

VANTIVE PURCHASE ORDER TERMS AND CONDITIONS
(Philippines Purchase Order Terms and Conditions for Suppliers)

- 1. AGREEMENT:** This purchase Order (“Order”) is Buyer’s offer to Seller and becomes a binding contract, subject to the terms hereof, when accepted by acknowledgement or commencement of performance by Seller. Buyer objects to all additions, exceptions, or changes to these terms, whether contained in any printed form of Seller or elsewhere (except where the parties have expressly agreed in a separate written agreement, in which case the terms and conditions of that written agreement apply and supersede these standard Order Terms and Conditions), unless approved by Buyer in writing. To the extent there are any inconsistencies between these terms and conditions and those written on the face of this Order, the latter will control.
- 2. PRICE:** Unless otherwise specified, the prices stated on the front of this Order include all charges for packing, hauling, storage, transportation to point of delivery, and taxes. Sales and use taxes not subject to exemption shall be stated separately in Seller’s invoice. Seller warrants that the prices quoted in this Order are no greater than those currently charged any other buyer for similar quantities of goods or services. Any price reduction extended to others by Seller prior to delivery shall also be extended to Buyer.
- 3. PAYMENT TERMS:** Buyer will make undisputed payments for goods and services that meet all applicable requirements within ninety (90) days after the later of: (a) receipt of the goods or completion of performance of the services identified in this Order; and (b) receipt of a complete invoice. Buyer may withhold payment of any amounts that it disputes in good faith. Payment of an invoice shall not constitute acceptance of any products, and the invoice will be adjusted for any errors, shortages and defects. Any billing dispute will not be cause for Seller’s non-delivery of goods or non-performance of services. Buyer shall have the right to update its payment terms upon notice to Seller in the event Buyer makes such change at a corporate level.
- 4. REIMBURSEMENT OF EXPENSES:** Any reimbursement of Seller’s expenses must be agreed upon in advance in writing by Buyer.
- 5. CHANGES:** Buyer may at any time make changes in the scope or quantity of the goods or services covered by this Order, in which event an equitable adjustment will be made to any price, time of performance, and other provisions of this Order if appropriate. Claims for such an adjustment must be made within fifteen (15) days from the date of receipt by Seller of notice of the change. Substitutions or changes in quantities or specifications by Seller shall not be made without Buyer’s prior written approval.
- 6. WARRANTY:** Seller covenants, represents and warrants that:

 - a) The goods or services ordered shall be merchantable; shall conform to this Order, to specifications, drawings, design and other descriptions referenced in this Order, and to any accepted samples; shall be free from defects in materials and workmanship; shall be free from defects in design unless the design was supplied by Buyer; and shall be fit and safe for the intended purposes. Seller warrants that it has clear title to the goods and that the goods and services shall be delivered free of any charges, liens or encumbrances.
 - b) The goods comply with all applicable laws and regulations or other legal requirements concerning the manufacture, packaging and delivery of the goods.
 - c) It will perform all services in a competent, professional and workmanlike manner and in compliance with all applicable laws, and it has the required qualifications and expertise to perform.
 - d) It will comply with Buyer’s guidelines (and any future modifications thereto), including those related to data privacy and information security.
 - e) Neither it nor any person or entity that owns or controls it is a designated target of economic trade sanctions promulgated by the US, EU, UN, or the country of origin of the goods (Sanction Laws). Seller undertakes (i) that Seller and its agents and representatives will fully comply with all applicable Sanction Laws in their performance hereunder; and (ii) that the goods will not directly or indirectly originate from, be provided by or be transported on a vessel, or with any carrier, owned, controlled, flagged or chartered by any country, person or entity that would cause Buyer, or any US parent company of Buyer,

