

FAR EAST BROKERS AND CONSULTANTS, INC.

PURCHASE ORDER TERMS AND CONDITIONS

1. ACCEPTANCE

- a. By accepting this order for products, Supplier accepts all terms and conditions set forth by FAR EAST BROKERS AND CONSULTANTS, INC. (“Buyer”) on this Purchase Order (“Order” or “Agreement”), whether printed or written or provided by email or fax.

2. FORMATION OF CONTRACT/AUTHORITY TO PROCEED

- a. This Order shall constitute a binding contract between Buyer and Supplier. Supplier is not authorized to proceed until this Order has been confirmed by Buyer’s written receipt of Supplier’s signed sales confirmation. Any preparations made or work performed prior to that time shall be at Supplier’s sole expense or risk.

3. REPRESENTATIONS AND WARRANTIES

- a. **General Product Warranties.** Supplier hereby covenants, represents and warrants that, in addition to any warranties implied or imposed by applicable law in China or any other jurisdiction, each product shall: (i) be marketable, fit for its intended purpose, and suitable for its end use, (ii) be free from any defects in design, materials or workmanship and of good and marketable quality, (iii) comply with Buyer’s specifications; (iv) not be adulterated, mislabeled or misbranded within the meaning of any law or

otherwise; (v) accurately represent in its packaging the weights, measures and sizes of the product; (vi) not infringe or misappropriate or contribute to infringement of any domestic or foreign patent, copyright, trademark, trade secret, trade dress or other proprietary rights or intellectual property rights, or be considered a counterfeit of the product of a third party; and (vii) be free and clear from any liens, security interests, encumbrances or defects in title or otherwise be subject to claims of third parties.

- b. **Compliance With Laws.** Supplier hereby covenants, represents and warrants that all products shall be manufactured, processed, packaged, and labeled in compliance with all applicable laws, and compliance with all applicable laws and shall be legal for re-sale or distribution by Buyer and/or its affiliates without violation of any laws. Without limiting the foregoing, Supplier recognizes that Buyer's business and the sale of its products are in the United States, and Supplier will not supply any product or take any act on behalf of the Buyer that in any way violates any law or regulation of the United States.

4. DELIVERY

- a. All deliveries shall be strictly in accordance with the applicable quantities and schedules set forth in this Order. Supplier shall be liable for all storage/handling charges incurred as a result of over shipments and/or late shipments.
- b. Whenever it appears Supplier will not meet the delivery schedule, Supplier shall immediately notify Buyer of the reason and estimated length of the delay. Supplier shall make every effort to avoid or minimize the delay to the maximum extent possible, without affecting the remedies that the Buyer may be entitled to according to this Order or pursuant to any applicable laws.
- c. In the event that the Supplier fails to deliver an Order by its delivery date, Buyer shall have, in addition to any and all other rights and/or remedies available to it at law or in equity, the right to charge 5% of the total price

of the Order for late delivery for the first week or any portion thereof past the delivery date, and an additional 5% for each additional week or portion thereof past the delivery date, up to a maximum of 3 weeks when in this event Buyer shall have, the right to terminate the Order.

- d. In the event that the Order is cancelled on account of delay in delivering the Order, or if the Supplier is no longer in a position to deliver the Order in accordance with the terms of this Order, Supplier will within 3 days reimburse any deposits made if applicable. Buyer shall have, in addition to any and all other rights and/or remedies available to it at law or in equity, the right to charge up to 20% of the total price of the Order for its losses.

5. INVOICE AND FREIGHT BILL

- a. Supplier shall send a separate invoice for each shipment. The invoice shall include the following information taken from this Order: Purchase Order number, item number, part serial number (if serialized), unit of measure, and unit price. Supplier's invoice shall also include: Supplier's phone number and address, invoice number, date prepared, item quantity, extended item price, and total invoice value. Any additional information as requested by the Buyer from time to time shall also be reflected in the invoice.
- b. Supplier will also include other information on the invoice as directed by Buyer that may include, but not be limited to, reference to export licenses. If Supplier's "remit to" address is different than the address indicated on the Purchase Order, Supplier shall clearly identify the "remit to" address on the invoice.

6. INCOMPLETE DOCUMENTS

- a. In the event late, wrong or incomplete documents are submitted by Supplier there shall be a US \$500.00 charge by Buyer which can offset any amount payable to the Supplier by the Buyer.

7. PACKING

- a. All goods shall be prepared and packed per best commercial practice for export shipment in a manner to comply with carrier regulations and prevent damage or deterioration during handling, shipment and indoor storage for up to ninety (90) days at destination.

