

IWCO Direct - Standard Purchase Order Terms & Conditions

- 1. PARTIES AND RELATIONSHIP.** These Standard Purchase Order Terms & Conditions (“Terms”) have been entered into by INSTANT WEB, LLC (d/b/a IWCO DIRECT), a Delaware limited liability company, with primary offices at 7951 Powers Blvd., Chanhassen, MN 55317 (“IWCO Direct”), on behalf of itself and its Affiliates, and you (“Supplier”), wherein “Supplier” refers to the company, individual, entity or organization that has entered into and to whom an IWCO Direct purchase order has been or will be issued and addressed. The term “Affiliate” refers to any entity directly or indirectly controlled by, or controlling IWCO Direct.

IWCO Direct and Supplier (each, a “Party” and collectively, the “Parties”) are contractors independent of one another and nothing in these Terms or any purchase order is intended to or will constitute that either Party is an agent, legal representative, or partner of the other for any purpose. The Parties shall be independent contractors in the performance of this Agreement and nothing herein is intended or may be construed to make either party the employee, agent (except as otherwise provided for herein), partner, or representative of the other. Except as otherwise provided for herein, including, but not limited to, Supplier’s performance of the Services, neither Party shall represent to any third party that they are the employee, agent, partner, or representative of the other Party, nor does either Party have an express or implied right or authority to assume or create any obligation or responsibility on behalf of or in the name of the other Party.

- 2. PURCHASE ORDER SCOPE AND ORDER OF PRECEDENCE.** Supplier agrees to provide IWCO Direct with equipment, tools, hardware, software, products, goods, materials, and/or services, or any combination thereof (hereafter “Products” or “Services”, as the case may be) as described in an IWCO Direct-issued Purchase Order. “Purchase Order” or “PO” means any supplemental document (physical or electronic) issued by IWCO Direct that IWCO Direct uses to order Products or Services from Supplier. Each Purchase Order will form a separate agreement which incorporates these Terms by reference, and are in addition to any other terms, conditions, or instructions which may be set forth within a PO. Upon acceptance of a PO, shipment of Products, and/or the initiation of Services, Supplier shall be bound by these Terms and the PO. To the extent the Parties have executed a Master Services Agreement and/or Statement of Work (a “Superseding Agreement”) covering the subject matter of a PO, the terms of such Superseding Agreement will supersede and prevail over these Terms such that these Terms will not apply to the Products or Services referenced in the PO, and, in the event of any inconsistency between these Terms and those in the Superseding Agreement with respect to a PO, the terms in the Superseding Agreement shall be controlling. IWCO Direct’s acceptance of any offer for Products or Services from Supplier is expressly limited to these Terms, the PO, or if applicable, any such Superseding Agreement between the Parties. To the extent the Product listed on a Purchase Order is software or other Intellectual Property (“IP”), or there is software or IP contained in the Products, any appropriate license terms or terms of use for such software or IP (if applicable) will be mutually agreed to by the Parties. As used hereafter in these Terms, the term “Order” is used interchangeably with the terms “Purchase Order” or “PO” and shall be construed accordingly.

IWCO Direct hereby objects to and rejects any proposal or attempt by Supplier to introduce additional, different, or conflicting terms and conditions, whether printed or otherwise, in any other communication between the Parties (except as for routing or delivery instructions, as allowed under Section 13 (Shipping) below), including on any of Supplier’s online or printed forms, materials, letters, papers, sales quotes, estimates, or other terms or conditions. None of any such provisions will be deemed to be part of these Terms or the Order unless specifically agreed to in writing by IWCO Direct. At no time will the acceptance of Products or Services by IWCO Direct, or any course of dealing, usage or trade, constitute acceptance of any terms or conditions of the Supplier, unless expressly agreed to in writing prior to the delivery of said Products or Services.

Both Parties agree the issuance of an Order (or Change Order) in electronic form shall be binding to the same extent as a written original signature and shall constitute an “original” document when printed from electronic files or records maintained in the normal course of business.

- 3. ORDER CHANGES.** Any changes to an Order as defined herein and agreed to by the Parties shall be in effect for the specific Order it relates to and is not transferrable or to be carried forward to any other Orders between the Parties.
 - A. BY IWCO DIRECT.** IWCO Direct reserves the right at any time to unilaterally make changes to an Order, including but not limited to suspending or canceling work or the delivery of Products and/or Services in whole or in part, or making changes to one or more of the following: (i) the specifications or other requirements to which the Products or Services are to conform, (ii) the quantities to be produced or delivered, (iii) the methods of shipment and packaging, and/or (iv) the time or place of delivery, (each, a “Change Order”). In such an event, IWCO Direct will give written or electronic notice to Supplier prior to shipment of the applicable Products or performance of the Services. If a Change Order request by IWCO Direct causes an increase or decrease in the cost or time required for Supplier to perform, the Parties will document any such change impacting the purchase price, delivery schedule, or both, as applicable, in writing as a revision to the impacted Order. Such revision shall be deemed accepted pursuant to Section 2 (Scope) above, but any claim by Supplier for a pricing or schedule adjustment shall be deemed waived if Supplier starts Services or otherwise fails to submit a request for an adjustment in writing to IWCO Direct within seven (7) business days following Supplier’s receipt of IWCO Direct’s Change Order request. Once Supplier initiates Services, any price increases and/or extensions of time will not be binding upon IWCO Direct unless evidenced by a duly executed Change Order. No substitutions of materials will be allowed unless authorized in writing by IWCO Direct and the price agreed upon. No charges for extras (overs) will be allowed unless such extras (overs) have been authorized in writing by IWCO Direct and the price agreed upon, in writing, in advance.
 - B. BY SUPPLIER.** To be valid and binding upon IWCO Direct, any change, waiver, or amendment to an Order made, asserted, or requested by Supplier must be authorized in writing and signed by an authorized representative of IWCO Direct’s Purchasing or Supply Chain Management departments.

