



**GENERAL TERMS AND CONDITIONS OF
DRY GOODS PURCHASE ORDERS
AUGUST 29, 2018**

1. OFFER AND ACCEPTANCE. These General Terms and Conditions govern all purchase orders ("Purchase Order") issued by Dry Goods, Inc. and are incorporated into each Purchase Order by reference. The Purchaser is Dry Goods, Inc. ("Dry Goods" or "Purchaser") and the "Vendor" is the supplier of the merchandise described in such Purchase Order and material associated with such merchandise (the "Goods"). A Purchase Order is an offer, the effectiveness of which is conditioned on Vendor's acceptance of such offer in accordance with its terms and includes a six (6) digit PO number. Vendor may accept a Purchase Order only as presented without changes. Vendor agrees or is deemed to agree to these general terms and conditions which are incorporated into each Purchase Order by reference. Dry Goods will not consent to or accept any variance, change to or supplement to any Purchase Order and hereby rejects any Vendor's attempt to condition its acceptance upon any such Vendor variance, change or supplement. Purchaser's rejection of Vendor's attempt to vary any of these terms shall not be waived by acceptance of Goods, nor shall acceptance of Goods constitute acceptance of any variance, change or supplement any terms. Vendor's acceptance of a Purchase Order may be communicated only by (i) written confirmation or (ii) shipment of Goods in accordance with the Purchase Order. If Vendor does not ship all Goods ordered on or before the "Cancellation Date" specified in the Purchase Order, then, in addition to any other right provided for, including in Section 5, Purchaser also reserves the right to regard the Purchase Order as having lapsed without Vendor acceptance and, therefore, null and void as to those Goods.

2. EDI TRANSACTIONS. EDI is a paperless electronic transmission of data that expedites communication between Dry Goods and the Vendor. Dry Goods does not currently require all Vendors to become EDI compliant. All EDI transactions are subject to comply with the currently published Vendor Policies and materials posted on vonmaur.com under the link to "Vendor Policies" (the "Vendor Policies"). Transactions initialized by paper documentation are also subject to the Vendor Policies. EDI transactions utilize EDI documentation that comply with published industry guidelines. Each party shall bear its own EDI-related costs, including costs for any equipment, software and services required for effective and reliable EDI transactions, and costs for security procedures sufficient to ensure that EDI transmissions are authorized and protected

from improper access. In order to utilize EDI, each party must have an electronic signature that accompanies all of its transmissions to serve as verification of such transmission. For future terms and conditions as to EDI transactions, see the Vendor Policies.

3. VENDOR STANDARDS. Purchaser's Vendor Policies set forth Purchaser's specifications and requirements for Vendor's performance of its obligations under every Purchase Order. The Vendor Policies (which are published on vonmaur.com under the link "Vendor Policies") are incorporated into every Purchase Order by reference as if fully set forth in each Purchase Order. Vendor agrees that reference to the Vendor Policies constitutes actual and reasonable notice thereof, and that Vendor is subject to and agrees to comply with the Vendor Policies. Vendor shall not deviate from the Vendor Policies unless pursuant to Purchaser's written instruction and Vendor shall be liable to Purchaser for Vendor's failure to comply strictly with said Vendor Policies. Vendor further agrees that unauthorized deviation from the Vendor Policies shall obligate Vendor to pay and entitle Purchaser to recover offset expenses from Vendor, as specified in the Vendor Policies or, if no amount has been established for a particular deviation from the Vendor Policies, Purchaser shall be entitled to reimbursement of any costs Purchaser has incurred by reason of or related to Vendor's failure to fully comply with the Vendor Policies. Purchaser also may impose and recover additional administrative charges with respect to any such deviation. Vendor authorizes Purchaser to charge all such expenses, costs and administrative charges back to Vendor.

4. DELIVERY. Unless Purchaser instructs otherwise in writing, Vendor shall deliver Goods in accordance with the applicable Purchase Order and the Vendor Policies. Risk of loss and title to Goods shall pass to Purchaser only after Purchaser accepts delivery of such Goods at the destination designated by Purchaser in the Purchase Order. Untimely deliveries, including Goods not shipped as scheduled, shall constitute a non-conforming tender as to which Purchaser may apply the provisions of Sections 1 and 5 and, in addition, Purchaser reserves the right to impose reasonable charges for storage or additional handling due to an untimely delivery. Further, Vendor's failure to follow the delivery instructions set forth in the Purchase Order or Vendor Policies serves as Vendor's agreement to pay freight expenses with respect to such delivery, and Purchaser reserves the right to charge Vendor for any freight expenses in such circumstances, together with any other amounts, costs and/or administrative charges as may be

applicable to such failure. Upon Purchaser's request, Vendor shall furnish Purchaser written proof of a delivery without charge. An applicable Purchase Order number, department number and vendor name must appear on every carton of each shipment. In addition, include merchandise for only one department per carton and prepare a separate invoice for each order and each shipment. In multiple-carton shipments, each carton must be marked "of 10," "of 5," to indicate the total number of carton in the shipment. Place the packing list on the outside of the carton.

