



PURCHASE ORDER TERMS AND CONDITIONS

Revised 6/8/2023

ACCEPTANCE OF ANY PURCHASE ORDER IS EXPRESSLY LIMITED TO THE TERMS AND CONDITIONS SET FORTH HEREIN. BUYER OBJECTS TO THE INCLUSION OF ANY DIFFERENT OR ADDITIONAL TERMS OR CONDITIONS PROPOSED BY SELLER IN ITS ACCEPTANCE OF ANY OFFER AND IF SUCH DIFFERENT OR ADDITIONAL TERMS OR CONDITIONS ARE INCLUDED IN SELLER'S ACCEPTANCE, A CONTRACT WILL RESULT CONTAINING ONLY THE TERMS AND CONDITIONS CONTAINED HEREIN.

1. GENERAL: All Purchase Orders shall be subject to any and all of the Terms and Conditions set forth herein. In addition, by acceptance of any Purchase Order, the Seller (as defined below) explicitly acknowledges Seller's receipt of the Terms and Conditions, and Seller's agreement to be bound by the Terms and Conditions. A Purchase Order shall not be deemed enforceable against Buyer (as defined below) unless issued to Seller in accordance with Buyer's normal business practice by a Merchandise Manager or duly authorized agent of Buyer, and assigned a valid purchase order number. Seller explicitly understands and acknowledges that Buyer is subject to certain consumer product safety regulations, including, without limitation, the Consumer Product Safety Improvement Act of 2008, as may be amended from time to time (the "CPSIA").

2. DEFINITIONS: The defined terms used in any Purchase Order shall have the meanings specified below or in the Paragraph in which they first appear. As used herein, the term "Buyer" means Buyer, and duly appointed buying agents of Beall's Inc., Beall's Imports, Inc., Bealls Florida, Inc. (f/k/a Bealls Stores, Inc.), bealls 1987, Inc. (f/k/a Beall's Outlet Stores, Inc., and Burke's Outlet Stores, LLC), bealls 1987 westgate, LLC (f/k/a Burke's Westgate Stores, LLC), and Beall's Westgate Corporation for which it may be acting in connection with any Purchase Order. The term "Seller" means the person, firm or corporation from whom the merchandise described in a Purchase Order has been ordered. Buyer and Seller may be referred to hereinafter individually, a "party" or collectively, as "parties." The term "Terms and Conditions" shall refer to all of the terms and conditions set forth in the following: (i) in these Purchase Order Terms and Conditions, as such may be amended from time to time; (ii) on each Purchase Order, (iii) in Buyer's Vendor Partnership Guide, (iv) in Buyer's Terms of Commitment to Ethical Sourcing, and (v) in a written modification of the Terms and Conditions signed by Seller and a Merchandise Manager or duly authorized agent of Buyer. The term "merchandise" or "goods" includes the articles described in any Purchase Order together with any labeling, packing or other work to be performed by the Seller under the terms of any Purchase Order both before and after delivery to Buyer. The term "in writing" or "written" includes transmissions by email and facsimile.

3. TERMS AND ACCEPTANCE: The Seller formally accepts Buyer's Terms and Conditions, and each Purchase Order shall become a contract between the Seller and the Buyer, when: (a) the Purchase Order is executed by Seller; or (b) shipment of all or any portion of the goods covered by the Purchase Order shall be made. Seller's acceptance of the Purchase Order is expressly limited to the Terms and Conditions hereof. No provisions printed or otherwise contained in any acknowledgement which are inconsistent with or in addition to the Terms and Conditions (specifically including, without limitation, any additional term or terms which relate to arbitration), and no alteration of any Purchase Order, shall have any force or effect unless the

Buyer expressly agrees to such additional term or terms in writing through a duly-authorized agent of the Buyer. No Purchase Order shall create a principal-agent relationship or legally binding partnership between the Buyer and the Seller, and neither party may legally commit the other in any manner whatsoever or incur any liability on the other party's behalf. Buyer reserves the right to market and sell the merchandise procured under any Purchase Order on any of its Internet sites or in-store kiosks or on any other e-commerce channel unless specifically excluded by agreement with Seller.