8. INSPECTION & ACCEPTANCE

- a. Unless otherwise specified, Buyer's final inspection and acceptance shall be at destination as selected or confirmed by Buyer in each Order. Buyer's failure to inspect and accept or reject Products shall not relieve the Supplier from responsibility for compliance with Order requirements nor impose liability on Buyer. In the event Buyer cannot make use of the goods delivered due to one or more defects, then, in addition to all other rights ascribed to it herein, Buyer shall have the right to: (a) Accept all or part of the defective or non-conforming Products at an equitable price reduction; (b) charge the Supplier 5% of the total price of the Order for the first week or portion thereof past the delivery date, and an additional 5% for each additional week or portion thereof past the delivery date until replacement. Said charges shall cease being levied against the Supplier, at the earlier of: (i) receipt by Buyer of repaired or replaced goods, or (ii) said charges reach, in total, 30% of the total price of the Order. In the event that the Order is cancelled due to defective goods, Buyer shall have the right to charge an additional 5% of the total price of the Order, in addition to any and all other rights and/or remedies available to it.
- b. Supplier shall provide UPC's that scan correctly. Failure to do so will result in a US \$500.00 charge plus additional related fees incurred by Buyer.

9. RECALL

- a. In the event of any voluntary or mandatory recall of a product: (i) Buyer reserves the right to use any reasonable means necessary to remove the applicable products from sale, and (ii) Supplier shall reimburse Buyer for all costs and expenses associated with the recall, including, but not limited to, attorneys' fees, product retail price, transportation, destruction/disposal costs and allocable overhead. Supplier shall be cooperative to the fullest extent possible with any requirements associated with a recall. Supplier shall be liable to Buyer for any and all losses incurred by Buyer with respect to any recalled product, including without limitation lost profits in connection therewith.

10. RESPONSIBILITY FOR CLAIMS/INDEMNITY & LIABILITY INSURANCE

- a. Supplier shall, indemnify, defend and hold harmless Buyer, its affiliated or subsidiary entities, and their respective directors, associates, officers, employees, agents, shareholders, and other representatives (collectively, the "Buyer Indemnified Parties") from and against any and all claims, actions, demands, liabilities, losses, damages, judgments, settlements, costs and expenses (including reasonable attorneys' fees) (collectively, "Losses") asserted against Buyer Indemnified Parties, arising out of or incident to: (i) products purchased by Buyer, (ii) infringement of any patent, copyright, trademark or other property right (including, but not limited to, misappropriation of trade secrets), (iii) the negligence or willful misconduct of Supplier, and/or (iv) Supplier's breach of any covenant, representation or warranty set forth in this Agreement. In the event a claim is filed against any Buyer Indemnified Party that is subject to indemnification, Buyer and the applicable Buyer Indemnified Party may be represented and actively participate through its own counsel, at the cost and expense of Supplier.
- b. Buyer requires the Supplier to provide a current Certificate of Liability Insurance for the minimum of US\$1,000,000 per occurrence and US\$2,000,000 General Aggregate. The certificate must name the Buyer as

an additional insured or co-insured, where applicable, with stated reference to Far East Brokers and Consultants, Inc. All such insurance carriers must have an international reputation and must be accepted by the Buyer. Any and all costs arising out of or related to procuring and maintaining all such insurance policies shall be solely at the sole cost and expense of the Supplier.

11. PRESENTED SAMPLES VERSUS SHIPMENT OF GOODS

- a. Supplier agrees to ship goods that meet or exceed the quality of samples that were presented to and approved by Buyer. In the event that Supplier ships goods that do not meet the criteria of the sample(s) reviewed, Supplier shall be responsible for all claims incurred as a direct result of inferior quality goods shipped.

12. INTELLECTUAL PROPERTY

- a. Ownership of Marks. All use of the marks by Supplier shall inure to the benefit of Buyer. All rights in the marks, and on products bearing the marks, shall be the sole property of Buyer except as otherwise agreed upon. Supplier hereby assigns to Buyer all rights in any such products bearing such marks or works for hire it creates or commissions to be created, and agrees that it will not contest or question Buyer's ownership thereof. Any design, trade dress, trademark, graphic depiction, derivative work or copyright which may be created or be acquired by or for Buyer for the marks or products, and any and all changes made thereto shall be the sole property of Buyer. Supplier shall reasonably cooperate with Buyer or its designee in the prosecution of any trademark, patent, or copyright applications that Buyer may determine to file, with respect to the marks or products.
- b. Supplier will not sell any copyright or patented goods to Buyer, unless written permission is granted by the copyright or patent holder.

