

SUBCONTRACTOR TERMS & CONDITIONS

Revised and Effective as of April 3, 2017

1. **Definitions.** “**Work**” shall mean, refer to, and include the materials, supplies, equipment and/or services covered by the Purchase Order of which these Terms and Conditions are a part. “**Buyer**” shall mean R.J. Martin National Contracting, Inc. or any of its affiliates or wholly owned subsidiaries. “**Owner/User**” shall mean the owner and/or operator of the facilities in which the Work is installed. “**Client**” shall mean the person or business entity with whom Buyer has contracted to supply the Work, which in certain cases could be the Owner/User. “**Seller**” shall mean the person or business entity identified as the seller of Work in the Purchase Order. “**Purchase Order**” shall mean and refer to the purchase order issued by Buyer to Seller in connection with the Work, together with all documents attached thereto or incorporated therein by reference.

2. **Purchase Order.** The Purchase Order operates as an offer and constitutes the entire terms of the contract and shall not be modified except by mutual written agreement. The order of precedence of Purchase Order documents shall be Purchase Order, Subcontractor Terms & Conditions, Specifications, Instructions to Seller, general standards and applicable law. Seller's acceptance of the Purchase Order may be made by Seller by (i) signing the acknowledgment copy in the attached Purchase Order set and returning same to Buyer, (ii) making shipment, or (iii) Seller's commencement of work on or purchase of material for performance of this Purchase Order, or (iv) any other conduct by Seller evidencing the existence of the Purchase Order. This Purchase Order is subject to, and expressly conditioned upon, Seller's unconditional acceptance thereof in its entirety. **UNLESS SPECIFICALLY AGREED TO IN WRITING BY BUYER, OR SPECIFICALLY REFERENCED IN THIS PURCHASE ORDER, BUYER'S TERMS AND CONDITIONS REPRESENT THE ONLY TERMS AND CONDITIONS APPLICABLE TO THIS ORDER NOTWITHSTANDING ANY STATEMENTS TO THE CONTRARY WHICH MAY BE CONTAINED IN SELLER'S WRITTEN PROPOSAL OR ACKNOWLEDGMENT OR ANY OTHER DOCUMENT PROVIDED BY SELLER, WHICH ARE HEREBY OBJECTED TO BY BUYER. ANY CONFLICTING TERMS AND CONDITIONS IN ANY DOCUMENT GENERATED BY SELLER ARE REJECTED BY BUYER AND WILL BE DISREGARDED IN FAVOR OF THE SUBCONTRACTOR TERMS AND CONDITIONS.**

3. **Seller Drawings/Work Product.** Seller shall be responsible for preparing all of the designs, specifications, drawings, technical data and engineering for a fully functional system for the Work. All equipment, parts, drawings, technical data, engineering, or designs comprising the Work under this Purchase Order prepared or provided by Seller shall be considered work for hire, and title to, and full and unrestricted ownership of, all of said Work product shall be assigned and transferred to Buyer and shall at all times be and remain vested exclusively in Buyer including all intellectual property rights, copyrights, and/or patent rights associated therewith, notwithstanding any proprietary legends or confidentiality or other notices provided by Seller to the contrary. All such information comprising the Work shall be delivered by Seller promptly upon completion of performance of the Purchase Order. Seller shall assign to Buyer during and subsequent to its engagement all right, title, and interest to the Work and assist Buyer in obtaining any patents, copyrights, or other intellectual property rights for the benefit of Buyer.

4. **Errors in Drawings, Specifications and Documents.** Any errors, discrepancies or conflicts in the technical documents and drawings discovered by Seller shall be brought to Buyer's attention before proceeding with the Work or upon discovery by Seller. Seller shall be responsible for revising any errors, discrepancies or conflicts and shall make all necessary repairs if Work has already commenced. Any costs or expenses resulting from failure to follow this procedure shall be borne by Seller.

5. **Delivery Schedule.** Strict compliance with the delivery dates set forth in this Purchase Order shall be considered a material obligation of Seller hereunder. Seller acknowledges that time is of the essence with respect to Seller's obligations hereunder. Buyer shall be notified immediately of any deviation from the stated schedule. Buyer reserves the right to expedite Seller's performance hereunder or any sub-contractor or vendor of Seller necessary to comply with the stated schedule, which may require the use of overtime labor or alternative transportation means, all at Seller's cost. The failure of Seller to comply with the delivery schedule or to provide adequate assurance of compliance with the delivery schedule shall be sufficient basis for Buyer to cancel this Purchase Order for cause per Section 17.

