

## Terms and Conditions of Tooling Purchase or Refurbishment

**1. OFFER; ACCEPTANCE; EXCLUSIVE TERMS.** Each purchase order (“Order”) issued by Pure Safety Group, Inc. dba Guardian Fall (“GUARDIAN”) for the purchase or refurbishment of Tooling, together with these Terms and Conditions of Tooling Purchase or Refurbishment (“Tooling Terms”) (collectively, the Order and Tooling Terms are referred to herein as, the

“Agreement”), is an offer by GUARDIAN or its applicable affiliate, subsidiary, or division (“GUARDIAN”) to the party to whom this Order is addressed and that party’s affiliates and subsidiaries (“Seller”) to enter into a contract for the production, construction, refurbishment, or purchase and sale of Tooling. As used throughout these Tooling Terms, the term Order includes, as applicable, (i) the purchase order issued by GUARDIAN to Seller; (ii) any Change Orders; (iii) all releases and authorizations issued by GUARDIAN to Seller, including those related to raw material, fabrication, shipment, and design; (iv) these Tooling Terms; and (v) any statement of work, statement of performance, requirement, specification, exhibit, supplement, or other document attached to, referenced by, or incorporated by reference into the foregoing that is delivered to Seller by GUARDIAN. Seller will submit the documentation of construction breakdown as Tooling lineups to GUARDIAN as part of the quoting process. The term “Tooling” means the tooling identified in the Order from GUARDIAN to Seller including, even if not identified in the Order, prototype and production tools, test and assembly fixtures, gauges, jigs, patterns, casting patterns, cavities, molds, software, accessories, and documentation (including engineering specifications and test reports) used by Seller in connection with the Order.

A contract for the Order is formed when Seller accepts GUARDIAN’s Offer. Each Order will be deemed accepted by Seller immediately upon the occurrence of one or more of the following: (i) Seller’s commencement of performance under the Order; (ii) Seller’s written acknowledgement accepting the Order; or (iii) any other conduct of Seller that recognizes the existence of a contract pertaining to the subject matter of the Order.

**2. APPLICABILITY OF TOOLING TERMS.** Seller’s acceptance of this Order is solely limited to these Tooling Terms and such other terms and conditions as expressly referenced on the face of the Order, as the same may be amended in a writing signed by authorized representatives of both parties. If GUARDIAN attaches to the Order Seller’s quotation or any other Seller-generated documentation, whether for purposes of reference to applicable specifications or otherwise, any references to terms and conditions or other terms specified by Seller are rejected, are void and without effect, and do not apply to the terms of the Order.

If there is a conflict between the Order, these Tooling Terms, any prior or contemporaneous agreement or document exchanged between GUARDIAN and Seller, or any other document attached to or incorporated into the Order by reference, these Tooling Terms shall control over any document other than the Order, including, without limitation, any statement of work attached to or incorporated by reference in the Order. To the extent of any conflict between drawings and written specifications provided by GUARDIAN, the written specifications will govern. The parties have agreed and it is their intent that the “battle of the forms” described in Section 2-207 of the Uniform Commercial Code will not apply to this Order or to any invoice or acceptance form of Seller relating to this Order.

**3. DURATION.** Unless the Order specifies otherwise, and subject to earlier termination as provided in these Tooling Term, the term of this Order commences on the effective date of this Order and continues for the production life of the Tooling plus any period of time thereafter during which the Tooling is being utilized to produce or manufacture component parts (including the Goods) in accordance with these Tooling Terms.

**4. LEAD TIME.** Seller will construct, design, and/or refurbish the Tooling in accordance with GUARDIAN’s specifications and/or other specifications on which GUARDIAN and Seller agree and deem appropriate for the Tooling to produce the products, components, or parts to be manufactured (collectively, the “Goods”) as specified in the Order. Seller will promptly inform GUARDIAN of any inconsistencies or ambiguities in GUARDIAN’s specifications of which Seller is or becomes aware. After reviewing GUARDIAN’s specifications, Seller must immediately notify GUARDIAN in writing of any questions that Seller has concerning whether the Tooling will meet GUARDIAN’s needs for the Goods or otherwise. If request by GUARDIAN, Seller will provide GUARDIAN with a schedule setting forth certain milestones for percentage of completion of the Tooling or refurbishment thereof, as the case may be, so that GUARDIAN may monitor the ability and likelihood that Seller will meet its delivery requirements in connection with the Goods.

