

# Alliance LLC Terms and Conditions

## **1. Scope**

These General Terms and Conditions are applicable to all purchases made by Alliance LLC, Inc., its subsidiaries and divisions, and any entity controlling, controlled by, or under common control with it ("Alliance LLC"), from the supplier indicated on the purchase order (the "Supplier") whether for tooling, machines, parts, raw materials, or other various goods or services (hereinafter individually or collectively called the "Supply"). These General Terms and Conditions shall constitute the only agreement applicable to all purchases of Supply by Alliance LLC and expressly exclude the application of the Supplier's general terms of sale as well as any documents now or in the future issued by Supplier in relation to the purchase order or the Supply. These Terms and Conditions may not be varied or modified in any manner, unless in a subsequent writing signed by an authorized representative of Alliance LLC. No course of dealing or usage of trade shall be applicable unless expressly incorporated in this agreement. Any stenographic or clerical errors are subject to correction by Alliance LLC. Supplier's written acknowledgment, commencement of work on the Supply, or shipment of the Supply, whichever occurs first, shall be deemed an effective mode of acceptance of these terms. Any acceptance by Supplier is limited to acceptance of the express terms set forth in this document. Any proposal for additional or different terms or any attempt by Supplier to vary in any degree any of the terms of this offer is hereby objected to and rejected. Any such proposal shall not operate as a rejection of this offer unless the variances are in the terms of the description, quantity, price or delivery schedule of the Supply, but shall be deemed a material alteration. Accordingly, this offer shall be deemed accepted by Supplier without such additional or different terms. If these Terms and Conditions shall be deemed an acceptance of a prior offer by Supplier, the acceptance is expressly made conditional on assent to the additional or different terms and such acceptance is limited to the express terms set forth in this agreement. Additional or different terms or any attempt by Supplier to vary in any degree any of the terms of this agreement shall be deemed material and are objected to and rejected.

## **2. Order**

2.1 All purchases made by Alliance LLC shall take the form of a purchase order issued by Alliance LLC. In the event of an emergency, the Supply can be delivered or furnished against a collection note issued by Alliance LLC or against a purchase order number provided by Alliance LLC.

2.2 Supplier shall acknowledge receipt of the purchase order within fifteen (15) calendar days of the date of the purchase order by mail or fax, by returning a duly signed copy of the purchase order to Alliance LLC. Where no such acknowledgment of receipt is issued, commencement of work under the purchase order shall be considered an acceptance of these General Terms and Conditions by Supplier.

2.3 When deliveries are specified to be in accordance with Alliance LLC's written releases, Supplier will not fabricate, assemble or ship any Supply, or procure required materials, except to the extent authorized by a written release issued by Alliance LLC or provisions of the purchase order specifying fabrication or delivery quantities.

## **3. Compliance**

3.1 Without prejudice to the provisions of Article 3.2, the Supply shall be in compliance with all drawings, specifications, express and implied warranties set forth herein or as may be set forth in documents provided by Alliance LLC to Supplier.

3.2 Does not apply for this supplier".

3.3 At the request of Alliance LLC, Supplier will provide an appropriate certificate stating the country of manufacture of the Supply.

3.4 Supplier shall strictly adhere to the requirements of the Alliance LLC Quality System plan, a copy of which Supplier hereby acknowledges receipt. Supplier will comply with all QS-9000 quality requirements.

## **4. Industrial and Intellectual Property Rights**

4.1 Supplier shall be responsible for confirming the validity of its industrial and/or intellectual property rights related to the manufacture and sale of the Supply. Supplier shall specifically identify in writing to Alliance LLC any patented components or processes, tooling, machines or equipment used in manufacture of the Supply.

4.2 Supplier authorizes Alliance LLC to finalize and produce the Supply, including any tooling or equipment, upon a breach by Supplier of these General Terms and Conditions or the purchase order, even where the Supplier's intellectual and/or industrial property rights are utilized for the design and manufacture of tooling or equipment. Supplier shall provide to Alliance LLC all information necessary for the manufacture of the tooling or equipment upon such breach and grants to Alliance LLC a royalty free license on the intellectual or industrial property rights in order to finalize or produce the Supply.

## **5. Delivery**

5.1 Time and quantity are of the essence. Unless otherwise specified on the purchase order, delivery shall be at the Alliance LLC facility indicated on the purchase order, or as specified by the Alliance LLC facility where the delivery is to be made. Delivery terms may be modified from time to time.

