the Goods, Purchaser has the right, effective upon written notice to Seller, to: (1) reject the Goods (in whole or in part) and return them to Seller at Seller's own risk and expense; and/or (2) require Seller as soon as reasonably practicable to (A) repair or replace the Goods (any repaired and/or replaced Goods shall remain subject to these Terms and Conditions); or (B) refund any amounts paid by Purchaser in respect of any Goods which are nonconforming or defective; and/or (3) purchase Goods from an alternative supplier and any additional expenses incurred by Purchaser in connection therewith shall be paid by Seller to Purchaser, provided, however, that prior to any such alternative purchase, Purchaser shall provide Seller with a reasonable opportunity (as determined in Purchaser's sole and absolute discretion) to replace the rejected Goods with Goods which conform to these Terms and Conditions and the applicable Purchase Order; and/or (iv) claim damages for any other costs, losses or expenses incurred by Purchaser which are in any way attributable to Seller's failure to fulfill its obligations under these Terms and Conditions and the applicable Purchase Order.
    - iii. Any inspection or other action by Purchaser under this **Section 7(c)** shall not reduce or otherwise affect Seller's obligations under the Purchase Order or these Terms and Conditions, and Purchaser shall have the right to conduct further inspections after Seller has carried out its remedial actions.
8. **Price.** The price of the Goods and/or Services shall be the price stated in the Purchase Order (the "**Price**"). Unless otherwise specified in the Purchase Order, the Price includes all packaging, transportation costs to the Delivery Location, insurance, customs duties and fees and applicable taxes, including, but not limited to, all sales, use or excise taxes. No increase in the Price is effective, whether due to increased material, labor or transportation costs or otherwise, without the prior written consent of Purchaser.
9. **Most Favored Customer.** Seller represents and warrants that the Price is the lowest price charged by Seller to any of its external buyers for similar volumes of similar Goods and/or the performance of similar Services. If Seller charges any other buyer a lower price, Seller must apply that price to all Goods and/or Services under the Purchase Order. If Seller fails to meet the lower price, Purchaser, at its option, may terminate the Purchase Order without any further liability except as set forth in **Section 20** hereof.

#### 10. Payment Terms.

- a. Except for any amounts disputed by Purchaser in good faith, Purchaser shall pay the Price due to Seller on or before, and payment shall not be due until the twentieth (20<sup>th</sup>) day of the month following the later of (i) the date of Purchaser's receipt and acceptance of the Goods and/or Services in accordance with these Terms and Conditions (the "**Receipt Date**"); and (ii) the date of Purchaser's receipt of an accurate and complete invoice (the "**Invoice Date**"). Notwithstanding the foregoing, in no event shall any payment of the Price to Seller be due earlier than thirty (30) days following the later of the Receipt Date and the Invoice Date. Seller shall, at its sole expense, comply with Purchaser's instructions and/or then current policies with respect to the form, content and method for submission of an invoice ("**Invoice**"). Any Invoice or other agreed upon billing communications shall be submitted with all appropriate supporting documentation and other information reasonably required by Purchaser. Invoices, which do not contain all necessary information, are subject to return for correction and any such Invoice shall not be deemed to be accurate and complete until corrected.
  - b. In the event that any purchase of Goods and/or Services is subject to a cash discount, the cash discount period will date from the receipt of the Invoice and not from the date of the Invoice. With respect to any Invoice returned for correction, the cash discount period will date from the receipt of the corrected Invoice.
  - c. In the event of a payment dispute, Purchaser shall promptly deliver a written statement to Seller listing all disputed items and providing a reasonably detailed description of each disputed item. Amounts not so disputed are deemed accepted and shall be paid, notwithstanding disputes on other items, within the period set forth in this **Section 10**. The parties shall seek to resolve all such disputes expeditiously and in good faith. Seller shall continue performing its obligations under the Purchase Order notwithstanding any such dispute.
11. **Set-Off.** Without prejudice to any other right or remedy it may have, Purchaser reserves the right to set off at any time any amount owing to it by Seller against any amount payable by Purchaser to Seller, whether under the Purchase Order or otherwise.