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- 4. SUBCONTRACTORS.** Supplier shall not assign any Order (in whole or in part), or enter into a subcontract with any other party for the purpose of furnishing any Services or any completed or substantially completed Products described in any Order without, in each case, obtaining IWCO Direct's prior written approval, which approval may be withheld or delayed by IWCO Direct in their sole and absolute discretion. If approved by IWCO Direct, Supplier assumes the same liability and responsibility for the subcontractor's conduct and performances for all subcontracted activities (deemed to include third-party manufacturers of goods purchased by Supplier and resold as or incorporated into the Products hereunder) as if Supplier performed such activities directly. If Supplier obtains the written consent to assign an Order, or to enter into a subcontract, such shall be at Supplier's sole cost and expense, and without IWCO Direct suffering or otherwise incurring any liabilities, obligations, damages, costs or expenses. Before utilizing any subcontractor, Supplier will verify that the subcontractor is a business in good standing with appropriate legal authorities, and is licensed to effectuate the Order, and is not known to have been in or be in violation of any applicable laws or regulations. Unless explicitly agreed to in writing by IWCO Direct, any approval by IWCO Direct for Supplier to use a subcontractor shall be in effect for the specific Order it relates to and is not transferrable or to be carried forward to any other Orders between the Parties.
- 5. SPECIFICATIONS AND INSPECTIONS.** All Products and Services ordered, procured, manufactured, supplied, or delivered by Supplier for IWCO Direct will comply with all specifications and requirements as listed within each Order unless otherwise later authorized in a signed writing by IWCO Direct through a Change Order. All Products are subject to inspection and test by IWCO Direct (IWCO Direct controlling the method and manner of inspecting and testing) at all times and places, including, without limitation, the period of performance for Services. If any inspection or test will be made on Supplier's premises, Supplier shall provide all reasonable facilities and assistance for the safety and convenience of IWCO Direct's inspectors without any additional charge.
- 6. SAMPLES AND PROOFS.** If tests, samples, or proofs are required by the Order, Supplier will not proceed with production or forward quantity shipments until IWCO Direct has received, reviewed, and approved of Supplier's tests, samples, or proofs in writing, which review and approval shall be at IWCO's sole discretion.
- 7. REJECTIONS.** If any Products or Services are found at any time to be defective in material or workmanship or otherwise do not conform with the specifications or other requirements of the Order, as determined by IWCO Direct in its sole and absolute discretion, IWCO Direct, in addition to any other rights which it may have hereunder, or at law or in equity, shall have the right to reject the defective Products or Services, and if applicable, return such Products at Supplier's expense. Supplier will be liable, at IWCO Direct's sole discretion, to provide one or more of the following remedies at Supplier's sole cost and expense : (i) re-performance of the Services or replacement of the Products, including expedited service as required; (ii) reimbursement of IWCO Direct's reasonable documented costs, expenses and damages, related to mitigating the dissatisfaction of its customers; and (iii) a credit or refund to IWCO Direct in an amount equal to the full amount of the defective Products or Services. Supplier shall reimburse IWCO Direct for all any and all damages, costs and expenses, suffered or incurred by IWCO Direct in connection with any Products or Services found to be defective, including, but not limited to, third-party claims for personal or bodily injury.
- 8. PRICING.** Supplier shall furnish the Product and Services called for by the Order at the price(s) stated within the Order, subject to adjustment per Section 3 (Order Changes). If an Order is placed on an open price basis, and in the absence of a Superseding Agreement, the price(s) billed to IWCO Direct shall not be higher than the price last charged or quoted by Supplier for the same or substantially similar Products or Services unless IWCO Direct authorizes a higher price in writing, and which writing is duly signed. Supplier represents the prices it charges for the Products and Services are the lowest price charged by Supplier to buyers purchasing the same or similar Products and Services in quantities and under circumstances comparable to those specified in the applicable Order. Unless otherwise agreed to by the Parties in writing, all Services invoiced at an hourly rate shall be billed in quarter-hour increments.
- 9. OTHER CHARGES.** No charges will be allowed for taxes, import duties, delivery or transportation, installation, packaging, packing, returnable containers, documentation, or media unless otherwise agreed in writing on the Order. No extra charges of any kind (e.g., charges for Order processing, overtime, holiday rates, boxing, cartage, or special transportation to meet delivery dates), will be allowed unless specifically agreed to by IWCO Direct in writing. All sales, use, excise or similar taxes to be paid by IWCO Direct must be itemized separately on invoices. Unless otherwise agreed to in writing within an Order or Change Order, Supplier will not assess fees for expedited services or any fees to change or cancel an Order.
- 10. QUANTITY.** Unless adjusted by IWCO Direct per Section 3 (Order Changes), the quantity of Products delivered by Supplier must match the quantities indicated on the face of each Order. Any quantity shipped in excess of the quantity ordered under an Order is subject to IWCO Direct's rejection and return at Supplier's expense, and IWCO Direct shall not be liable for any such excess quantities.
- 11. PACKING.** All shipments must be packed and packaged according to specifications or, if not covered in specifications, in a manner that will permit efficient handling, provide adequate protection from damage, and comply with any requirements of delivery carriers. Damages to Products or delays in delivery resulting from improper packaging will be charged to Vendor, and at Supplier's sole cost and expense.
- 12. DELIVERY.** Time is of the essence for all Orders. Supplier will ship and deliver Products and render Services on the date(s) specified in the Order unless a Change Order is agreed to pursuant to Section 3 (Order Changes). Any other delivery delays will be excused only if (i) such delay is due to strike, fire, riot, act of God, act of public enemy, or other unforeseeable causes beyond the control and without fault or negligence of Supplier, and (ii) Supplier promptly notifies IWCO Direct in writing upon discovery that a delivery has been or will be delayed, giving all