- to be in contravention of applicable Sanction Laws. Seller agrees to cooperate with Buyer's reasonable requests for information or documentation to verify compliance with this clause.
- f) No officer, director, partner, owner, principal, employee or agent of Seller is an employee of a governmental agency or instrumentality is in a position to influence the actions or decisions regarding the activities of Seller contemplated by this Order. Neither Seller nor any person employed by or representing it has made, offered, promised or authorized, or shall make an offer, promise or authorize, either directly or indirectly, any official representative or employee of any governmental agency or instrumentality, any political party or officer thereof, or any candidate for public office, for the purpose of influencing a decision by any of them to take actions favorable to Buyer or Seller on any matter related directly or indirectly to the subject of this Order, securing an improper advantage for Buyer, obtaining or retaining business or a business advantage, or the improper performance of a public official function or activity.
 - g) Goods shipped in pallets shall be free of 2,4,6-tribromoanisole (TBA) and 2,4,6-tribromophenol (TBP), and are and will be in full compliance with all relevant Philippines laws that are the equivalent of the U.S. laws cited in these Terms and Conditions, including but not limited to all relevant Philippines environmental, hazardous materials and public safety laws.
 - h) Seller and employees of Seller shall:
 - (1) Comply with Buyer's guidelines (and any future modifications thereto), including:
 - (A) Buyer's Ethics and Compliance Standards for Suppliers published on website (vantive.com) and which may be amended by the Buyer from time to time, a copy of which Seller acknowledges having received, read, and understood and
 - (B) Those related to data privacy and information security.
 - (2) Deliver the goods and perform the services that are the subject of the Order by the delivery and performance dates set forth on the face of the Order.
 - (3) At its own cost, provide all labor, materials, machinery, equipment, tools, transportation, and other facilities and services needed for the proper execution and completion of the Order, unless otherwise provided on the face of the Order.
 - (4) At its own cost, initiate, maintain and supervise all environmental and safety precautions and programs in connection with the services and if Seller is performing services on Buyer's premises, comply with all of Buyer's environmental, health and safety rules, including all safety precautions and programs in connection with the performance of this Order, over persons and property within that portion of Buyer's premises where the services are being performed ("Service Location").
 - (5) Notify Buyer if any drawings and specifications are at variance with any applicable laws, rules, regulations, codes and ordinances bearing on the performance of the services; in addition, at its own cost, obtain and maintain all necessary permits, licenses or other approvals and give all notices legally required to provide the services.
 - (6) Be solely responsible for all methods and procedures of delivering and coordinating all portions of the services, unless otherwise provided on the face of the Order.
 - (7) Be solely responsible for the handling, transportation and disposal of and maintain title and ownership to all materials, substances and chemicals not incorporated into the final goods or finished services that Seller or any subcontractor brings onto Buyer's premises and any waste generated or resulting from the use thereof. Seller agrees not to dispose or permit the release of any materials, substances or chemicals (or any waste generated or resulting from the use thereof) on Buyer's premises. Additionally, Seller agrees to keep the Service Location and other parts of Buyer's premises free from accumulations of materials and refuse and, upon completion of the services promptly remove same and all of Seller's machinery, tools, and equipment and any unused materials, substances or chemicals and return Buyer's premises to their original state.
 - (8) Inspect any Buyer-supplied equipment, tools, scaffolding and/or other materials ("Buyer Materials") and not use any Buyer Materials unless they are suitable for the intended use and comply with all applicable laws, rules, regulations, codes, ordinances and Orders. Seller will return all Buyer Materials to Buyer in a like condition in which they were borrowed.
 - (9) To the extent possible, physically separate the Service Location from the remainder of the Buyer's premises and warn its subcontractors and its and their respective employees, agents,

representatives, guests and visitors of any risks, hazards, or dangers, whether latent or patent (“Dangers”), associated with the Service Location and the rest of the Buyer’s premises. At least once daily, Seller will inspect the Service Location for any Dangers and eliminate any Dangers or, to the extent any Dangers cannot be eliminated, advise the Buyer and warn its employees and visitors of these Dangers.