6. **Liquidated Damages for Late Delivery.** Buyer shall be entitled to demand, as liquidated damages from Seller for the period of the delay beyond the scheduled delivery date, the liquidated damages set forth in the text of the Purchase Order. In the event that Seller continues to fail to deliver after the expiration of the liquidated damages period, or if Seller fails to give adequate assurance of delivery within said liquidated damages period, Buyer reserves the right to cancel this Purchase Order for cause per Section 17.

7. **Change Orders.** The quoted price is firm and not subject to any cost extras or escalation. Seller must complete the Work at the quoted price. No additional charges of any kind by Seller are authorized, including, but not limited to, additional charges for overages, acceleration and overtime, delay, loss of efficiencies, increased material costs will be allowed. Buyer reserves the right to make changes or modifications to the Purchase Order from time to time, including, but not limited to, scope and delivery terms. **No change order is final until approved and authorized in writing by the management of the Buyer.** If any such change has an effect upon the quoted price or delivery terms, Seller shall notify Buyer in writing within ten (10) business days after receipt thereof of its request for a change or the discovery of any condition which could impact the quoted price or delivery schedule. Seller shall have no right to suspend or delay its performance hereunder while Buyer is approving a change order, or if Buyer fails to approve any such requests. Seller agrees that suspension of performance or delay by Seller under such circumstances shall be considered a material breach of this Purchase Order by Seller. Any request for change order shall not include loss of efficiency, delay damages, or other indirect costs. **NO COST EXTRAS WILL BE PAID OR WORK AUTHORIZED EXCEPT PURSUANT TO A WRITTEN CHANGE ORDER ISSUED BY BUYER OR CONFIRMED BY A WRITTEN WORK ORDER AUTHORIZING SAID WORK SIGNED BY AN AUTHORIZED REPRESENTATIVE OF BUYER AND ISSUED FROM BUYER'S HOME OFFICE.** Buyer's representative at the project site has no authority to approve change orders or requests for cost extras, other than to acknowledge that the work was completed. In the event of failure to agree, Seller shall continue the work if requested by Buyer, and, if not resolved amicably, said dispute shall be submitted to arbitration at the conclusion of the work.

8. **Payment.** Unless otherwise stated in the Purchase Order, payment terms shall be one hundred percent (100%) net within sixty (60) days after Buyer has been paid by the Client. Additionally, Buyer must accept the Work and receive acceptable invoices from Seller. Buyer reserves the right to require additional security for the performance of Seller's obligations, including retainage, cash holdbacks, bank guarantees, or letters of credit. Invoices with identifying Purchase Order number shall be submitted to Buyer in three (3) copies, including any other information as required by Buyer or as requested in the Purchase Order. Invoices not conforming to this paragraph shall not be accepted and shall be returned to Seller. **NO INVOICES WILL BE PAID UNTIL BUYER HAS RECEIVED A SIGNED ACKNOWLEDGMENT COPY OF THE PURCHASE ORDER.** Without prejudice to any other right or remedy it may have, Buyer reserves the right to set off at any time any amount owing to it by Seller against any amount payable by Buyer to Seller.

9. **Covenants.** Seller shall (a) before the date on which the Work is to start, obtain, and at all times maintain all necessary licenses and consents and comply with all relevant laws applicable to the provision of the Work; (b) comply with all rules, regulations and policies of the Buyer, Client, and/or Owner/User, including security procedures concerning systems and data and access thereto, building security procedures, including the restriction of access to certain areas of the premises or systems for security reasons, and general health and safety practices and procedures; (c) maintain complete and accurate records relating to the Work, including records of the time spent and materials used by Seller in performing the Work; (d) during the performance of the Work and for two (2) years following completion, upon Buyer's written request, Seller shall allow Buyer to inspect and make copies of such records in connection with the Work; (e) ensure that all persons, whether employees, agents, subcontractors, or anyone acting for or on behalf of the Seller, are properly licensed, certified or accredited as required by applicable law and are suitably skill, experienced and qualified to perform the Work; (f) ensure that all of its equipment used in performing the Work is in good working order and suitable for the purposes for which it is used, and conforms to all relevant industry standards and standards as may be specified by the Buyer; and (g) keep and maintain any Buyer equipment in its possession in good working order and shall not dispose of or use such equipment other than in accordance with the Buyer's written instructions or authorization.