5. NON-CONFORMING TENDER. Vendor shall ship Goods in accordance with Purchaser's requirements as set forth in the Purchase Order and Vendor Policies. The Goods so shipped shall be of the type(s) and in all respects be in accordance with the applicable specifications, including those contained in any description, sample, catalog, promotional material or other statements as may have been delivered or made to Purchaser. If Vendor tenders Goods that do not conform to the terms of the Purchase Order or the Vendor Policies, including Goods that, in whole or in part, are not (i) delivered timely; (ii) as represented or warranted; (iii) fit for the purpose for which they were sold (or are otherwise defective); (iv) in the quantity ordered; (v) in accordance with the specifications upon which the applicable Purchase Order was predicated; (vi) inconsistent with samples or (vii) otherwise not in compliance with all terms and conditions of the Purchase Order and the Vendor Policies, such performance shall constitute a non-conforming tender. In the event of a non-conforming tender, Purchaser may elect, without limitation or any further authorization from Vendor, as to any or all of the Goods in question, to do any or all of the following: (i) accept the Goods, (ii) cancel its order, (iii) refuse to receive the Goods and/or (iv) return the Goods to Vendor at Vendor's expense. Regardless of which one or more of the options Purchaser elects, in the event of a nonconforming tender, Vendor shall be obligated to pay Purchaser all offset expenses, related costs and/or administrative charges set forth in the Purchase Order, and the Vendor Policies. Vendor acknowledges and agrees that Purchaser's back-charging such amounts, costs and/or administrative expenses to Vendor within four (4) weeks of the later of Purchaser's receipt of the non-conforming tender or Purchaser's discovery that the Goods were nonconforming, or Purchaser otherwise communicating such information to Vendor in writing (electronically or otherwise), shall constitute commercially reasonable notice of the non-conforming tender, notwithstanding that all or any part of the non-conformity may have been remedied before such date. Where the non-conforming tender involves a latent condition, notice to the Vendor within four (4) weeks of Purchaser having actual knowledge of the condition and, accordingly, of the nonconforming tender, shall also be deemed commercially reasonable notice.

Vendor hereby knowingly and expressly waives any right, should one exist, to receive notice of the non-conforming tender earlier or in any manner other than as given by Purchaser. Vendor may not cure a non-conforming tender except with Purchaser's written consent. Purchaser's receipt and/or acceptance of a non-conforming tender shall not waive any Purchaser's claim or any other right under this document, by law or under equity, including for harm suffered by reason thereof. Purchaser hereby conditions acceptance of Goods constituting or included in a non-conforming tender on the right to later reject said Goods or otherwise direct their disposition. Notwithstanding any other provision hereof, Purchaser shall be obligated to make payment only for Goods it elects to retain and, as to retained Goods, the price therefor shall be as specified in this Purchase Order, subject to offset for amounts due Purchaser, including amounts due because of Vendor's non-conforming tender. The requirements of the Vendor Policies, including the requirements relating to delivery, and Vendor's timely performance of its obligations in accordance with such requirements are essential terms of the Purchase Order.

6. TERMINATION BY PURCHASER. Purchaser has the absolute right to cancel a Purchase Order for any reason with respect to Goods that have not been shipped by giving Vendor written notice of such cancellation.

7. PAYMENT TERMS.

- A. Vendor shall comply with the Vendor Policies concerning payment, payment instructions and invoices, including by providing correct, current payment information and instructions. Vendor shall be solely liable for its failure to comply with such requirements.
- B. A SEPARATE INVOICE SHALL BE PREPARED FOR EACH PURCHASE ORDER AND EACH SHIPMENT BY VENDOR, AND SHALL BE MAILED TO: ACCOUNTS PAYABLE, DRY GOODS, 6565 BRADY STREET, DAVENPORT, IA 52806. **DO NOT SEND THE INVOICE WITH THE SHIPMENT.** The Goods shall be listed on the invoice in the same sequence as they are listed on the Purchase Order. When the Purchase Order is detailed by style, size and color, each invoice shall be detailed as such. In no event shall payment be due to Vendor prior to the later of
 - (i) the date that the Goods are delivered and
 - (ii) the date that Purchaser receives Vendor's invoice with respect to such Goods, except that, as to Goods received prior to the applicable "Ship Not Before

Date," payment obligations shall not accrue prior to such Ship Not Before Date. All invoices for Goods shipped on or after the 25th day of the month shall be dated as of the following month. Payment dates are based on receipt of merchandise or receipt of invoice, whichever date is later.