- (10) Remove Seller employees, representatives and other personnel providing services from Buyer’s premises upon request of Buyer.
- (11) no liens or claims will be filed, maintained or enforced by Seller or its suppliers or subcontractors for any service performed or materials provided.
- (12) shall promptly: (i) remedy, free of charge, any failure of a Product to comply with the warranties in this Order; and (ii) re-perform, free of charge, any services which fail to comply with the warranties in this Order, provided that Buyer notifies Seller of the relevant defect or non-conformity in writing within 30 days after becoming aware of the same. If, within 3 (three) business days after Buyer has notified Seller of a defect or non-conformity, Seller has not initiated correction, or if Seller is not at any time diligently pursuing correction, Buyer may correct the defect or non-conformity and Seller shall be liable for all reasonable costs of repair and/or replacement. Following accrual of this right of correction to Buyer, Seller’s subsequent responses shall not limit Buyer’s right to correct.
- (13) All these warranties and other warranties as may be prescribed by law shall extend to Buyer, its successors, assigns, and customers and to users of the goods or services and shall run through any expiration date stated on the goods, or, if no expiration date is stated, then for a period of one (1) year after delivery. Claims under these warranties must be made within the applicable period prescribed by statute.

7. INSPECTION; TESTING: Goods purchased under this Order are subject to Buyer’s reasonable inspection, testing, and approval at Buyer’s destination. Order If any of the goods or services are found to be defective in material or workmanship, non-conforming to the warranties made herein or not in conformity with the requirements of this agreement, then the Buyer shall be entitled: (i) to require the Seller to supply replacement goods or re-perform the services in accordance with this Order as quickly as reasonably possible, or (ii) at the Buyer’s sole option and whether or not the Buyer has previously required the Seller to supply any replacement goods or re-perform the services, to reject and return such goods at Seller’s expense or to treat this Order as terminated by Seller’s breach and require the repayment of any part of the price which had been paid. Seller shall also reimburse Buyer for all commercially reasonable, documented and actually incurred costs and expenses incurred by Buyer as a result receiving non-conforming goods, including the cost of returning the non-conforming goods to the Seller, the costs, fees and penalties payable by Buyer to a customer, costs and expenses related to or arising from Buyer’s purchase of substitute goods or services, incremental training costs for substitute goods and costs to rework and redesign facilities to accommodate substitute goods or services, expedited shipping costs, recall and field correction costs, product re-testing costs and customer and regulatory authority notification costs and costs of destruction. Payment for any goods under this Order shall not be deemed acceptance of the goods.

8. RECALL: In the event that a recall of the goods is necessitated by a defect, a failure to conform to the specifications, applicable laws, or any other reason within the Seller’s control, Seller shall bear all costs and expenses of such recall, including without limitation, costs of notifying customers, customer refunds, costs of returning goods, lost profits, and other expenses incurred to meet obligations to third parties.

9. SHIPMENT OR DELIVERY SCHEDULES: Shipment or delivery of goods shall be in accordance with the schedule specified in this Order. If Seller does not, or it appears that Seller will not, meet such schedule, Buyer may, in addition to any other rights or remedies provided by law or this Order, require that Seller ship the goods via expedited routing to meet the schedule or to recover the time lost and Seller shall pay the difference in shipping costs. Seller shall reimburse Buyer for all commercially reasonable, documented and actually incurred costs and expenses incurred by Buyer as a result of late delivery of goods, including the costs, fees and penalties payable by Buyer to a customer. At any such time that Seller exceeds three (3) late deliveries in a thirty (30) day period, Buyer has the right to request a written action plan, normally in the form of a Supplier Corrective Action Plan (“SCAR”) from the Seller on how late deliveries are being resolved.

10. OVERSHIPMENT: Over-shipment of goods not approved by Buyer in writing will be returned, at Seller's expense, if such over-shipment exceeds 10% of the total Order price or \$500.00, whichever is smaller.

11. SUBSTITUTION, MODIFICATION: No substitution or modification of any goods, component parts, tooling, sources of raw materials, processes, or manufacturing sites may be made without Buyer's prior written consent.