10. **Warranties.** Seller expressly warrants and represents to Buyer, Client, and Owner/User of the Work: (a) that all Work shall be new and of merchantable quality, fully-functional, free of defects in design, engineering, materials, and workmanship, free of rights of third parties, free of all liens and encumbrances, fit for the purpose intended, shall comply with good and sound design/engineering practices and Law, and shall conform in all respects to the specifications, drawings, performance guarantees, and requirements of the Purchase Order. Unless otherwise stated, the Work warranty period shall expire twelve (12) months after the date of first placing the Work into commercial operation. If the system is not fully-functional, then Seller shall repair the system at no additional cost. All repairs or replacements shall carry an additional warranty of not less than (12) months after the date of the repair or replacement. This warranty shall not prevent or otherwise limit Buyer from enforcing any legal guarantees or warranty rights or remedies due Buyer under applicable law; (b) that the Work performed shall comply with all applicable federal, state, and local laws, regulations, and all applicable industrial, manufacturing, building, and safety codes and regulations, that apply to the Work, including laws, regulations, codes in any jurisdiction outside the U.S.A if applicable to the Work, including but not limited to, environmental regulations, the Occupational Safety and Health Act of 1970 and amendments thereto, Fair Labor Standards Act, and Equal Employment Opportunity provisions barring employment discrimination, hereinafter collectively referred to as ("Law"); (c) that any materials delivered for the Work are in fully working condition and fit for the purpose intended, conform with all specifications, drawings and requirements, and have a manufacturer's warranty that is passed on to Buyer and/or Client; (d) that the use and sale of the Work will not infringe any patent, design, trademark, name, copyright, trade secret or other intellectual property right. In the event of patent infringement, in addition to other remedies of Buyer, Seller shall, upon the written consent of Buyer, either replace or modify the Work to the extent required to avoid infringement, or procure an irrevocable, royalty-free license to use, modify, repair and maintain the Work at the Client's facilities; (e) that the Work will be adequately contained, packaged, marked and labeled in compliance with all applicable laws and regulations, and that instructions and information, including but not limited to, Material Safety Data Sheets, required by law or necessary for the safe and proper use of the Work, will be provided to Buyer or Client; and (f) that in the event the Work fails to meet above stated warranties and guarantees, Seller will, at Buyer's option and at Seller's sole cost and expense, either repair or replace same without delay. Seller will be given access to the job-site for the purpose of making repairs or replacements. In the event that the making of such repairs or replacements requires the field removal of materials and equipment and/or the uncovering, reinstallation, and/or recovering of any work in place, the same shall be done at Seller's sole cost and expense. In the event that the Seller requests Buyer to return the materials and equipment (or any parts or components thereof) to Seller, Buyer will do so in conformance with Seller's instructions and at Seller's sole cost and expense. The foregoing remedies are cumulative and are in addition to any other remedies available to Buyer at law, in equity or under the Purchase Order.

11. **Seller's Indemnity.** SELLER AGREES TO INDEMNIFY, DEFEND AND HOLD BUYER, CLIENT, AND OWNER/USER, THEIR OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND AFFILIATED COMPANIES ("INDEMNIFIED PARTIES") FREE AND HARMLESS FROM ANY AND ALL ACTUAL OR ALLEGED LIABILITY, EXPENSES, CLAIMS, LOSS, PERSONAL INJURY INCLUDING DEATH, OR PROPERTY DAMAGE, INCLUDING REASONABLE ATTORNEY'S FEES (COLLECTIVELY, "DAMAGES") WHICH: (A) IN ANY MANNER ARISE OUT OF, RELATE TO, OR ARE CONNECTED TO THIS PURCHASE ORDER OR WORK PROVIDED THEREUNDER, HOWSOEVER SAME MAY BE CAUSED, INCLUDING CONCURRENT NEGLIGENCE, WHETHER ACTIVE OR PASSIVE, WILLFUL MISCONDUCT, BREACH OF THE TERMS HEREIN, OR OTHERWISE, EXCEPTING ONLY FOR DAMAGES CAUSED SOLELY AND EXCLUSIVELY BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF INDEMNIFIED PARTIES; (B) ARISE FROM THE VIOLATION OF ANY LAW; OR (C) ARISE FROM THE INFRINGEMENT BY SELLER OF ANY THIRD PARTY PATENT, DESIGN, TRADEMARK, NAME, COPYRIGHT, TRADE SECRET OR OTHER INTELLECTUAL PROPERTY RIGHT. SELLER SHALL NOT ENTER INTO ANY SETTLEMENT WITHOUT BUYER'S PRIOR WRITTEN CONSENT.