- C. Vendor agrees and acknowledges that all discounts extended by it under any Purchase Order or otherwise are intended to be trade discounts to which Purchaser is entitled, regardless of the timing of its payment for Goods.
- D. Purchaser expressly reserves the right to offset any amounts claimed by Purchaser against any amounts otherwise due Vendor or Vendor's assignee or factor. Payments to Vendor (or an assignee or factor) may be made on a consolidated basis that nets the aggregate debits, credits and allowances of Purchaser and any Purchaser Affiliates.
- E. Upon Purchaser's request, Vendor shall provide monthly reports, in a form that complies with Purchaser's instructions that track Goods ordered by Purchaser. Non-conforming tenders also may result in payment delays. Non-merchandise charges must be separately invoiced. Under no circumstances shall Purchaser be liable for any interest charges or late payment fees under any circumstances.

8. PRICE REVISIONS. Pricing for Goods shipped pursuant to this Purchase Order shall be as specified, except as otherwise provided in these General Terms and Conditions, including this Section 8. Specifically, and notwithstanding any other provision of a Purchase Order, Vendor shall meet the lower prices of legitimate competition or accept cancellation of the Purchase Order with respect to the Goods in question. In addition, Purchaser may seek an adjustment in the pricing for Goods, upon not less than sixty (60) days' notice before the scheduled delivery date, for a reasonable cause. In addition to the foregoing, revisions in respect of pricing for Goods and other accommodations with respect to the pricing terms of sale that Purchaser accepts, confirms or otherwise expressly acknowledges in writing, are hereby incorporated herein.

9. COMPLIANCE WITH LAWS; VENDOR COVENANTS. Vendor covenants, represents, warrants and guarantees that:

- A. It has complied and shall comply with all federal, state and local laws, ordinances and codes, together with all relevant foreign laws, ordinances and codes, as well

as all rules, regulations and guides promulgated thereunder or pursuant thereto, including all standards set forth therein as may be relevant to Vendor's performance hereunder (collectively, "Applicable Law"). It is Vendor's obligation to identify and comply with all Applicable Law that is relevant to its operations and/or Goods and Purchaser is expressly relying on Vendor's compliance with all such Applicable Law and these Vendor Policies. For purposes of illustration, Applicable Law includes, without limitation, the Fair Labor Standards Act, Consumer Product Safety Act and the Consumer Product Safety Improvement Act of 2008, Poison Prevention Packaging Act, Radiation Control for Health and Safety Act, Hazardous Substances Act, Flammable Fabrics Act, Food, Drug and Cosmetics Act, Magnuson Moss Warranty Act, Wool Products Labeling Act, Textile Fiber Products Identification Act, Fur Products Labeling Act, Care Labeling Rule, Fair Packaging and Labeling Act, Foreign Corrupt Practices Act, the Federal Trade Commission Act, the Occupational Health and Safety Act, California Proposition 65, the Tariff Act of 1930, the Lacey Act and all like laws, together with all rules, regulations and guides promulgated thereunder. Vendor acknowledges and agrees that it is solely Vendor's obligation to identify and comply with all Applicable Law as may be in effect in all jurisdictions in which the Goods are transported or offered for sale or which are otherwise relevant to Vendor and/or Purchaser operations as of the date of acceptance of the Goods by Purchaser.

- B. Neither Purchaser's acquisition nor sale of the Goods shall violate Applicable Law and the Goods were manufactured and conveyed by Vendor in compliance with Applicable Law, including any Applicable Law that regulates or otherwise concerns contents, standards, weights, measures, sizes, legends, labels, descriptions and/or any other particulars appearing on the Goods, packaging, containers or labels.
- C. The Goods shall comply (and shall be accompanied by materials necessary for Purchaser to show that they comply) with Applicable Law, including that (i) such Goods were subjected to reasonable and representative tests in accordance with procedures under Section 4(a) of the Flammable Fabrics Act, (ii) fabrics used or contained in each article of wearing apparel and fabrics otherwise subject to said Act are not so highly flammable as to be dangerous when worn and, (iii) where required, fabrics are marked or labeled in accordance with, and otherwise comply with the provisions of the Flammable Fabrics Act

and any rules and regulations promulgated thereunder, all as amended.

