

STANDARD TERMS AND CONDITIONS OF PURCHASE

1. **Applicability.** These terms and conditions of purchase (these “Terms”) are the only terms which govern the purchase of the goods
2. (“Goods”) and/or services (“Services”) by Baxters North America, Inc. [d/b/a The Wornick Company, from time to time] (“Purchaser”) from the supplier named on the relevant Purchase Order (“Supplier”). Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of Goods and/or Services covered hereby, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms. The accompanying purchase order (the “Purchase Order”) and these Terms (collectively, this “Agreement”) comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms prevail over any of Supplier’s general terms and conditions of sale regardless of whether or when Supplier has submitted its sales confirmation or such terms. This Agreement expressly limits Supplier’s acceptance to the terms of this Agreement. Captions in this Agreement are for convenience only. Supplier’s written acknowledgement of this Purchase Order, commencement of work on the Goods and/or Services, or delivery of any Goods or Services hereunder shall constitute its acceptance of this Agreement.
3. **Delivery of Goods and Performance of Services.**
 - a. Supplier shall deliver the Goods in the quantities and on the date(s) specified in the Purchase Order or as otherwise agreed in writing by the parties (the “Delivery Date”). If Supplier fails to deliver the Goods in full on the Delivery Date, Purchaser may terminate this Agreement immediately by providing written notice to Supplier and Supplier shall indemnify Purchaser against any Liabilities (as defined below) directly attributable to Supplier’s failure to deliver the Goods on the Delivery Date, including but not limited to costs associated with Purchaser procuring substitute goods, expedited freight, loss of production, and excess costs charged to Purchaser from its customer for late delivery of finished products. Supplier shall deliver all Goods in accordance with Purchaser’s instructions regarding volume, mix, and 100% on time delivery. Upon request from Purchaser, Supplier shall provide adequate planning information to demonstrate capacity to provide the Goods in accordance with this Agreement. Purchaser may change the Delivery Date at any time by written notice to Supplier and shall reimburse Supplier for reasonable and documented incremental costs incurred by Supplier due to such changes.
 - b. If Supplier delivers more than ten percent (10%) of the quantity of Goods ordered, Purchaser may reject all or any excess Goods. Any such rejected Goods shall be returned to Supplier at Supplier’s sole risk and expense. If Purchaser does not reject the Goods and instead accepts the delivery of Goods at the increased quantity, Purchaser may charge Supplier for any storage or handling costs associated with any increased quantity of Goods received. Further, if any of the Goods arrive before the Delivery Date, Purchaser may either (1) reject the Goods or (2) retain the Goods and charge Supplier for any storage or handling costs associated with the early delivery. Purchaser shall not process invoices for Goods shipped in advance of the Delivery Date. If Supplier delivers less than ninety percent (90%) of the quantity of Goods ordered, Purchaser may charge Supplier a penalty in an amount equal to 10% of the total Price of the Purchase Order.
 - c. Supplier shall pack and ship the Goods in accordance with the Purchaser’s instructions on this Purchase Order, furnish all shipping documents required by Purchaser and plainly mark Purchaser’s name and the Purchase Order number on all packages and documents. Supplier shall deliver all Goods to the address specified in the Purchase Order (the “Delivery Point”). Unless otherwise stated in this Purchase Order or herein, the Goods are sold “Delivery Duty Paid” to Purchaser’s facility originating this Purchase Order and Supplier shall bear all risks and costs of delivering the Goods, including shipping and insurance charges, duties, taxes and other charges. Purchaser’s count or weight shall be final and conclusive for all shipments. Supplier shall ensure that any third parties who supply packaging for the Goods agree to comply with Purchaser’s instructions. Supplier shall reimburse Purchaser for all expenses incurred by it as a result of improper packing, marking, routing, or shipping. Supplier shall not charge separately for packing, marking, or shipping, or for materials used therein unless Purchaser specifies in writing that it shall reimburse Supplier for such charges. Purchaser may require shipment of any of the Goods by a more expeditious method of transportation if Supplier fails to meet the shipping requirements of the Purchase Order and Supplier shall bear the cost of such transportation. Supplier shall pay any costs incurred by Purchaser, including costs charged by its customers as a result of Supplier’s failure to comply with shipping or deliver requirements.