**5. INSPECTION.** Seller agrees that GUARDIAN has the right to inspect and test all Tooling at all reasonable

times and places including, when practicable, during manufacture or refurbishment. As part of such inspection or testing, whether or not at Seller's facilities, Seller will provide, if requested by GUARDIAN, the following: (i) all documentation related to the production, construction, acquisition or refurbishment of Tooling; (ii) a detailed status report of the Tooling, including, without limitation, digital photos of the Tooling that display the current status of the construction, production and/or refurbishment of the Tooling; and (iii) a sample of Goods manufactured from the Tooling or refurbished Tooling, as the case may be. In addition, Seller will make available the Tooling for completion of a full "run at rate" test by GUARDIAN's Quality Department in a production environment at Seller's facility.

If any such inspection or test is made on Seller's premises, Seller will furnish all reasonable facilities and assistance required for a safe and convenient inspection or test without additional charge to GUARDIAN.

GUARDIAN's inspection of the Tooling or documentation related to the construction or refurbishment of the Tooling, no matter how or when occurring, does not constitute acceptance of any work-in-process, finished Goods, or finished Tooling. Further, notwithstanding prior inspection, payment, or use of the Tooling, GUARDIAN has the right to reject any Tooling that does not conform to the requirements of the Order.

**6. ACCEPTANCE.** For purposes of each Order, acceptance of Tooling means receipt by Seller of a signed writing by GUARDIAN's authorized representative that acknowledges (i) the Tooling's compliance with all manufacturing and/or refurbishment specifications, (ii) completion of a full "run at rate" in a production environment at Seller's facility conducted by GUARDIAN's Quality Department, and (iii) completion of the production part approval process ("PPAP") by GUARDIAN. If GUARDIAN requests, Seller will provide to GUARDIAN a pre-acceptance run-off test at Seller's facility, at no cost to GUARDIAN.

**7. DELIVERY OF TOOLING LAYOUTS AND DRAWINGS.** Upon request, Seller will immediately deliver to GUARDIAN all Tooling layouts and engineering drawings by first-class mail, courier service, or in-person at the destination identified in such a request.

**8. PRICE AND PAYMENT TERMS.** The price for the purchase or refurbishment of Tooling set forth on the Order (the "Purchase Price") must include all charges and costs associated with the design, development, manufacture, and refurbishment of the Tooling. Seller is solely responsible for the payment of any taxes, tariffs and duties and all costs associated with freight, transportation, insurance, shipping, storage, handling, and similar charges associated with the Tooling. Subject to the terms and conditions contained herein, the Purchase Price is not subject to increase, including, without limitation, increases in cost based upon raw material, labor, or overhead unless GUARDIAN's authorized representative specifically agrees in a signed writing.

Seller represents and warrants to GUARDIAN that the Purchase Price is a least as low as the price charged by Seller to GUARDIANs of a class similar to GUARDIAN under conditions similar to those specified in the Order and that the Purchase Price complies with all applicable governmental laws and regulations in effect at the time of, as the case may be, quotation, construction, completion, sale, and delivery.

Subject to the terms and conditions of the Order, GUARDIAN will pay the Purchase Price in the amounts and at the times specified on the face of the Order. Notwithstanding anything herein to the contrary, GUARDIAN will not make final payment of funds for Tooling until (i) GUARDIAN accepts the Tooling in accordance with Section 6 (Acceptance), (ii) Seller transfers title to GUARDIAN to the Tooling free and clear of all liens, claims or other encumbrances, and (iii) completes all related services required under the Order or, at GUARDIAN's option, provides adequate assurance of continued performance in such form as requested by GUARDIAN.

**9. TAXES.** Seller shall not collect any taxes from GUARDIAN except those which Seller is required by law to collect. Seller shall neither collect nor remit, and GUARDIAN shall not be liable to Seller for, any amount in respect of tax in relation to which GUARDIAN has provided Seller with a tax exemption certificate. If GUARDIAN is required by the law of any jurisdiction to withhold any taxes, duties, fees, levies, or charges ("Withholding Taxes") from any fees or other charges (including reimbursement of expenses) paid to Seller, GUARDIAN will be entitled to deduct the amount of such Withholding Taxes from the amount of such fees or other charges (including reimbursement of expenses). If Seller is either exempt from withholding or entitled to a reduced rate of withholding pursuant to a tax treaty or other applicable law and provides GUARDIAN with adequate documentation of such exemption from or reduced rate of withholding, GUARDIAN will be entitled to withhold only such Withholding Taxes from which Seller is not exempt.

