

# PURCHASE ORDER

Date : 2020-12-03

P.O.No. : 4290000121

Amend : 1 ( 2022-12-28 )

Our order number must appear on all correspondence and documents.

**PURCHASE ORDER**

IMPORTANT : This order is subject to the provisions contained in the terms and conditions and requisition documents when attached hereto.

SHIPPING MARK  
 SK Battery America, Inc.

P.O.No :

Destination :

Package No :

<b>SFA ENGINEERING CO.,LTD.</b>		<b>Through (or CC.) :</b>	
<b>TO</b> :	38, Yeongcheon-ro, Hwaseong-si, Gyeonggi-do SFA ENGINEERING CO.,LTD.		
<b>PHONE</b> :	031-379-7512	<b>FAX</b> :	031-379-1769
<b>PHONE</b> :		<b>FAX</b> :	
<b>PAYMENT</b> :	T/T in Advance	<b>SHIPPING TERMS</b> :	DAP Jacksoncounty, commerce city, USA
<b>DESTINATION</b> :	USA PORT		
<b>OTHER CHARGE AMOUNT</b> :	USD 0		
<b>DELAY PENALTY</b> :	0%	<b>Allowance</b> :	0%

L/N	Code No.	Description	Chemical check	Unit	UnitPrice
ABC	Delivery Date			Quantity	Amount
1	JM00002883	/CONVEYOR SYSTEM, [SF][SKBA2][ , , , ][ ]	N1	SET	51,634,000
	2023-12-31			1	51,634,000
<b>Other Charge</b>				USD	0
<b>Total</b>		DAP Jacksoncounty, commerce city, USA			51,634,000

**FREIGHT FORWARDER :**

=====(PO Rev.1 '22.12.28)=====

1. PO Contract Price Change  
 - USD 48,510,000 USD 51,634,000 (additional scope/spec)

2. Payment Condition

1) USD 48,510,000  
 - 30% upon order (with related guarantee bond such as Advance payment bond)

- 60% after shipping (with B/L and Invoice etc.)
- 10% after installation (with User's acceptance report internally)

2) USD 3,124,000

- 100% after 2023.07.01 and after installation (with User's acceptance report internally)

3. Seller shall submit drawing(as Auto Cad file) of additional items by this PO change.

4. All intellectual property created by this PO change shall belong to Buyer. (except patent of Seller)

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1. Payment Condition

- 30% upon order (with related guarantee bond such as Advance payment bond)
- 60% after shipping (with B/L and Invoice etc.)
- 10% after installation (with User's acceptance report internally)

2. Shipping Terms : DAP

- Final delivery place : America, Jackson county plant, commerce city (1760 Steve Reynolds Industrial Parkway, Commerce, GA 30529)

3. Bank Information

The seller shall specify the bank information and HS code on the invoice.

4. Delivery date (It can be adjusted according to SK's request)

- Detail shipping schedules are supposed to discussed and arranged with the person who in charge of engineering. (shipping & delivery at site & commissioning)
- : FAT(Factory Acceptance Test) 2021. 5.1
- : FOB 2021.06.15
- : SAT(Site Acceptance Test) 2022.03.30
- : SOP 2022.05.31

5. The document for submission

- Advance payment Bond will be 30% of the order value and shall be submitted withing 30 days after PO issuing

6. Warranty

- This warranty shall be effective for eighteen (18) months after the delivery of the Product, or twelve(12) months after using the Product, which comes earlier.

7. Accordng to the Korea-USA FTA, please remark the origin declaration in the invoice and have to prepare for all document for tax free.

- If you don't submit the Certification of Origin(or related document) for [KOREA-US FTA] within one year from shipment, [Max.10%] of total purchasing amount will be deduct from Balance payment.

8. Contact point

- Engineering : Y. H. Park
- Payment : America office H. W. Shin +1-7705305960 | +1-7705305960)

**TERMS AND CONDITIONS OF PURCHASE**

These Terms apply when referenced by Buyer's purchase order, supply agreement or other documentation.

1. Offer; Acceptance; Exclusive Terms; Identity of Buyer. Each purchase order or purchase order revision (each, a "P.O.") issued by Buyer, pursuant to a supply agreement with the Buyer (each, a "Supply Agreement") or otherwise, is an offer to the seller identified on the order (the "Seller") for the purchase of goods (collectively, "Supplies") and includes and is governed by these Terms and Conditions of Purchase (collectively, "Terms"). The term "Order" as used in these Terms is defined as the collective set of documents identified in Section 3 below. When accepted, the Order supersedes all prior agreements, purchase orders, quotations, proposals and other communications regarding the Supplies covered by the Order, except that the documents provided by Buyer with the request for quote for the Supplies including, but not limited to, the drawings, data, technical information and statement of work (the "RFQ Documents") and a prior agreement signed by an authorized representative of Buyer (a "Prior Agreement", such as a Non-Disclosure Agreement (but not prior purchase orders for the same supplies)) will continue to apply as part of the Order. Seller accepts the Order, including these Terms, and forms a contract by doing any of the following: (a) commencing any work under the Order; (b) executing a Supply Agreement referencing these Terms or otherwise accepting the Order in writing; or (c) any other conduct that recognizes the existence of a contract with respect to the subject matter of the Order. The Order is limited to and conditional upon Seller's acceptance of these Terms exclusively. The Order does not constitute an acceptance of any offer or proposal made by Seller. Any reference in the Order to any offer or proposal made by Seller is solely to incorporate the description or specifications of Supplies in the prior proposal, but only to the extent that the description or specifications do not conflict with the description and specifications in the Order. Any additional or different terms proposed by Seller, whether in Seller's quotation, acknowledgement, invoice or otherwise, shall be deemed a material alteration of these Terms, and are hereby objected to and rejected by Buyer, provided, that any such proposal or attempted variance shall not operate as a rejection of this Order if Seller accepts Buyer's offer by commencement of work, shipment of the Supplies, acceptance of the Order in writing or by other means acceptable to Buyer, in which case this Order shall be deemed accepted by Seller without any additional or different terms or variations whatsoever. Any modification of these Terms must be expressly stated in the Order. Each Order can be modified only under Section 42. References herein to "including" shall be deemed to mean "including, but not limited to," or "including, without limitation" or such similar meaning.

2. Purchase Orders. (a) In the event Buyer and Seller have entered into a Supply Agreement, Buyer shall purchase Supplies from Seller from time to time pursuant to P.O.s specifying the quantity and delivery date of the Supplies. In the event Buyer and Seller have not entered into a Supply Agreement, any P.O. issued by Buyer to Seller referencing these Terms shall be governed by these Terms, including the provisions of this Section 2. (b) Upon receipt of a P.O., Seller shall notify Buyer of receipt of such P.O. through Buyer's Electronic Procurement System within three (3) business days from the day Seller receives the P.O. from Buyer in accordance with (a). (c) The Seller shall deliver the Supplies to the place designated by Buyer in accordance with the P.O.

3. Precedence of Documents. In the event of a conflict, the P.O. shall take precedence over these Terms. In the event Buyer and Seller have entered into a supply agreement referencing these Terms (a "Supply Agreement"), in the event of a conflict, the P.O. shall take precedence over the Supply Agreement, and the Supply Agreement shall take precedent over these Terms.

4. Time Period of Order. Unless Buyer and Seller agree otherwise, if Buyer does not accept a P.O. issued by Seller within a reasonable period, Seller is entitled to revoke the P.O.