5.2 Supplier shall take all measures necessary to meet the delivery date for the Supply and comply with all technical, administrative and shipping documents.

5.3 Supplier shall not be entitled to manufacture or deliver the Supply before the due date without Alliance LLC's written authorization, and will bear all costs related to any unauthorized advance delivery, including return shipping costs.

5.4 In the event of late delivery, all damages suffered by Alliance LLC and any transportation or other costs incurred by Alliance LLC to meet the specified delivery schedule will be paid by Supplier. Supplier will be responsible for any extraordinary cost incurred by Alliance LLC from its customer due to late delivery of the Supply by Supplier. Alliance LLC may apply late delivery penalties as specified in the purchase order. In the event of late delivery, Alliance LLC may purchase the Supply from a third party immediately without notice. Any extra cost arising from this replacement order shall be borne by the defaulting Supplier.

The 4 weeks of safety stock is mandatory and should safeguard against any delivery problems. 4 weeks of safety stock will be available in Valaparaíso facility. This will be in place in a reasonable amount of time based upon tool completion.

5.5 Supplier will notify Alliance LLC immediately of any actual or potential labor dispute delaying or threatening to delay timely performance of the purchase order, and will provide Alliance LLC with all relevant information. Supplier will notify Alliance LLC six (6) months in advance of the expiration of any current labor contract(s). Prior to the expiration of any such labor contract, Supplier will store, at its expense, a minimum thirty (30) day inventory of finished Supply at a warehouse unaffected by the labor contract.

5.6 For deliveries where a written release is required, Supplier shall adhere to the Alliance LLC Production System Plan, a copy of which shall be made available to Supplier. Supplier shall harmonize its administrative and production systems to correspond to the requirements of the Alliance LLC Production System Plan. Supplier will acknowledge receipt of the Alliance LLC Production System Plan in writing.

5.7 The Supply shall be subject to inspection by Alliance LLC for a reasonable period, which shall in no event be less than thirty (30) days after receipt thereof by Alliance LLC, except that Alliance LLC may reject the goods and hold Supplier in default if, at any time after Alliance LLC has inspected the goods, Alliance LLC discovers a defect not normally discoverable by visual inspection or Alliance LLC or its customer discovers a defect upon integration of the Supply into production. Payment shall not constitute final acceptance of the Supply or waiver of Alliance LLC's right to inspect and reject the Supply.

## **6. Price, Invoicing and Conditions of Payment**

6.1 All prices shall be as stated in the purchase order. Supplier shall be solely responsible for all transport and unloading costs, customs charges, taxes and insurance costs, unless otherwise specified on the purchase order.

6.2 The invoice shall include all information appearing on the purchase order necessary for identification and control of the Supply. The invoice shall be sent to the invoicing address written on the face of the purchase order.

6.3 No payment shall be made by Alliance LLC in advance of receipt of the Supply. Unless otherwise stated on the purchase order, the invoice shall be payable on the first Friday, sixty (60) days from the date of delivery of the Supply to Alliance LLC.

6.4 When there is a clear defect with the supplied product that causes damage and Sura agrees that the defect is a Sura responsibility, Alliance LLC will hold accounts payable until such time that the defect obligation is cleared.

5 Supplier may not assign any accounts receivable from Alliance LLC to third parties without Alliance LLC's prior written approval.

6.5 Supplier warrants that the prices for the Supply sold to Alliance LLC are no less favorable than those Supplier currently extends to any other customer for the same or similar Supply in similar quantities. If Supplier reduces its prices to third parties during the term of the purchase order for the Supply, Supplier will correspondingly reduce the prices charged to Alliance LLC. Supplier warrants that the prices on the purchase order are complete and that no other charges will be added without Alliance LLC's written consent.

6.7 All cash discounts shall be computed from the date of receipt by Alliance LLC of a final invoice or receipt of the Supply, whichever occurs later. Cash discounts shall be based on the full amount of invoice, less freight charges and taxes if itemized separately on the invoice.

## **7. Packaging and Delivery Documents**

7.1 The Supply shall be packed in accordance with Alliance LLC purchasing and packaging specifications or purchase orders, and also in accordance with the norms and standards of common carriers in the United States, unless otherwise requested by Alliance LLC. Alliance LLC shall have the right at any time to change any purchase order as to specifications, delivery, packaging or means of shipment. Supplier will provide all necessary Material Safety Data Sheets and ensure that all hazardous material fully meets federal, state and local shipping requirements. Supplier warrants that the Supply supplied under any purchase order does not contain any substance whose use is prohibited under Federal, State, or local law, including, but not limited to the Clean Air Act, the Toxic Substance Control Act, or the Federal Insecticide Fungicide and Rodenticide Act, and that any applicable requirements under these laws have been satisfied by Supplier. Supplier shall be responsible for any damage to the Supply arising from packaging.