**10. INVOICES.** Seller agrees to issue invoices referencing the Order number, description of items, sizes, quantities, unit prices and extended totals. If an Order contains more than one item, Seller's invoice will refer to each

item. Taxes, if any, which are to be collected by Seller, shall be stated separately, and shall be remitted by Seller to the appropriate taxing authority. All invoices shall comply with the requirements of each relevant taxing authority and shall contain data and registration numbers that will enable GUARDIAN to obtain appropriate credit for any taxes charged. All invoices shall be mailed to GUARDIAN's address provided in the Order.

**11. PURCHASE PRICE ADJUSTMENTS AND COST AUDITS.** Tooling and refurbishment are purchased by GUARDIAN on a fixed price basis and the Purchase Price set forth in the Order is the maximum amount GUARDIAN will pay (subject to any Change Orders). Seller agrees it is not entitled to make a profit on Tooling and is only to recover the actual and reasonable costs of manufacturing, acquiring, or refurbishing the Tooling. All internal costs associated with the

procurement or refurbishment of Tooling are considered to be part of Seller's overhead costs that are recovered in the piece price of Goods manufactured or assembled with Tooling. If Seller determines that the actual cost of Tooling is or will be less than the Purchase Price, Seller must notify GUARDIAN so that the Purchase Price can be corrected.

Upon request, Seller must provide GUARDIAN with a detailed breakdown of the costs of the Tooling or refurbishment which are the basis for the Purchase Price, including copies of all invoices from Seller's third-party suppliers. GUARDIAN reserves the right to audit all costs and expenses claimed by Seller as part of the Purchase Price, and Seller must grant GUARDIAN reasonable access to Seller's books and records and other documentation reasonably substantiating the Purchase Price. GUARDIAN's obligation to pay the Purchase Price is expressly conditioned upon Seller's full cooperation in any such audit. If GUARDIAN's audit concludes that Seller's actual costs were lower than the Purchase Price, Seller will be obligated to reduce the Purchase Price, or if the Purchase Price has been paid, refund the excess to GUARDIAN within 30 days of GUARDIAN's request.

**12. OWNERSHIP OF TOOLING.** Regardless of when Tooling is accepted by GUARDIAN, title to Tooling will pass to GUARDIAN upon the sooner to occur of (i) when the Tooling is fabricated or completed by Seller or acquired by GUARDIAN or, (ii) in the case of an Order for refurbishment of Tooling to which GUARDIAN does not already hold title, when refurbishment is substantially completed. Title to the Tooling will pass to GUARDIAN even if GUARDIAN has not made full payment; however, the title transfer will not affect GUARDIAN's obligation to pay for the Tooling as provided in and according to the terms of the Order.

Once title to Tooling passes to GUARDIAN, the Tooling and related blueprints, designs, specifications, drawings, photographic negatives and positives, artwork, and copy layout provided by GUARDIAN or developed by Seller or its third-party suppliers in connection with or related to any Order (collectively, "Bailed Property"), will be held by Seller as a bailee-at-will for the benefit of GUARDIAN. Seller bears the risk of loss of and damage to the Bailed Property in its possession or under its control. At Seller's own cost and expense, Seller must keep such Bailed Property insured for the benefit of GUARDIAN, naming GUARDIAN as the loss payee and additional insured. Seller must at all times, and without charge to GUARDIAN, properly house the Bailed Property and protect it against destruction, damage, or theft. Subject to the terms contained herein, GUARDIAN's ownership of such Bailed Property will not affect GUARDIAN's obligation to pay for the Tooling.

Seller agrees that the Bailed Property: (i) will not be used by Seller for any purpose other than pursuant to the terms of the Order; (ii) will be deemed personal property of GUARDIAN; (iii) must be conspicuously marked by Seller to identify it as property of GUARDIAN (including indicating GUARDIAN's name, address, and asset number); (iv) must not be commingled with Seller's property or with that of a third party; and (v) must not be moved from Seller's premises without the prior written approval of GUARDIAN. Seller must also, at its sole cost and expense, maintain, repair, and refurbish Bailed Property in first class condition. All replacement parts, additions, improvements, and accessories for such Bailed Property automatically become GUARDIAN's property upon their incorporation into or attachment to the Bailed Property.