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pertinent information concerning the cause and the steps Supplier is taking or will take to mitigate additional delivery delays. If delivery of Products or performance of Services are not accomplished at the time or dates indicated in the applicable Order, IWCO Direct reserves the right, without liability and in addition to its other rights and remedies, (y) to request Supplier expedite its performance and delivery at Supplier's sole expense, and/or (z) terminate the applicable Order by giving written notice to Supplier effective immediately upon receipt of said notice by Supplier. In the event of (z), IWCO Direct may arrange for the completion of performance or purchase alternative products from other sources.

Unless otherwise provided within an Order, no delivery of Products required thereunder shall be made more than seven (7) days before the previously agreed upon delivery date, and IWCO Direct may at its discretion, reject and return earlier deliveries at Supplier's risk and expense, or charge Supplier for any additional costs sustained as a result of the same. No provision in any Order for the delivery of Products in installments shall be construed as making Supplier's obligations severable.

13. SHIPPING. Supplier is responsible, at its sole cost and expense, for facilitating the delivery of Products in the most economical manner to meet all agreed upon delivery dates unless IWCO Direct provides other routing instructions. In such case, Supplier will honor all routing instructions that may be: (i) indicated on the Order; (ii) on file with Supplier; or (iii) communicated verbally by IWCO Direct.

A. SHIPPING COSTS. Notwithstanding anything to the contrary herein, unless otherwise specified in the Order, Supplier shall, as between Supplier and IWCO Direct, be solely responsible for all shipping and insurance costs, including without limitation, packing, boxing, crating, cartage, and freight costs. Supplier shall bear all expenses associated with loss of or damage to any Product prior to its acceptance by IWCO Direct, and Supplier shall bear risk of loss with respect to Products or Services, prior to its acceptance by IWCO Direct, and such acceptance shall not occur unless and until inspection occurs, as provided for herein (and if Products or Services are rejected, fail after inspection, or are otherwise deemed defective, then, risk of loss remains with Supplier). Shipments sent C.O.D. without the written consent of IWCO Direct will not be accepted and will be at Supplier's sole risk.

B. DOCUMENTATION. All bills of lading and shipping memoranda must be delivered to IWCO Direct no later than the delivery date of Products to IWCO's Direct's specified destination(s). Order number, contract number, Supplier name and number, and IWCO Direct's stock number or part number, if shown on the Order, must appear on all invoices, packages, package labels, packing slips, or other correspondence pertaining to the Order, along with any additional information communicated by IWCO Direct to Supplier.

14. IWCO DIRECT PROPERTY. Any property owned by IWCO Direct and furnished to Supplier, including but not limited to, equipment, special tools, paper, envelopes, components, or other materials or work in progress, ("Property") in connection with one or more Orders shall only be used only in filling the requirements set forth in the applicable Order(s), and such Property shall remain IWCO Direct's property. In addition, all special tools and equipment either (a) identified as a reimbursable item in the Order, or (b) specifically acquired by Supplier for performance of the Order where the costs of such items are amortized or otherwise recovered through the price of the Products, shall become IWCO Direct's property upon payment from IWCO Direct.