12. SPECIAL LAWS: In filling this Order, Seller will comply with all applicable federal, state, and local laws, including the following:

- a) In the event this Order has a value of Ten Thousand Dollars (\$10,000) or more and Seller is a U.S. company or provides any of the goods or services through its U.S. operations, Seller must comply with various statutes, regulations, executive orders and legal obligations, as set forth in this Section:
 - (1) EEO 11246 (Affirmative Action for Women and Minorities)—41 CFR 60-1.4
 - (A) Seller will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. Seller will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. Seller agrees to post a notice, of such size and in such form, and containing such content as the Secretary of Labor shall prescribe, in conspicuous places in and about its plants and offices where employees covered by the National Labor Relations Act engage in activities relating to the performance of this Agreement, including all places where notices to employees are customarily posted both physically and electronically.
 - (B) Seller will, in all solicitations or advertisement for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
 - (C) Seller will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order 11246 and shall post copies of the notice in conspicuous place available to employees and applicants for employment.
 - (D) Seller will comply with all provision of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
 - (E) Seller will furnish all information and reports required by Executive 11246 and by the rules, regulations and of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the contracting agency and the Secretary or Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
 - (F) In the event that Seller does not comply with any of the requirements set forth in paragraphs (A) or (B) above, this Agreement may be canceled, terminated, or suspended in whole or in part, and the Seller may be declared ineligible for further Government contracts in accordance with procedures authorized in or adopted pursuant to Executive Order 11246 of September 24, 1965. Such other sanctions or remedies may be imposed as are provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as are otherwise provided by law.
 - (G) Seller will include the provisions of paragraphs (A) through (D) herein in every subcontract or purchase order entered into in connection with this Agreement (unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11264 of September 24, 1965), so that such provisions will be binding upon each subcontractor. Seller will take such action with respect to any such subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including the imposition of sanctions for non-compliance; provided, however, if Seller becomes involved in litigation with a

subcontractor, or is threatened with such involvement, as a result of such direction, Seller may request the United States to enter into such litigation to protect the interests of the United States.

- (2) VEVRAA (Affirmative Action for Veterans)—41 CFR 60-300.5. Seller shall abide by the requirements of 41 CFR 60-300.5(A). **This regulation prohibits discrimination against qualified protected veterans and requires affirmative action by covered private contractors and subcontractors to employ and advance in employment qualified protected veterans.**
- (3) Section 503 (Affirmative Action for Individuals with Disabilities)—41 CFR 741.5(a). Seller shall abide by the requirements of 41 CFR 741.5(a). **This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.**
- (4) Executive Order 13496 (Notice under the NLRA)--Seller shall at all times abide by the requirements of 29 CFR Part 471, Appendix A to Subpart A. This regulation requires that employees be notified of their rights under federal labor laws.

Seller also represents that:

- b) To the extent applicable, the goods are compliant with EU RoHS (RoHS-1 and RoHS -2) Directives or country/regional equivalent and agrees to furnish evidence of compliance upon request by Buyer.
 - c) The goods do not contain any substances regulated as a substance of very high concern (SVHC) in Annex XIV of the EU Registration, Evaluation, Authorization of Chemicals (REACH) directive, unless explicit notification is provided to Buyer in advance and subsequently as new substances are added to the REACH and Annex XIV and Candidate List periodically.
 - d) The goods are manufactured and provided to Buyer in a manner that complies with all applicable human rights laws, including local laws and international frameworks such as but not limited to California Transparency in Supply Chain Act and provisions of the Dodd-Frank Act (conflict minerals rules). Seller further represents that the goods are conflict mineral-free, meaning any gold, tin, tantalum, or tungsten contained in the goods are sourced only from conflict – free zones, sources, and smelters. Seller agrees to cooperate and fulfill related due diligence activities with its suppliers or represents that it has already done so.
 - e) The goods are consistent with, and can be used in compliance with, the Occupational Safety and Health Act of 1970 (OSHA), that services to be performed on Buyer's premises will be consistent with OSHA provisions, and that Seller will provide Buyer the latest material safety data sheets (MSDS) for any chemical substance determined to be hazardous:
 - f) For any Order over \$10,000, Seller shall have an approved plan for small business concerns and small disadvantaged business concerns as specified under Public Law 95-507 unless Seller itself is one of these concerns.
13. **INDEMNIFICATION:** Seller shall defend, indemnify and hold Buyer, its successors, assigns, employees, customers, and users of the goods or services harmless with respect to all claims, suit, penalty, liability, damage, loss, and expenses, including attorney's fees, incurred relating to or caused by:
- a) Actual or alleged patent, copyright, or trademark infringement or violation of other proprietary right, arising out of the purchase, sale, or use of the goods or services covered by this Order; In the event the goods or services, in Buyer's reasonable opinion, are likely to infringe a patent or copyright, or misappropriate a trade secret (and in any event, if a court of law finds that the goods or services, in fact, do infringe or misappropriate), then Seller shall further provide Buyer one of the following forms of relief to be chosen by Seller: (a) obtain a license on Buyer's behalf to continue to use or sell the goods or services; (b) redesign the goods or services so that they do not infringe or misappropriate; or (c) refund Buyer the price paid for the goods or services in question. Without limiting the foregoing, Buyer may require Seller to re-deliver against non-conforming goods or re-execute nonconforming services at Seller's cost and expense.
 - b) Actual or alleged defect in the services or in the design, manufacture, or shipment of the goods;
 - c) Actual or alleged breach of warranty;
 - d) Failure of Seller to deliver the goods or services on a timely basis; or
 - e) The act or omission of the Service Provider or any part under its control; or

- f) Failure of the goods or services to meet the requirements of any applicable law.
- g) Any leak or spill of any materials, substances or chemicals while being transported or delivered to Buyer or while on Buyer's premises
- h) The negligent acts or omissions, or willful misconduct of Seller, Seller's subcontractor's, employees, agents, representatives and any person performing services under the Order.
- i) Failure of the goods or services to meet the requirements of law, including without limitation the following statutes: U.S. Federal Food, Drug and Cosmetic Act; Biological Products section of the U.S. Public Health Service Act; EU Restrictions of Hazardous Substances Directive (RoHS – 1 and RoHS – 2); EU REACH Directive; and the Waste Electrical and Electronic Equipment Directive 2012/19/EU of the European Parliament and of the European Council of 24th July 2012 and The Batteries Directive 2006/66/EC of the European Parliament and of the European Council of 6th September 2006 and its amendments and any other environmental product stewardship directives

In the event of a claim under this paragraph, and in addition to any and all other rights and remedies available to it, Buyer may at its option terminate this Order or defer acceptance of the balance of the goods or services Ordered until the claim is resolved. If Buyer is enjoined from use of the goods, Seller shall at Buyer's option, either procure for Buyer the right to continue using the goods, replace the goods with substantially equivalent goods, modify the goods so as to be usable by Buyer, or repurchase the goods at the price set forth in this Order. This Paragraph 13 shall not be construed to indemnify Buyer for any loss to the extent it is attributable to Buyer's design, specification, or negligence.

14. **INSURANCE:** Seller shall obtain and keep in force for three years after the last delivery under this Order commercial general liability insurance covering each occurrence of bodily injury and property damage in the amount of not less than \$1 Million Dollars (or any other amount Buyer may indicate in this Order) combined single limit with special endorsements providing coverage for:
- a) Products and Completed Operations Liability;
 - b) Blanket Broad Form Vendor's Liability;
 - c) Blanket Contractual Liability;
 - d) Manufacturer's Errors and Omissions; and
 - e) Product Recall / Testing / Replacement Coverage.

If services are performed under this Order on Buyer's premises, Seller shall also obtain Premises-Operations, Personal Injury, and Independent Contractors Protective Liability endorsements, and shall further obtain Workers' Compensation, Employer's Liability and Automobile Liability Insurance coverage in amounts acceptable to Buyer, and if Seller will have access to Buyer property, computer systems and/or data, Third Party Fidelity/Crime Coverage. If requested, Seller shall furnish Buyer with a certificate evidencing the required insurance.