4. INVOICES, DISCOUNTS, DUE DATES AND PAYMENTS: The Seller's invoices shall be forwarded to the Buyer's Accounts Payable Department for domestic purchase orders and Buyer's Import Accounting & Compliance Department for import purchase orders at *Bealls Inc Attn. Accounts Payable PO Box 25030 Bradenton, FL 34206*. All invoices must show the Buyer's order number, the Seller's merchandise style number or UPC number, quantity, unit prices and total prices. All discount terms, if any, shall be computed from the later of the date of receipt of the goods or the date of receipt of the invoice, and invoices received on or after the 25th day of any calendar month shall be considered received as of the 1st day of the next calendar month. Any payment due date shall be considered extended without loss of discount until the subject invoice is received. Seller agrees to pay all domestic, foreign, federal, state or local sales, use, transportation or excise taxes, unpaid duties, or other charges. Any offsetting claim of the Buyer against the Seller may be deducted by the Buyer from the amount of any invoice at the time of payment.

5. PRICE: If invoices are subject to discount for prepayment, Seller shall so state clearly on the invoice so that payment can be made at Buyer's option within the specified time period. The price shall be FOB Port of Export unless: (i) otherwise expressly indicated on the face of the Purchase Order (in which event the price shall be so indicated on the face of the Purchase Order); (ii) Seller uses a carrier other than a Buyer-designated carrier and Seller has not obtained prior written authorization from Buyer to use such other carrier (in which event the price shall be FOB destination point); or (iii) otherwise specified in Buyer's Transportation Routing Guide. The price entered on the face hereof may be decreased but shall not be increased for any reason, including, without limitation, by the application of any terms of sale of Seller having the purported effect of reflecting changes in costs or other factors. In addition, no additional amounts shall be chargeable to Buyer because of taxes or excises presently or hereafter levied on Seller.

6. CURRENCY: Unless otherwise agreed to in writing by the Buyer, all currency amounts specified in a Purchase Order shall be United States Dollars.

7. QUOTA: Seller shall have the sole and absolute responsibility for securing sufficient quota with respect to filling the applicable order and complying in all respects with any applicable documentation requirements, including, without limitation, securing all visas, forms and statements necessary and/or appropriate for exportation from the exporting territory and importation and full release for consumption into the customs territory of the United States. Any denial of entry by the United States Customs Service due to improper visa, lack of visa, failure of a visa to accurately reflect the applicable quota category or categories, or otherwise, shall entitle Buyer, at its sole and absolute discretion and without prejudice, to any or all of the following remedies: (i) the right to withhold payment to Seller, (ii) actual and consequential damages, (iii)

reasonable attorneys' fees and costs, or (iv) the repayment of any penalties or liquidated damages assessed by or paid to the United States Customs Service by Buyer.

8. DOCUMENTATION: The Seller shall be responsible for timely procuring and providing to Buyer all of the following, as the case may be: (i) necessary export/import licenses; (ii) certificates of origin; (iii) visas; (iv) quotas; (v) documentation; (vi) certificates of conformity; (vii) forms; (viii) statements and information appropriate and/or necessary for exportation from the exporting territory, and importation into and full release for consumption into the customs territory of the United States, and (ix) certification or documentation that the merchandise has undergone and passed any and all applicable product testing mandated by the United States Consumer Product Safety Commission, including, but not limited to, tests for lead and phthalates set forth in the CPSIA. At Buyer's request, Seller must: (a) provide copies of certification of conformity; and (b) provide certification or documentation of product testing as mandated by the United States Consumer Product Safety Commission within 48 hours of Buyer's request. Failure to provide such documentation as required will entitle Buyer, at its discretion and without prejudice, to withhold payment to the Seller and shall entitle Buyer to actual and consequential damages and attorneys' fees in connection with any such breach.

9. INSURANCE: The Seller shall procure and maintain Commercial General Liability insurance (including products liability and completed operations) with a policy limit of Five Million Dollars (\$5,000,000) per occurrence. Such insurance shall be primary and may be accomplished with a combination of umbrella/excess policies. Policies shall contain a waiver of subrogation in favor of Buyer and shall provide for thirty (30) days' written notice to the Buyer in the event of any material change or cancellation of the policies. Upon request, Seller shall furnish to Buyer a certificate of insurance evidencing conforming coverage.

10. SALES, REVENUE AND EXCISE TAXES: The Buyer does not assume or agree to pay, and the Seller agrees to indemnify and hold harmless the Buyer from and against, any present or future sales, revenue, excise, customs or other taxes or similar governmental charges applicable to the transactions contemplated by any Purchase Order except to the extent that the amount and nature of any such tax is clearly shown on the face thereof.