12. **Insurance.** Seller agrees to purchase and maintain, and to cause any approved subcontractors and vendors/suppliers to purchase and maintain, at all times during the performance of the Purchase Order, the following insurance: (a) Transit Insurance with limits to the full replacement costs of the Work; (b) Workers Compensation in compliance with the laws of all states where any part of the Purchase Order is performed, including liability for occupational diseases, plus employer's liability with minimum limits of One Hundred Thousand (\$100,000) Dollars per employee; (c) General Comprehensive Liability Insurance with limits not less than One Million (\$1,000,000) Dollars per occurrence for personal injury or property damage. This policy shall provide coverage for explosions, collapses, subsurface damage, independent contractors, products and completed operations, contractual liability, and broad form property damage; (d) Comprehensive Automobile Liability Insurance with limits of One Million (\$1,000,000) Dollars per occurrence for personal injury or property damage, and including not only owned but also hired and other non-owned vehicles; (e) In the event that the Work includes engineering, design, inspection, or other professional services, Seller shall maintain professional liability/errors and omissions insurance with limits not less than Two Million (\$2,000,000) Dollars for each claim and annual aggregate, and continue such coverage for a period of two (2) years after Acceptance of the Work; and (f) Umbrella Liability Insurance with limits of Ten Million (\$10,000,000) Dollars in excess of (b), (c), (d) and (e) above, or as otherwise stated in the Purchase Order. **TO THE FULLEST EXTENT POSSIBLE, SELLER AGREES TO A WAIVER OF SUBROGATION IN EACH OF THE INSURANCE POLICIES PROVIDED BY SELLER HEREIN OF ALL RIGHTS OF RECOVERY AGAINST INDEMNIFIED PARTIES, REGARDLESS OF THE CAUSE OF THE LOSS OR DAMAGE AND REGARDLESS OF FAULT. INDEMNIFIED PARTIES SHALL BE NAMED AS ADDITIONAL INSURED IN EACH OF SAID INSURANCE POLICIES, EXCEPT FOR WORKMEN'S COMPENSATION AND COVERAGES SET FORTH IN (B) ABOVE. THE COVERAGE AFFORDED SAID ADDITIONAL INSURED SHALL APPLY AS PRIMARY INSURANCE AND NOT REQUIRE CONTRIBUTION FROM SIMILAR INSURANCE COVERAGE MAINTAINED BY INDEMNIFIED PARTIES.**

13. **Taxes and Duties.** Seller accepts exclusive liability for the payment of all payroll, social security, income, hospitalization, workers' compensation, unemployment taxes, or other taxes and contributions required by law to be paid by Seller, and SELLER WILL INDEMNIFY AND SAVE BUYER, CLIENT, AND OWNER/USER, THEIR OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND AFFILIATED COMPANIES, HARMLESS FROM ALL LIABILITY ARISING FROM SELLER'S FAILURE TO MAKE SUCH PAYMENTS. Unless otherwise exempt, all sales, value added, and/or use taxes or duties, if applicable, normally the responsibility of Buyer, shall be separately itemized in the Purchase Order and, if not itemized, shall be deemed included in the fixed price, and Seller shall remit same directly to the appropriate taxing authorities and indemnify Buyer against any interest or penalties imposed by any taxing authority.

14. **Inspection, Acceptance, and Quality Control.** Seller represents that it has instituted a quality control/quality assurance program capable of providing the finished goods to quality required and in compliance with contract specifications. If requested, Seller shall provide written documentation regarding Seller's quality control program. Buyer shall be entitled at any time during manufacture to inspect and examine the Work at Seller's or its subcontractor's facilities. If any tests are to be performed during the manufacturing process, Buyer shall be given at least ten (10) days advance written notice so that Buyer may exercise its option to witness said tests. The Work is also subject to inspection by Client and Owner/User at any time. Review and/or approval of drawings, designs or technical information provided by Seller, or inspection, waiver of inspection, or failure to properly inspect the Work, by Buyer or Client and/or Owner/User, shall in no event operate as an acceptance of the Work or as a waiver of any rights of Buyer with respect to defects therein, or in any way release Seller from responsibility to conform to the Purchase Order requirements, specifications, warranties, and good workmanship. Seller shall not be released from its contractual or warranty obligations with respect to said Work by virtue of acceptance or review/approval, final payment, inspection, or waiver of inspection.