Seller will ensure the operational readiness of the Tooling and maintain it at Seller's own cost including repair and replacement at all times in the condition necessary to produce the Goods in the required quality and quantities. Tooling replacement requires the prior approval of new initial samples by GUARDIAN before such Tooling is used by Seller in the production of Goods.

Unless GUARDIAN directs an earlier release by Seller, Seller must have the capability to store, and must store, all Bailed Property for a maximum of ten years after termination of serial production of the Goods. Notwithstanding the expiration of the time period in the preceding sentence, Seller will not destroy any Tooling without the prior written consent of GUARDIAN.

Seller must immediately inform GUARDIAN in writing if the projected lifetime quantities of Goods reach up to 85% of available Tooling capacity to allow GUARDIAN to plan for further production quantities in the future.

**13. USE OF TOOLING.** Seller must use the Tooling exclusively for production of Goods required by GUARDIAN. Seller will not, without the prior written consent of GUARDIAN, use Tooling for the production of (i) larger quantities of Goods than those specified by GUARDIAN or (ii) goods or services for Seller or any other person.

**14. CLAIMS, LIENS, AND OTHER ENCUMBRANCES.** Seller represents and warrants that neither Seller nor any other person or entity other than GUARDIAN has any right, title, interest, or liens in the Tooling, other than Seller's right, subject to GUARDIAN's unfettered discretion, to utilize the Tooling in the manufacture of the Goods. In the event Seller has, or obtains, any intellectual property rights in the Tooling, Goods, and/or documentation related to such Tooling or Goods, any such intellectual property rights are be deemed to be "work for hire" and all right, title and interest in such intellectual property rights are owned by GUARDIAN. In the event that any such intellectual property rights are not deemed to be "work for hire," then Seller hereby conveys, assigns, and otherwise grants GUARDIAN, all of Seller's right, title, and interest in and to such intellectual property rights. Seller agrees not to transfer, assign, or otherwise grant such intellectual property rights, by operation of law or otherwise, to any other person or entity.

**15. RETURN OF TOOLING.** Upon request, Seller must deliver the Tooling, existing spare parts, and all related documentation in Seller's possession or under its control to GUARDIAN at the location GUARDIAN determines. Seller will be reimbursed for reasonable transportation charges related to this request, including freight and packaging costs. Seller has no right to withhold any Tooling, documentation, or production equipment that is subject to the Order.

**16. TERMINATION FOR CONVENIENCE.** GUARDIAN may terminate this Agreement or an Order, in whole or in part, at any time for its convenience. In the event GUARDIAN elects to terminate an Order or this Agreement for convenience, Seller's exclusive remedy shall be (a) payment for Tooling and Goods actually delivered to and accepted by GUARDIAN up to the date of termination, and (b) reimbursement for costs incurred by Seller for unfinished Tooling and Goods which have been specifically manufactured for GUARDIAN pursuant to the terminated Order or Agreement and which are not standard products of Seller. In no event shall such reimbursement exceed the Purchase Price payable under the terminated Order or Agreement (as applicable). Upon termination of an Order, Seller must return the Tooling and related documentation in accordance with Section 15 (Return of Tooling).

**17. TERMINATION FOR BREACH.** Upon a breach by Seller, GUARDIAN may terminate this Agreement or an Order, in whole or in part, by delivering a Notice of Breach and Termination to Seller. A breach shall have occurred upon: (a) a breach by Seller of any term of this Agreement; (b) Seller's failure to timely deliver Tooling or Goods or perform

services within the time specified on an Order or failure to make progress such that Seller's timely performance as required by an Order is jeopardized; or (c) Seller becoming insolvent or subject to proceedings under any law relating to bankruptcy, insolvency, or the relief of debtors. Upon termination for a breach, GUARDIAN's liability to Seller shall be limited to GUARDIAN's payment for Tooling and Goods actually delivered to and accepted by GUARDIAN in accordance with the Order and this Agreement. Upon termination of an Order and/or this Agreement, Seller must return the Tooling and related documentation in accordance with Section 13 (Return of Tooling).