5. Quantity; Delivery. (a) Any estimates or forecasts of production volumes provided to Seller in connection with this Order are subject to change from time to time, with or without notice to Seller, and shall not be binding upon Buyer. Unless otherwise expressly stated in the Order, Buyer makes no representation, warranty, guaranty or commitment of any kind or nature, whether express or implied, to Seller in respect of Buyer's quantitative requirements for the Supplies or the term of supply of the Supplies. (b) TIME AND QUANTITIES ARE OF THE ESSENCE UNDER THE ORDER. Seller agrees to 100% on-time delivery of the quantities and at the times specified by Buyer. Buyer shall charge liquidated damages at the rate specified in the P.O., or if such rate is not specified in the P.O., liquidated damages of 0.15 percent of the purchase price under the P.O. per

each day of delay, however in any case the total amount of liquidated damages payable shall not exceed 10% of the total value under the each P.O. Buyer may change the rate of scheduled shipments or direct temporary suspension of scheduled shipments, neither of which shall entitle Seller to modify the price for Supplies. In the event that delivery can be made earlier than the delivery date as specified in the relevant Order, Seller shall notify the Buyer in a timely manner of the possible adjustment in delivery date. Buyer at its sole discretion may, but in no event obligated to, accept early deliveries, late deliveries, partial deliveries or excess deliveries. Unless otherwise agreed in writing by Buyer, title and the risk of loss passes from Seller to Buyer upon delivery to Buyer's designated facility. (c) To assure the timely delivery of Supplies, Seller shall, upon written request from Buyer, manufacture Supplies in excess of each of Buyer's current P.O.s. to serve as a reserve for shipment, at such inventory reserve level as may be set by Buyer from time to time, to meet Buyer's requirements and to meet any unforeseen delays due to any reason whatsoever. Until such reserve Supplies are purchased by Buyer from Seller, they shall remain the property of Seller, and shall be held by Seller at its sole risk and expense. (d) Seller shall at all times maintain sufficient capacity to ensure the timely delivery of those quantities of Supplies ordered by Buyer. Changes in quantity including, but not limited to, variances from Buyer's estimates shall not entitle Seller to modify the price for Supplies.

6. Invoicing and Pricing: Freight. (a) The price to be paid by Buyer and stated on any P.O. shall not be increased unless specifically authorized in writing by issuance of a revised P.O. by Buyer. If price is omitted, it is agreed that the Supplies shall be billed at the price last quoted or paid by Buyer, or the prevailing market price at time of delivery, whichever is lower, unless otherwise specified. Except as expressly stated on the P.O., the price of Supplies stated on the P.O. is complete and includes storage, handling, packaging and all other expenses and charges of Seller, and no surcharges, premiums or other additional charges of any type shall be added without Buyer's express written consent. Unless otherwise stated in the P.O., Incoterms 2010 will apply to all shipments where applicable. Except as otherwise stated in the P.O., shipments of Supplies within the NAFTA region will be FCA destination point. Except as otherwise stated in the P.O., shipments of Supplies outside the NAFTA region will be DAP Buyer's designated facility at Seller's final production location, using transportation designated by Buyer. Seller assumes the risk of any event or cause affecting prices, including without limitation, foreign exchange rates, increases in raw material costs, inflation, increases in labor and other production and supply costs and any other event which impacts the price or availability of materials or supplies. (b) All invoices or related documents for the Supplies must reference the P.O. number, quantity of pieces in the shipment, number of cartons or containers in the shipment, bill of lading number, country of origin, Seller's name and address, consignee name and address, delivery name and address, currency and other information or coding required by Buyer with such information provided in the English language. No invoice or related documents may reference any term separate from or different than these Terms or the terms that appear on the face of any P.O. Buyer reserves the right to return all invoices or related documents submitted incorrectly. (c) The total price includes all duties and taxes. In addition, the Supplies may be exempt from sales taxes as further provided in Section 36. Buyer is not responsible for any business activity taxes, payroll taxes or taxes on Seller's income or assets. Seller shall pay all premium freight costs over normal freight costs if Seller needs to use an expedited shipping method to meet agreed delivery dates due to its own acts or omissions. Seller shall pay any costs incurred by Buyer as a result of Seller's failure to comply with shipping or delivery requirements. (d) Seller represents and warrants that the prices charged Buyer and stated on any P.O. are, and will remain, no less favorable to Buyer than any price which Seller presently, or in the future, offers to any other customer for the same or substantially similar goods for substantially similar quantities. If Seller offers a lower price for the same or substantially similar goods to any other customer during the term of the Order, then Seller shall immediately offer Buyer the same price as offered to Seller's other customer.

7. Packaging; Marking; Shipping; Disclosure; Special Warnings or Instructions. (a) Seller shall: (i) properly pack, mark, and ship Supplies in packaging approved by Buyer and otherwise according to the instructions and requirements of Buyer, the involved carriers and the country of destination; (ii) route the shipments according to Buyer's instructions including, without limitation, to third parties if so directed by Buyer; (iii) label or tag each package according to Buyer's instructions; (iv) provide papers with each shipment showing the (1) Order number, amendment or release number, (2) Buyer's part number, (3) Seller's part number (where applicable), number of pieces in the shipment, number of containers in the shipment, (4) Seller's name, address and number, (5) the bill of lading number, and (6) with respect to the Supplies contained in the shipment, any applicable export list information of applicable export lists and the ECCN (Export Control Classification Number) for US-goods (including technology and software) pursuant to the US Export Administration Regulations (EAR); and (v) promptly forward the original bill of lading or other shipment receipt for each shipment according to Buyer's instructions and carrier requirements. (b) Seller shall promptly provide Buyer with the following information in the form requested by Buyer: (i) a list of all ingredients in

Supplies; (ii) the amount of all ingredients, and (iii) information concerning any changes in or additions to the ingredients. Before and at the time Supplies are shipped, Seller shall give Buyer sufficient warning in writing (including appropriate labels on all Supplies, containers, and packing, including without limitation disposal and recycling instructions, material safety data sheets and certificates of analysis) of any hazardous or restricted material that is an ingredient or part of the Supplies, containers or packaging, together with any special handling instructions that are needed to advise carriers, Buyer, and their respective employees how to take appropriate measures while handling, transporting, processing, using or disposing of the Supplies, containers, and packing to best prevent bodily injury or property damage. Seller agrees to comply with all national, state, provincial, and local laws and regulations pertaining to product content and warning labels, including without limitation the U.S. Toxic Substances Control Act, European Union Directive 2000/53/EC, or any other laws as applicable. (c) Seller shall reimburse and indemnify Buyer for any liabilities, expenses and costs incurred as a result of improper packing, marking, routing, or shipping or any other noncompliance with the requirements of this Section. In no event will shipping documents attached to or contained in the shipment display pricing information or any of Buyer's proprietary information. (d) In addition to Seller's other requirements, Seller shall promptly respond to requests from Buyer relating to content, origin of content or otherwise relating to the Supplies or any information relating to conflicts minerals.

8. Customs; Related Matters. Credits or benefits resulting from the Order, including trade credits, export credits or the refund of duties, taxes, or fees, belong to Buyer. Seller shall provide all information and certificates (including FTA Certificates of Origin) necessary to permit Buyer to receive these benefits or credits. Seller agrees to fulfill any customs- or FTA-related obligations, origin marking or labeling requirements, and local content origin requirements, including by preparing, maintaining and, to the extent that that applicable law, regulation or customs authority requires it to do so, submitting to the applicable customs authorities, all information and documentation that is necessary to comply with the applicable customs and export and import requirements of each country from which the Supplies will be exported and each country into which they will be imported, and Seller shall comply with all other applicable customs requirements. Export licenses or authorizations necessary for the export of Supplies are Seller's responsibility unless otherwise stated in a P.O., in which case Seller shall provide the information necessary to enable Buyer to obtain the licenses or authorizations. Seller shall promptly notify Buyer in writing of any material or components used by Seller in fulfilling a P.O. that Seller purchases in a country other than the country in which the Supplies are delivered. Seller shall furnish any documentation and information necessary to establish the country of origin or to comply with the applicable country's rules of origin requirements. Seller shall promptly advise Buyer of any material or components imported into the country of origin and any duty included in the Supplies' purchase price. If Supplies are manufactured in a country other than the country in which Supplies are delivered, such country of origin shall be clearly marked. Seller shall provide to Buyer and the appropriate governmental agency the documentation necessary to determine the admissibility and the effect of entry of Supplies into the country in which Supplies are delivered. Seller warrants that any information that is supplied to Buyer about the import or export of Supplies is true and that all sales covered by the Order will be made at not less than fair value under the anti-dumping laws of the countries to which the Supplies are exported. To the extent any Supplies covered by this Order are to be imported into the United States of America, Seller shall comply with all applicable recommendations or requirements of the Bureau of Customs and Border Protection's Customs-Trade Partnership Against Terrorism ("C-TPAT") initiative. Upon request, Seller shall certify in writing its compliance with the C-TPAT initiative and shall provide any supporting documentation requested by Buyer and/or the Bureau of Customs and Border Protection. Seller shall notify Buyer in writing of any Supplies subject to U.S. export laws and regulations including any changes to local or NAFTA content, which in each case are subject to Buyer approval.