15. **REGULATORY COMPLIANCE:** Seller agrees to execute, in a form acceptable to Buyer, as to all products subject to the Consumer Protection (Trade Description and Safety Requirements) Act, Poison Act, Environmental Public Health Act, Medicines Act, Sale of Food Act and any regulations made under any of the aforesaid Acts and any other applicable laws or regulation, a General and Continuing Guarantee of compliance with such laws and regulations.
16. **RISK OF LOSS:** Seller shall bear the risk of loss or damage to the goods covered by this Order until they are delivered to and accepted by Buyer.
17. **PROPRIETARY INFORMATION:** Seller understand that during work on this Order, he may gain access to information that is designated as proprietary to the Buyer or to other parties and agrees to use any such proprietary information only in the performance of obligation under this Order. Seller will not publish or disclose any such proprietary information without prior written approval of the Buyer.
18. **LIMITATION OF LIABILITY:** BUYER WILL NOT BE LIABLE TO SELLER OR ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES (INCLUDING LOST TIME, LOST PROFITS OR LOST SALES) ARISING FROM ANY TRANSACTIONS UNDER THIS ORDER.

19. **AUDIT:** To verify Seller's compliance with this Order, Buyer and its representatives will have the right, at reasonable times and places and upon reasonable notice, to (a) inspect all facilities, resources and

procedures employed by Seller in manufacturing or providing the goods and services; and (b) examine all books and records relating to the goods and services. Seller will provide Buyer or its third-party designee conducting the audit or inspection with reasonable assistance, including without limitation access to buildings, appropriate personnel and work space. Buyer's audit/inspection, or failure to conduct any audit or inspection, will not release Seller from any of Seller's obligations.

- 20. BUYER-FURNISHED MATERIAL:** Seller shall not use, reproduce, or appropriate for or disclose to anyone other than Buyer, any material, tooling, dies, drawings, designs, trademarks, service marks, names, logos, data, texts, pictures, sound, video, graphics, icons, symbols and other materials, in whatever form, including any intellectual property rights related thereto, that are owned or licensed by Buyer or any of its affiliates and provided by Buyer to Seller for use pursuant to this Order or other property or information furnished by Buyer ("Material") without Buyer's prior written approval. (A) Title to all Material shall remain in Buyer at all times, and where practicable the Material shall be clearly marked or tagged to indicate this ownership. Seller shall bear the risk of loss or damage to the Material until it is returned to Buyer. (B) Seller undertakes that (i) it and its affiliates shall not to use Materials for any purpose other than the purpose which is authorized by the Buyer in writing in connection with this Order; (ii) all representations of the Materials shall comply strictly with the format approved by Buyer in writing; (iii) it and its affiliates shall not use the Materials in conjunction with other marks, names or identification (whether belonging to Seller or a third party) without the prior written consent of Buyer; and (iv) without prejudice to any rights and remedies available to Buyer, forthwith recall and at Buyer's option, destroy or deliver up to Buyer, all materials, media and document on which the Materials are used in any manner not expressly permitted by Buyer under this Order (C) Seller represents, warrants and undertakes that at no time shall it or any of its affiliates (or any of their respective representatives) be permitted to engage, or be engaged, whether directly or indirectly, in the re-printing, copying, falsification, reproduction, distribution, modification, making, sale, offering to sell, import, use or exploitation of the Materials or products in any way whatsoever in whatever medium and in any territory (D) All Materials shall remain the exclusive property of Buyer and/or its affiliates. Seller shall not and shall ensure that its affiliates and their respective representatives shall not use the Materials for any purpose whatsoever in the world save that Buyer hereby grants to Seller a limited, non-transferable, nonexclusive right (without right to sublicense) to use, reproduce and modify any Materials solely as expressly directed by Buyer for use in the manufacture of the products for supply to Buyer only. To this end, Seller shall protect all Materials against unauthorized access and reproduction to the same extent as it protects its own property, which shall in any event be not less than reasonable protection and shall implement any protective and/or security measures as Buyer may designate from time to time to Seller. All Material, whether or not spoiled or used, shall be returned to Buyer at termination or completion of this Order unless Buyer shall otherwise direct.
- 21. REFERENCES TO BUYER:** Seller shall not present nor publish, nor submit for publication, any work specifically resulting in relation to goods or services supplied solely for Buyer or that identifies or may identify Buyer without Buyer's prior written approval. Seller shall not use Buyer's name in any advertising, articles, press release, social media, promotional materials or website advertising, or disclose to any third party the terms of this Order or the fact that Seller is supplying goods or services to Buyer, without Buyer's prior written consent (which is in its sole discretion to grant or withhold).
- 22. USE OF SELLER'S INFORMATION:** All information disclosed to Buyer in connection with this Order is furnished as part of the consideration for Buyer's placement of this Order. This information is not to be treated as confidential or proprietary, and no claim will be asserted against Buyer, its assigns, or customers, for its disclosure or use.
- 23. TERMINATION:** Buyer may terminate this Order, or any part thereof, without liability, by written notice to Seller if Seller defaults for any reason including, but not limited to the following circumstances:
- a) If Buyer anticipated Seller's breach of this Order and Seller does not provide adequate assurance of its performance within ten (10) days of Buyer's request; if deliveries are not made at the time or in the quantities specified; or in the event of a breach or failure by Seller to meet other terms of this Order. This right shall be in addition to any other remedies provided Buyer by law.
 - b) If Seller fails to perform within the time specified or extension agreed to in writing by Buyer;
 - c) If Seller fails to comply with other provisions of this Order, or fail to make progress so as to endanger its performance of this Order in accordance with its terms, and does not remedy such failure within ten (10) days of notice from the Buyer or such longer period as Buyer may in writing authorize;