7.2 The exterior of each unit of packaging shall bear in a clearly conspicuous and legible manner the markings required under federal and state regulations in force in the United States, any special conditions for storage, the Alliance LLC purchase order number, a description of the Supply, the quantity delivered and the gross or net weight in accordance with AIAG standards.

7.3 Supplier shall attach to the shipment a bill of lading consisting of a detailed delivery order together with the information appearing on the purchase order necessary to identify the Supply and to facilitate quantitative control.

7.4 Delivery documents and Supplier invoicing must provide a clear description of the origin of all goods sufficient to permit Alliance LLC to so declare in any official document.

## **8. Acceptance of Supply**

8.1 Alliance LLC may inspect the Supply during any stage of its manufacture, construction, preparation, delivery or completion. Alliance LLC and Alliance LLC's customers shall have the right to enter onto Supplier's premises at reasonable times to verify that the materials covered by a purchase order conform to all specified requirements and Supplier agrees to provide all supporting documentation requested by Alliance LLC or Alliance LLC's customers in the course of such investigation. At Alliance LLC's request, Supplier shall submit production and quality test reports and related data. Final acceptance shall not be conclusive with respect to latent defects or misrepresentations. Nothing in this agreement shall relieve Supplier from the obligation of testing, inspection and quality control.

8.2 Alliance LLC reserves the right to reject or revoke acceptance of a non-conforming Supply, which includes but is not limited to defects or defaults revealed by inspection, analysis or subsequent manufacturing operations even though such items previously may have been accepted; non compliance with the purchase order; or non compliance with the date and hours of delivery.

8.3 Notwithstanding payment or prior inspection, if any of the Supply and/or services are found to be defective in material or workmanship or otherwise not in conformity with the requirements of this agreement, in addition to any other remedies it may have, at its option, Alliance LLC may correct or have corrected the non conformity at Supplier's expense or reject and return the Supply and discontinue the services at Supplier's own risk and expense. Alternatively, at Alliance LLC's instruction, Supplier shall retrieve the non conforming Supply at its expense within eight (8) days of notification of rejection or revocation of acceptance. Alliance LLC will be permitted to dispose of the Supply upon Supplier's failure to retrieve the non conforming Supply. If defects or deficiencies in the equipment provided by Supplier are discovered by Alliance LLC prior to a successful runoff and final acceptance, Alliance LLC may exercise all of its rights under the Uniform Commercial Code and other relevant commercial statutes and shall be entitled to, among other remedies, a return of all sums paid to date under this contract. Supplier shall be liable for all costs (including scrap, storage, sorting out, alterations, tool breaks, breakdowns, production stoppage, recall campaigns and administrative costs) incurred by Alliance LLC as a result of non conformity of the Supply. In the event of delivery of non conforming Supply, Alliance LLC may terminate the purchase order pursuant to Article 13 below and/or purchase the Supply from a third party. Supplier shall be responsible for any additional cost incurred by Alliance LLC under this paragraph. Sura will be notified with 24 hours of any quality concerns. At that time, the supplier and Alliance LLC will decide the next appropriate action to be taken. Upon failure of supplier & Alliance LLC to agree, Alliance LLC's T & C will apply.

8.4 Supplier shall be responsible for the manufacture of the Supply to the extent designated in the purchase order or as agreed to in writing, regardless of any assistance provided by Alliance LLC throughout the development phase or approval by Alliance LLC during initial sample review. The supplier must manufacture goods according to Alliance LLC specifications, regardless of the fact that any samples were approved at one point or another. Alliance LLC may make changes, etc. to design, and therefore suppliers should not rely on the sole fact that a sample was approved that the product will remain as designed in the sample.