- D. Production of the Goods also shall comply with all Applicable Law relating to labor standards, including federal and state regulations governing wage and hours, the use of child and forced labor (including Sections 6, 7 and 12 of the Fair Labor Standards Act, as amended), and regulations and orders of the U.S. Department of Labor (including as issued under Section 14 thereof). All contractors and suppliers involved with the production of the Goods shall be and remain registered and bonded in accordance with Applicable Law. As to Goods manufactured outside of the United States, Vendor shall comply with all applicable laws of the country where said Goods were manufactured.
- E. A "Continuing Guarantee of Compliance" with each Applicable Law, including those identified in this provision, is certified hereby as being in order and currently filed with the appropriate governmental authority as required, including as to the: (i) Textile Fiber Products Identification Act (as filed with the Federal Trade Commission), (ii) Wool Products Labeling Act (as filed with the Federal Trade Commission), (iii) Flammable Fabrics Act (as filed with the Consumer Products Safety Commission) and (iv) the Fair Labor Standards Act; and confirmation of such filings is made or deemed to be made by each invoice provided by Vendor to Purchaser in respect of covered Goods. In the event that any of the foregoing or any other certificates of compliance required by any Applicable Law are not on file with the appropriate governmental authority, Vendor shall provide such a continuing guaranty to Purchaser, which shall be delivered to Dry Goods, Inc., 6565 Brady Street, Davenport, IA 52806, which continuing guaranty shall clearly identify Vendor, including by its duns number. Whether provided to a governmental authority or to Purchaser, such certifications of continuing guaranty shall specify the Goods covered and be in compliance with all Applicable Law, including that such certification shall be current, and shall set forth such certification in proper form and language. Such certifications shall also assure that all such Goods are not misbranded, falsely or deceptively labeled, improperly advertised or invoiced and that they comply with the terms and requirements of all Applicable Law governing the safety, labeling, advertising or invoicing of such Goods.
- F. The Goods shall be free from defects in material and

workmanship and shall be fit and safe for the use(s) for which they are normally and reasonably produced.

- G. Neither the Goods nor any conduct of Vendor (or its agent) infringes on any existing or alleged design, design patent, patent, trademark, trade name, copyright, trade dress, right of privacy or similar right of any person or entity.
- H. The Goods are not made, in whole or in any part, with any domestic dog or cat fur or other elements derived from any such animal.
- I. Vendor's conduct with respect to the acquisition, manufacture, production and/or sale of the Goods to Purchaser shall comply with Purchaser's corporate policies as set forth in the Vendor Policies or otherwise provided to Vendor, including any code of conduct or corporate policy concerning the use of child or forced labor or unsafe working conditions.
- J. Vendors shall cause their employees, agents, contractors (including freelancers), and representatives (collectively, "Vendor Representatives") to comply with all Applicable Laws and with all Purchaser policies and procedures at all times when interacting with Purchaser and/or their respective employees, customers and invitees, whether or not on Purchaser premises. To the extent that any Vendor provides Vendor Representatives, equipment and/or fixtures to Purchaser, such Vendor shall ensure that all such Vendor Representatives, equipment and/or fixtures shall likewise comply with Applicable Law and the policies and procedures of Purchaser. Vendors shall comply with any request by Purchaser to reassign anyone or more Vendor Representatives so that such persons are no longer working with Purchaser or assigned to any of their respective premises.
- K. Vendor also shall comply with Purchaser's policy in respect of communications and/or gifts to Purchaser employees. All communications and/or gifts must be disclosed to Purchaser and, to the extent that Vendor provides any benefit, compensation or award of any kind to any employee of Purchaser, Vendor shall comply with all Applicable Laws, including in respect of reporting such benefit, compensation or award to all required governmental entities, whether for tax purposes or otherwise. The foregoing compliance shall include issuance of any necessary forms or reports, as well as notice to Purchaser. Upon Purchaser's request, Vendor shall provide a certification executed by a corporate officer, confirming compliance herewith.