 - d. Supplier shall provide the Services to Purchaser as described in accordance with the schedule set forth herein or as otherwise agreed between the parties and in accordance with this Purchase Order and Agreement.
 - e. Supplier acknowledges that time is of the essence with respect to Supplier’s obligation hereunder and the timely delivery of Goods and/or Services, including all performance dates, timetables, project milestones and other requirements in this Agreement.
4. **Inspections.** Purchaser and Purchaser’s customer or customer representative may inspect and/or test the Goods at any time at its own expense and Supplier, at no charge, shall make its premises available for this purpose and provide any necessary assistance to make the procedures safe and convenient. No inspections and/or tests by Purchaser or Purchaser’s customer shall relieve Supplier of its obligations to inspect and test the Goods nor does it, in any way, reduce or otherwise affect Supplier’s obligations under this Agreement. In addition to any other remedies it may have, if Purchaser determines any of the Goods to be defective or not in conformity with any of its specifications or requirements, it may return them for a refund of the purchase price, require Supplier to repair or replace them, and Supplier shall reimburse Purchaser for all resulting costs. Payment for the Goods prior to inspection shall not constitute acceptance thereof and is without prejudice to any and all claims that Purchaser may have against Supplier.
5. **Price Warranty.** The price of the Goods and/or Services is the price stated in the Purchase Order (the “Price”). Unless otherwise specified in the Purchase Order, the Price includes all packaging, transportation costs to the Delivery Point, insurance, customs duties and fees and applicable taxes, including, but not limited to, all sales, use or excise taxes. No increase in Price is effective, whether due to increased material, labor or transportation cost or otherwise, without the prior written consent of Purchaser. Supplier warrants that the Price is no less favorable than those extended by Supplier to other customers for the same or comparable goods in comparable quantities and Supplier agrees to reduce the Price under this Purchase Order to maintain this warranty. Purchaser shall also receive the full benefit of discounts,

premiums and other favorable terms offered by Supplier to its customers. Any statement of volume or quantity in this Purchase Order is an estimate only and is subject to the requirements of Purchaser's customer. Supplier hereby acknowledges that the Purchaser does not make any guarantees regarding a specific unit or minimum dollar volume of sales pursuant to this Purchase Order and that the Price is not dependent upon any specific volume of sales.

6. **Invoice; Payment.** Supplier shall invoice Purchaser for Goods when shipped in a manner acceptable to Purchaser. Purchaser's payment terms are net ninety (90) days after delivery and receipt of proper invoice, unless otherwise required under applicable law or regulation or otherwise agreed to between the Supplier and Purchaser. Payment shall not constitute acceptance of any defective or non-conforming Goods. With prejudice to any other right or remedy it may have, Purchaser reserves the right to set off at any time any amount owing to it by Supplier against any amount payable by Purchaser to Supplier. In this Section "Purchaser" includes Purchaser's parent, subsidiaries and affiliates, and "Supplier" includes Supplier's parent, subsidiaries and affiliates.