#### 12. Warranty With Respect to Goods.

- a. In addition to any other express or implied warranties provided by law or otherwise, Seller warrants, covenants and represents to Purchaser, Purchaser's Customers (as defined below) and their respective customers, successors and assigns (each a "**Purchaser Party**" and collectively, the "**Purchaser Parties**") that:
  - i. at the time of delivery to Purchaser (1) Seller has good and clear title to any and all Goods and said Goods are free and clear of any and all liens, claims, security interests and encumbrances and no Goods supplied will be subject to the right(s) of any third parties; (2) any and all Goods will be new, unless otherwise agreed in writing by the parties and will be of merchantable quality; (3) any and all Goods will be (A) fit and sufficient for the particular use(s) intended, (B) free from defects, whether patent or latent, in material and workmanship, and (C) in full conformity with all specifications and requirement; and (4) any and all Goods have been, and are, produced and shipped in compliance with any and all applicable laws, codes and regulations; and
  - ii. Seller will not, in the production, provision and/or shipment of any Goods, (1) infringe on the rights of any third party including any Intellectual Property Rights; (2) engage in any acts constituting misappropriation of trade secrets or image; and/or (3) violate any third party's rights of privacy and/or publicity.
- b. The warranties contained in this **Section 12** shall survive any delivery, inspection, acceptance or payment of or for the Goods. These warranties are cumulative and in addition to any other warranty provided by law or equity. Any applicable statute of limitations runs from the date of any Purchaser Party's discovery of the noncompliance of the Goods with the foregoing warranties.
- c. If, following acceptance of the Goods by Purchaser, any Purchaser Party gives Seller notice of noncompliance with this **Section 12**, Seller shall, at its own cost and expense, within five (5) business days of such notice, replace or repair the defective or nonconforming Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective or nonconforming Goods to Seller and the delivery of repaired or replacement Goods. Notwithstanding the foregoing, in the event that Seller is unable to repair or replace the defective or nonconforming Goods in a timely fashion or in a manner reasonably acceptable to the Purchaser Party, such Purchaser Party may, at its option, return any defective or conforming Goods for a full refund of any and all moneys previously paid to Seller for the defective or non-conforming Goods. Seller shall reimburse the Purchaser Party for its actual costs incurred in connection with the delivery and return of defective or non-conforming Goods, including packing, rigging, transportation, and insurance costs. Seller shall bear all risk of loss or damage in connection with the return of any such defective or non-conforming Goods.
- d. Seller hereby irrevocably extends to the Purchaser Parties any and all warranties received from Seller's suppliers and applicable to the Goods and shall enforce such warranties on behalf of the Purchaser Parties.

13. **Discontinuance; Obsolescence and Recalls.** Seller shall give Purchaser prompt written notice of, and in any event, at least three (3) months before the effective date thereof, any decision to discontinue the manufacture or sale of any Goods or part thereof, any significant improvement or modification in any Goods or any part thereof or any obsolescence relating to any Goods provided to Purchaser (collectively, the "**Obsolescent Goods**"). Seller shall provide Purchaser with prompt written notice of any recall affecting any Goods or any part thereof (collectively, the "**Recalled Goods**"). Purchaser shall have the right, within six (6) months after the later of (a) the effective date of discontinuance, modification or recall, or (b) the final shipment date to Purchaser of any such Obsolescent Goods or Recalled Goods, to return to Seller any or all such Obsolescent Goods or Recalled Goods for a full refund of one hundred percent (100%) of Purchaser's total cost for such Obsolescent Goods or Recalled Goods being returned (without any deduction for restocking or other charges), or for an equal dollar amount of other Goods or any combination thereof, as Purchaser may elect in its sole discretion (and to the extent applicable, Purchaser may return any or all demonstration equipment applicable to such Obsolescent Goods or Recalled Goods for a refund equal to Purchaser's total cost therefor). Seller shall bear all risk of loss or damage and shall be responsible for and pay all freight charges and/or other shipping and delivery expenses relating to the return of such Obsolescent Goods or Recalled Goods (and to the extent applicable, any demonstration equipment).