9. Inspection; Non-Conforming Goods/Services; Audit. Buyer may enter Seller's facility to inspect the facility, Supplies, materials, and any of Buyer's property related to the Order. Buyer's inspection of Supplies, whether during manufacture, prior to delivery, or within a reasonable time after delivery, does not constitute acceptance of any work-in-process or finished goods. For further clarification, Buyer may, but is not required to, inspect Supplies. Buyer's acceptance, inspection, or failure to inspect does not relieve Seller of any of its responsibilities or warranties. Nothing in the Order releases Seller from the obligation of testing, inspection and quality control. In case of quantity shortage, Buyer shall notify Seller within two (2) months after the receipt of the Supplies and Seller shall promptly deliver the deficiency. Buyer may withhold payment until the full quantity is delivered and Seller shall be liable for any and all damages incurred by Buyer due to the quantity shortage. If defective Supplies are shipped to and rejected by Buyer, the quantities under the relevant P.O. will be reduced unless Buyer otherwise notifies Seller. Buyer reserves the absolute right to reject and refuse or revoke acceptance of Supplies which are not in accordance with any instructions, specifications, drawings and data or not otherwise in accordance with Seller's warranties.

(express or implied) or these Terms. In addition to other remedies available to Buyer: (i) Seller agrees to accept return, at Seller's risk and expense at full invoice price, plus transportation charges, and to promptly repair or replace defective Supplies as Buyer deems necessary upon notice from Buyer; and/or (ii) Seller shall reimburse Buyer for all reasonable expenses that result from any rejection or correction of defective Supplies, including without limitation sorting by Buyer of defective Supplies or destruction of defective of defective Supplies. Payment for nonconforming Supplies is not an acceptance, does not limit or impair Buyer's right to assert any legal or equitable remedy, and does not relieve Seller's responsibility for latent or other defects. Upon reasonable written notice to Seller, Buyer may conduct audits at Seller's production facility for the purpose of quality, cost or delivery verification, and may conduct audits of Seller's records to ensure Supplier's compliance with the provisions hereof. Supplier agrees to provide Buyer with all information and documentation Buyer may reasonably request to perform such audits. Seller shall ensure that the terms of its contracts with its sub-suppliers and subcontractors provide Buyer with all of the rights specified in this Section.

10. Payment. Buyer shall pay for Supplies on the payment terms stated in the relevant P.O., if any. If no discount or due date is indicated in the relevant P.O., payment shall be made within ninety (90) days after receipt and acceptance of the Supplies under the P.O. Buyer may withhold payment pending receipt of evidence, in the form and detail requested by Buyer, of the absence of any liens, encumbrances, or claims on Supplies provided under the P.O. Payment will be made in the currency expressly stated in the Order; if no such currency is noted, payment will be made in U.S. Dollars. Payment will be made by bank transfer or by check mailed on or before the due date unless otherwise expressly agreed by Buyer, and Seller agrees to accept payment by electronic funds transfer.

11. Changes; Product Termination. (a) Buyer reserves the right at any time, by written notice to Seller, to make changes, or to require Seller to make changes, to drawings, specifications, sub-suppliers, subcontractors, samples or descriptions of Supplies. Buyer also reserves the right to otherwise change the scope of the work covered by the Order, including work with respect to such matters as inspection, testing or quality control. Buyer may also direct the supply of raw materials from itself or from third parties. Seller shall promptly make any such requested change. In order for Seller to request a reasonable difference in price or time for performance as a result of such a change, Seller must notify Buyer of its request in writing within ten days after receiving written notice of the change. Buyer can request additional documentation from Seller relating to any change in specifications, price or time for performance. After receiving all requested documentation, Buyer may, in its sole discretion, equitably adjust the price or time for performance. If Seller does not provide timely written notice to Buyer that a requested change may result in a difference in price or time for performance, Buyer's requested change will not affect the price or time for performance. (b) Seller shall not make any change relating to Supplies (each, a "Supply Change"), including without limitation, in the Supplies' contents, design, specifications, processing, packing, marking, shipping, price or date or place of delivery, except at Buyer's written instruction or with Buyer's written approval. Such prohibited Supply Changes include, without limitation, changing (i) any sub-supplier or subcontractor to Seller of the services, raw materials or goods used by Seller in connection with its performance under the Order, (ii) any facility from which Seller and/or any such sub-supplier or subcontractor operates and that relates in any way to the Supplies, or to services, raw materials or goods used by Seller in connection with performance under the Order, (iii) the price of any Supplies covered by the Order, (iv) the nature, type or quality of any services, raw materials or goods used by Seller or its third party sub-suppliers or sub-contractors in connection with the Order, (v) the fit, form, function, appearance or performance of any Supplies covered by the Order, or (vi) the production method, or any process or software, or any production equipment used in the production or provision of, or as part of, any Supplies under the Order. Any changes by Seller to any P.O. or to the Supplies covered by the Order without the prior written approval of an authorized representative of Buyer shall constitute a breach of the Order. Seller shall submit any request for a Supply Change at least six (6) months prior to the proposed effective date of such Supply Change. Each such request for a Supply Change shall set forth the product identification numbers for each type of Supply to be affected by the proposed Supply Change. In connection with Buyer's consideration of any request for a Supply Change, Buyer shall be entitled to request from Seller, and Seller shall submit upon request, relevant documentation related to such proposed Supply Change, including, without limitation, samples of Supplies and quality reports.

12. Supply Discontinuance. Seller shall not discontinue the manufacture of any Supplies to be furnished hereunder during the term of the Order without the prior written consent of the Buyer. In the event Seller desires to terminate the manufacture of any Supplies, Seller shall give Buyer at least twelve (12) months prior written notice of its intent to discontinue the manufacture of any goods furnished to Seller as Supplies hereunder. In the event Buyer approves the discontinuance of the manufacture of

any of the Supplies by Seller, Buyer may, at its option: (i) continue to purchase Supplies until the effective date of such discontinuance in accordance with the terms of this Order, and/or (ii) make a final purchase of some or all of the Supplies in such quantities as Buyers desire; under the same terms as set forth in this Order (a Final Purchase ). In the event Buyer desire to makes a Final Purchase in accordance with this Section 12, Buyer shall provide a forecast of the anticipated quantity of Supplies it expects to purchase as part of the Final Purchase. Upon receipt of such forecast, Seller shall reserve the forecasted quantity of Supplies to be purchased by Buyer as part of the Final Purchase in its inventory until Buyer issues a P.O. for such Supplies as part of the Final Purchase.

13. Warranties. (a) Seller expressly warrants and guarantees to Buyer, to Buyer's successors and assigns, and to users of Buyer's products, that all Supplies delivered or provided to Buyer shall: (i) be competitive in terms of price, quality, delivery and technology, and conform to any specifications, standards, drawings, samples, descriptions and revisions as furnished to or by Buyer; (ii) conform to all applicable laws, orders, regulations and standards in countries where Supplies are to be sold; (iii) be merchantable and free of defects in design (to the extent designed by Seller or any of its subcontractors, agents or sub-suppliers, even if the design has been approved by Buyer), materials and workmanship; (iv) be selected, designed (to the extent designed by Seller or any of its subcontractors, agents or sub-suppliers, even if the design has been approved by Buyer), manufactured and assembled by Seller based upon Buyer's stated use and be fit and sufficient for the purposes intended by Buyer, and (v) be free of all liens, claims and encumbrances whatsoever. Seller further expressly warrants that, unless otherwise expressly stated in the relevant P.O., the Supplies are newly manufactured entirely with new materials, none of the Supplies is, in whole or in part, governmental or commercial surplus, and the Supplies are free from latent defects or conditions that would give rise to a defect regardless of whether the defect or condition was known or discoverable during the warranty period. These warranties are intended to provide Buyer with protection from any and all warranty claims brought against Buyer by its customers or its customers' end-users. The foregoing warranties are in addition to those available to Buyer by law. (b) Seller expressly warrants that all manufacturing, packaging and any other work carried out in connection with the Supplies shall be undertaken in compliance with all applicable laws, rules and regulations of the country where the Supplies are sold or used. (c) The warranties set forth herein shall remain in effect for a period beginning on the date when the Supplies are accepted by Buyer and expiring on the later of (i) three (3) years from the date of such acceptance of the Supplies; (ii) the expiration of the warranty period provided by applicable law; (iii) four (4) years from the date the Supplies have been used by Buyer to manufacture its products, provided that such manufacturing date falls within the three (3) year period specified in (i); or (iv) eight (8) years from the date the Supplies as used to manufacture the product by Buyer are assembled within the vehicles, provided that such assembly date falls within the three (3) year period specified in (i). (d) Seller shall maintain a quality control system that is in compliance with any available inspection protocol and standards that meet the Buyer's requirements, and shall comply with the requirements thereof. (e) Seller shall immediately notify Buyer in writing when it becomes aware of any ingredient, component, design or defect in Supplies that is or may become harmful to persons or property. (g) Buyer's approval of any design, drawing, material, process or specifications will not relieve Seller of these warranties. (h) The following communications shall each constitute notice of a breach of warranty under the Order: (i) any written communication specifying a defect, default, claim of defect or other problem or quality issue of the Supplies provided under the Order; (ii) any written communication to Seller claiming that the Supplies are in breach of any warranty or that Seller is in default under the Order; and (iii) a written termination notice from Buyer under Section 20. Any such claim by Buyer of breach may only be rescinded in writing by an authorized representative of Buyer.