7. **Supplier's Obligations Regarding Services.** Supplier shall:
 - a. Before the date on which Services are to start, obtain, and at all times during the term of this Agreement, maintain, all necessary licenses and consents and comply with all relevant laws applicable to the provision of the Services;
 - b. Comply with all rules, regulations and policies of Purchaser, including security procedures concerning systems and data and remote access thereto, building security procedures, including the restriction of access by Purchaser to certain areas of its premises or systems for security reasons, and general health and safety practices and procedures;
 - c. Maintain complete and accurate records relating to the provision of the Services under this Agreement, including records of the time spent and materials used by Supplier in providing the Services in such form as Purchaser shall approve. During the term of this Agreement and for a period of two (2) years thereafter, upon Purchaser's written request, Supplier shall allow Purchaser to inspect and make copies of such records and interview Supplier personnel in connection with the provision of the Services;
 - d. Obtain Purchaser's written consent prior to entering into agreements with or otherwise engaging any person or entity, including all subcontractor and affiliates of Supplier, other than Supplier's employees, to provide any Services to Purchaser (each such approved subcontractor or other third party, a "Permitted Subcontractor"). Purchaser's approval shall not relieve Supplier of its obligations under the Agreement, and Supplier shall remain fully responsible for the performance of each such Permitted Subcontractor and its employees and for their compliance with all the terms and conditions of this Agreement as if they were Supplier's own employees. Nothing contained in this Agreement shall create any contractual relationship between Purchaser and any Supplier subcontractor or supplier;
 - e. Require each Permitted Subcontractor to be bound in writing by the confidentiality provisions of this Agreement, and, upon Purchaser's written request, to enter into a non-disclosure or intellectual property assignment or license agreement in a form that is reasonably satisfactory to Purchaser;
 - f. Ensure that all persons, whether employees, agents, subcontractors, or anyone acting for or on behalf of Supplier, are properly licensed, certified or accredited as required by applicable law and are suitably skilled, experienced and qualified to perform the Services;
 - g. Ensure that all of its equipment used in the provision of the Services is in good working order and suitable for the purposes for which it is used, and conforms to all relevant legal standards and standards specified by the Purchaser; and
 - h. Keep and maintain any Purchaser equipment in its possession in good working order and shall not dispose of or use equipment other than in accordance with the Purchaser's written instructions or authorizations.
8. **Changes to Purchase Order or Change Orders.** Purchaser may change this Purchase Order or issue order changes to the Services in any respect at any time by written notice to Supplier. Supplier shall within thirty (30) days of receipt of any changes submit to Purchaser documents substantiating the increase in Supplier's direct cost or timing, then Purchaser and Supplier shall negotiate in good faith to equitably adjust the Price or time of performance. All adjustments, if any, must be in writing and signed by a duly authorized representative of Purchaser. If Supplier does not provide timely notice to Purchaser that a requested change may result in a difference in Price or time for performance, the parties agree that Purchaser's request change did not affect the Price or time for performance. Supplier shall not make any change to the Purchase Order without Purchaser's written approval.
9. **Product Warranty.**
 - a. With respect to the Goods and/or Services purchased under this Agreement and all other goods or services purchased from Supplier by Purchaser, Supplier expressly warrants for the Warranty Period as follows: (a) the Goods shall strictly conform to all specifications, drawings, instructions, advertisements, statements on containers or labels, descriptions and samples; (b) the Goods shall be free from defects in workmanship and material and shall be new and of the highest quality; (c) Purchaser shall receive title to the Goods that is free and clear of any liens, encumbrances and any actual or claimed patent, copyright or trademark infringement; (d) the Goods shall be merchantable, safe and fit for the Purchaser's intended purposes, which purposes have been communicated to Supplier; (e) the Goods shall be adequately contained, packaged, marked and labeled; (f) all services performed by Supplier shall be performed in a competent, workmanlike manner and in accordance with industry standards; (g) the Goods shall be manufactured or supplied in compliance with all applicable federal, state and local laws, regulations or orders, and agency or association standards or other standards applicable to the manufacture, labeling, transporting, licensing, approval or certification, including by way of illustration and not by way of limitation, the Occupational Health and Safety Act, the Fair Labor Standards Act, Federal Food, Drug and Cosmetic Act, Title 21 CFR Part 7 and any other applicable law, order or regulation. These warranties shall be in addition to all other warranties, express, implied or statutory. These warranties shall survive inspection, test, delivery, acceptance, use and payment by Purchaser and shall insure to the benefit of Purchaser, its successors, assigns, customers and the users of Purchaser's products. These warranties may not be limited or disclaimed by Supplier. Purchaser's approval of Supplier's design, material, process, drawing, specifications or the like shall not be construed to relieve Supplier of the warranties set forth herein, nor shall a waiver by Purchaser of any drawing or specification request for one or more articles

constitute a waiver of any such requirements for the remaining articles to be delivered hereunder unless so stated by Purchaser in writing.