**18. CHANGE ORDERS.** GUARDIAN reserves the right to make changes in drawings, designs, specifications, scope of work to be performed, time and place of delivery and method of transportation. If such change is to be made, it will be evidenced in writing by GUARDIAN in the form of a Change Order. If GUARDIAN, acting reasonably, considers that any such change has an effect on the price or delivery date in respect of an Order, GUARDIAN shall indicate in writing on the Change Order such amendments to the relevant price or delivery date as it considers reasonable. Seller may not make any change in drawings, design specifications, scope of work to be performed, time and place of delivery and method of transportation without GUARDIAN's written Change Order acknowledging the change.

**19. STOP WORK ORDER.** GUARDIAN may deliver a "Stop Work Order" to Seller at any time. Seller shall, upon delivery of a Stop Work Order from GUARDIAN, stop work as set forth in the Stop Work Order as soon as practicable. Upon receipt of a Stop Work Order, Seller shall take all reasonable and necessary action to mitigate and minimize incurring of costs during the period of work stoppage. Thereafter, GUARDIAN may, by written notice to Seller, either (a) cancel the Stop Work Order (and, if GUARDIAN, acting reasonably, considers that Seller's compliance with the Stop Work Order merits an adjustment to the price or delivery date, GUARDIAN shall make a reasonable adjustment to the delivery date or purchase price); or (b) terminate the Order or this Agreement in accordance with the terms of

this Agreement.

**20. CONFIDENTIALITY.** If a proprietary information, mutual confidentiality, or non-disclosure agreement (“PIA”) exists between GUARDIAN and Seller covering the Tooling or the Order, the term of such PIA is hereby extended to be co-terminus with the Order, and such PIA is incorporated into and forms a part of the Agreement and governs the use and disclosure of proprietary information hereunder. In the event that no PIA covering Tooling or the Order exists between GUARDIAN and Seller, then Seller will, for the period during this Agreement and three years thereafter (provided that shall be no time limit for trade secrets) protect and keep confidential the confidential and proprietary information disclosed by GUARDIAN in connection with this Agreement that is identified as confidential or proprietary or that, given the nature of such information or the manner of its disclosure, reasonably should be considered confidential or proprietary (including but not limited all information relating to each party’s designs, drawings, specifications, formulas, technology, business plans, marketing activities or plans, finances, performance characteristics) (collectively, “Confidential Information”). All Confidential Information remains GUARDIAN’s property. Seller acknowledges and agrees that any such Confidential Information is provided to Seller solely for the purpose of Seller’s performance of this Agreement. Except with GUARDIAN’s prior express written consent, neither the existence of this Agreement nor the information contained herein or provided in connection herewith shall be disclosed by Seller to others nor used for any purpose other than in connection with the performance of this Agreement. The obligations of Seller set forth in this Section apply to all such information related to the Tooling and Goods, whether delivered or disclosed to GUARDIAN before, during or after the term of this Agreement, shall be binding on Seller and enforced by GUARDIAN. GUARDIAN reserves the right to request that Seller return all such information to GUARDIAN or destroy it. Seller’s obligations under this Section shall survive the termination or other completion of the Order, and the termination of this Agreement. Seller acknowledges and agrees that any breach of this Section would cause irreparable harm for which there are no adequate remedies at law. Accordingly, GUARDIAN is entitled to specific performance or injunctive relief for any such breach.

**21. WARRANTY.** Seller warrants to GUARDIAN, its customers, and its successors and assigns that all Tooling purchased or refurbished pursuant to each Order will, following the date of acceptance for such Tooling identified in Section 6 (Acceptance), (i) conform to the applicable drawings, specifications and other descriptions furnished pursuant to each Order, and all applicable laws and regulations, (ii) be free of defects in design (to the extent that Seller furnished the design), materials and workmanship, and (iii) be suitable for the purpose intended by GUARDIAN of which Seller acknowledges it is aware. Seller’s responsibility under this warranty includes, without limitation, all parts, labor, and transportation costs incurred by GUARDIAN in the event the Tooling must be returned to Seller for repair or replacement. Furthermore, Seller will require its third-party suppliers of component parts of goods and/or equipment for Tooling purchased or refurbished pursuant to each Order to provide a warranty equal to or better than the warranties provided to GUARDIAN by Seller in the Order, and all such warranties shall be freely assignable to GUARDIAN. Seller will provide all necessary documentation to GUARDIAN to evidence that Seller has assigned such warranties from its suppliers to GUARDIAN. In the event that Seller fails to obtain or assign such warranties, Seller will reimburse GUARDIAN for all loss, cost, liability, or expense (including actual fees for attorneys, experts and consultants, settlement costs and judgments) related to such failure.