11. DELIVERED (OR LANDED) DUTY PAID TRANSACTIONS:

(a) If Seller is to be the importer of record, (i) the fabric content or care label shall conspicuously display the Seller's RN# or WPL#, as the case may be; and (ii) the Purchase Order shall specify such RN# or WPL# and indicate the identity and address of all production factories. Within five (5) days of arrival by ship or within one (1) day of arrival by air, Seller will provide Buyer with the following: (i) a copy of the customs entry evidencing release of the merchandise, (ii) a copy of single or multiple country of origin textile declaration, (iii) a copy of visa, (iv) a CPSC Certificate of Compliance, and (v) a copy of the bill of lading or airway bill. Seller must, within five (5) days of Buyer's request, obtain and provide proof that the goods were not involved in illegal transshipping. Such evidence shall include, but not be limited to, the following: (i) records pertaining to purchase of raw materials; (ii) production records (i.e., cutting tickets, sewing tickets, daily production records, production steps, production orders, production reports, etc.); (iii) worker timecards; (iv) wage/salary records; (v) factory profiles; (vi) export/shipping documents showing movement of the finished goods to the United States; (vii) similar

production records, (viii) employee records, and (ix) shipping records for any OPA operations; etc.). In the event that Buyer reasonably believes that any goods are involved in illegal transshipping, Buyer may cancel the order without any further obligation or penalty.

(b) Seller will hold Buyer harmless and indemnify Buyer from any and all monetary penalties and/or fines, seizures, forfeitures, suits and claims of any nature whatsoever, either judicial (in law or equity) or administrative, including, without limitation, all reasonable attorneys' fees and costs incurred in any administrative investigation or proceedings or judicial investigation or proceedings, and appeals therefore, relating to the delivered, duty paid merchandise sold to Buyer by Seller.

12. SAMPLE REQUIREMENT; INSPECTION: For all products purchased by Bealls Stores, Inc. and Beall's Westgate Corporation (excluding only direct imports of such Buyer's exclusive brands) Seller must provide to the applicable Buyer: (1) an image or (2) sample for each style and color of product purchased. Such image or sample must be provided: (A) at the time that the purchase order is generated or (B) not later than eight weeks prior to the date of shipment. Standards for image samples may be found at <http://www.beallsinc.com> under the Vendor Services tab and in the applicable Vendor Partnership Guide. Samples must be provided in the appropriate model size for the product category and must be clearly marked with the style and color code as described in the Vendor Partnership Guide. In the event that the image or sample, as the case may be, are not timely delivered, the applicable Purchase Order is subject to cancellation without penalty to Bealls Stores, Inc. or Beall's Westgate Corporation, as the case may be. In addition, any of the Buyers identified in Section 2 hereof shall have the right, on its own, or through an independent agent, to: (a) inspect at any time during normal business hours the production facilities where the goods are being produced; (b) inspect the goods during production; and (c) inspect and/or test goods prior to shipment. The Seller shall cooperate with such inspections and/or tests and shall provide all reasonable facilities and assistance for the safety and convenience of such inspectors in the performance of such inspections. Regardless of whether an inspection has taken place during production or prior to shipment, goods delivered (whether paid for or not) are subject to inspection, testing, and approval by the Buyer before acceptance, including, without limitation, product testing mandated by the United States Consumer Product Safety Commission, including, but not limited to tests for lead and phthalates set forth in the CPSIA. The Buyer shall be under no duty to inspect goods before shipment or before resale, and shipment after any pre-shipment inspection and resale, repackaging or culling for purchase or resale, shall not be considered an acceptance of the goods so as to bar the Buyer's right to reject them. Seller shall reimburse Buyer for any and all inspection expenses incurred by Buyer in the event that such goods are rejected as nonconforming. Complaints, notice of defects in goods or notice of any other breach will be considered made within a reasonable time if made a reasonable time after notification is given to the Buyer of such defects, or notification of other breach is given to the Buyer by Buyer's customers. The Buyer's return to the Seller of such defective goods shall not relieve the Seller from liability for failing to ship satisfactory goods under any Purchase Order. Failure of the Buyer to state a particular defect upon rejection shall not preclude the Buyer from relying on unstated defects to justify rejection or establish breach. The Buyer has no obligation to subject the goods to wear tests of durability or other properties as to all of which the Buyer may rely solely and absolutely on the Seller's warranties hereunder, including, without limitation, those set forth in Paragraphs 17 and 18

herein. Further, Buyer shall have the right to cancel any order, without incurring any liability, for which Buyer has determined that preproduction samples do not satisfy Buyer's quality standards. Buyer may pay for goods without thereby being deemed to have inspected or accepted them.