- b. If Purchaser experiences any defect, failure or non-conformity during the Warranty Period (as defined below), Purchaser shall have the right to take the following actions, at Purchaser's option: (1) retain the defective Goods in whole or in part with an appropriate adjustment in the price for the Goods; (2) require Supplier to replace the defective Goods in whole or in part at Supplier's sole expense, including all shipping, transportation and installation costs; (3) correct or replace the defective items with similar items and recover the total cost from Supplier, including the cost of product recalls, rework, and lost profits; and (4) exercise all other rights under the Uniform Commercial Code and any other applicable law, order or regulation. For purposes of this Agreement, "Warranty Period" shall mean: (a) twelve (12) months from the day of first use of the Goods by Purchaser or acceptance by Purchaser, whichever occurs later; or (b) if the Goods are incorporated, in whole or in part, into products, including packaging used for products, sold by Purchaser to third parties, three (3) years after acceptance by such third parties or the time period of warranty that Purchaser gives to such third parties, whichever occurs later. Notwithstanding the foregoing, Supplier agrees to waive the expiration of the Warranty Period in the event there are failures, nonconformities, or defects discovered after the Warranty Period of a significant nature or in a significant portion of the Goods, or a defect is discovered which, in Purchaser's opinion, constitutes a threat of damages to property or to the health and safety of any person.
10. **Indemnification.** To the fullest extent by law, Supplier agrees to indemnify, hold harmless and defend Purchaser and its affiliated companies, their directors, officers, employees, agents and customers ("Indemnities") from and against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss profits, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by Purchase as a result of or in connection with: (a) any claim made against Purchaser for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the supply or use of the Goods, to the extent that the claim is attributable to the acts or omissions of the Supplier, its employees, agents and subcontractors; (b) any claim made against the Purchaser by a third party for death, personal injury or damage to property arising out of or in connection with defects in Goods, to the extent that the defects in the Goods are attributable to the acts or omissions of Supplier, its employees, agents or subcontractors; and (c) any claim arising out of or in connection with the supply of the Goods, to the extent that such claim arising out of the breach of this Agreement including warranties, negligent performance or failure or delay in performance of the Agreement by the Supplier, its employees, agents or subcontractors. Supplier's obligation to defend and indemnify under this Section shall apply regardless of whether the claim arises in tort, negligence, contract, warranty, strict liability or otherwise except for claims that arise as a direct result of the sole negligence of Purchaser. This Section shall survive termination or expiry of the Agreement.
11. **Insurance.** For the duration of this Agreement and the Warranty Period, Supplier shall, at its own expense, maintain and carry insurance in full force and effect which including, but it is no limited to, commercial general liability (including product liability) in a sum no less than \$1,000,000 per occurrence. Additionally, Supplier shall maintain \$1,000,000 coverage for damages to rented premises; \$10,000 coverage for medical expense; and \$1,000,000 coverage for personal and advertising injury, aggregate and Products Completed Operations; \$1,000,000 coverage for Workers Compensation Employers Liability; and \$1,000,000 for product recall insurance. Such policies shall be in such form and shall be issued by such insurance company or companies as may be satisfactory to Purchaser. Supplier shall provide Purchaser with a certificate of insurance from Supplier's insurer evidencing the insurance coverage specified in this Agreement. Supplier shall provide Purchaser with thirty (30) days' advance written notice in the event of a cancellation or material change in Supplier's insurance policy. Except where prohibited by law, Supplier shall require its insurer to waive all rights of subrogation against Supplier's insurers and Supplier. In the event of Supplier's breach of this Section, Purchaser shall have the right to cancel any undelivered portion of the Goods and shall not be required to make further payments except for conforming Goods delivered prior to cancellation.