**8.5 Alliance LLC or its customer recalls the Supply or a product incorporating the Supply, Supplier shall reimburse Alliance LLC, in proportion to Supplier's responsibility, for actual expenses borne by Alliance LLC attributable directly to the defect in production or the associated harm caused by the magnet defect. However, if the defect relates directly to the production of the magnet, then all costs must be agreed to and compensated by Sura.**

**9. Express Warranty.** With respect to the Supply or services purchased under this agreement and all other goods or services purchased from Supplier, Supplier expressly warrants for the Warranty Period as follows: (a) the Supply shall strictly conform to all specifications, drawings, instructions, advertisements, statements on containers or labels, descriptions and samples; (b) the Supply shall be free from defects in workmanship and material and shall be new and of the highest quality; (c) Alliance LLC shall receive title to the Supply that is free and clear of any liens, encumbrances and any actual or claimed patent, copyright or trademark infringement; (d) the Supply shall be merchantable, safe and fit for Alliance LLC's intended purposes, which purposes have been communicated to Supplier; (e) the Supply shall be adequately contained, packaged, marked and labeled; (f) all services performed by Supplier shall be performed in a competent, workmanlike manner and in strict accordance with industry standards; and (g) the Supply shall be manufactured in compliance with all applicable federal, state and local laws, regulations or orders, and agency or association standards or other standards applicable to the manufacture, labeling, transporting, licensing, approval or certification, including by way of illustration and not by way of limitation, the Occupational Health and Safety Act, the Fair Labor Standards Act, the EEOC, and any law or order pertaining to discrimination. These warranties shall be in addition to all other warranties afforded to Alliance LLC by operation of law, by industry standards or by custom. These warranties shall survive inspection, test, delivery, acceptance, use and payment by Alliance LLC and shall inure to the benefit of Alliance LLC, its successors, assigns, customers and the end-users of Alliance LLC's products. These warranties may not be limited or disclaimed by Supplier. Alliance LLC's approval of Supplier's design, material, process, drawing, specifications or the like shall not be construed to relieve Supplier of strict compliance with the warranties set forth herein, nor shall a waiver by Alliance LLC of any drawing or specification request for one or more articles constitute a waiver of any such requirements for the remaining articles to be delivered hereunder unless so stated by Alliance LLC in writing. For purposes of this agreement, "Warranty Period" shall be the longer of the following time periods: (a) 24 months from the date of first use of the Supply by Alliance LLC or acceptance by Alliance LLC, whichever occurs later; or (b) if the Supply is incorporated, in whole or in part, into products sold by Alliance LLC by third parties, the latter of the following dates: (i) 18 months after acceptance by such third parties or (ii) the time period of warranty that such third parties give to their customers.

## **10. Risk of Loss**

Risk of loss with respect to the Supply delivered shall not be transferred to Alliance LLC until actual receipt of the Supply by Alliance LLC at the address indicated on the purchase order.

## **11. Confidentiality**

All information provided to Supplier by Alliance LLC under this purchase order and for the Supply not publicly available shall remain Alliance LLC's property and be considered confidential by Supplier. Supplier shall take all necessary measures to ensure that neither Supplier nor its employees, agents, suppliers or authorized subcontractors, communicate such confidential information to any third party without Alliance LLC's prior written consent and that the information is used only for the purpose submitted. Any information Supplier discloses to Alliance LLC with respect to the design, manufacture, sale, or use of the items covered by this purchase order shall be deemed to have been disclosed as part of the consideration for this purchase order, and Supplier shall not assert any claim against Alliance LLC by reason of Alliance LLC's use of such information. Without obtaining the prior written consent of Alliance LLC, Supplier shall not advertise or publish the fact that Supplier has contracted to furnish Alliance LLC goods or services, or use any trademarks or trade names of Alliance LLC in Supplier's advertising or promotional materials. These confidentiality requirements shall be maintained for the duration of performance under the purchase order and for a period of five (5) years thereafter. Immediately upon completion of performance of the purchase order, any termination of the purchase order or upon the request of Alliance LLC, Supplier agrees to return to Alliance LLC all information, including all copies thereof, confidential or otherwise, related to the purchase order. In the event of Supplier's breach of this provision, Alliance LLC shall have the right, among all other remedies, to cancel the undelivered portion of any Supply or services covered by this purchase order and shall not be required to make further payments except for conforming Supply delivered or services rendered prior to cancellation.

## **12. Ownership**

12.1 Notwithstanding Article 10 above, ownership of the Supply shall be transferred to Alliance LLC immediately upon its identification to the purchase order on the premises of Supplier. Supplier agrees to acknowledge and defend Alliance LLC's property interests at all times. This provision references situations in which a supplier files for government protection only. Alliance LLC would like to have the option to take ownership of the product and soon as it is produced and identified with a Alliance LLC PO in the supplier files for protection.