L. Dry Goods's acquisition and sale of goods conveyed by Vendor to Dry Goods must be in compliance with California Proposition 65 warnings, if applicable. Vendor shall comply with all requirements under Proposition 65 including, but not limited to, obligations to provide warnings on product labels or labeling. Dry Goods is expressly relying on Vendor's compliance with Proposition 65 and **DRY GOODS WILL NOT INDEPENDENTLY VERIFY THAT VENDOR HAS COMPLIED WITH PROPOSITION 65 LABELING REQUIREMENTS.** Vendor must ensure any Proposition 65 warnings are attached to, on, or with the Goods by means of appropriate labels, labeling, or hangtags. Warning signs and shelf warnings are not an acceptable substitute for labeling and Dry Goods will not accept or utilize warning signs or other Vendor provided materials. Dry Goods will not agree to modify responsibility for Proposition 65 compliance.

10. EFFECT OF VENDOR COVENANTS. By accepting any Purchase Order, Vendor acknowledges and agrees that its representations, warranties and guaranties herein and hereunder have the same force and effect as though provided in a separate written agreement executed on behalf of Vendor by its authorized signatory and delivered to Purchaser. All Vendor representations, covenants and warranties, express or implied, shall survive inspections, acceptance and payment by Purchaser or Purchaser's customer.

11. RESERVATION OF PURCHASER RIGHTS. Purchaser reserves the right to advertise and offer the Goods for sale, and to sell such Goods at any Purchaser retail facility and/or by means of any medium, including electronic, internet or other non-traditional venues, at such price as determined by Purchaser in its sole discretion. The foregoing reservation is an essential term of all Purchaser transactions effected under or pursuant to this Agreement.

12. INDEPENDENT CONTRACTORS. Vendor is an independent contractor. No provision of any Purchase Order shall, or shall be deemed or construed to, create any other relationship between the parties such as employer and employee, principal and agent, partners, joint-venturers, or any association other than that of independent contractors. Accordingly, Vendor is not and shall not be deemed to be an agent of Purchaser and is without any authority to enter into any contract or take any action on behalf of or so as to obligate Purchaser or any Purchaser Affiliate. Except as otherwise specified herein, Vendor shall have exclusive control and discretion over the manner, means, details and methods by which it performs its obligations hereunder, and is solely responsible for the provision of all tools, equipment, and facilities necessary for the performance and for the

payment of all license and other fees applicable to Vendor's performance.

13. INDEMNIFICATION. Vendor shall defend, indemnify and hold harmless Purchaser and its affiliates, officers, directors, employees and agents from and against any and all claims, suits, proceedings, liabilities, damages, penalties, fines, costs and expenses (including reasonable attorney fees and expenses) and/or any other loss asserted against, incurred by or imposed upon Purchaser by reason of or as a result of any actual or alleged violation or breach by Vendor of any of the warranties, representations, covenants or other obligations of Vendor set forth herein (each a "Claim"), including any Claim of infringement or alleged infringement of any existing or alleged design, design patent, patent, trademark, trade name, copyright, trade dress, right of privacy or other right of any person or entity, or any Claim as may be brought against Purchaser

by any customer or other person or entity arising from or connected with the use (regardless of any negligent acts or omissions), possession or resale of any and all Goods covered by any Purchase Order; from any patent or latent defects in such Goods or the dangerous condition thereof; or by virtue of any misrepresentation or breach of warranty (express or implied) in respect of such Goods; or otherwise relating to the transactions contemplated hereby or the subsequent sale of any Goods and the parties' ongoing relationship. Accordingly, in addition to the foregoing, Vendor shall likewise defend, indemnify and hold harmless Purchaser from any Claim related to the conduct of Vendor Representatives or to any equipment or fixtures provided, in whole or in part, by such Vendor. Notwithstanding the foregoing, no settlement of any such Claim may be made without Purchaser's written consent to the terms thereof and, *further provided*, Purchaser may, at its sole option, provide for its own defense in the event of such Claim and Vendor shall pay any and all of costs and/or expenses (including reasonable attorney fees and expenses) incurred by Purchaser in the protection of its interests. Further, Vendor's defense, indemnification and hold harmless obligations set forth above shall apply to any recalls of Goods, whether voluntary or involuntary, including as requested or required by any governmental agency, and to all such costs and expenses as may be required of Purchaser to assure compliance with all Applicable Laws.

14. INSURANCE. Vendor shall secure and maintain appropriate product and contractual liability insurance coverage in adequate amounts that are not less than as may be specified in the Vendor Policies and shall specifically include coverage in respect of Vendor's obligations, including in respect of indemnification, under a Purchase Order. Such Vendor insurance shall name Purchaser as an additional insured and shall provide for the investigation,

defense and satisfaction (by settlement or otherwise), at no cost to Purchaser, of any claims, suits, liabilities, damages, costs and expenses, asserted against or incurred by Purchaser and, upon Purchaser's request, Vendor shall furnish Purchaser with certificates evidencing such insurance coverage or the actual endorsements and/or policies, as required by Purchaser. Vendor shall bear its own insurance and insurance-related expenses. Vendor's liability shall not be limited to its insurance coverage.