12. **Legal Compliance.** Supplier warrants that it shall comply with all applicable laws, regulations, ordinances, and orders in performing under this Agreement and shall furnish Purchaser and its designees or any governmental agency with such certificates or reports of legal compliance that Purchaser or such agency may request from time to time. All purchased materials used in part manufacture shall satisfy current governmental and safety constraints on restricted, toxic, and hazardous materials; as well as environmental, electrical, and electromagnetic considerations applicable to the country of manufacture, transit, and sale.

If any of the Goods ordered pursuant to this Agreement are for use in connection with the United States military contracts, Supplier shall comply with the applicable following regulations of the Federal Acquisition Regulations System (FARS), of which shall be incorporated into this Agreement and supersede any other provision or agreement to the contrary:

52.203-6	Restrictions on Subcontractor Sales to the Government
52.203-7	Anti-Kickback Procedures
52.203-11	Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions
52.203-12	Limitation on Payments to Influence Certain Federal Transactions
252.203-7001	Prohibition of Persons Convicted of Fraud or Other Defense – Contract-Related Felonies
52.204-5	Women-Owned Business (Other than Small Business)
52.209-6	Protecting the Government's Interest When Subcontracting with subcontractors Disbarred, Suspended or Proposed for Debarment
52.209-9P07	Pre-Award Plant Survey
52.211-9002	Priority Rating
52.215-2	Audit and Records – Negotiation
52.215-11	Price Reduction for Defective Cost or Pricing Data – Modifications
52.215-13	Subcontractor Cost or Pricing Data – Modifications

52.215-14	Integrity of Unit Prices
52.215-15	Pension Adjustments and Asset Reversions
52.215-18	Reversion or Adjustment of Plans for Post-Retirement Benefits Other than Pensions
52.215-19	Notifications of Ownership Changes
52.215-21	Requirements for Cost or Pricing Data or Information Other than Cost or Pricing Data – Modifications
252.215-7000	Pricing Adjustments
252.217-7019	Sanitary Conditions
52.219-8	Utilization of Small Business Concerns
52.219-9	Small Business Subcontracting Plan
52.219-25	Small Disadvantaged Business Participation Program – Disadvantaged Status and Reporting
52.219-26	Small Disadvantaged Business Participation Program – Incentive Subcontracting
52.222-21	Prohibition of Segregated Facilities
52.222-22	Previous Contracts and Compliance Reports
52.222-25	Affirmative Action Compliance
52.222-26	Equal Opportunity
52.222-35	Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era and Other Eligible Veterans
52.222-36	Affirmative Action for Workers with Disabilities
52.222-37	Employment Records on Special Disabled Veterans, Veterans of the Vietnam Era and Other Eligible Veterans
52.222-39	Notification of Employee Rights Concerning Payment of Union Dues or Fees
52.225-13	Restriction on Certain Foreign Purchases
52.227-1	Authorization and Consent
52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement
52.244-6	Subcontracts for Commercial Items
52.246-23	Limitation of Liability
52.247-64	Preference for Privately Owned U.S. – Flag Commercial Vehicles
52.204-27	Prohibition on a ByteDance Covered Application

13. **Confidential Information.** Except as necessary to perform under this Agreement, as required by law (upon prior written notice to Purchaser), or with Purchaser’s prior written consent, Supplier shall, at all times, keep confidential all information, drawings, specifications, and data furnished by Purchaser (whether in writing, electronically, orally, or visually) or derived or developed by Supplier for the purpose of performing its obligations under this Agreement (“Confidential Information”). Supplier shall not disclose Purchaser’s Confidential Information or use it for its own benefit or for the benefit of any other party. Supplier shall safeguard the Confidential Information from unauthorized use, access, or disclosure using no less than a commercially reasonable degree of care. Confidential Information does not apply to information that: (a) is or becomes generally available to the public other than as a result of Supplier’s material breach of this provision; (b) is obtained by Supplier on a non-confidential basis from a third-party that was not legally or contractually restricted from disclosing such information; (c) was in Supplier’s possession prior to