Seller warrants to GUARDIAN, its customers and its successors and assigns that it will, whenever possible, use parts of the highest industry quality, and supply a detailed bill of materials listing all such parts. Seller further agrees that it will comply with all specific product sourcing directions of GUARDIAN.

The warranties provided in this Section shall survive the acceptance and delivery of the Tooling and will continue in full force and effect for the production life of the applicable Tooling and any such period of time following thereafter during which Seller utilizes the Tooling for the production of Goods for GUARDIAN.

**22. DEFECTIVE TOOLING.** If the Tooling fails to comply with the warranties provided in an Order or otherwise provided by the Seller (“Defective Tooling”), Seller must repair such Defective Tooling as promptly as possible, but in no event later than the time period reasonable determined by GUARDIAN. If Seller is unable to repair the Defective Tooling within such time period or the repair by Seller is not suitable for GUARDIAN’s needs, as determined by GUARDIAN in its sole discretion, GUARDIAN reserves the right to either (i) terminate the Order or (ii) at Seller’s sole cost and expense, repair the Defective Tooling itself or have such repair done by a third party. Notwithstanding anything to the contrary contained in an Order, Seller shall indemnify, defend, and hold GUARDIAN and its successors and assigns harmless from and against all claims, damages (including incidental, special, and consequential

damages), losses, costs, and expenses (including reasonable attorney's fees), incurred by GUARDIAN in connection with Defective Tooling. For the avoidance of doubt, the indemnification in the preceding sentence extends to all costs GUARDIAN may incur in repairing the Defective Tooling, including, without limitation, transportation, sorting, investigative, and testing costs. Further, all amounts due from Seller for such indemnification are due when incurred by GUARDIAN and are not subject to any intermediate or final determination of GUARDIAN's claim against Seller.

**23. INTELLECTUAL PROPERTY.** Seller hereby acknowledges and agrees that it does not have and shall not acquire, any interest in any of Seller's Intellectual Property. For purposes of this Agreement, "Intellectual Property" means all intellectual property rights recognized under any jurisdiction, including, without limitation, patents, copyrights, trademarks, and trade secrets. Seller warrants that Tooling and Goods delivered and/or services performed by Seller under this Agreement do not, and it undertakes that the same will not, infringe any valid patent, copyright, trademark, trade secret or any other Intellectual Property interest owned or controlled by any third party.

**24. SUBCONTRACTORS.** Seller may not subcontract any production or refurbishment of the Tooling or parts for the Tooling without the prior consent of GUARDIAN. In the event GUARDIAN consents to the use of a third-party supplier, such third-party supplier must also agree to be bound by these Tooling Terms. Notwithstanding the foregoing, Seller agrees that it will remain liable for the fulfillment of the obligations under the Order. Seller must flow down the requirements of these Terms and Conditions Order, including but not limited to Section 21 (Warranty) to any third-party supplier. Seller unconditionally hereby warrants, represents, and covenants to GUARDIAN that all subcontractors, suppliers, laborers, and other providers that have supplied labor, materials and/or equipment to Seller in connection with this Agreement either have been paid, or will have been timely paid, in full for such labor, materials and/or equipment. Seller unconditionally grants to GUARDIAN a purchase money security interest in and to all labor, materials and/or equipment to the full extent of the payments made therefor by GUARDIAN to Seller; and Seller covenants that it shall at all times represent and disclose such interest to any and all third parties whose actions or inactions may have an adverse impact on such interest. Seller shall fully cooperate with GUARDIAN in perfecting such interest.

**INSURANCE.** Seller shall, at its own expense, provide and maintain insurance in amounts specified by GUARDIAN and sufficient to protect GUARDIAN against all claims indemnified herein and shall, from time to time upon request, furnish a certificate with applicable endorsements evidencing such insurance to GUARDIAN. Any failure to request such proof of insurance shall not be construed as a waiver of the requirement to provide or maintain such insurance.