14. **Standard of Services.**

- a. Seller shall ensure that all of its personnel are suitably qualified to perform the Services and that all necessary licenses, work permits or other authorizations have been obtained.
- b. Purchaser shall have the right exercisable during the performance of the Services to suspend any payment obligation in respect of the Services if the performance does not conform with these Terms and Conditions or the requirements set forth in the Purchase Order or if the performance of the Services is delayed.
- c. In the event that Seller's performance of the Services does not conform with these Terms and Conditions and/or the requirements set forth in the Purchase Order, Purchaser shall have the right to purchase the Services from an alternative provider and any additional expenses incurred by Purchaser in connection therewith shall be paid by Seller to Purchaser.
- d. Seller represents and warrants to the Purchaser Parties that any Services performed by Seller:
  - i. shall be performed in a good and workmanlike fashion and with all due speed, care, skill and diligence; and
  - ii. shall be carried out in accordance with these Terms and Conditions, the Purchase Order, with current industry standard codes of practice, and the highest standards prevailing in Seller's industry.

15. **General Indemnification.**

- a. Seller shall defend, indemnify and hold harmless Purchaser, Purchaser's Customers and their respective subsidiaries, affiliates, customers, successors or assigns and their respective directors, officers, shareholders and employees (collectively, the "**Indemnified Parties**" and each an "**Indemnified Party**") against any and all loss, injury, death, damage, liability, claim, deficiency, action, judgment, interest, award, penalty, fine, cost or expense (including reasonable attorney and professional fees and costs, and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers) (collectively, "**Losses**") incurred by any Indemnified Party and directly or indirectly arising out of, relating to or occurring in connection with: (i) the Goods purchased from Seller; (ii) the Services performed by Seller; (iii) Seller's negligence and/or willful misconduct in connection with the performance of the Work; or (iv) any breach of the Purchase Order or these Terms and Conditions, including, without limitation, Seller's warranties hereunder.
- b. Seller will, wholly and solely at its own expense, if so requested by the Indemnified Parties (or any of them), defend any and all claims, demands, proceedings, suits and/or actions against the Indemnified Parties, in which any of the aforesaid claims are alleged, provided Seller is duly notified of such claims, proceedings or actions.
- c. If, in connection with the performance of its obligations under these Terms and Conditions and/or any Purchase Order, Seller shall be required to perform any work on an Indemnified Party's premises or utilize the property of any Indemnified Party, Seller shall, to the fullest extent permitted by law, indemnify and hold such Indemnified Party harmless from and against any Losses for damage to the property of or personal injuries (including death) to such Indemnified Party, its employees or agents, or any other person or entity to the extent arising from or in connection with Seller's work on such Indemnified Party's premises or use of such Indemnified Party's property.

16. **Intellectual Property Indemnification.** Seller shall, at its sole expense, defend, indemnify and hold harmless the Indemnified Parties against any and all Losses arising out of or in connection with any claim that any Indemnified Party's, possession, use and/or receipt of the Goods and/or Services infringes or misappropriates the Intellectual Property Rights of any third party. If in connection with any such claim, any Goods are held to constitute an infringement of the Intellectual Property Rights of any third

party and use thereof is enjoined, Seller will, at the Indemnified Party's election, either (i) procure the right to continue using the Goods, or (ii) replace the same with non-infringing Goods.