Purchaser’s disclosure; or (d) was or is independently developed by Supplier without using any Confidential Information. If Supplier is required by applicable law or a valid legal order to disclose any Confidential Information, Supplier shall notify Purchaser of such requirements so that Purchaser may seek, at its expense, a protective order or other remedy, and Supplier shall reasonably assist Purchaser therewith. If Supplier remains legally compelled to make such disclosure, it shall: (a) only disclose that portion of the Confidential Information that it is required to disclose; and (b) use reasonable efforts to ensure that such Confidential Information is afforded confidential treatment. Upon request by Purchaser, Supplier shall return or destroy, at Purchaser’s discretion, all Confidential Information in its possession. Supplier shall not publish or advertise the existence or nature of this Agreement without Purchaser’s prior written consent.
14. **Relationship of the Parties.** The relationship between the parties is that of independent contractors. Nothing contained herein shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationships between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.
15. **Assignment.** Supplier shall not assign, transfer, delegate or subcontract any of its right or obligations under this Agreement without the prior written consent of Purchaser. Any purported assignment or delegation in violation of this Section shall be null and void and, in such instance, Purchaser reserves its right to terminate this Agreement. No assignment or delegation shall relieve the Supplier of any of its obligations hereunder. Purchaser may at any time assign or transfer any or all of its rights or obligations under this Agreement without Supplier’s prior written consent to any affiliate or to any person acquiring all or substantially all of Purchaser’s assets.
16. **Quality Systems Plan / Recalls.** Supplier shall obtain and maintain, at all times, a quality systems plan (“QSP”), which shall be provided to Purchaser for review at any time upon request. Supplier shall, in good faith, comply with Title 21 CFR Part 7 and use its best efforts to cooperate with Purchaser or any governmental agency in connection with any product recall for any portion of the Goods.
17. **Allocation.** If Supplier is unable, at any time, to supply the entire quantity of Goods ordered by Purchaser, Supplier shall meet all of Purchaser requirements before making any allocation among its other customers under section 2-615 of the Uniform Commercial Code or the state adopted equivalent.
18. **Termination for Convenience.** Purchaser may terminate this Agreement for convenience at any time by written notice to Supplier. On termination, Purchaser shall be liable to Supplier solely for unpaid invoices for conforming Goods previously shipped and for Supplier’s reasonable documented costs of raw materials, work-in-progress and finished Goods that cannot be cancelled without penalty or sold in the general trade, not to exceed the volumes specified in any firm releases hereunder and payable only after Purchaser receipt of the same. In no event shall Purchaser be liable for loss profits or other cancellation charges.

19. **Cancellation for Cause.** Purchaser may cancel this Agreement without liability or further obligation hereunder by thirty (30) days' written notice to Supplier if (a) Supplier breaches any provision, term or condition of this Purchaser Order (or Purchaser anticipates such breach) or (b) Supplier does not remain competitive with request to quality, technology, delivery and pricing of the Goods; provided that cancellation shall be void if Supplier cures the breach (or provides assurances of performance acceptable to Purchaser) within the thirty (30) day notice period. Purchaser may cancel this Agreement immediately by written notice to Supplier without liability or further obligation hereunder if Supplier fails or refuses to furnish Purchaser promptly with such information and assurances as Purchaser may request about Supplier's financial and operating conditions as affecting Supplier's ability to supply Goods under this Agreement and, to the extent permitted by law, in the event of Supplier's insolvency, the filing of a voluntary or involuntary petition in bankruptcy by or against Supplier, the appointment of a receiver or trustee for Supplier, Supplier's execution of an assignment for the benefit of creditors, or comparable event.