12.2 Supplier shall not impose nor permit to be imposed any lien, encumbrance or security interest or similar reservation of title on the Supply.

12.3 If Alliance LLC finances all or part of the raw materials or semi-finished products to be procured by Supplier for incorporation into the Supply, the raw materials and semi-finished products will become the property of Alliance LLC immediately upon payment. Supplier, as bailee, will identify the raw materials and semi-finished products by plainly marking Alliance LLC ownership.

12.4 All supplies, materials, tools, jigs, dies, gauges, fixtures, molds, patterns, equipment, ancillary products and other items ("Tools") purchased by or furnished by Alliance LLC or by third-parties on Alliance LLC's behalf to Supplier to perform this agreement, or for which Supplier has been reimbursed by Alliance LLC, shall be and remain the property of Alliance LLC and shall be neither withheld by Supplier nor pledged to any third party. Supplier shall provide Alliance LLC with equipment and tooling drawings, technical specifications, FMEA's and control plans for each component and for the purchase of capital equipment. Supplier shall bear the risk of loss of and damage to Alliance LLC's property. Alliance LLC's property (a) shall at all times be properly housed and maintained by Supplier, (b) shall not be used by Supplier for any purpose other than the performance of this agreement, (c) shall be deemed to be personal property, not a fixture, (d) shall be conspicuously identified as property of Alliance LLC with specific reference to Alliance LLC's identity and relevant part numbers, (e) shall not be commingled with other property of Supplier or with that of a third party, and (f) shall not be moved from Supplier's premises without Alliance LLC's prior written approval. Upon the request of Alliance LLC, such property immediately shall be released to Alliance LLC or delivered to Alliance LLC by Supplier, either (a) F.O.B. transport equipment at Supplier's plant, properly packed and marked in accordance with the requirements of the carrier selected by Alliance LLC to transport such property, or (b) to any location designated by Alliance LLC, in which event Alliance LLC shall pay Supplier the reasonable cost of delivering such property to such location. Alliance LLC shall have the right to enter onto Supplier's premises at all reasonable times to inspect such property and Supplier's records with respect to the property. Unless otherwise agreed in writing by Alliance LLC, Supplier at its own expense shall furnish, maintain, keep in good condition, and replace when necessary the Tools. Supplier shall insure the Tools with full fire and extended coverage insurance for replacement value. Alliance LLC does not guarantee the accuracy of any tooling or dies or the availability or suitability of any supplies or material furnished by Alliance LLC to Supplier. Supplier agrees carefully to check and approve all tooling, dies or materials supplied by Alliance LLC prior to use. Supplier shall assume all risk of death or injury to persons or damage to property arising from use of the Tools or other materials supplied by Alliance LLC.

12.5 If Alliance LLC deposits molds, tooling or machines with Supplier in connection with a subcontracting agreement:

- the molds, tooling and machines shall remain the exclusive property of Alliance LLC, which may recover the molds, tooling and machines at any time; and,
  - the molds, tooling and machines shall be exclusively used for the performance of Alliance LLC orders; and,
  - Supplier shall be responsible for the preventive or curative maintenance necessary for the correct operation of the molds, tooling and machines; and,
  - except as otherwise agreed, Supplier shall be liable for all damages incurred in connection with the molds, tooling and machines as well as all damages arising from their use.
- Supplier shall insure the molds, tooling and machines for damage or loss (including theft) in an amount not less than replacement value and shall maintain general liability insurance regarding operation of the molds, tooling and machines in amounts and coverage reasonable in the circumstances and acceptable to Alliance LLC. Supplier shall also comply with the provisions listed in Article 16(C) regarding insurance.

### **13. Termination**

A. Alliance LLC may terminate any purchase order for cause in the event of any default by Supplier. The following are causes of default, among others, allowing Alliance LLC to terminate: (i) late delivery, (ii) delivery of Supply that are defective or that do not conform to this agreement, or (iii) failure upon request to provide Alliance LLC with reasonable assurances of future performance. Additionally, Alliance LLC may forthwith cancel any purchase order in the event of any of the following: (i) insolvency of Supplier; (ii) filing of an involuntary or voluntary petition of bankruptcy against Supplier; (iii) execution by Supplier of an assignment for the benefit of creditors; or (iv) appointment of a receiver over Supplier's assets. In the event of termination for cause, Alliance LLC shall not be liable to Supplier for any amount, and Supplier shall be liable to Alliance LLC for all damages sustained by reason of the default which gave rise to the termination. Before any termination, Alliance LLC will clearly identify the areas of concern and allow the supplier reasonable amount of time in order to correct the situation.