**25. INSURANCE.** Seller shall, at its own expense, provide and maintain insurance in amounts specified by GUARDIAN and sufficient to protect GUARDIAN against all claims indemnified herein and shall, from time to time upon request, furnish a certificate with applicable endorsements evidencing such insurance to GUARDIAN. Any failure to request such proof of insurance shall not be construed as a waiver of the requirement to provide or maintain such insurance.

**26. INDEMNITY.** Seller shall defend, indemnify and hold harmless GUARDIAN, its directors, officers, agents, employees, and shareholders from and against all claims, demands, disputes, complaints, causes of action, suits, losses and damages (including attorneys' fees) of any kind relating to or arising out of, in whole or in part, (a) acts, omissions or failures to act by Seller, its subcontractors, agents or employees, in connection with the performance or non-performance of this Agreement; (b) the products, component parts of products, or services provided by Seller being faulty, defective or dangerous, or (c) Seller's products or services in any manner infringing a patent, copyright, trademark, trade secret or other intellectual property right of a third party.

**27. LIMITATION OF LIABILITY.** EXCEPT FOR SELLER'S LIABILITY FOR INDEMNIFICATION OR SELLER'S BREACHES OF DUTIES OF CONFIDENTIALITY OR OF GUARDIAN'S INTELLECTUAL PROPERTY RIGHTS HEREUNDER, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY (AND SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE OTHER PARTY IN RESPECT OF ANY SUCH LIABILITY TO ANY THIRD PARTY), IN CONTRACT, TORT OR OTHERWISE, FOR ANY LOSS OF PROFITS OR BUSINESS, OR ANY SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, ARISING FROM OR AS A RESULT OF THIS AGREEMENT, EVEN IF THE PARTY AVOIDING SUCH DAMAGES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**28. COMPLIANCE WITH LAWS.** Seller warrants that all goods and services provided pursuant to any Orders comply with all laws applicable in any jurisdiction: (a) in which any such goods are manufactured; (b) through or to

which any such goods are transported or delivered; and (c) in which any such services are provided. Seller warrants that all goods and services provided pursuant to any Orders shall comply with any laws of the United States of America that apply to any such goods and services, wherever manufactured, transported, delivered, or provided, or that apply to GUARDIAN in regard to such goods and services. Seller covenants that, in connection with the supply of any goods and services under any order, it shall not offer, pay, promise to pay, or authorize the payment of anything of value to any political or employee of any government, government agency, government-controlled entity, political party or political candidate, or to any active member of the US armed services. Seller shall obtain and maintain any necessary export licenses in respect of any goods provided under any Orders, and promptly supply export control data or similar information when and as requested by GUARDIAN. Seller shall indemnify and hold GUARDIAN harmless for any loss, damage, fine or penalty which may be due to a violation of any laws in connection with this Agreement.

**29. REMEDIES.** GUARDIAN's remedies shall be cumulative and shall include any remedies allowed by law. No waiver of any breach of any term, covenant or condition of this Agreement by GUARDIAN shall constitute GUARDIAN's waiver of any other or subsequent breach of any term, covenant, or condition under this Agreement. No forbearance or indulgence shall constitute a waiver or change of any term, covenant, or condition. Acceptance of any item or payment for any item shall not waive any breach.

**30. SEVERABILITY.** If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws effective during the term hereof, such provisions shall be fully severable and this Agreement shall be construed and enforced as if such legal, invalid or unenforceable provision never comprised a part hereof, and the remaining provisions hereof shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance here from.

**31. NOTICES.** Any notice or communication required or permitted to be delivered hereunder shall be in writing addressed to the party to be notified, and shall be delivered by depositing it with a nationally recognized overnight delivery service or in the United States mail, postage prepaid, and either registered or certified with return receipt requested, or by confirmed facsimile to the fax numbers indicated below, and shall be deemed to be effective upon receipt for overnighted or faxed notice and or three days after being sent for mailed notice. For this purpose, the addresses of the Parties shall be as designated in the Order or as otherwise designated by a party upon delivery of notice to the other Party as provided in this Section.