13. SHIPPING; DELIVERY; RISK OF LOSS: Goods not shipped in accordance with this Paragraph will be at Seller's risk and expense. Unless otherwise expressly consented to in writing by Buyer, all goods shipped pursuant to a Purchase Order must be shipped via the carrier designated by Buyer. No payment will be made for packing, boxing, drayage or storage. All packages, correspondence, and packing slips will display Buyer's order number, style number, and quantity. As noted in Paragraph 8 herein, Seller shall be responsible for providing all necessary certificates of origin, export/import licenses, visas, quotas, certificates of a similar nature, etc. to Buyer. Buyer's offer to purchase is only open during the specified ship period between the 'Do Not Ship Before Date' and 'Cancellation Date'. Shipment made outside this period without written exception from Buyer is subject to refusal or return and automatic charge back of freight and handling expenses and/or automatic merchandise cost reductions. Time is of the essence of this provision. Cure or correction of an order that does not conform to the requirements of a Purchase Order may be made only with the express written consent of Buyer. Risk of loss or damage shall pass to Buyer when the goods sold hereunder are delivered by Seller to the carrier, unless otherwise expressly indicated on the face of a Purchase Order (in which event risk of loss shall be as so indicated on the face of the Purchase Order) or unless Seller uses a carrier other than a Buyer-designated carrier and Seller has not obtained prior written authorization from Buyer and Buyer's Transportation Office to use such other carrier (in which event risk of loss shall pass to Buyer when the goods sold hereunder are delivered to the "Ship To" destination). All transportation costs resulting from deviation from Buyer's Packing and Routing Guidelines and any other costs incurred by Buyer because of Seller's noncompliance with the Terms and Conditions shall be charged to Seller's account. With prior authorization from Buyer, complete orders may be accepted prior to the specified "Ship Date". Otherwise, acceptance of any goods shipped before any specified "Ship Date" or after any specified "Cancel Date" is at Buyer's sole and absolute option, and return of any merchandise because of failure to deliver on time or to conform to the specifications of the order, shall be at Seller's expense and charged to Seller's account. If Buyer elects, in its sole and absolute discretion, to accept a shipment after the "Cancel Date", the handling charges set forth in Buyer's Vendor Partnership and Routing Guide may be charged to Seller's account. A delivery of less than all of the goods ordered shall not relieve Seller of its obligation to deliver the balance of the goods, provided that Buyer may authorize with notification prior to delivery and retain all such partial deliveries whether or not Buyer cancels other portions of the order. Partial delivery on time will not excuse non-delivery or late delivery of the balance, in which case Buyer may elect to cancel the order and return goods received, or retain goods received and cancel the balance of the order. If Seller is unable to comply with the deadlines set by Buyer or contained herein, Seller may elect to obtain an extension of time from Buyer for consent to ship goods, at Seller's expense, by air-freight or other means only after such authorization has been obtained from Buyer and the Buyer's Transportation Office. In such case, Buyer reserves the right to discount costs of merchandise for Seller's noncompliance pursuant to the remedies set forth in the Buyer's Vendor Partnership Guide.

14. MODIFICATION OF ORDER TERMS; CHANGES IN SPECIFICATIONS:

Buyer shall have the right to make, from time to time, and without notice to any sureties or assignees, changes as to packing, testing, destination, specifications, designs, and delivery schedule. The Seller shall immediately notify the Buyer of any increases or decreases in costs directly caused by such changes and an equitable adjustment of prices or other terms hereof shall be agreed upon in writing. Nothing contained in this clause shall relieve Seller from proceeding without delay in the performance of the order as modified.