17. **Insurance.**

- a. Seller shall, at its own expense, maintain and carry insurance in full force and effect which includes, but is not limited to (i) commercial general liability (including coverage against product liability, bodily injury, personal injury, libel, slander, and property damage claims) with minimum bodily injury and property damage combined single limits of \$5,000,000 per occurrence; (ii) automobile liability insurance with minimum bodily injury and property damage combined single limits of \$1,000,000 per occurrence; and (iii) workers compensation with limits that comply with the applicable state statutes in the state where services are performed by Seller and employer's liability with limits of \$1,000,000. All such coverage must be provided by financially sound and reputable insurers.
- b. Upon Purchaser's request, Seller shall provide Purchaser with a certificate of insurance from Seller's insurer evidencing the insurance coverage specified in this **Section 17(b)**, provided, however, the failure of Purchaser to request such certificate or to object to a certificate that fails to meet the requirements of these Terms and Conditions shall not be deemed a waiver of Seller's obligation to provide the insurance as required above. The certificate of insurance shall name Purchaser as an additional insured.
- c. Seller shall provide Purchaser with thirty (30) days' advance written notice in the event of a cancellation or material change in Seller's insurance policy.
- d. Except where prohibited by law, Seller shall require its insurer to waive all rights of subrogation against any Indemnified Party or any insurer of any Indemnified Party.

18. **Compliance With Laws.** Seller is in compliance with and shall comply with all applicable laws, regulations and ordinances. Seller has and shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations hereunder.

19. **Confidentiality.**

- a. Seller acknowledges that in connection with the performance of its obligations under the Purchase Order, Seller may have access to confidential business and proprietary information of Purchaser including but not limited to (i) data, plans, specifications, formulae, drawings, customer lists and/or any other information whether business or technical, of a confidential nature, including but in no way limited to any information such as might be entitled to protection under any laws, statutes, codes, and/or regulations, which has been furnished directly or indirectly, in writing or otherwise to Seller; and (ii) such information as a person familiar with Purchaser's business and the industry in which it operates would reasonably consider to be (1) of a confidential or proprietary nature, and (2) that the maintenance of its confidentiality would likely be of a commercial value to Purchaser (collectively, "**Confidential Information**").
- b. Confidential Information shall not include information that (i) is or becomes generally available to the public other than as a result of a disclosure by Seller; (ii) becomes available to Seller on a non-confidential basis from a source other than Purchaser, provided that such source is not known by Seller to be bound by a confidentiality agreement with or other contractual obligation of confidentiality to Purchaser or any other party with respect to such information; (iii) was already in Seller's possession free of any restriction as to its use or disclosure; or (iv) was independently developed by Seller without using or referring to the Confidential Information.
- c. Seller agrees on behalf of itself and its officers, directors, employees and agents to use its best efforts and a reasonable degree of care to prevent duplication, use (except as necessary to perform its obligations hereunder) and/or disclosure of any Confidential Information of Purchaser, including, but not limited to, limiting access to Purchaser's Confidential Information to personnel who have a need to know pursuant to Seller's obligations under the Purchase Order, and also only using Confidential Information of Purchaser for purposes of performing under the Purchase Order.

20. **Termination.**

- a. In addition to any rights of termination for cause granted to Purchaser hereunder, the parties hereby acknowledge and agree that:
  - i. Purchaser may terminate the Purchase Order, in whole or in part, at any time, pursuant to undelivered Goods and/or Services on three (3) days' prior written notice to Seller;
  - ii. In addition to any remedies that may be provided under these Terms and Conditions, Purchaser may terminate the Purchase Order with immediate effect upon written notice to the Seller, either before or after the acceptance of the Goods and/or Services, if Seller has not performed or complied with any of these Terms and Conditions, in whole or in part; and