15. **Confidentiality.** All specifications, data, drawings, and information which are supplied by Buyer to Seller in connection with this Purchase Order shall remain the property of Buyer, and shall not be disclosed to third parties or used for any purpose other than the performance of the Work under the Purchase Order. All of said information, including all copies thereof, shall be returned to Buyer upon request. However, these non-disclosure and non-use provisions do not apply after and to the extent such information (i) is or becomes generally available to the public through no act or failure to act by the receiving party, (ii) was already in the receiving party's possession at the time of its disclosure as shown by the receiving party's prior written records (iii) is subsequently disclosed to the receiving party on a non-confidential basis by a third party without violating any obligation of secrecy relating to the information disclosed, or (iv) is subsequently developed independently by an employee or agent of the receiving party who did not have access to the information. Neither party will use the name of the other in publicity releases, referrals, advertising, or similar activity without the prior written consent of the other.

16. Termination/Suspension for Convenience. Buyer may terminate all or any part of this Purchase Order without cause at any time upon written notice to Seller. In such event the Purchase Order price shall be equitably adjusted. Payment shall be limited to the part of the Purchase Order price corresponding to the work performed until such termination or suspension. Seller shall not be entitled to anticipated or prospective profits on work unperformed or materials or equipment unfurnished, or indirect or consequential loss. In the event Buyer requests that delivery of materials be delayed, Seller agrees to withhold delivery for a period of ninety (90) days after scheduled delivery date or the date when the Work is ready for shipment, whichever is later, without assessment of storage charges or other costs or expenses against Buyer.

17. Cancellation for Cause. In the event of defects in the Work, failure to furnish the Work, or failure to comply with the delivery schedule, Buyer is entitled to and authorized to complete the Purchase Order, carry out guarantee, warranty and/or replacement work, or have it executed by a third party, Client, or Owner/User, all at Seller's cost. Buyer reserves the right to cancel all or any part of this Purchase Order, without limiting any other remedy available to it in law or equity, (a) if not completed as and when specified, (b) if any proceeding under 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 Seller or Seller commits an act of bankruptcy, or (c) if Seller has failed to comply with any material terms or conditions of the Purchase Order, or (d) if Seller has failed to provide adequate assurance of performance after demand by Buyer. In the event of cancellation, Buyer shall have all rights and remedies and claims for damages as recognized by law, including the right to demand any work in progress and right to utilize any engineering materials and drawings provided by Seller to complete the Work. In the event that it is judicially determined that Buyer did not have a reasonable basis for cancellation for cause, it is agreed that such termination shall be considered a termination for convenience under Section 16 and, to the exclusion of all other claims, Seller shall be paid for costs incurred as provided in Section 16. In no event, regardless of the fault or negligence of Seller, shall Seller's liability to Buyer exceed the Purchase Order price including change orders.

18. Weather Protection of Equipment. Seller must take all appropriate measures to protect Work or components thereof against weather damage during all phases of fabrication, storage, delivery, and field installation, if applicable. Seller shall indemnify Buyer from all costs, and expenses resulting from the failure to take such measures.

19. Material Provided by Buyer. Upon receipt of Buyer's property, Seller shall provide a written "Receiving Record" within (3) working days of receipt. This record shall indicate the date of receipt, quantity received, a description of items and indication of any apparent damage at time of delivery to Seller. Seller shall bear all risk of loss of Buyer's property while in Seller's possession and shall supply evidence of adequate property insurance coverage upon request.

20. Security Interest. As security for any and all advance payments made by Buyer, and/or equipment/materials of Buyer received by Seller to be incorporated into said Work, if any, Seller agrees that Buyer shall retain and maintain a security interest therein upon identification to the Purchase Order. Seller shall segregate and identify said items purchased, equipment/materials advanced, or work in progress, as being the property of Buyer and Seller shall not assign, sell, transfer, lease, pledge, discount, encumber, or otherwise hypothecate same without the prior written consent of Buyer. Seller agrees to join with Buyer in the execution of financing statements necessary to perfect the security interest herein granted, and Buyer is expressly authorized, as attorney-in-fact, for Seller to file one or more financing statements or a copy or original of this Purchase Order in the appropriate filing office as may be required, naming Seller as debtor and Buyer as secured party. Said security interest shall include all proceeds arising from the sale, lease, or transfer of said Work.