15. CHANGE IN SPECIFICATIONS. Purchaser may change, add to, delete from or otherwise revise its specifications for Goods following notice to Vendor. Such notice shall be effective upon receipt as to further production of such Goods. Vendor may not change, add to, delete from or otherwise revise any Purchaser specifications, in any respect, without Purchaser's prior written approval.

16. ANCILLARY VENDOR SERVICES. In addition to providing Goods, Vendor shall provide and schedule, in coordination with Purchaser, warehousing and delivery of such Goods. Vendor also shall provide a qualified and experienced account executive, together with such additional person(s) as may be necessary, to ensure that Vendor performs its obligations under the Purchase Order in accordance with Purchaser's requirements. Such ancillary vendor services shall also include support provided to Purchaser to enhance sales of the Goods, with all such obligations to be performed in a first-class and professional manner that complies with Applicable Law, all for which Vendor shall be responsible.

17. CONFIDENTIALITY. All non-public information concerning Purchaser and/or a Purchaser Affiliate, as may be stated in this Purchase Order, or otherwise provided or disclosed to Vendor with respect to the Goods and/or any Purchaser operation or facility, are the strictly confidential, trade secret and proprietary property of Purchaser. Purchaser's confidential material includes all non-public information, such as designs, patterns, concepts and/or artwork provided to Vendor or Vendor's agent for incorporation into or as the basis of any component of the Goods. Vendor further acknowledges and agrees that all of the foregoing information, including information that relates to the Goods or their design, to the Purchaser, to Purchaser's pricing, sales, customers, assets, liabilities, to any other business affairs of Purchaser, or to the terms and conditions of this Purchase Order, are strictly confidential. In the event, and to the extent, that Purchaser provides Vendor (or Vendor otherwise gains access to) any personally identifiable information about any Purchaser customer or other person, no matter how obtained, such information may be used solely for the specific purpose for which it was provided and

not for any other purpose such as, for example, Vendor's marketing efforts. Vendor further agrees that in no event may it collect any customer information, use or disclose any such personally identifiable information to any person or entity other than to Purchaser or a Purchaser Affiliate requesting same, unless pursuant to a separate written agreement executed on behalf of Purchaser by its authorized signatory. In respect of all confidential information and specifically including all customer-related information, Vendor shall institute and maintain reasonable precautions against any unauthorized use, access or disclosure and shall, in the event thereof, immediately report such unauthorized use, access or disclosure to Purchaser and provide assistance in the event that any notification with respect thereto is required, all at Vendor's cost and expense. Vendor agrees that it shall not divulge, furnish, make available or in any manner disclose or use (except in furtherance of the performance of Vendor's obligations to Purchaser under and pursuant to this Purchase Order) any confidential information whatsoever in respect of Purchaser or any Purchaser Affiliate or the subject matter of this Agreement and agrees to take and to cause its officers, employees and agents to take such action as shall be necessary, prudent or advisable to preserve and protect the confidentiality of such Purchaser information and material; *provided that*, Vendor's obligations in respect of any and all confidential information shall include the proper disposal by destruction of any such information, including material that includes any version thereof.

18. DISPUTES AND REMEDIES. In the event of a dispute with respect to a Purchase Order, the parties shall endeavor, in good faith, to reach an amicable resolution of the dispute. As to disputes concerning any amount invoiced by Vendor, Vendor shall provide to Purchaser, promptly after any Purchaser request therefor, such additional documents and/or information as Purchaser reasonably may request, including written proof of delivery. Should Purchaser dispute any invoice, in whole or in part, Purchaser may withhold the disputed amount and Purchaser's failure to pay such disputed amount shall not be deemed a breach of the Purchase Order or otherwise subject Purchaser to any liability, charge or penalty. Purchaser shall be entitled, at all times, to set off any amounts owing to it from Vendor (or any of its respective factors or affiliates), against any amounts otherwise payable to Vendor (or to its factors or affiliates). The provisions of this Section 19 do not limit Purchaser's ability to cure any nonconformity and to charge Vendor for the related offset expenses costs and administrative expenses as otherwise as set forth in Section 5. In addition to any other Purchaser right or remedy available hereunder, by law or in equity, Purchaser further reserves the right to cancel the Purchase Order, in whole or in any part, and to return to Vendor, at Vendor's expense, any Goods not in compliance herewith or as to which any claim of infringement of any existing or alleged design, design patent, patent, trademark, trade name, copyright, trade dress, right of privacy or similar right of any

person or entity is made, and Vendor agrees to reimburse Purchaser fully for any and all expenses incurred in respect of such returned Goods. No action for breach of any Purchase Order may be commenced by Vendor more than twelve

(12) months after the accrual of the cause of action.