- d) If Seller breaches any warranty under the Warranty section of this Order; or
- e) If Seller becomes insolvent or is subject to proceedings under any law relating to bankruptcy, insolvency, or relief of debtors. In the event of default or breach by Seller or rightful rejection of acceptance of the goods by Buyer, Buyer may cancel this Order and recover so much of the price as has been paid together with any incidental and consequential damages. In addition to any other remedy, provided by law or this contract, Buyer may 'cover' by making, in good faith and without unreasonable delay, and reasonable purchase of or contract to purchase goods in substitution for those due from the Seller and shall recover from Seller as damages the difference between the cost of 'cover' and the contract price together with any incidental or consequential damages.
- f) Buyer may terminate this Order, in whole or in part, at any time for its convenience by notice to Seller in writing. Seller's sole compensation for such termination shall be payment by Buyer of the percentage of the total Order price corresponding to the proportion of work completed in filling the Order prior to such notice, plus any reasonable expenses incurred by Seller in terminating Orders and work in progress. Such termination claim must be submitted to Buyer within sixty (60) days of the date of termination and shall be subject to audit by Buyer.
- g) Upon any termination under this paragraph, title to all equipment materials, work-in-progress, finished products, plans, drawings, specifications, information, special tooling, and any other items for which Seller may submit a claim shall vest in Buyer, and Seller shall promptly deliver these items to Buyer and take all necessary action to protect such property prior to such delivery.

24. **SETOFF**: Any counterclaim against Seller or any of its related entities by Buyer or any of its related entities which arise out of this or any other transaction may be set off against any money due seller under this Order. In the event, the Seller fails to deliver the goods/services in accordance with the terms of this Order, the Buyer shall have the right to cancel the Order forthwith and claim refund of any payment made by the Buyer as advance or otherwise to the Seller under the Order. The Buyer shall also have the absolute right to withhold, adjust, and/or set-off any payment required to be made by the Buyer to the Seller under this Order or any other purchase order entered into between the parties against the cost, losses, damages etc. suffered by the Buyer due to the failure of the Seller to deliver the goods/services in accordance with the terms of this Order, and the Seller expressly waives any objections it may have in this respect.