Supplier will: (i) use IWCO Direct's Property only to fill Orders for IWCO Direct; (ii) keep such Property segregated and marked as IWCO Direct's Property; (iii) maintain such Property in good condition, ordinary wear and tear excepted; (iv) be responsible for any loss or damage to such Property while it is in Supplier's custody and control and, will at its sole expense, insure all Property in an amount equal to the replacement cost thereof, with loss payable to IWCO Direct and will reimburse, upon demand, IWCO Direct for all damages, costs or expenses suffered or incurred by IWCO Direct relating to damage to the IWCO Direct Property; and (v) when so instructed by IWCO Direct, Supplier shall deliver IWCO Direct's Property to any person IWCO Direct designates, in good condition, ordinary wear and tear excepted. All Property is subject to repossession, retrieval, or removal by IWCO Direct upon written notice to Supplier.

If excess Property is delivered to Supplier and Supplier consumes more than has been allotted or what was otherwise communicated by IWCO Direct to consume, or more than what was reasonably expected for the applicable Order(s), Supplier will be responsible to reimburse, at its sole cost and expense, IWCO Direct for any such excess consumption of the Property at the then-current market rate for the Property, plus as applicable, all reasonable and documented IWCO Direct expenses related to the reordering, reproduction, and redelivery of the Property consumed in error, including any taxes or expedited manufacturing or delivery fees if required.

15. INVOICE AND PAYMENT TERMS, INVOICE DISPUTES.

A. INVOICE TERMS. Supplier will submit invoices in the form and format agreed to by the Parties, and unless otherwise agreed to by the Parties in writing, Supplier will issue individual invoices against the Order in arrears, after delivery and acceptance of the applicable Products or Services by IWCO Direct. All invoices must reference IWCO Direct's Order number and if applicable, all freight, taxes, or any other relevant charges separately on each invoice. Supplier shall include any supporting documentation to allow IWCO Direct to validate invoice amounts and facilitate payment.

B. PAYMENT TERMS. IWCO Direct shall pay all undisputed amounts invoiced by Supplier within sixty (60) days of receipt of an acceptable invoice unless the Parties agreed to alternative payment terms on the face of the corresponding Order. IWCO Direct shall have no obligation to pay any amount prior to IWCO Direct's receipt of a valid invoice in the correct and proper amount and which is prepared in accordance with these Terms and the Order. IWCO Direct's payment of any invoice will not be construed as acceptance of the underlying Product or Services performed. If IWCO Direct is unable to pay such undisputed amount due to an act of god, labor shortage, pandemic,

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epidemic, event of force majeure, a hurricane, earthquake, and/or any other event or condition beyond IWCO Direct's reasonable control (collectively, the "Force Majeure Event"), in which event, IWCO Direct's time to pay such undisputed amount shall be tolled or stayed through the expiration of the Force Majeure Event. IWCO Direct retains the right, exercised in its sole and absolute discretion, to dispute, contest or otherwise refute such invoice.