19. DEFAULT. Vendor's failure to observe or perform any term, covenant or agreement contained in this Purchase Order shall constitute a breach that, if not cured within five (5) days of Purchaser's notice, shall constitute a Vendor default and entitle Purchaser to assert any right granted Purchaser by the Purchase Order and/or by law or in equity, including a right to terminate any Purchase Order, in whole or in any part. Further, any of the following acts shall constitute such a Vendor default: (i) making a general assignment for the benefit of its creditors, (ii) commencement, by or against Vendor, of any proceeding in bankruptcy or insolvent unless such proceeding has not been stayed or dismissed within thirty (30) days, (iii) commencing any action seeking liquidation, reorganization, adjustment or other relief under any law relating to bankruptcy or reorganization and/or (iv) Vendor's failure to perform or delay in performing an obligation. Nothing contained in this Section or elsewhere shall provide Vendor with a right to cure a non-conforming tender without Purchaser's consent.

20. LIMITATION OF DAMAGES. Purchaser shall not be liable to the other for any special, incidental, exemplary or consequential damages arising from or as a result of any transaction occurring hereunder, including any delay, omission or error in the electronic transmission or receipt of any document pursuant to a Purchase Order, even if it has been advised of the possibility of such damages.

21. GOVERNING LAW. This Purchase Order shall be governed by and construed in accordance with the laws of the State of Iowa without giving effect to its provisions regarding conflict of laws. Any action or proceeding arising out of, concerning or affecting, in whole or in part, this Purchase Order or any other matter relating thereto concerning the Goods whatsoever shall be brought in a state or federal court in the State of Iowa, County of Scott, and each party consents to jurisdiction and venue in such court.

22. ATTORNEYS FEES. Vendor hereby agrees that in the event of any dispute or court proceeding concerning any Purchase Order or any other matter arising out of Purchaser's purchase of Goods from the Vendor that Vendor shall, in all circumstances, reimburse and pay Purchaser's reasonable attorney's fees and expenses, regardless of whether any legal proceedings are undertaken by either party. In no event shall Purchaser be liable for any attorney's fees or expenses of the Vendor.

23. AUDIT. Purchaser shall have the right to inspect and audit, during normal business hours, Vendor's records and documents with respect to Vendor's sales to Purchaser to ensure that Vendor is complying with the provisions of any Purchase Order, including the Vendor Policies.

24. INTERRUPTION OF PURCHASER'S BUSINESS. Interruption of or interference with Purchaser's business by a cause beyond Purchaser's reasonable control, including fire, flood, tempest, earthquake, strikes, labor disputes, war, act of God, embargo, civil commotion or government regulation shall give Purchaser the option to cancel, in whole or part and without any liability to Vendor, any unfilled portion of this Purchase Order.

25. CONSTRUCTION. For purposes of this Purchase Order, except as a specific context may otherwise require: (i) the term "party" refers to Vendor or Purchaser; (ii) the words "include," "including" and like terms are to be construed as inclusive and without limitation; (iii) every reference to "Purchase Order" or "Agreement" shall be deemed to include the current version of the Vendor Policies, all schedules, exhibits, attachments and material incorporated by reference, as any of them may be amended from time to time, including those published on vonmaur.com under the link to "Vendor Policies"; and (iv) references to days or months are intended and are to be construed as specifying calendar days or months. No provision of a Purchase Order shall be construed against a party hereto by virtue of the fact that such party drafted or dictated such provision or the Purchase Order. Each party agrees that the terms of all Purchase Orders and the Vendor Policies relating thereto have been negotiated at arm's length between the parties, each having equal bargaining power and neither being compelled to do so.

26. NOTICES; PURCHASER RESPONSES. All notices required hereunder or otherwise provided with respect hereto shall be in writing and shall be delivered by hand or receipted courier, sent by US mail, registered or certified with return receipt requested if addressed to Purchaser, or electronically unless otherwise required in the Vendor Policies or other written Purchaser instructions. Any consent or approval requested of or to be provided by Purchaser must be given or confirmed in writing and signed by Purchaser's authorized representative in order to be effective. Unless otherwise specified, Purchaser may withhold or delay its response, in its sole discretion and in no event may Purchaser's failure to respond be deemed to constitute an affirmative response.