14. Supplier Standards, Quality and Development; Required Programs. (a) Seller shall conform to Buyer's quality control and other standards and inspection systems, including, without limitation, the delivery specifications as applicable. Seller shall also participate in supplier quality and development programs of Buyer. (b) If the Supplies (i) fail to meet the quality standards under Buyer's delivery specifications; or (ii) fail to meet the equivalent level of quality standards of the other qualified Supplies, Buyer may set up a separate quality improvement plan which (i) shall define the required areas of improvement for the Supplies or Seller work in relation to the Supplies, and shall set out an index and target level of standard for quality improvement for the next three month period; (ii) shall terminate if the Supplies reach the agreed target level within the three month period; and (iii) if the Supplies do not reach the agreed target level within the three month period, Buyer may cancel any purchase orders for which delivery is pending, and Buyer shall bear no liability the Supplies that are cancelled as such. Parties shall agree on the details to included within the buyer's quality improvement plan. For the avoidance of doubt, mere establishment of a quality improvement plan by Buyer shall not absolve the Seller of other warranty obligations under this Agreement. (c) Seller shall maintain adequate development, validation, launch and ongoing supervision to assure all Supplies

provided to Buyer conform to all applicable warranties and other provisions of the Order. (d) Seller shall ensure that all its subcontractors and sub-suppliers of goods or services comply with the provisions of this Section.

15. Remedies. The rights and remedies reserved to Buyer in the Order will be cumulative with and in addition to all other legal or equitable remedies. Seller shall reimburse Buyer for any incidental, consequential or other damages (including lost profits, lost fees, lost business, loss of use and costs associated with business interruptions) arising out of Seller's breach of the Order or of any nonconforming or defective Supplies, including without limitation costs, expenses and losses incurred directly or indirectly by Buyer: (i) in inspecting, sorting, storing, reworking, repairing or replacing the nonconforming Supplies; (ii) resulting from production interruptions; (iii) conducting recall campaigns, customer field service actions or other corrective service actions; or (iv) resulting from personal injury (including death) or property damage. Buyer's damages include without limitation reasonable attorneys' fees and other professional fees, settlements and judgments incurred by Buyer and other costs associated with Buyer's administrative time, labor and materials. In the event Buyer submits a claim for reimbursement pursuant to this Section 15, Seller shall have twenty (20) days in which to object to such claim in writing. In the event Buyer does not receive a written objection from Seller within twenty (20) days, such claim for reimbursement shall be deemed to be accepted by Seller and the amounts set forth to be paid by Seller in such claim shall be due and payable to Buyer. If requested by Buyer, Seller shall enter into a separate agreement for the administration or processing of warranty charge-backs for nonconforming Supplies, and will participate in and comply with warranty reduction or related programs of Buyer that relate to the Supplies. In any action brought by Buyer to enforce Seller's obligations in connection with the production or delivery of Supplies, or for possession of property, Seller acknowledges and agrees that monetary damages are not a sufficient remedy for any actual, anticipatory or threatened breach of the Order and that, in addition to all other rights and remedies that Buyer may have, Buyer shall be entitled to specific performance and injunctive equitable relief as a remedy for any such breach, plus Buyer's reasonable attorneys' fees.

16. Compliance with Laws; Ethics. (a) Seller, including all Seller personnel, sub-suppliers, subcontractors, and affiliates, and any Supplies supplied by Seller, are in compliance with and will comply with all applicable laws, including rules, regulations, orders, conventions, ordinances and standards, including without limitation (i) in relation to the manufacture, labeling, transport, import, export, licensing, permitting, approval or certification of the Supplies, and (ii) laws relating to environmental matters, hiring, wages, hours and conditions of employment, immigration, worker documentation and permits, international prohibitions on child labor, sub-supplier or subcontractor selection, discrimination, occupational health or safety, and motor vehicle safety. The Order incorporates by reference all clauses required by these laws. (b) All materials used by Seller in the Supplies or in their manufacture will satisfy current governmental and safety constraints on restricted, toxic and hazardous materials as well as environmental, electrical and electromagnetic considerations that apply to the country of manufacture, sale or destination. (c) Seller and its employees, sub-suppliers and subcontractors will abide by the highest ethical standards. Neither Seller nor any of its personnel, sub-suppliers, subcontractors or affiliates will utilize slave, child, prisoner or any other form of forced, involuntary or illegal labor, or engage in abusive worker treatment or corrupt business practices in the sale of Supplies under these Terms. At Buyer's request, Seller shall certify Seller's and its sub-suppliers', subcontractors' and affiliates' compliance with the foregoing and Buyer reserves the right to check at any time the qualifications and performance of any personnel of Seller or its subcontractors.

17. Indemnification. (a) To the fullest extent permitted by law, (i) Seller hereby assumes the entire, sole responsibility for any injury to person, including death, or damage to property of any kind or nature caused by, resulting from or in connection with the furnishing of Supplies by Seller, its affiliates and its or their sub-suppliers, subcontractors, officers, agents or employees; (ii) Buyer shall not be responsible for any injury to person (including death) or damage to property resulting from Seller's possession, use, misuse or failure of any Buyer's property or other property furnished to Seller by Buyer, and the use of any such property by Seller shall constitute acceptance by Seller of all responsibility for any claims for such injury or damage, and (iii) Seller shall defend, indemnify and hold harmless Buyer, its customers and users of the products sold by Buyer and all of their respective agents, customers, invitees, subsidiaries, affiliates, successors and assigns, against all damages, losses, claims, liabilities and expenses (including reasonable attorneys' and other professional fees, settlements and judgments) arising out of or resulting from (a)(i) or (ii) or otherwise from any defective Supplies, or from any negligent or wrongful act or omission of Seller or Seller's agents, employees, sub-suppliers or subcontractors, or any breach or failure by Seller to comply with any of Seller's representations or other terms and conditions of the Order (including any part of these Terms or the requirements of the PPAP or ISIR) including, without limitation, the cost of recall campaigns, Buyer field service actions or



other corrective service actions that, in Buyer's reasonable judgment, are required because of nonconformities in some or all of the Supplies provided by Seller hereunder, and including without limitation interim set-offs or charges (such as interim field service action cost recovery debits) attributable to Supplies but subject to adjustment based on final determination of whether and to what extent the damages, losses, claims, demands, liabilities and expenses were attributable to defects or other failures of Supplies or Seller to comply with its obligations under the Order. Seller's obligation to defend and indemnify under this Section will apply regardless of whether the claim arises in tort, negligence, contract, warranty, strict liability or otherwise except for claims that arise as a result of the sole negligence of Buyer. Buyer has the right to be represented by and actively participate through its own counsel in the defense and resolution of any indemnification matters, at Seller's expense. The indemnification obligations of Seller, including, but not limited to, under this Section, are independent of and in addition to any insurance and warranty obligations of Seller. (b) If Seller performs any work on Buyer's premises or utilizes the property of Buyer, whether on or off Buyer's premises: (i) Seller shall examine the premises and property to determine whether they are safe for the requested work and will advise Buyer promptly of any situation it deems to be unsafe; (ii) Seller's employees, sub-suppliers, subcontractors, and agents will comply with all laws and regulations that apply to the premises and property and may be removed from Buyer's premises at Buyer's discretion; (iii) Seller's employees, sub-suppliers, subcontractors, and agents will not possess, use, sell, transfer or be under the influence of alcohol or unauthorized, illegal, or controlled drugs or substances on the premises or while using the property; and (iv) to the fullest extent permitted by law, Seller shall defend, indemnify and hold harmless Buyer and its agents, customers, invitees, subsidiaries, affiliates, successors and assigns, against all damages, losses, claims, demands, liabilities and expenses (including reasonable attorneys' and other professional fees, settlements and judgments) arising out of or resulting from damages to the property of or personal injuries (including death) to Buyer, its employees or agents, or any other person or entity to the extent arising from or in connection with Seller's work on the premises or Seller's use of Buyer's property, except for any liability, claim or demand arising out of the sole negligence of Buyer.