- C. INVOICE DISPUTES.** IWCO Direct reserves the right, in its sole and absolute discretion, to dispute any invoice amount, in whole or in part, for any reason. IWCO Direct may withhold payment of particular invoice amounts that IWCO Direct disputes, pending the resolution of such dispute, provided that IWCO Direct provides Supplier with written notice of the amounts being withheld and the reason for withholding payment, however, the failure to provide such written notice shall not operate as a waiver of IWCO Direct's right to contest or dispute invoices. Amounts disputed shall not be subject to any late fee, interest assessed, or result in the suspension of services to IWCO Direct. Upon request from IWCO Direct, Supplier will re-issue corrected invoice(s) and as agreed by the Parties, any disputes that result in Supplier correction will be made in the form of an invoice credit or refund to IWCO Direct.
- 16. TAXES.** Each Party will be responsible for any personal property taxes on property it owns or leases, for any franchise and privilege taxes on its respective business, and for taxes based on net income or gross receipts of their business. No sales, use, or other taxes shall be added to an invoice if the Products or Services are exempt from such assessment by law. Should IWCO Direct claim an exemption from any sales, use, or other tax, IWCO Direct shall provide Supplier with copies of tax exemption certificates.
- 17. SET-OFF.** IWCO Direct shall be entitled at all times to deduct or set-off any amount(s) owed from Supplier to IWCO Direct against any amount payable at any time by IWCO Direct to Supplier.
- 18. NON-ASSIGNMENT.** The rights and obligations borne by these Terms and each Order thereunder binds and inures to the benefit of each Parties' successors and assigns. Each Order governed by these Terms is not assignable, delegable, sub-licensable, or otherwise transferable by Supplier in whole or in part, without the prior written consent of IWCO Direct. Any assignment or attempted assignment violates this provision and shall be null and void.
- 19. INSURANCE.** Supplier will maintain sufficient insurance coverage to protect itself and IWCO Direct from risks and claims that may arise from or in connection with Supplier's obligations hereunder, whether such obligations are performed by or on behalf of the Supplier, including as applicable: (i) Commercial General Liability, (ii) Business Automobile Liability, (iii) Property Damage, (iv) Employer's Liability and Workers' Compensation, (v) Professional Liability/Error and Omission, (vi) Pollution/Environmental Liability, (vii) Third-Party Crime, (viii) Cyber/Network Privacy & Security, and (ix) Umbrella Liability. Except where prohibited by Law, Supplier agrees to waive its rights to recover and its insurers' rights of subrogation and rights to recover against IWCO Direct and its Affiliates.
- A. CERTIFICATES OF INSURANCE.** Supplier will provide IWCO Direct with certificates of insurance upon request and will endeavor to promptly notify IWCO Direct in writing before cancellation of applicable insurance hereunder when such cancellation(s) are at risk of occurring or have occurred during Supplier's performance of services related to an Order.
- B. SUBCONTRACTOR INSURANCE.** Except to the extent otherwise stated in these Terms or agreed to by IWCO Direct in writing, Supplier shall require in writing that each of its subcontractors that have been pre-approved by IWCO Direct pursuant to Section 4 (Subcontractors) are maintaining insurance coverage substantially consistent with the coverages required of Supplier hereunder. However, provided that any deficiencies in subcontractors' insurance shall be the Supplier's responsibility, Supplier may alternatively elect to (i) insure their subcontractors' actions under Supplier's own insurance policies, where applicable and/or (ii) modify their subcontractors' insurance requirements as long as the requirements are not below customary industry-standard insurance coverage limits.
- C. INSURANCE LIMITS OF LIABILITY.** The availability or unavailability of insurance coverage shall not limit, modify, or otherwise impact Supplier's other obligations and liabilities hereunder. Supplier's obligation to maintain any necessary insurances are in addition to, and not in lieu of, Supplier's other obligations hereunder, and Supplier's liability to IWCO Direct will not be limited to the amount of coverage Supplier chooses to obtain and maintain or any other limitations stipulated elsewhere in these Terms.
- 20. INDEMNITY.** Supplier shall, at its own expense, defend, indemnify and hold harmless IWCO Direct and its Affiliates, and its respective directors, members, officers, shareholders, affiliates, affiliated entities, employees, customers, and agents (collectively, the "Indemnitees") from and against any and all claims, losses, damages, judgments, costs, awards, liabilities, suits, fees, and expenses, including, but not limited to, attorneys' fees (collectively, "Claims" or "Indemnification Costs") that the Indemnitees may suffer or incur arising out of or related to: (a) Supplier's breach of any of the terms and conditions contained in this Agreement, including, but not limited to, breach of any representation or warranty contained herein; (b) any allegation that any of the Products or Services, or IWCO Direct's use thereof, constitutes an infringement, contributory infringement, or violation of any third party intellectual property or proprietary rights; (c) any breach by Supplier of its: (i) confidentiality obligations; (ii) obligations to comply with Laws; or (iii) obligation to pay any related costs or expenses owed in respect of any personnel or contractors of Supplier; (d) any bodily illness and injury, death, tangible property damage and theft, to the extent caused by Supplier's negligent or willful acts or omissions; or (e) Supplier's introduction of a "computer virus", or other malicious contaminant into IWCO Direct's environment. The Indemnitees will promptly notify Supplier of any Claim and Supplier will defend the Indemnitees at the Indemnitees' request. Supplier may settle, at its sole expense (and such settlement shall not subject IWCO Direct to any costs, expenses or damages), any Claim for which Supplier is responsible provided such settlement will not impose any additional liability or obligation on IWCO Direct and will

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contain an unconditional and full release of liability favoring the Indemnitees. IWCO Direct reserves the right to participate in the defense and/or settlement of any Claim. Supplier shall pay all damages awarded against Indemnitees for which Supplier is responsible. If IWCO Direct is unable to use a Product or Service because of a Claim that such use infringes a third party intellectual property right, Supplier will, at its own expense: (x) procure for IWCO Direct the right to continue using such Products or Services; (y) substitute other products or services of like capability; or (z) replace or modify such Products or Services so they become non-infringing while retaining like capability. In the event of the impossibility of the foregoing options, Supplier shall refund all fees paid by IWCO Direct for such infringing Products or Services. Notwithstanding the foregoing, or anything to the contrary contained herein, Supplier shall immediately, and upon demand, reimburse IWCO Direct for the Indemnification Costs.

- 21. WARRANTIES.** These Terms incorporate by reference all implied and express warranties available under the Uniform Commercial Code (“UCC”). Such warranties shall remain in effect as to the Products and/or Services, whether manufactured, furnished, serviced, repaired, or any combination thereof, under the Order for a period of time consistent with the warranty normally offered by Supplier. Supplier agrees to pass through all available warranties from other manufacturers.