27. EFFECTIVENESS; AUTHORITY. All Purchase Orders shall be binding and effective only after being executed as provided herein by Purchaser's authorized signatory. Each party represents and warrants to the other

that it has the full right, power and authority to enter into and perform this Purchase Order in accordance with all of its terms and that the execution and delivery of this Purchase Order has been duly authorized by proper corporate action.

28. AMENDMENTS AND WAIVERS. These general terms may not be amended or modified in any respect except in a writing signed by the parties hereto. No term of a Purchase Order may be supplemented, amended, waived or otherwise affected by any inconsistent Vendor act or inconsistent or additional language in Vendor's documentation, acceptance or invoice. In order to be effective, execution on behalf of Purchaser of any writing must be by an authorized signatory thereof. Purchaser's failure to enforce any provision of this Purchase Order, or to exercise any right or remedy resulting from a breach thereof, shall not be construed as a waiver of any Vendor breach or as consent to any deviation from the Purchaser's requirements hereunder. Further, neither Purchaser's acceptance of full or partial Vendor performance nor Purchaser's past custom or practice shall be construed as a waiver of any such Vendor breach or as Purchaser's consent thereto.

29. SURVIVING OBLIGATIONS. Neither party shall have any further obligation to the other except that, notwithstanding any other term or provision of a Purchase Order, neither such expiration nor termination shall terminate, reduce or limit any Vendor indemnification, covenant, representation, warranty or guaranty provided to Purchaser hereunder or pursuant hereto, or impair any of Purchaser's rights with respect thereto.

30. ASSIGNMENT; FACTORS. This Purchase Order shall be binding upon the parties hereto and their permitted assigns; *provided that*, this Purchase Order is personal as to Vendor and Vendor may neither assign any right nor delegate any obligation hereunder without Purchaser's written consent. Purchaser shall not be required or obligated, without regard to the circumstances then prevailing, to accept performance of any Vendor obligation from any party other than Vendor, without regard to the relationship between Vendor and such other person or entity, including an assignee or factor. In no event may Purchaser be bound to any obligation except by a written agreement executed on behalf of Purchaser by an authorized signatory thereof. Specifically, Vendor, on its own behalf and on behalf of any person or entity as may assert a claim on Vendor's behalf or in any manner derived from Vendor (including a factor or other person or entity that, by payment of money or otherwise, acquires any interest in Vendor's business or receivables), agrees and acknowledges that this Agreement sets forth all rights and remedies to which Vendor and any such person or entity deriving any right from or through Vendor (including a factor) may be entitled, and that under

no circumstances whatsoever shall any person or entity claiming any derivative right (including a factor) have any greater right or claim than that of Vendor or be entitled to any defense or offset other than that to which Vendor itself would be entitled hereunder. Further, Purchaser reserves the right to withhold and/or offset to any Vendor assignee (including a factor) against any other amounts which may be due to or from the same assignee, even though such amounts to be deducted or offset may relate to a different Vendor. Each Vendor hereby authorizes Purchaser to offset and deduct any such amounts which are due or may become due to Vendor's assignee (or any other person or entity that acquires an interest in the Vendor's receivables) against any amount which is due or may become due to Purchaser, regardless of the lack of mutuality or the fact that such amounts are related to different Vendors and/or Purchase Orders.

31. BENEFICIARY OF AGREEMENT. No person or entity shall be or shall be deemed to be a third party beneficiary of this Agreement. Accordingly, no person or entity other than Vendor and Purchaser or a permitted assignee may seek to enforce any right hereunder in its own name. Any person or entity asserting a derivative claim in respect of Vendor (such as a factor), seeking to enforce any right or claim hereunder derived from Vendor, may not assert such right or claim except to the extent that such right or claim could have been asserted by the Vendor.

32. SEVERABILITY. The unenforceability or illegality of any provision of this Purchase Order shall not render any other provision of this Purchase Order unenforceable, null or void so long as the provisions remaining enforceable are sufficient to constitute a legally binding agreement.

33. ENTIRE AGREEMENT. The Purchase Order, these General Terms and Conditions, and any and all Vendor Policies, and any attachments and other material incorporated herein by reference, constitutes the entire agreement of the parties as to its subject matter. This Agreement supersedes all prior representations or agreements, oral or otherwise, with respect thereto. No obligation to enter into any further transactions may be implied from a Purchase Order. This provision is applicable in all circumstances, without regard to whether a Purchase Order establishes a new transaction and/or confirms an existing or prior course of dealing between the parties.