B. Alliance LLC reserves the right to terminate any purchase order for its sole convenience, without reason or cause. In the event of such termination, Supplier immediately shall stop all work, and shall forthwith cause all of its suppliers and subcontractors to cease work. Upon approval by Alliance LLC, Supplier shall be paid a reasonable termination charge consisting solely of a percentage of the order price reflecting the percentage of the work performed prior to the notice of termination. Within thirty (30) days after receipt of a termination notice, Supplier shall submit its claim. Alliance LLC reserves the right to verify the claim by auditing all relevant records. Supplier shall not be paid for any work performed after receipt of the notice of termination, nor for any costs incurred by Supplier's suppliers or subcontractors which Supplier could reasonably have avoided. In no event shall Alliance LLC be liable for loss of profits or cancellation charges.

### **14. Applicable Law and Jurisdiction**

These General Terms and Conditions of Purchase shall be governed by the laws of the State of Indiana without regard to rules pertaining to conflicts of law. The federal, state and local courts located in the State of Indiana shall have exclusive jurisdiction of any disputes relating to these General Terms and Conditions of Purchase. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to these General Terms and Conditions of Purchase nor any transaction pursuant hereto. If any provision herein is or becomes invalid or unenforceable under any law of mandatory application, such provision will be deemed severed and omitted. The remaining provisions will remain in full force and effect as written. No action or inaction taken pursuant to these General Terms and Conditions shall constitute a waiver of compliance with any covenants or agreements herein.

**15. Changes.** Alliance LLC may at any time, by a written order, make changes in any one or more of the following: (i) drawings, designs or specifications, where the items to be furnished are to be specially manufactured for Alliance LLC in accordance therewith; (ii) method of shipment or packing; (iii) place or time of inspection, delivery or acceptance; and (iv) the amount of any Alliance LLC furnished property. If any such change causes an increase or decrease in the cost of or time required for performance of this purchase order, an equitable adjustment shall be made in the price or delivery schedule or both. No claim by Supplier for adjustment hereunder shall be allowed unless made in writing within thirty (30) days from the date notice of any such change is received by Supplier. Where the cost of property rendered obsolete or excess as the result of a change is included in Supplier's claim for adjustment, Alliance LLC will have the right to take title thereto and prescribe the manner of disposition thereof. Nothing in this clause shall excuse Supplier from proceeding with performance of a purchase order as changed. Price increases or extension of time for delivery shall not be binding on Alliance LLC unless evidenced by a Purchase Order Change Notice issued and signed by Alliance LLC. Upon changes to the print or delivery requirements, Alliance LLC must purchase product that has been made from prior commitments. The allowable stock at Sura, Alliance, plus material allocation must be negotiated ahead of production to ensure that Alliance LLC does not commit to too large a quantity that may become obsolete due to design changes. Changes in price due to design or requirement changes will be negotiated prior to scheduling of manufacture.

### **16. Indemnification and Insurance.**

A. To the fullest extent permitted by law, Supplier agrees to indemnify, save harmless and defend Alliance LLC and its affiliated companies, their directors, officers, employees, agents and customers ("Indemnities") from and against any loss, liabilities, costs, expenses, suits, actions, claims and all other obligations and proceedings, including without limitation all judgments rendered against, and all fines and penalties imposed upon, Indemnities and all attorney's fees and any other cost of litigation ("Liabilities") arising out of a breach of this agreement, warranty claims, product recall claims, product liability claims, injuries to persons, including death, or damage to property caused by any act or omission of Supplier, its employees, agents, subcontractors, or in any way attributable to the performance of Supplier, including without limitation, breach of contract, breach of warranty or product liability, or any failure of Supplier to comply with any applicable governmental laws, regulations, or standards; provided, however, that Supplier's obligation to indemnify Alliance LLC shall not apply to any liabilities arising from Alliance LLC's sole negligence. If Supplier or a third party asserts a claim against Alliance LLC for an alleged infringement of intellectual or industrial property rights, Alliance LLC may immediately terminate all purchase orders in progress by written notice, without prejudice to Alliance LLC's rights or any legal action Alliance LLC may take against Supplier.