In addition to any other warranties set forth herein, Supplier represents and warrants that: (a) Supplier will provide and complete all Services diligently, in a competent and professional manner (and in a commercially reasonable manner), using an adequate number of qualified personnel; (b) no Products or deliverables provided by Supplier or Services performed by Supplier, directly or indirectly, (through its agents and/or subcontractors), nor the use thereof by IWCO Direct, will constitute an infringement, misappropriation, or unlawful use or disclosure of any intellectual property rights or other rights of a third party; (c) for one hundred-eighty (180) days after IWCO Direct notifies Supplier of IWCO Direct’s acceptance of any Products or Services, Supplier will, at its sole cost and expense, promptly correct and repair, at no cost to IWCO Direct, any defect, malfunction or non-conformity (notwithstanding the foregoing, such 180 day period shall not apply to latent defects); and (d) Supplier personnel are the responsibility of Supplier and solely employees or independent contractors of Supplier or its subcontractor, no Supplier personnel are IWCO Direct’s agents or employees for federal, state, or local tax purposes or any other purposes whatsoever, nor are entitled to any compensation from IWCO Direct or to any IWCO Direct employee benefits. Supplier will (or, in the case of Supplier subcontractors, will be responsible for causing the applicable subcontractor to) withhold and pay all applicable taxes, benefits, and insurance with respect to such personnel. Supplier warrants it is solely responsible for compliance with immigration and visa Laws and requirements and Supplier will verify and secure the work eligibility of all Supplier personnel, including using the federal government E-Verify program to verify the employment eligibility of all its employees, and ensure that they hold appropriate and valid visas or other work authorizations for the jurisdiction in which such individuals will be working, each of which will be valid for a period at least equal to the anticipated duration of the applicable Order.

- 22. DAMAGES.** Without limiting IWCO Direct’s rights and remedies at law or in equity, and/or otherwise under these Terms, IWCO Direct reserves the right to charge Supplier for any loss, damages, costs and expense (including, without limitation, reasonable attorneys’ fees) or damage sustained as a result of Supplier’s failure to deliver conforming Products or Services or other breach of the Order and/or otherwise arising out of a breach of these Terms, including without limitation, special, indirect, incidental, or consequential damages, and expenses and re-procurement charges incurred in connection with IWCO Direct’s purchase of substitute products, services, or both, for which any such remedies shall be cumulative.

- 23. LIMITATION OF IWCO DIRECT’S LIABILITY.** IWCO DIRECT WILL NOT, UNDER ANY CIRCUMSTANCES BE LIABLE TO SUPPLIER, ITS EMPLOYEES, REPRESENTATIVES, AGENTS, SUPPLIERS, OR SUBCONTRACTORS FOR ANY ANTICIPATED OR LOST PROFITS OR INCIDENTAL, SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO PRODUCTS, SERVICES, AN ORDER OR ITS TERMINATION, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY UNDER WHICH DAMAGES ARE SOUGHT EXCEPT TO THE EXTENT EXPRESSLY PROVIDED IN SECTION 29 (TERMINATION) OF THESE TERMS. WITHOUT LIMITING THE FOREGOING, IWCO DIRECT’S LIABILITY FOR ANY CLAIM ARISING DIRECTLY OR INDIRECTLY UNDER OR IN CONNECTION WITH THE ORDER SHALL IN NO EVENT EXCEED THE PURCHASE PRICE OF THE PRODUCTS OR SERVICES SET FORTH ON THE FACE OF THE APPLICABLE ORDER GIVING RISE TO THE CLAIM. IWCO DIRECT SHALL HAVE NO LIABILITY FOR PENALTIES, LATE FEES, OR INTEREST OF ANY KIND.

- 24. CONFIDENTIALITY.** If the Parties have previously entered into a non-disclosure and confidentiality agreement (“NDA”) or another Superseding Agreement containing provisions of confidentiality and/or non-disclosure, then such agreements and their provisions shall take precedence over this Section 24, and their terms are expressly incorporated herein by reference, as if expressly made a part hereof. Except as otherwise specifically agreed by the Parties, Supplier shall regard and preserve as confidential and proprietary, all information related to the business of IWCO Direct and its Affiliates, and its customers and suppliers that may be obtained from any source as a result of an Order or any information which may otherwise be disclosed by IWCO Direct, its Affiliates, customers, or suppliers (“Confidential Information”). Supplier will take all precautions to prevent any such information from being divulged to any person for any purpose other than to perform its duties hereunder and agrees to require recipients of Confidential Information to acknowledge the confidential status of such information and agree to like restrictions on divulging any such information. Supplier will not copy such information without the prior written consent of IWCO Direct, nor disclose to any person, firm or enterprise, or use for its own benefit or for the benefit of another, any such information, including without limitation, pricing, methods, processes, business or financial data, lists, artwork, drawings, apparatus, specifications, technical data, statistics, research, programs, development, or any other information of IWCO Direct or the information of IWCO Direct’s customers or suppliers, concerning past, present, or future business activities of said entities. Supplier agrees to return all Confidential Information to IWCO Direct upon completion or termination of the Order to which the information relates or destroy such Confidential Information, and provide documentation certifying such destruction. Any information disclosed by Supplier to IWCO Direct in connection with the Order shall not be

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deemed to be confidential or proprietary information unless expressly labeled as such through a legend or other notice or marking to that effect, or which may otherwise be agreed to in writing by IWCO Direct. Supplier agrees any information or materials supplied by it which are inconsistent with the preceding sentence shall create no obligation on the part of IWCO Direct. Information presently in the public domain, or which is rightfully received by Supplier from a third party, or information which both IWCO Direct and Supplier agree in writing may be disclosed, shall not be considered Confidential Information. The terms of this Section 24 and the obligations of each Party hereunder shall survive indefinitely.