20. **Audit Rights.** Supplier hereby grants to Purchaser access to all pertinent information, including but not limited to, books, records, payroll data, receipts, correspondence and other documents and materials in the possession or under the control of Supplier, or otherwise relating to any of Supplier's obligations under this Agreement or any payments requested by Supplier pursuant to this Agreement. Purchaser shall have the right at any reasonable time to send its authorized representatives to examine all such information. In addition, all work, materials, inventories provided under this Purchaser Order must be accessible to Purchaser, including without limitation any parts, tools, fixtures, gauges, models and the like. Supplier shall maintain all pertinent information relating to this Agreement for a period of four (4) years after completion of services or deliver of Goods pursuant to that Agreement. In the event that such audit discloses any inaccurate information, the Supplier shall indemnify, defend and hold harmless Purchaser from and against any loss, liabilities, costs, expenses, suits, actions, claims and all other obligations and proceedings, including but not limited to all attorney's fees and any other costs related thereto. The Supplier shall cause all of its sub-suppliers to grant to Purchaser all of the rights afforded to Purchaser pursuant to this Section.
21. **Force Majeure.** Neither party shall be liable for any default or delay in performance of its obligation to perform any part of this Agreement (except with respect to any required payment of money) to the extent its performance is prevented or rendered impracticable due to any act of God, acts of a public enemy, riots and other civil disturbances, sabotage, court injunctions, transportation embargoes, acts, regulations or other requirements of federal, state, county, municipal or local governments or branches, subdivisions or agencies thereof, or other similar events to the extent that such default or delay is beyond the reasonable control of the non-performing party. In such event the non-performing party shall be excused from further performance or observance of the obligation(s) so affected for so long as such circumstances prevail and such party continues to use commercially reasonable efforts to recommence performance or observance whenever and to whatever extent possible without delay. Any party so delayed in its performance shall immediately notify the other party by telephone, describe a reasonable of detail the circumstances causing such delay, and keep the other party updated at least weekly on the situation (including but not limited to a projection of the estimated time when the default or delay shall be remedied). If such circumstances continue for more than sixty (60) consecutive calendar days, or if at any time the weekly projection indicates that resumption of performance shall not occur by the expiration of such sixty (60) day period, then either party may terminate either this Agreement or any portion hereof so affected without liability to such party as of a date specified in written notice termination to the other party.
22. **Binding Effect.** This Agreement is binding on the parties and their respective directors, officers, employees, agents, subcontractors and duly authorized successors and assigns.
23. **Remedies; Disclaimer.** The rights and remedies of Purchaser shall be cumulative and in addition to any other rights or remedies provided by law or equity. Any attempt by Supplier to limit Purchaser's warranties, remedies or the amount and types of damages that Purchaser may seek shall be null and void. In no event shall Purchaser be liable to Supplier for anticipated profits or for incidental or consequential damages.
24. **Waiver.** Purchaser waiver of any rights provided herein or to which it is entitled at law or equity shall not constitute a continuing or subsequent waiver of that right or waiver of any other rights to which it is entitled.
25. **Governing Law.** This Agreement shall be governed by the laws of the State of Delaware, excluding its conflicts of laws principles, and the applicable laws of the United States of America. Any action arising out of this Agreement shall only be brought in a court of competent jurisdiction located in Hamilton County, Ohio, and the Parties hereby consent to proper jurisdiction and venue lying in such forum. The prevailing Party in any proceedings brought by the other Party to enforce any provision of this Agreement shall be entitled to recover against the non-prevailing Party the reasonable attorneys' fees, court costs, and other expenses incurred by the prevailing Party incurred as a result of proceedings