B. Supplier agrees to indemnify, save harmless and defend Indemnities from and against all Liabilities arising out of actual or alleged infringement, including infringement or wrongful use of any patent, trademark, copyright, trade secret or other intellectual property right of any third party relative to the Supply or by reason of the sale or use of any items, including software and data, furnished hereunder except those items for which Alliance LLC furnished complete specifications. If the use or sale of any item with respect to which Supplier indemnifies Alliance LLC is enjoined as a result of such action or proceeding, Supplier, at no expense to Alliance LLC, shall obtain for Alliance LLC and its customers, the right to use and sell said items or shall substitute an equivalent item acceptable to Alliance LLC, and sell said item or shall substitute an equivalent item acceptable to Alliance LLC, shall reimburse Alliance LLC for any costs associated with the substitution of such equivalent item for said item, and extend this patent, trademark and copyright indemnity with respect to such equivalent item. In the event that Supplier is unable to secure such right of use for Alliance LLC or its customers or to secure an equivalent item as a substitute, Supplier will indemnify Alliance LLC and its customers for any and all losses or damages sustained by reason of such injunction.

C. Supplier shall maintain insurance coverage in amounts not less than the following: (a) Worker's Compensation – Statutory Limits for the state or states in which this agreement is to be performed (or evidence of authority to self-insure); (b) Employer's Liability – \$1,000,000 for Bodily Injury by Accident per Accident, \$1,000,000 for Bodily Injury by Disease per policy limit, and \$1,000,000 for Bodily Injury by Disease, per employee; (c) Comprehensive General Liability (including Products/Completed Operations and Blanket Contractual Liability) – \$1,000,000 combined bodily injury and property damage per occurrence; (d) Automobile Liability (including owned, non-owned and hired vehicles) – \$1,000,000 combined bodily injury/property damage per occurrence; and (e) Commercial Umbrella limits in the amount of \$5,000,000 per occurrence and \$10,000,000 annual aggregate. At Alliance LLC's request, Supplier shall furnish certificates of insurance setting forth the amounts of coverage, policy numbers and dates of expiration for insurance maintained by Supplier which shall name Alliance LLC, Inc. (and its parent and subsidiaries) as an additional insured. Such certificates shall provide that Alliance LLC will receive thirty (30) days' prior written notification from the insurer of any termination or reduction in the amount or scope of coverage. Supplier's insurance carrier shall be rated a minimum of "A-" or better under the AM Best rating. Supplier's insurance shall be primary and must offer a blanket waiver of subrogation endorsement. Supplier's purchase of insurance coverage and the furnishing of certificates of insurance shall not release Supplier of its obligations or liabilities under this agreement. In the event of Supplier's breach of this provision, Alliance LLC shall have the right to cancel the undelivered portion of any Supply or services covered by this agreement and shall not be required to make further payments except for conforming Supply delivered or services rendered prior to cancellation.

### **17. Ingredients Disclosure.**

If requested by Alliance LLC, Supplier shall promptly furnish to Alliance LLC in such form and detail as Alliance LLC may direct: (a) a list of all ingredients in the Supply purchased; (b) the amount of one or more ingredients; and (c) information concerning any changes in or additions to such ingredients. Prior to and with the shipment of the Supply purchased, Supplier agrees to furnish to Alliance LLC sufficient warning and notice in writing (including appropriate placarding and labels on Supply, containers, packing and vehicles used for shipment) of any "hazardous substance" which is an ingredient or a part of any of the Supply, together with such special handling instructions as may be necessary to advise Alliance LLC and third parties, including transportation carriers and Alliance LLC's employees, as to the degree of care and precaution that will best prevent bodily injury or property damage in the handling, transportation, processing, use, recycling or disposal of the Supply.

**18. Work on Premises.** If Supplier's work under this purchase order involves operations by Supplier on the premises of Alliance LLC or one of its customers, Supplier shall take all necessary precautions to prevent injury to any person or property during the progress of such work. Supplier shall maintain such public liability, property damage and employee's liability and compensation insurance as will protect Alliance LLC from said risk and from any claims under applicable worker's compensation and occupational disease acts, in addition to the insurance provisions as set forth in Article 16(C). Supplier agrees that, in performing this order, Supplier's performance will be consistent and in accordance with current labor agreements between Alliance LLC and any union organization with which Alliance LLC may have a collective bargaining agreement. Supplier agrees to indemnify and hold Alliance LLC harmless in the event such performance breaches or is in violation of such labor agreement.