- 25. COMPLIANCE WITH APPLICABLE LAWS.** Supplier hereby certifies all Products and Services to be furnished hereunder will be manufactured and provided by Supplier in compliance with all applicable federal, state, county, and local laws, executive orders, rules, ordinances, codes and regulations (collectively, "Laws"). Without limiting the generality of the foregoing, and by way of example and not limitation, Supplier will comply with, the Immigration and Reform Control Act of 1986 (IRCA), the Telephone Consumer Protection Act of 1991 (TCPA), Health Insurance Portability and Accountability Act of 1996 (HIPAA), Gramm-Leach-Bliley Act of 1999 (GLBA), Consumer Product Safety Improvement Act of 2008 (CPSIA) and all other Laws applicable to Supplier's performance hereunder. Supplier shall take no action or make any omission that would cause IWCO Direct to fail to comply with any applicable Laws.
- 26. EQUAL OPPORTUNITY.** Supplier shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin. Moreover, these regulations require that prime contractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. To the extent applicable, the employee notice requirements set forth in 29 CFR Part 471, Appendix A to Subpart A, are hereby incorporated by reference into these Terms.
- 27. COMPLIANCE WITH POLICIES AND INSTRUCTIONS.** Supplier will comply with IWCO Direct policies and instructions applicable to the Services performed and made available to Supplier upon award of business
- 28. USE OF NAME, PUBLICITY.** Supplier shall not have any right to refer to or use the names, logos, trademarks, trade names, or other marks of IWCO Direct or its Affiliates in any releases for public dissemination, nor shall Supplier publicly divulge or use in any advertisement or publication any information pertaining to the Order or Supplier's relationship with IWCO Direct or its Affiliates, including information that Supplier has, is, or will furnish Products or Services to IWCO Direct; nor shall Supplier refer to IWCO Direct or its Affiliates in any sales materials, customer lists, or other documentation shared with any third party, whether publicly or on a confidential basis.
- 29. TERMINATION.** Upon written notice to Supplier, IWCO Direct may terminate an Order, or any part thereof, for any reason or no reason, for IWCO Direct's convenience, with or without cause, and without liability. Upon notice of termination, Supplier will immediately cease work on the terminated portion of the Order and cause its suppliers, subcontractors, or both, to immediately cease work in connection with the terminated portion of the Order. In the event of any termination of an Order by IWCO Direct, Supplier shall remain entitled to compensation hereunder, (i) prorated based on that portion of Products and/or Services accepted by IWCO Direct as of the effective date of termination; and (ii) subject to Section 23 (Limitation of Liability) of these Terms, for Supplier's actual, reasonable, and documented out-of-pocket costs incurred directly as a result of such termination, when such costs have been reasonably estimated within an Order or otherwise communicated to IWCO Direct in writing in advance. Notwithstanding the foregoing, if IWCO Direct has sustained, or otherwise incurred any damages, costs or expenses, including, but not limited to, the Indemnification Costs, in excess of any compensation to which Supplier would otherwise be entitled to, then, IWCO Direct shall be relieved, or otherwise absolved, from its obligation to pay Supplier any such compensation.
- 30. SURVIVAL.** Any provision of an Order or these Terms which contemplates performance or observance subsequent to termination or expiration of an Order (including, without limitation: warranty, infringement, confidentiality, dispute resolution, liability obligations and limitations, indemnification provisions, and those terms which by their nature are intended to survive), will survive termination or expiration of the applicable Order(s) and continue in full force and effect.
- 31. WAIVER.** No waiver or failure by IWCO Direct to exercise any option, right, or privilege under the terms of an Order or these Terms on any occasion shall be construed to be a waiver of the same or any other option, right, or privilege on any other occasion.
- 32. GOVERNING LAW AND VENUE.** These Terms and any Order hereunder shall be construed in accordance with, and governed by, the laws of the State of Minnesota excluding its conflict of laws principles and excluding (i) the Uniform Computer Information Transactions Act (UCITA) as enacted, amended, or modified by the various states; and (ii) the application of the UN Convention on Contracts for the International Sale of Goods (CISG). The Parties irrevocably and unconditionally consent to venue in the State of Minnesota and waive any claims of forum non-conveniens with respect to such venue and to the exclusive jurisdiction of competent Minnesota state courts or federal courts in the District of Minnesota sitting in Hennepin County for all litigation which may be brought with respect to the terms of, and the transactions and relationships contemplated by, these Terms and any Order hereunder. Notwithstanding, each Party waives its right to a jury trial in any court action arising among the Parties under this Agreement or otherwise related to this Agreement, whether made by claim, counterclaim, third-party claim, or otherwise. The prevailing Party in any such action or proceeding shall be entitled to recover from the non-prevailing Party its reasonable attorneys' fees, costs and expenses.