18. Insurance. Seller shall, at its own cost and expense, obtain and maintain in full force and effect, insurances during the entire Term of this Agreement and for a reasonable period following the termination or expiration of this Agreement. Seller shall furnish certificates of insurance provide such certificates to Buyer upon the request of Buyer.

19. Financial Review; Insolvency. (a) to the extent deemed necessary by Buyer, Buyer or a third party designated by Buyer may at any time review the financial condition of Seller and its affiliates, and Seller shall fully cooperate in such review and will promptly provide copies of or access to requested documents, including, without limitation, financial records and statements, forecasts, business plans, banking contacts and loan documents, and will make its financial managers available for discussions during reasonable business hours. Buyer and any designated third party will keep confidential in accordance with these Terms any confidential information about Seller obtained in a financial review and use such information only for purposes of the review, except as needed to enforce any order or agreement. (b) The Order may be terminated immediately by Buyer without liability to Seller if any of the following or comparable events occur, and without limiting Buyer's rights and remedies, Seller shall reimburse Buyer for all costs incurred by Buyer in connection with any of the following, including without limitation attorneys' and other professional fees: (i) Seller becomes insolvent; (ii) Seller files a voluntary petition in bankruptcy; (iii) an involuntary petition in bankruptcy is filed against Seller; (iv) a receiver or trustee is appointed for Seller; (v) Seller needs accommodations from Buyer, financial or otherwise, in order to meet its obligations under the Order; (vi) Seller executes an assignment for the benefit of creditors; or (vii) Seller is unable promptly to provide Buyer with adequate reasonable assurance of Seller's financial capability to perform any of Seller's obligations under the Order on a timely basis. In the event that this Order is not terminated in accordance with the immediately preceding sentence, upon the occurrence of an event described in the immediately preceding sentence, Buyer may make equitable adjustments in the price, payment terms, and/or delivery requirements under this Order as Buyer deems appropriate to address the change in Seller's circumstances, including Seller's continuing ability to perform its obligations regarding warranty, nonconforming Supplies or other requirements under this Order. (c) Seller agrees that if Seller experiences any delivery or operational problems, Buyer may, but is not required to, designate one or more representatives to be present in Seller's applicable facility to observe Seller's operations. Seller agrees that if Buyer provides to Seller any accommodations (financial or other) that are necessary for Seller to fulfill its obligations under this Order, Seller shall reimburse Buyer for all costs, including attorneys' and other professionals' fees, incurred by Buyer in connection with such accommodation and will grant access to Buyer to use Seller's premises and machinery, equipment, and other property necessary for the production of the Supplies covered by this Order.

20. Termination for Breach or Nonperformance. (a) Buyer may terminate all or any part of the Order, without liability to Seller, if Seller: (i) repudiates, breaches or threatens to breach any of the terms of the Order (including without limitation Seller's warranties); (ii) fails or threatens not to deliver Supplies or perform services in connection with the Order; (iii) fails to make progress or to meet reasonable quality requirements so as to endanger timely and proper completion or delivery of Supplies and does not correct the failure or breach within 10 days (or such shorter period of time if commercially reasonable under the circumstances) after receipt of written notice from Buyer specifying the failure or breach; (iv) enters or offers to enter into a transaction that includes a sale of a substantial portion of its assets used for the production of Supplies for Buyer or a merger, sale or exchange of stock or other equity interests that would result in a change in control of Seller without the prior written consent of Buyer, or (v) fails to remain competitive with respect to quality, technology, delivery, service or pricing of the Supplies. Seller shall notify Buyer within ten days after entering into any negotiations that could lead to the situation specified in subsection (iv) above, provided that upon Seller's request, Buyer shall enter into an appropriate nondisclosure agreement related to information disclosed to Buyer in relation to such transaction. Seller may not suspend performance of the Order or terminate the Order for any reason.

21. Termination for Convenience. In addition to any other rights of Buyer to cancel or terminate the Order, Buyer may, at its option and in its sole discretion, immediately terminate all or any part of the Order at any time and for any reason upon written notice to Seller. Upon receipt of written notice of termination, and unless otherwise directed by Buyer, Seller shall: (a) promptly terminate all work under the Order on the effective date of termination; (b) transfer title and deliver to Buyer the finished Supplies, the work in process, and the parts and materials that Seller reasonably produced or acquired according to quantities ordered by Buyer and that Seller cannot use in producing goods for itself or for others; (c) take actions reasonably necessary to protect property in Seller's possession in which Buyer has an interest until disposal instruction from Buyer has been received; and (d) upon Buyer's request, cooperate with Buyer in transferring the production of Supplies to a different supplier, including as described in Section 22. Upon termination by Buyer under this Section, Buyer shall be obligated to pay only the following without duplication as Seller's sole and exclusive remedy: (i) the price for all finished Supplies in the quantities ordered by Buyer that conform to the Order and the relevant P.O. for which Seller has not been paid; (ii) Seller's reasonable actual cost of merchantable and useable work-in-process and the parts and materials transferred to Buyer under part (b) above; (iii) Seller's reasonable actual cost of carrying out its obligation under subsection (d), and (iv) if applicable, amounts due in connection with Transition Support under Section 22(b). Notwithstanding any other provision, Buyer shall have no further liability to Seller and without limiting the generality of the foregoing, Buyer shall have no obligation for and will not be required to pay Seller, directly or on account of claims by Seller's sub-suppliers or subcontractors, for loss of anticipated profit, lost fees, lost business, loss of use, costs associated with business interruptions, unabsorbed overhead, interest on claims, product development and engineering costs, facilities and equipment rearrangement costs or rental, unamortized capital or depreciation costs, finished goods, work-in-process or raw materials that Seller fabricates or procures, or general administrative burden charges from termination of the Order, except as otherwise expressly agreed to in writing by Buyer. Buyer's obligation upon termination under this Section will not exceed the obligation Buyer would have had to Seller in the absence of termination. Seller shall furnish to Buyer, within one month after the date of termination, its termination claim, which will consist exclusively of the items of Buyer's obligation to Seller that are expressly permitted by this Section. Buyer may audit Seller's records before or after payment to verify amounts requested in Seller's termination claim. Buyer shall have no obligation for payment to Seller under this Section if Buyer terminates the Order or portion thereof because of a default or breach by Seller including under Section 20 or Section 23, and any termination shall be without prejudice to any claims which Buyer may have against Seller. Buyer shall have no responsibility under any circumstances, and Seller shall not assert any claim for, loss of profits or consequential damages.