**19. Product Support.** Supplier warrants that items of the type purchased under this purchase order, including the sub-assemblies and spare parts, shall be made available by Supplier to Alliance LLC and its customers during the operational life of the items purchased or for ten (10) years after the date of final shipment under this purchase order, whichever is later. During said period, Supplier shall continue to provide technical support and service at the same level as presently provided. In the event Supplier discontinues manufacture of the aforementioned items, sub-assemblies or spare parts therefor or does not provide any of them in a timely manner for Alliance LLC's requirements, Supplier shall make available to Alliance LLC all drawings, specifications, data and know-how which will enable and facilitate Alliance LLC, its suppliers or its customers to manufacture or procure and use and sell said items, sub-assemblies and spare parts under a royalty-free license which is hereby granted.

### **20. Miscellaneous Provisions.**

A. **Assignment.** This purchase order is entered into in reliance upon Supplier's personal performance of the duties imposed. Supplier agrees not to, in whole or in part, assign this purchase order or delegate the performance of its duties without the written consent of Alliance LLC. Any such assignment or delegation without the previous written consent of Alliance LLC, at the option of Alliance LLC, shall effect a cancellation of the purchase order. Any consent by Alliance LLC to an assignment shall not be deemed to waive Alliance LLC's right to recoupment from Supplier and/or its assigns for any claim arising out of this purchase order. If Alliance LLC agrees to the assignment of the purchase order, in whole or in part, Supplier shall remain solely liable to Alliance LLC for the adherence of the assignee to these General Terms and Conditions.

B. Force Majeure. Any delay or failure of either party to perform its obligations shall be excused if caused by an extraordinary event or occurrence beyond the control of the nonperforming party and without the nonperforming party's fault or negligence, such as acts of God, fires, floods, windstorms, explosions, riots, natural disasters, wars and sabotage. Written notice of such delay, including the anticipated duration of the delay, must be given by the nonperforming party within ten (10) days of the event. During the period of any delay or failure to perform by Supplier, Alliance LLC, at its option, may purchase Supply from other sources and reduce its schedules to Supplier by such quantities, without liability to Alliance LLC, or cause Supplier to procure the Supply from other sources in quantities and at times requested by Alliance LLC and at the price set forth in this agreement. If requested by Alliance LLC, Supplier shall, within five (5) days of such request, provide adequate assurance that the delay will not exceed such period of time as Alliance LLC deems appropriate. If the delay lasts more than the time period specified by Alliance LLC, or Supplier does not provide adequate assurance that the delay will cease within such time period, Alliance LLC may, among its other remedies, immediately cancel this agreement and seek damages against Supplier for its non-performance.

C. Duty Drawback Rights. This purchase order includes all related customs duty and import drawback rights, if any, which Supplier can transfer to Alliance LLC, including rights developed by substitution and rights which may be acquired from Supplier's suppliers. Supplier agrees to inform Alliance LLC of the existence of any such rights and upon request shall supply such documents as may be required to obtain such drawback.

D. Limitation on Alliance LLC's Liability. In no event shall Alliance LLC be liable to Supplier for anticipated profits or for incidental or consequential damages. Alliance LLC's liability for a claim of any kind or for any loss or damage arising out of or in connection with or resulting from this purchase order, or from any performance or breach, shall in no case exceed the price allocable to the Supply or services or unit which directly gives rise to the claim.

E. Inventions. If a purchase order involves developmental or research activities, including engineering or design services, all information developed in the course thereof shall be owned by Alliance LLC and be deemed confidential and proprietary property of Alliance LLC, whether patented or not, and Supplier shall cooperate (and cause its employees to cooperate) in executing any documents and taking any other actions necessary or convenient to patent or otherwise perfect or protect for the benefit of Alliance LLC any inventions conceived, developed or reduced to practice in performance of this agreement. If a purchase order does not involve developmental or research activities, but the Supply covered by it are to be produced in accordance with drawings or specifications furnished by Alliance LLC, Supplier hereby grants to Alliance LLC an irrevocable, non-exclusive and royalty-free license to make, have made, use and sell any improvement in the Supply which is conceived, developed or reduced to practice by Supplier in the production of the Supply under this agreement. Any software development purchased by Alliance LLC shall include the full supply by Supplier of source code and proper documentation, and the grant by Supplier of full intellectual property and unlimited license of use of final product and attached documentation to Alliance LLC.

F. Relationship of Parties. Supplier and Alliance LLC are independent contracting parties and nothing in this agreement shall make either party the agent or legal representative of the other for any purpose whatsoever, nor does it grant either party any authority to assume or to create any obligation on behalf of or in the name of the other.