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- 33. DISPUTE RESOLUTION.** The Parties will make good faith efforts to resolve any disputes under this Agreement before pursuing litigation. During the pendency of any dispute, the Supplier will continue performance as required by these Terms and any Order hereof, unless IWCO Direct agrees otherwise in writing or terminates the Order or any applicable Services to which the dispute pertains. Neither Party will be obligated to adhere to the obligations in this Section when seeking injunctive relief.
- 34. RIGHT TO AUDIT.** Unless otherwise notified in writing by IWCO Direct, Supplier will maintain accurate and complete records relating to its provision of Products and Services hereunder for a period of five (5) years from the date of creation of the applicable record. Supplier agrees IWCO Direct, or its designee(s) may, upon no less than ten (10) business days' notice to Supplier, (i) examine the books and records of Supplier (and its subcontractors, if applicable) relating to Supplier's and any of its subcontractors performance hereunder, and/or (ii) verify the integrity of IWCO Direct's data and examine any systems Supplier uses to process, store, secure, support, and transmit such data (collectively, "Audit"). Supplier will cooperate fully and cause its subcontractors to cooperate fully with any such Audit and will provide all books, records, data, and other documentation reasonably requested by IWCO Direct, and which shall be permitted to make copies of the same. Audits will be conducted during normal business hours and at IWCO Direct's expense, provided however, that if an Audit reveals overcharges to IWCO Direct, Supplier will bear the cost of such Audit.
- 35. NON-EXCLUSIVITY AND ALTERNATIVE SOURCE.** Nothing in these Terms or any Order precludes IWCO Direct from obtaining any equipment, tools, hardware, software, products, goods, materials, and/or services, or any combination thereof (which may be similar or comparable to those Products and Services provided by Supplier), from an alternate source or from developing similar products or services, subject to Supplier's rights in and to its confidential information and intellectual property, if applicable.
- 36. NOTICES.** All notices, approvals, waivers, and other communications hereunder (other than routine operational communications) will be in writing and be deemed duly given (a) when delivered by hand, (b) two (2) business days after being given to an express courier with a reliable system for tracking delivery, or (c) five (5) business days after the date of mailing when mailed by United States first class mail, postage prepaid to the addresses of the parties outlined in the applicable Order; provided however that a copy of any Supplier-initiated notice to IWCO Direct of a materially important matter (such as the sale or insolvency of Supplier, or alleged breach of these Terms) will also be sent to:
- IWCO Direct
ATTN: Chief Supply Chain Officer
7951 Powers Blvd.
Chanhasen, MN 55317-9502
- An additional copy of all notices or other communications required to be given under this Agreement shall also be sent to IWCO Direct's attorneys' at the following address: Reed Smith LLP, 599 Lexington Avenue, New York, New York 10022: Attention: Joseph J. Tusso.
- Routine operational communications (which do not constitute legal notice) related to the administration and performance of the Order and these Terms, may be sent to the Parties using any contact information provided in the course of performance.
- 36. NO THIRD PARTY BENEFICIARIES.** Except as set forth herein, each applicable Order is for the sole benefit of the Parties hereto and their successors and permitted assigns and nothing herein express or implied shall give or be construed to give any person, entity, or organization other than the Parties hereto any legal or equitable rights hereunder.
- 37. ENTIRE AGREEMENT AND MODIFICATION; SEVERABILITY.** These Terms and each applicable Order constitute the entire agreement between the Parties with respect to the Products and Services described in each Order and supersedes all previous agreements, promises, proposals, representations, understandings and/or negotiations, whether written or verbal, between the Parties pertaining to the subject matter hereof, all of which are merged herein. Pursuant to Section 3 (Order Changes), no modification, amendment, or supplement to an Order or any provision of these Terms will be binding on the Parties unless made in writing and signed by a duly authorized representative of both Parties. Orders may not be supplemented, modified, or governed by any electronic agreement (e.g., shrink-wrap or click-through), online terms, or any confirmation, acknowledgement, printed materials, license key terms, or sales or shipping form presented by Supplier (e.g., Supplier purchase orders). Orders may be initiated and executed by electronic methods using IWCO Direct's designated electronic processes. If any term, provision or part of the Order or these Terms is held invalid, void, or unenforceable to any extent by a court of competent jurisdiction, then the remaining portions of the Order and the Terms will not be impaired or affected thereby, and each of the remaining terms, provisions, and parts will continue in full force and effect and will be valid and enforceable to the fullest extent permitted by law.
- 38. HEADINGS AND INTERPRETATION.** The section numbers and headings in these Terms are for reference only and shall in no way be construed to modify or restrict any of the terms or conditions herein or otherwise found within an Order. All Orders will be deemed to have been written by both Parties. Unless the context requires otherwise (i) the term 'including' (in any of its derivative forms) means 'including, but not limited to'; (ii) the term 'may' means 'has the right, but not the obligation to do something', and 'may not' means 'does not have the right to do something'; (iii) 'will' and 'shall' are expressions of command, not merely expressions of future intent or expectation; (iv) 'written' or 'in writing' is used for emphasis in certain circumstances, but shall not detract from the general application of the notice requirements outlined in the provision entitled 'Notices' in those and other circumstances; and (v) use of the singular imports the plural and vice versa.