22. Transition of Supply. (a) In connection with the expiration or termination of the Order by either party, in whole or in part, for any or no cause, or Buyer's decision to change to an alternate source of Supplies (including but not limited to a Buyer-owned or -operated facility) ("Alternative Supplier"), Seller shall cooperate in the transition of supply, including the following: (i) Seller shall continue production and delivery of all Supplies as ordered by Buyer, at the prices and other terms stated in the Order (including the relevant P.O.), without premium or other condition, during the entire period reasonably needed by Buyer to complete the transition to the Alternate Supplier(s) including, at Buyer's request, providing a sufficient bank of Supplies covered by the Order, such that Seller's action or inaction causes no interruption in Buyer's ability to obtain Supplies as needed; (ii) at no cost to Buyer, Seller (A) will promptly provide all requested information and documentation regarding and access to Seller's manufacturing process, including on-site inspections, bill-of-material data, Tooling and process detail and

samples of Supplies and components, (B) will provide all notices necessary or desirable for Buyer to resource the Order to an alternative supplier, (C) when requested by Buyer, will return to Buyer all Buyer's Property in as good condition as when received by Seller (reasonable wear and tear excepted); and (D) will comply with Seller's obligations relating to Seller's Property in Section 27 and in relation to subcontracts; and (iii) subject to Seller's reasonable capacity constraints, Seller shall provide special overtime production, storage and/or management of extra inventory of Supplies, extraordinary packaging and transportation and other special services (collectively, "Transition Support") as expressly requested by Buyer in writing. (b) If the transition occurs for reasons other than Seller's termination or breach, Buyer shall, at the end of the transition period, pay the reasonable, actual cost of Transition Support as requested and incurred, provided that Seller has advised Buyer prior to incurring such amounts of its estimate of such costs. If the parties disagree on the cost of Transition Support, Buyer shall pay the agreed portion to Seller and pay the disputed portion into third-party escrow for disbursement by arbitration.

23. Force Majeure. Any delay or failure of either party to perform its obligations will be excused if and to the extent that the party is unable to perform due to an event or occurrence beyond its reasonable control and without its fault or negligence, such as: acts of God; restrictions, prohibitions, priorities or allocations imposed or actions taken by a governmental authority (whether valid or invalid); embargoes; fires; floods, earthquakes, explosions; natural disasters; riots; wars; sabotage; or court injunction or order. Seller's inability to perform as a result of, or delays caused by, Seller's insolvency or lack of financial resources is deemed to be within Seller's control. The change in cost or availability of materials or components based on market conditions, supplier actions, or contract disputes or any labor strike or other labor disruption applicable to Seller or any of its subcontractors or sub-suppliers, will not excuse Seller's performance (under theories of force majeure, commercial impracticability or otherwise), and Seller assumes these risks. As soon as possible (but no more than one full business day) after the occurrence, Seller shall provide written notice describing such delay and assuring Buyer of the anticipated duration of the delay and the time that the delay will be cured. During the delay or failure to perform by Seller, Buyer may at its option: (a) purchase Supplies from other sources and reduce its schedules to Seller by such quantities, without liability to Seller; (b) require Seller to deliver to Buyer at Buyer's expense all finished goods, work in process and parts and materials produced or acquired for work under the Order; and/or (c) have Seller provide Supplies from other sources in quantities and at a time requested by Buyer and at the price set forth in the Order. In addition, Seller shall provide advance written notice of any anticipated labor disruption or expiration of any of Seller's labor contracts, and Seller at its expense will take all necessary actions to ensure the supply of Supplies to Buyer for a period of at least thirty (30) days during any anticipated labor disruption or resulting from the expiration of any of Seller's labor contracts. If upon request of Buyer, Seller fails to provide within ten (10) days (or such shorter period as Buyer requires) adequate assurance that any delay will not exceed thirty (30) days, or if any delay lasts longer than thirty (30) days, Buyer may terminate the Order without liability and Seller shall reimburse Buyer for costs associated with the termination.

24. Technology. (a) All Supplies, Tooling (as defined below), and all other deliverables, data, inventions (whether or not patentable), industrial designs, technical information, know-how, processes of manufacture and other intellectual property and information created, developed, conceived or first reduced to practice by or on behalf of Seller (including, without limitation, by any person or entity employed or hired by or working under the direction of Seller) or acquired by Seller under this Order, and for which Buyer has agreed to reimburse Seller, along with all intellectual property rights relating thereto, are the sole and exclusive property of Buyer upon payment. Seller shall promptly disclose in an acceptable form and assign to Buyer all such deliverables, data, inventions (whether or not patentable), industrial designs, technical information, know-how, processes of manufacture and other intellectual property and information. Seller shall cause its employees to sign any papers necessary to enable Buyer to file applications for patents throughout the world and to record rights in and to such intellectual property. To the extent that such intellectual property includes any works of authorship (including, without limitation, software) created by or on behalf of Seller, such works shall be considered "works made for hire", and to the extent that such works do not qualify as "works made for hire," Seller hereby assigns to Buyer all right, title, and interest in all copyrights and moral rights therein. (b) Seller acknowledges and agrees that Buyer and Buyer's subcontractor(s) (including their affiliates and subcontractors) have a worldwide, irrevocable right to repair, reconstruct or rebuild, and to have repaired, reconstructed or rebuilt, Supplies delivered under this Order without payment of any royalty or other compensation to Seller. (c) Seller hereby grants to Buyer, its subsidiaries and affiliates, and their respective successors and assigns, and Buyer hereby accepts, a non-exclusive, irrevocable, worldwide license, including the right to sublicense to others in connection with providing the Supplies to Buyer under: (i) patents, industrial designs, technical information, know-how, processes of manufacture and other intellectual property, owned or controlled by Seller or its affiliates, and relating to the Supplies, to make, have made, repair, reconstruct,

rebuild, relocate, use, sell, offer to sell and import the Supplies, and (ii) any works of authorship fixed in any tangible medium of expression (including, without limitation, drawings, prints, manuals and specifications) furnished by Seller in the course of Seller's activity under this Order, to reproduce, distribute, and display such works, and to prepare derivative works based thereon, subject to the other provisions of this Order (all items in clauses (c)(i) and (ii) above, collectively, "Seller's Intellectual Property", and such license in respect thereof, the "License"). Except as provided for below, Buyer agrees to pay to Seller a reasonable royalty for the License, and Seller acknowledges such reasonable royalty shall be deemed to be included in the prices paid by Buyer for such Supplies, and thereafter the License shall be deemed to be royalty free and fully paid-up. Buyer and Seller acknowledge and agree that the License granted and accepted under this subsection 24(c) shall take immediate effect (if not already in effect) in the event that: (A) a P.O. for Supplies is terminated by Buyer, and/or (B) in the event that Seller for any reason is unable to satisfy the quality, quantity, delivery or related requirements of Buyer for Supplies under a P.O. and Buyer resources the Supplies, and in each case, the License shall survive the events in (A) or (B) including termination of the Order and continue (even beyond the License Period) until terminated by Buyer and shall be deemed fully paid up and royalty-free except as provided in the next sentence. In the event that Buyer terminates the Order prior to the end of the License Period (except in the case where Buyer terminates the Order due to a breach by Seller), Buyer shall pay an additional amount to Seller as a royalty during the License Period (or earlier termination date if Buyer terminates the License prior to the end of License Period) and Buyer and Seller shall negotiate a commercially reasonable amount for such royalty. (d) Rights under this Section 24 are intended to be subject to 11 USC Section 365(n) or any other law as applicable, as an executory agreement, including the License under which Buyer has license rights to Seller's Intellectual Property, and are supplementary to any other rights of Buyer under existing Orders and any other agreements with Seller. Seller shall ensure that all of its sub-suppliers and subcontractors are bound by terms and conditions of this Section 24. (e) All Supplies or other deliverables provided under this Order (including, for example, computer programs, technical specifications, documentation and manuals), shall be original to Seller and shall not incorporate, or infringe upon, any intellectual property rights (including, without limitation, copyright, patent, trade secret, mask work or trademark rights) of any third party, unless otherwise expressly agreed to in writing on behalf of Buyer by an authorized representative of Buyer. (f) Seller agrees: (i) to defend, hold harmless and indemnify Buyer, its successors and assigns against any suit, claim or action for actual or alleged direct or contributory infringement of or inducement to infringe any proprietary right (including any patent, trademark, copyright, moral, industrial design right or other proprietary right or misuse or misappropriation of trade secret) and against any resulting damages or expenses (including attorney's and other professional fees, settlements and judgments) arising in any way in relation to Supplies covered by this Order (including without limitation their manufacture, purchase, use and/or sale), including such claims where Seller has provided only part of Supplies, and Seller expressly waives any claim against Buyer that such infringement arose out of compliance with Buyer's specifications, (ii) to waive any claim against Buyer, including any hold-harmless or similar claim, in any way related to a third-party claim asserted against Buyer for infringement of any proprietary right (including any patent, trademark, copyright, moral, industrial design right or other proprietary right or misuse or misappropriation of trade secret), including claims arising out of specifications furnished by Buyer, and (iii) that if the sale or use of the Supplies is enjoined or, in Buyer's sole judgment, is likely to be enjoined, Seller shall, at Buyer's election and Seller's sole expense, procure for Buyer to right to continue using the Supplies, replace the same with equivalent non-infringing goods or modify such Supplies so they become non-infringing.