25. **ASSIGNMENT; SUBCONTRACTING**: Seller shall not assign this Order without Buyer's prior written consent, which Buyer may withhold in its sole discretion, and any attempted assignment without Buyer's consent will be void. Any permitted assignee shall assume in writing all obligations of Seller under this Order; provided, however, that Seller shall remain primarily liable for such obligations. Buyer may assign the Order without the consent of Seller. The Order will be binding upon and inure to the benefit of the permitted assigns of each party.

26. **WAIVER; SEVERABILITY**: No waiver by Buyer of any breach of this Order by Seller shall be considered as a waiver of any subsequent breach of the same or any other provision. No claim or right arising out of a breach of the terms and conditions of this Order can be discharged in whole or in part by a waiver or renunciation of the claim or right unless such waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. If at any time any one or more of the provisions contained this Order is or should become invalid, illegal or unenforceable in any respect under any law, rule, regulation or ruling, the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

27. **CONTROLLING LAW; VENUE**: This Order and the performance under it shall be controlled and governed by the laws of Philippines.

28. **INJUNCTIVE RELIEF**: Notwithstanding the Dispute Resolution section above, Buyer may seek injunctive relief by a court of competent jurisdiction in accordance with the Venue section above.

29. **REMEDIES NOT EXCLUSIVE**: The rights and remedies of Buyer provided under these Terms and Conditions are cumulative and not exclusive and are in addition to any other rights and remedies provided at Law or in equity.

- 30. INDEPENDENT CONTRACTOR:** The relationship of the parties is that of independent contractors. The parties will not be deemed partners or joint ventures, nor will one party be deemed an agent or employee of the other party. Neither party has any express or implied right to assume or create any obligation on behalf of, or in the name of, the other party or to bind the other party to any contract, agreement or undertaking with any third party, and no conduct of a party shall be deemed to imply such right.
- 31. NOTICES:** Any notices required or permitted under this Order will be in writing, will refer specifically to the Order, and will be sent by recognized national or international overnight courier or registered or certified mail, postage prepaid, return receipt requested, or delivered by hand to the address set forth in this Order. Notices under the Order will be deemed to be duly given: (a) when delivered by hand; (b) two days after deposit with a recognized national or international courier; or (c) on the delivery date indicated in the return receipt for registered or certified mail. A party may change its contact information immediately upon written notice to the other party in accordance with this section.
- 32. AMENDMENT:** Any modification to this Order must be in writing and signed by an authorized representative of each party.
- 33. WORKS CARRIED OUT IN BUYER'S FACTORY OR PREMISES BY THE SELLERS REPRESENTATIVES ETC.:** Agents, representatives or employees of the Seller who in pursuance of the Order have to work in Buyer's factory/premises will be subject to the rules and regulations existing in the factory/premises. The Buyer shall not be liable for any injuries to the Sellers personnel unless due to the gross negligence or willful misconduct of Buyer.
- 34. OBJECTIONS:** Unless a specific objection to any term of this Order is raised within 24 hours from the date of the Order/email under which this Order is sent, it shall be deemed to be accepted in full.
- 35. LANGUAGE:** The parties agree that in the event of any inconsistency between the English language and the other language version, the English language version shall prevail.
- 36. ADVICE OF DISPATCH:** A full and comprehensive dispatch advice notice shall be sent to stores or concerned department of the Buyer ("Buyer Stores"). Instructions regarding dispatch and Insurance as mentioned in this Order should be complied with and the packing slips giving reference of Buyer Order number shall be included securely with the goods in closed envelopes.
- 37. EXAMINATION OF GOODS:** Buyer will have a reasonable period of time after delivery or performance within which to inspect and accept the goods or services. The receipt of goods or services, the inspection or non-inspection of or payment for the goods or services, will not constitute acceptance of the goods or services and will not impair Buyer's right to (i) reject nonconforming goods or services, (ii) recover damages and/or (iii) exercise any other remedies to which Buyer may be entitled at law or in equity. Further, acceptance of goods or services will not waive any rights or remedies at law or in equity accruing to Buyer as a result of any breach of the Order. Rejected goods may be returned to Seller or otherwise disposed of at Seller's cost and expense.