**32. DISPUTE RESOLUTION.** Any claim, dispute, or controversy (whether contractual or non-contractual) arising out of or relating to this Agreement, including any question regarding its existence, breach or termination (a "Dispute"), shall first be subject to good faith settlement negotiations between the parties. For purposes of this paragraph, good faith settlement negotiations shall consist of the "President" and/or "Chief Executive Officer" or equivalent of each of GUARDIAN and Seller conducting two in-person meetings (which shall be conducted without the participation or presence of the parties' attorneys or other representatives), the first to be held within 10 days of the Dispute arising and the second meeting (if the Dispute is not settled at the first meeting) to be held within 10 days after the first meeting, with each meeting to be no less than 2 hours in duration. Both meetings shall be held in Houston, Texas.

**33. GOVERNING LAW.** This Agreement shall be governed by, construed, and interpreted in accordance with the laws governing contracts made and to be performed in the State of Texas, U.S.A., without regard to conflicts of laws provisions. The U.N. Convention on the International Sale of Goods shall not apply to this Agreement.

**34. CONSENT TO JURISDICTION.** The Parties hereby irrevocably submit to the jurisdiction of the courts of the State of Texas and of the federal courts of the United States of America located in Harris County, Texas, over any legal action arising out of a Dispute and each Party irrevocably agrees that all claims in respect of such Dispute or related proceeding shall be heard and determined in such courts. The Parties hereby irrevocably waive, to the fullest extent permitted by applicable law, any objection which they may now or hereafter have to the venue of any and all legal actions arising out of a Dispute brought in such court or any defense of inconvenient forum for the maintenance of any such Dispute. Each Party hereby agrees that a judgment in any legal action arising out of a Dispute heard in the venue specified by this section may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by applicable law.

**35. WAIVER OF JURY TRIAL.** GUARDIAN AND SELLER AGREE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED. EACH OF GUARDIAN AND SELLER, AFTER CONSULTING (OR HAVING THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF THEIR RESPECTIVE CHOICE, KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY

ACTION OR OTHER LEGAL PROCEEDING ARISING OUT OF OR RELATING TO ANY ORDER OR ANY OTHER DOCUMENT PERTAINING TO ANY ORDER.

**36. WAIVER.** Failure of Seller to insist on strict performance of the terms of this Agreement, or the waiver of any breach of term or condition of this Agreement by Seller, will not be construed as waiving any other terms or conditions that remain or continue under this Agreement, and will remain in full force and effect.

**37. ELECTRONIC TRANSACTION.** The parties hereto agree to permit, recognize, and accept the execution of this

Agreement by means of an “electronic signature” as the term is defined in the Electronic Signature in Global and National Commerce Act, 15 USC Sections 7001, and et. seq. and the Texas Uniform Electronic Transactions Act, TX. Bus. & Comm. Code, Ch 43, as the same may be amended from time to time. The parties further agree that transactions under this Agreement may be conducted by electronic means. Accordingly, the absence of a manual signature in ink by any party thereto shall not affect the written electronic communication that constitutes this Agreement in any respect, provided that an electronic signature is transmitted herewith. Notices required or permitted hereunder may be delivered in electronic form, and if so delivered shall satisfy the notice requirements set forth herein or arising under applicable law.

**38. ENTIRE AGREEMENT.** The Order, together with the attachments, exhibits or supplements specifically referenced in the Order, and these Tooling Terms constitute the entire agreement between Seller and GUARDIAN with respect to the subject matter contained in the Order and supersede all prior oral or written representations and agreements. For avoidance of doubt, this Order does not supersede other purchase orders from GUARDIAN for other goods, services, or both, including, but not limited to, purchase orders for Goods manufactured with the Tooling. In performance of this Order, Seller must comply with the requirements of all purchase orders from GUARDIAN and require its third-party suppliers to comply with all applicable requirements.

GUARDIAN may modify these Tooling Terms, at any time, by providing written notice to Seller at least ten days prior to any modified Tooling Terms becoming effective. Seller’s continued performance under the Order, without providing written notice to GUARDIAN detailing Seller’s objection to any modified Tooling Terms prior to the effective date of such modified Tooling Terms, will be subject to and will constitute Seller’s acceptance of such modified Tooling Terms. Except as provided in the preceding sentences or as otherwise provided in these Tooling Terms, the Order may be modified only by a Change Order signed by GUARDIAN’s authorized representative.