25. Buyer's Property. (a) Any information and materials, including without limitation, tooling, packaging, documents, standards, designs, drawings, specifications, samples, trade secrets, manufacturing processes, marketing and pricing data, proprietary information, intellectual property rights and other materials and items (including whether or not such materials are in any way modified, altered or processed) furnished by Buyer either directly or indirectly to Seller to perform the Order, along with any and all Supplies, tooling, deliverables, data, and intellectual property rights under Section 24(a), for which Buyer has agreed to reimburse or has reimbursed Seller, shall be and remain the sole and exclusive property of Buyer (collectively, "Buyer's Property"), provided that Buyer shall become the owner of any item of tooling upon payment for such item of tooling. Any and all goods manufactured by Seller using Buyer's Property may not be used for Seller's own use or manufactured or provided to third parties without Buyer's express written authorization. (b) Buyer does not guarantee the accuracy of, or the availability or suitability of, Buyer's Property supplied by Buyer. Seller shall assume all risk of death or injury to persons or damage to property arising from the use of Buyer's Property. TO THE EXTENT PERMITTED BY LAW, BUYER SHALL HAVE NO LIABILITY TO SELLER OR ANYONE CLAIMING BY OR THROUGH SELLER FOR ANY, AND SELLER HEREBY WAIVES ANY RIGHT TO, INCIDENTAL OR CONSEQUENTIAL OR OTHER DAMAGES OF ANY KIND WHATSOEVER RELATING TO BUYER'S PROPERTY. BUYER DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO BUYER'S

PROPERTY, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND SELLER WAIVES, FOR ITSELF AND ITS SUCCESSORS AND ASSIGNS, ALL CLAIMS OF NEGLIGENCE AND STRICT LIABILITY. (c) Buyer's Property will be held by Seller or by a third party, to the extent that Seller has transferred possession of Buyer's Property to a third party, on a bailment basis as a bailee-at-will. Seller bears the risk of loss of and damage to Buyer's Property. Seller is solely responsible for inspecting, testing and approving all Buyer's Property prior to any use, and Seller assumes all risk of injury to persons or property arising from Buyer's Property. Buyer's Property will be housed, maintained, repaired and replaced by Seller at Seller's expense in good working condition capable of producing Supplies meeting all applicable specifications, will not be used by Seller for any purpose other than the performance of the Order, will be deemed to be personalty, will be conspicuously marked by Seller as the property of Buyer, will not be commingled with the property of Seller or with that of a third person, and will not be moved from Seller's premises without Buyer's approval. Seller shall insure Buyer's Property with full fire and extended coverage insurance for its replacement value. Any replacement of Buyer's Property will become Buyer's property. Seller may not release or dispose Buyer's Property to any third party without the express written permission of Buyer. Buyer shall have the right to enter Seller's premises to inspect Buyer's Property and Seller's records regarding Buyer's Property. Only Buyer has any right, title or interest in Buyer's Property, except for Seller's limited right, subject to Buyer's sole discretion, to use Buyer's Property in the manufacture of Supplies. Effective immediately upon written notice to Seller, without further notice or legal action, Buyer has the right to enter the premises of Seller and take possession of all of Buyer's Property without payment of any kind. Seller expressly waives any right to additional notice or process and agrees to provide Buyer or its nominee(s) with immediate access to Buyer's Property. Seller grants to Buyer a limited and irrevocable power of attorney, coupled with an interest, to execute and record on Seller's behalf any notice financing statements with respect to Buyer's Property that Buyer determines are reasonably necessary to reflect Buyer's interest in Buyer's Property. At Buyer's request, Buyer's Property shall be immediately released to Buyer or delivered by Seller to Buyer either (i) FCA (loaded) transport equipment at Seller's plant, properly packed and marked in accordance with the requirements of Buyer's selected carrier, or (ii) to any location designated by Buyer, in which case Buyer shall pay Seller the reasonable costs of delivery. Seller waives, to the extent permitted by law, any lien or other rights that Seller might otherwise have on any of Buyer's Property, including, but not limited to, molder's and builder's liens, or any liens or other rights that Seller might otherwise have on Buyer's Property for work performed on such property, for the purchase price of Supplies, or otherwise.

26. Confidentiality. Seller acknowledges that Buyer's Property includes Confidential Information of Buyer. All information, drawings, know-how, methods, marketing strategies, specifications, prices, costs, business plans, purchasing data, research and development data, customer lists or information, and other data (collectively, "Confidential Information"), furnished by or on behalf of Buyer to Seller in connection with the Order, regardless of whether such information is marked or identified as confidential, is delivered to Seller on a confidential and nonpublic basis for the purpose of performing the Order only. All terms of the Order are deemed to be Confidential Information. Seller agrees to keep all Confidential Information in strictest confidence, and further agrees not to disclose or permit disclosure to others, or use for other than the purpose of the Order, any such Confidential Information. Seller shall (i) disclose Buyer's Confidential Information within Seller's organization only to those employees who have a need to know in order to fulfill Seller's obligations hereunder and who have agreed to keep the Buyer's Confidential Information confidential, and (ii) prevent any of Buyer's Confidential Information from being divulged to third persons not employed by Seller without the prior written consent of Buyer, including having recipients acknowledge the confidential status of such Buyer's Confidential Information and agree to similar restrictions. This obligation of confidence shall survive termination of the Order and will continue for the longer of (i) a period of five (5) years from the date of disclosure of Confidential Information covered by this Section, or (ii) a period ending three (3) years after termination or expiration of any related Order, or (iii) as long as Buyer's Confidential Information remains a trade secret, whichever is longer, and unless a longer period is specified in writing by Buyer. The restrictions and obligations of this Section will not apply to information that: (a) is already publicly known at the time of its disclosure by Buyer; (b) after disclosure by Buyer becomes publicly known through no fault of Seller; (c) Seller can establish by written documentation was properly in its possession prior to disclosure by Buyer or was independently developed by Seller without use of or reference to Buyer's Confidential Information and without any restriction on disclosure, or (d) is disclosed pursuant to law, regulation or lawful order or process. In such event, Seller shall promptly notify Buyer of the disclosure requirement to permit Buyer to oppose or limit such disclosure. Notwithstanding anything to the contrary in this Order, any confidentiality or non-disclosure agreement between the parties that predates this Order will remain in effect except as expressly modified by this Order, and to the extent of a conflict between the express terms of such an agreement relating to Buyer's Confidential Information and this Section 26, the terms of that agreement will control

with respect to Buyer's Confidential Information.

27. Seller's Property. Seller, at its expense, will furnish, keep in good working condition capable of producing Supplies meeting all applicable specifications, and replace when necessary, all materials, machinery, equipment, tools, jigs, dies, gauges, fixtures, molds, patterns, blueprints, designs, specifications, drawings, photographic negatives and positives, art work copy layout and other items that are not Buyer's Property and that are necessary for the production of Supplies under any Order ("Seller's Property"). Seller will insure Seller's Property with full fire and extended coverage insurance for its replacement value. If Seller uses Seller's Property to produce goods or services similar to Supplies for other customers, such goods or services will not incorporate any of Buyer's Property, logos, trademarks, tradenames or part numbers. Seller will not disclose or imply in its marketing efforts that such goods or services are equivalent to those purchased by, or configured for, Buyer. Seller grants to Buyer an irrevocable option to take possession of and title to Seller's Property that is special for production of Supplies under an Order (including, by way of example, and without limitation, Seller's Property specially designed or configured for the manufacture or assembly or other processing of Supplies), upon payment to Seller of its net book value less any amounts that Buyer has previously paid to Seller for the cost of such items, or (if applicable) any such other amount as may be required by applicable law. This option does not apply if Seller's Property is used to produce goods that are the standard stock of Seller or if a substantial quantity of like goods are being sold by Seller to others. Buyer's option rights under this Section with respect to Seller's Property are intended to be subject to Buyer's rights and elections under 11 USC Section 365(n), as and to the extent that such Seller's Property represents embodiments of intellectual property, including intellectual property licensed by Seller to Buyer under Section 24(c) above.