13. LIMITATION OF LIABILITY

- a. **BUYER'S LIABILITY ARISING FROM OR RELATING TO THIS AGREEMENT SHALL NOT EXCEED, IN THE AGGREGATE, THE PURCHASE PRICE FOR THE PRODUCTS ORDERED UNDER THIS ORDER. UNDER NO CIRCUMSTANCES SHALL BUYER OR ITS AFFILIATES BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL OR PUNITIVE DAMAGES, LOSS OF BUSINESS PROFITS OR REVENUE, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION OR OTHER PECUNIARY LOSS ARISING FROM OR RELATED TO THIS AGREEMENT OR ANY ORDERS AND/OR PRODUCTS, WHETHER SUCH LIABILITY IS BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**

14. PAYMENT TERMS

- a. The primary payment term is T/T on shipment, within 15 days of receipt of shipping documents (packing list, commercial invoice, bill of lading).

15. INTERPRETATION

- a. The parties intend that this Agreement be written in both English and Chinese. In case of any discrepancy between the two languages, English shall prevail.
- b. If any provision of this Agreement, is declared by a court of competent jurisdiction to be invalid, illegal, or unenforceable that provision shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect in light of the intent herein. Heading titles are for convenience and ease of reference only and are not to be used in the interpretation of any terms and conditions contained in this Agreement.

16. GOVERNING LAW AND VENUE

- a. **For Suppliers Based in the United States or otherwise subject to the jurisdiction of U.S. Courts:** This Agreement shall be construed in accordance with the laws of the State of Florida without regard to principles of conflicts of laws. The United Nations Convention on the International Sale of Goods shall not apply to this Agreement. The state and federal courts sitting in JACKSONVILLE, FLORIDA, USA shall have proper and exclusive jurisdiction and venue over any matters relating to this Agreement. The parties waive any and all rights to trial by jury in any legal proceeding arising out of or relating to this Agreement.
- b. **For Suppliers Based in China (excluding Honk Kong):** This Agreement shall be construed in accordance with the laws of the State of Florida without regard to principles of conflicts of laws. Any dispute arising from or in connection with this Contract shall be submitted to the China International Economic and Trade Arbitration Commission (CIETAC) for arbitration which shall be conducted in accordance with the CIETAC's arbitration rules in effect at the time of applying for arbitration. The arbitral award shall be final and binding upon both parties. The arbitration shall be conducted in Shanghai, with the arbitration award final and binding upon the parties to the dispute. The arbitration shall be conducted in English except as otherwise agreed to by the parties to the dispute.
- c. **For Suppliers Based in Hong Kong, India and Vietnam:** This Agreement shall be construed in accordance with the laws of the State of Florida without regard to principles of conflicts of laws. Any dispute, controversy, difference or claim arising out of or relating to this contract, including the existence, validity, interpretation, performance, breach or termination thereof or any dispute regarding non-contractual obligations arising out of or relating to it shall be referred to and finally resolved by arbitration administered by the Hong Kong International Arbitration Centre (HKIAC) under the HKIAC Administered Arbitration Rules in

force when the Notice of Arbitration is submitted. The seat of arbitration shall be Hong Kong and the matter shall be heard by one (1) arbitrator. The arbitration proceedings shall be conducted in English. The arbitral award shall be final and binding upon both parties.

17. ASSIGNMENT

- a. Supplier may not assign its rights or obligations, in whole or in part, under this Agreement. Any attempt by Supplier to assign its rights or obligations under this Agreement without the prior written consent of Buyer shall be void. Buyer may assign this Agreement to its subsidiaries or affiliates without Supplier's consent. This Agreement shall inure to the benefit of Buyer's successors and assigns.

18. WAIVER; MODIFICATION AND AMENDMENT

- a. Buyer's failure to insist on strict performance of any term or terms hereunder shall not constitute a waiver of any term or default by Supplier. Any waiver of any breach or default hereof shall not constitute a waiver by Buyer of any other or subsequent breach or default of Supplier.

19. SURVIVAL

- a. All provisions that by their nature are intended to survive, including but not limited to, representations and warranties, and indemnification, shall survive the termination of this Agreement.

20. ENTIRE AGREEMENT

- a. This Agreement, together with any documents referenced herein, constitute the parties' entire understanding relating to the subject matter. All prior agreements, discussions and negotiations are entirely superseded by this Agreement.

VENDOR / SUPPLIER

Entity Name: _____

by _____

Title

Date