21. Assignment. Seller shall not assign, sub-contract or transfer this Purchase Order in whole or in part without previous written approval of Buyer. Any purported assignment in violation of this Section shall be null and void. In the event of any approved assignment or delegation authorized by Buyer, Seller retains all responsibility for the Work, including all related warranties and claims, unless otherwise expressly agreed in writing by Buyer.

22. Relationship of Parties. Seller and Buyer are independent contracting parties and nothing in the Purchase Order will make either party the employee, agent or legal representative of the other for any purpose. The Purchase Order does not grant either party any authority to assume or to create any obligation on behalf of or in the name of the other. Seller will be solely responsible for all employment and income taxes, insurance premiums, charges and other expenses it incurs in connection with its performance of the Purchase Order, except as expressly provided in a written agreement signed by Buyer. All employees and agents of Seller or its respective contractors are employees or agents solely of Seller or such contractors, and not of Buyer, and are not entitled to employee benefits or other rights afforded to Buyer's employees. Buyer is not responsible for any obligation with respect to employees or agents of Seller or its contractors.

23. Voidness and Waiver. In case any term or provision of the Purchase Order should prove to be invalid or ineffective, the validity of the other terms and provisions shall not be affected thereby. Buyer's waiver of any breach of, or failure to enforce, any of the terms, obligations, and/or conditions of the Purchase Order at any time shall not be deemed to be a continuing waiver of any subsequent or continuing breach of such terms, obligations, or conditions, or of any other terms, obligations, or conditions thereof; any such waiver or failure to enforce shall not in any way affect, limit, or waive, by reason of course of dealing, usage of the trade or otherwise, Buyer's right thereafter to compel strict compliance with every term, obligation, and condition thereof.

24. Governing Law and Dispute Resolution. ALL CLAIMS, DISPUTES AND OTHER MATTERS IN QUESTION ARISING OUT OF, OR RELATING TO, THIS PURCHASE ORDER OR THE BREACH THEREOF, SHALL BE DECIDED BY BINDING ARBITRATION IN ACCORDANCE WITH THE CONSTRUCTION INDUSTRY ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION, TO BE HELD IN CLEVELAND, OHIO, U.S.A. Notice of the demand for arbitration shall be filed in writing with the other party or parties to this Contract and with the American Arbitration Association. In no event shall the arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations. If the parties are unable to agree upon one arbitrator, each party shall appoint one arbitrator and the two appointed arbitrators shall agree on a third arbitrator. Each party shall pay the cost and fees of the arbitrator it selects and one-half of the cost and fees of the third arbitrator. Discovery shall be permitted under the supervision of the arbitrator(s) in accordance with the Ohio Rules of Civil Procedure Any decision or award rendered by at least a majority of the arbitrators shall be final and judgment may be entered upon it under the United States Arbitration Act or laws of the State of Ohio, as may be applicable. The Contract shall be governed by and construed in accordance with the laws of the State of Ohio excluding the law of conflict. Seller consents to the venue and personal jurisdiction of Ohio federal or state courts exclusively to adjudicate disputes arising out of this contract or to enforce the provisions of this arbitration clause.

25. Survival. The obligations of the Seller to Buyer survive the termination and completion of the Purchase Order, except as otherwise provided in these Subcontractor General Term and Conditions.

26. Cumulative Remedies. The rights and remedies under the Purchase Order and these Subcontract General 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. Headings. The headings in these Subcontractor General Terms and Conditions are for convenience only and shall not affect their interpretation.

28. Contract Interpretation. The parties to the Purchase Order represent that they have negotiated and understand its provisions and agree that no presumptions should be made against drafter. The Purchase Order will be binding on the parties and their respective heirs, personal representatives, successors, and permitted assigns, and will inure to their benefit. If a provision of these Subcontractor General Terms and Conditions is determined to be unenforceable in any respect, the enforceability of the provision in any other respect and of the remaining provisions of these Subcontractor General Terms and Conditions will not be impaired. The Purchase Order and these Subcontractor General Terms and Conditions contain the entire understanding of the parties regarding the subject matter of the Purchase

Order and supersedes all prior and contemporaneous negotiations and agreements, whether written or oral, between the parties with respect to the subject matter of the Purchase Order. No waiver will be binding on Buyer unless it is in writing and signed by the party making the waiver. Buyer's waiver of a breach of a provision of these Subcontractor General Terms and Conditions will not be a waiver of any other provision or a waiver of a subsequent breach of the same provision.