28. Tooling. This Section applies to orders for tooling, fixtures, gauges, jigs, patterns, castings, cavity dies and molds, with all related appurtenances, accessions, and accessories, required to manufacture the Supplies ("Tools"). All Tools furnished by Buyer, either directly or indirectly to Seller to perform the Order, or for which Seller has been reimbursed by Buyer, will be and remain the property of Buyer. All Tools owned by Buyer must be identified by the part number and marked "Property of SK Battery America, Inc. "or a Buyer-designated customer. At Buyer's request, such property shall be immediately released to Buyer or delivered to Buyer by Seller F.O.B. to the destination designated by Buyer, properly packed and marked in accordance with the requirements of the carrier selected by Buyer to transport such property.

29. Set-Off; Recoupment. In addition to any right of setoff or recoupment provided by law, all amounts due to Seller shall be considered net of indebtedness or obligations of Seller and its affiliates or subsidiaries to Buyer and its affiliates or subsidiaries. Buyer shall have the right to setoff against or to recoup from any payment or other obligation owed to Seller, in whole or in part, any amounts due to Buyer or its affiliates or subsidiaries from Seller or its affiliates or subsidiaries. Buyer shall provide Seller with a statement describing any offset or recoupment taken by Buyer.

30. Information Disclosed to Buyer. Seller agrees not to assert any claim against Buyer or its suppliers or contractors with respect to any technical information that Seller has disclosed or may disclose to Buyer in connection with the Supplies covered by the Order, except to the extent expressly covered by a separate written confidentiality and/or license agreement signed by Buyer or by a valid patent expressly disclosed to Buyer prior to or at the time of the Order.

31. No Publicity. Seller shall not advertise, publish or disclose to any third party (other than to Seller's professional advisors on a confidential and need-to-know basis) in any manner the fact that Seller has contracted to furnish Buyer the Supplies covered by the Order or any terms of the Order (including prices), or use any trademarks or trade names of Buyer in any press release, advertising or promotional materials, without first obtaining Buyer's written consent.

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

33. **Electronic Communication.** Buyer may use electronic purchase orders and other electronic forms. Seller shall comply with the method of electronic communication specified by Buyer. Buyer reserves the right to set policies and procedures for implementation or modification of Buyer's specified method of electronic communication.
34. **Conflict of Interest.** Seller represents and warrants that its performance of the Order will not in any way conflict with any continuing interests or obligations of Seller or its employees, suppliers or contractors. Seller further warrants that while the Order is in effect, Seller and those of its employees, suppliers and contractors participating in the performance of the Order will refrain from any activities which could reasonably be expected to present a conflict of interest with respect to Seller's relationship with Buyer or its performance of the Order.
35. **Assignment.** (a) Seller may not, without Buyer's prior written consent (on the face of an Order or in a signed writing by an authorized representative of Buyer), (i) assign or delegate (including without limitation by subcontract) its obligations under the Order, or (ii) enter or offer to enter into a transaction that includes a sale of a substantial portion of its assets used for the production of the Supplies for Buyer or a merger, sale or exchange of stock or other equity interests that would result in a change of control of Seller. In the event of any approved assignment (including without limitation subcontract), sale or delegation authorized by Buyer, Seller retains all responsibility for Supplies, including all related warranties and claims, unless otherwise expressly agreed in writing by Buyer. (b) With Buyer's prior written consent, Seller may make an assignment of receivables due or to become due to a single financial institution; provided, however, that any such assignment shall be subject to set-off (see Section 29 above) or other proper method of enforcing any claims that Buyer may have under the Order. (c) Buyer shall have the right to assign any benefit or duty under an Order to any third party upon written notice to Seller with or without consent and shall thereafter be released of such duty.
36. **Sales Tax Exemption.** The Supplies purchased under the Order are identified as industrial processing and may be exempt from sales taxes. In such case, the tax identification number and/or other exemption information are stated in the Order or are otherwise provided by Buyer.
37. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the Republic of Korea, without regard to the laws of such jurisdiction concerning conflicts of law. In the event that this Agreement is with a Seller from a country that is a signatory to the United Nations Convention on Contracts for the International Sale of Goods ("CISG"), the parties agree that the CISG shall not govern this Agreement.
38. **Resolution of Claims and Disputes.** The parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation between representatives with the authority to resolve such dispute. If the matter has not been resolved within thirty (30) days of a party's request for negotiation, either party may initiate arbitration as provided below. Any disputes arising out of or relating to this Agreement shall be finally settled exclusively by arbitration in Seoul, Republic of Korea, in accordance with the International Arbitration Rules of the Korean Commercial Arbitration Board (KCAB). The losing party shall bear the entire costs of the arbitration, unless the arbitral awards provides otherwise.
39. **Severability; No Implied Waiver.** If any term of the Order is invalid or unenforceable under any statute, regulation, ordinance, executive order or other rule of law, the term will be deemed reformed or deleted, as the case may be, but only to the extent necessary to comply with applicable law. The remaining provisions of the Order will remain in full force and effect. The failure of either party at any time to require performance by the other party of any provision of the Order will not affect the right to require performance at any later time, nor will the waiver of either party of a breach of any provision of the Order constitute a waiver of any later breach of the same or other provision of the Order.
40. **Survival.** The obligations of Seller to Buyer survive termination of the Order, except as otherwise provided in the Order.
41. **Waiver of Jury Trial.** EACH OF BUYER AND SELLER, AFTER CONSULTING (OR HAVING THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF ITS CHOICE, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR OTHER LEGAL PROCEEDING ARISING OUT OF OR RELATING TO ANY ORDER OR OTHER DOCUMENT PERTAINING TO ANY ORDER.

42. Entire Agreement; Modifications. Except as described in Section 1, the Order, together with the attachments, exhibits, supplements or other terms of Buyer specifically referenced therein, constitutes the entire agreement between Seller and Buyer with respect to the matters contained in the Order. The Order may only be modified (i) by a written amendment executed by authorized representatives of each party or, (ii) for changes within the scope of Section 11, by a P.O. amendment issued by Buyer or other documentation signed by Buyer. Seller shall be responsible to review Buyer's Website periodically. (c) Buyer's Website may also contain specific additional requirements for certain items covered by this Order, including labeling, packaging, shipping, delivery and quality specifications, procedures, directions and/or instructions. Any such requirements shall be deemed to form part of the Terms and the Order. Buyer may periodically update such requirements by posting revisions thereto on Buyer's Website. In the event of any inconsistency between the Order and Buyer's Website, the terms of the Order shall prevail, unless the requirements specified on Buyer's Website expressly provide otherwise.

43. Claims by Seller. ANY LEGAL ACTION OR ARBITRATION PROCEEDING BY SELLER UNDER THIS ORDER MUST BE COMMENCED NO LATER THAN ONE (1) YEAR AFTER THE BREACH OR OTHER EVENT GIVING RISE TO SELLER'S CLAIM OCCURS, OR SELLER BECOMES AWARE OF THE EXISTENCE (OR FACTS AND CIRCUMSTANCES GIVING RISE TO THE EXISTENCE) OF SUCH CLAIM, WHICHEVER OCCURS FIRST.

44. Battle of the Forms Not Applicable. The parties have agreed and it is their intent that the battle of the forms described in Section 2-207 of the Uniform Commercial Code shall not apply to the Order or these Terms or to any invoice or acceptance form of Seller relating to the Order. It is the parties' intent that the Order and these Terms shall exclusively control the relationship of the parties, and in the event of any inconsistency between any invoice or acceptance form sent by Seller to Buyer and the Order, the Order shall control.

45. Interpretation. Buyer and Seller agree that the Order including these Terms were negotiated by the parties with the benefit of legal representation, and any rule of construction or interpretation otherwise requiring provisions to be construed or interpreted against any party as having been drafted by it will not apply.

<b>VENDOR ACCEPTANCE</b>	<b>SK Battery America, Inc.</b>
Formal acceptance of this purchase order required immediately. Upon receipt, please sign and date below, and fax this cover sheet to SK Battery America, Inc.	JUN HO HWANG
<b>Company</b> : SFA ENGINEERING CO.,LTD.	This is a computer-generated, original order. No signature is required. If this order is transmitted by fax and you need the original, please advise.
<b>Representative</b> :	<b>PREPARED BY</b> : JONGKEUN PARK
<b>PREPARED BY</b> :	<b>Digital Signature</b> :
<b>Digital Signature</b> :	