- iii. If Seller becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors, then Purchaser may terminate upon written notice to Seller.
  - b. Seller may, upon written notice to Purchaser, terminate any Purchase Order in the event of a breach by Purchaser of these Terms and Conditions or such Purchase Order; provided, however, that Purchaser shall have fifteen (15) days from receipt of such notice to cure the alleged breach.
  - c. Following any termination of any Purchase Order for any reason, whether by Seller or Purchaser, Seller's sole and exclusive remedy is payment for the Goods and/or Services received and accepted by Purchaser prior to such termination.
  - d. Upon termination of any Purchase Order for any reason other than pursuant to the default of Purchaser under these Terms and Conditions or any Purchaser Order, Purchaser shall have the right, within six (6) months after the date of such termination, to return to Seller any or all Goods (whether purchased under the terminated Purchase Order or otherwise) then being held by Purchaser, which are in saleable condition (collectively, the "**Returnable Goods**"), for a full refund of one hundred percent (100%) of Purchaser's total cost for such Returnable Goods, without any deduction for restocking or other charges (and to the extent applicable, Purchaser may return to Seller any or all demonstration equipment applicable to such Returnable Goods for a refund equal to Purchaser's total cost therefor). Seller shall bear all risk of loss or damage and be responsible for and pay all freight charges and/or other shipping and delivery expenses relating to the return of such Returnable Goods (and to the extent applicable, any demonstration equipment). Upon termination of any Purchase Order due to the default of Purchaser, Purchaser shall have the rights provided in this **Section 20(d)**, except that a restocking fee of ten percent (10%) of the total cost of the Returnable Goods shall be deducted from the total refund and Purchaser shall be responsible for and pay all freight charges and/or other shipping and delivery expenses relating to the return of such Returnable Goods (and to the extent applicable, any demonstration equipment).
21. **Force Majeure.** Neither party shall be liable to the other for any delay or failure in performing its obligations under the Purchase Order to the extent that such delay or failure is caused by an event or circumstance that is beyond the reasonable control of that party, without such party's fault or negligence, and which by its nature could not have been foreseen by such party ("**Force Majeure Event**"). Force Majeure Events include, but are not limited to, acts of God or the public enemy, government restrictions, floods, fire, earthquakes, explosion, epidemic, war, invasion, hostilities, terrorist acts, riots, strike, embargoes or industrial disturbances. Notwithstanding the foregoing, Seller's economic hardship or changes in market conditions are not considered Force Majeure Events. Seller shall use all diligent efforts to end the failure or delay of its performance, ensure that the effects of any Force Majeure Event are minimized. If a Force Majeure Event prevents Seller from carrying out its obligations under the Purchase Order for a continuous period of more than five (5) business days, Purchaser may terminate the Purchase Order immediately by giving written notice to Seller.
22. **Assignment.** Seller shall not assign, transfer, delegate or subcontract any of its rights or obligations under the Purchase Order (whether by operation of law or otherwise) without the prior written consent of Purchaser. Any purported assignment or delegation in violation of this **Section 22** shall be null and void. No assignment or delegation shall relieve Seller of any of its obligations hereunder.
23. **Relationship of the Parties.** The relationship between the parties is that of independent contractors. Nothing contained in the Purchase Order shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties and neither party shall have authority to contract for or bind the other party in any manner whatsoever.
24. **Governing Law.** All matters arising out of or relating to the Purchase Order and these Terms and Conditions shall be governed by and construed in accordance with the internal laws of the State of Missouri without giving effect to any choice or conflict of law provision or rule (whether of the State of Missouri or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Missouri.
25. **Submission to Jurisdiction.** Any legal suit, action or proceeding arising out of or relating to the Purchase Order and these Terms and Conditions shall be instituted in the United States District Court for the Eastern District of Missouri or the courts of the State of Missouri located in the County of St. Louis, and each party irrevocably and unconditionally (i) submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding; (ii) waives any objection to the laying of venue of any suit, action or proceeding in such courts; and waives and agrees not to plead or claim in any such court that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum.
26. **Cumulative Remedies.** The rights and remedies under the Purchase Order and these Terms and Conditions are cumulative and are in addition to and not in substitution for any other rights and remedies available at law or in equity or otherwise.
27. **Notices.** All notices, request, consents, claims, demands, waivers and other communications hereunder (each, a "**Notice**") shall be in writing and addressed to the parties at the addresses set forth on the face of the Purchase Order or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal

delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in the Purchase Order, a Notice is effective only (i) upon receipt of the receiving party, and (ii) if the party giving the Notice has complied with the requirements of this **Section 27**.

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

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