15. SET-OFF; RESERVATION OF ACCOUNT; CREDIT BALANCE: Buyer may set off against amounts payable under any Purchase Order, all present and future indebtedness of Seller to Buyer arising from any other transaction whether or not related to a specific Purchase Order. If Buyer determines that Seller's performance under a Purchase Order is likely to be impaired, Buyer may establish a reserve on Seller's account to satisfy Seller's actual or anticipated obligations to Buyer arising from any such Purchase Order, by withholding payment of Seller's invoices. Seller agrees that any credit balance will be paid in cash to Buyer upon written request. Payments of monies owed to Buyer must be mailed to Buyer's Accounts Receivable Department at 700 13th Avenue East, Bradenton, Florida, 34208.

16. CONFIDENTIAL INFORMATION; NONDISCLOSURE: In order for the Seller to manufacture the goods pursuant to Buyer's specifications, Seller may be exposed to, or learn of, Buyer's confidential information; business practices; business and other commercial transactions; knowledge; data; manuals; know-how; formulas; computer software; data structures; scripts; application programming interfaces; protocols; processes; ideas; inventions (whether patentable or not); schematics and other technical business, customer and product development plans; forecasts; strategies; designs; patents; trademarks; trade names; copyrights; other intellectual property; machinery; patterns; etc. (the "Confidential Information"). Seller shall keep the Confidential Information in the strictest confidence during and indefinitely after the term of the Purchase Order, and shall not allow, assist or facilitate the publication, revelation, release or disclosure of any Confidential Information without prior written approval from the Buyer. The Seller will disclose such Confidential Information only to such of its employees who are reasonably needed to use it for the purpose of fulfilling the specific order. Seller shall advise each such employee of the confidential and proprietary nature of the Confidential Information, and of the existence and importance of the Purchase Order. Seller shall take all reasonable steps to ensure that its supervisors and/or employees do not disclose or utilize any of such Confidential Information either for their personal benefit or the benefit of Seller other than pursuant to the Terms and Conditions of the Purchase Order. Any other use of the Confidential Information by Seller, its agents, subcontractors, independent contractors or employees, shall be a violation of its obligation assumed hereunder, and at the option of Buyer, may be cause for immediate termination of any Purchase Order and for Buyer's pursuit of all legal and equitable remedies to which Buyer may be entitled. All copies of written information, techniques, patents, patterns, videos and/or any other media containing Confidential Information shall be returned by Seller to Buyer at the termination of the Purchase Order, or otherwise at Buyer's request. The foregoing shall not apply to Confidential Information which is in the public domain at the same time it is delivered or communicated by Buyer, or is independently developed by Seller or is information that Seller receives from a third party not obligated to Buyer in respect thereto.

17. WARRANTIES; COMPLIANCE WITH LAWS AND REGULATIONS:

(a) The Seller represents, warrants and guarantees, and the Seller agrees to provide the Buyer with, upon request, a signed guaranty in the form, if any, proscribed by applicable law, before payment hereunder is due and without loss of any discount under the terms of the Purchase Order, to the effect that: (i) good title to goods will be transferred to the Buyer, and the goods will be free from any security interest, lien or encumbrance; (ii) goods will be merchantable and fit for the Buyer's intended use; (iii) goods will conform in pattern, fiber content, color, color fastness, body, durability, weave or other manufacture, finish or overall appearance to any swatches and samples relied upon by Buyer and identified by the Buyer to the Seller; (iv) goods will conform to expanded specifications of any type put forward by Buyer and identified by the Buyer, and to the extent that agreed specifications may not be complete, the goods will conform to the specifications standard in the industry; (v) goods will be of best material and workmanship and free from all defects; and (vi) all statements on the packing lists shall be accurate and the Buyer may rely thereon.

(b) The Seller represents, warrants and guarantees that all applicable provisions of laws, ordinances, codes and regulations, including those of the United States, the states of the United States and localities within such states, have been complied with, and that the prices and other terms and conditions of sale and the terms on which any promotional and advertising matter are furnished by the Seller to the Buyer comply with all such laws, ordinances, codes and regulations. Without limiting the generality of the foregoing, but as examples, the Seller agrees to provide the Buyer with a signed guaranty in the form, if any, proscribed by the respective laws before payment hereunder is due and without loss of any discount under the terms of the Purchase Order, to the effect that: (i) the weights, measures, sizes, legends, words, particulars or descriptions, if any, stamped, printed or otherwise attached to the merchandise or containers or referring to the merchandise delivered hereunder are true and correct and comply with law; (ii) any visa accompanying textile and apparel merchandise exported to Buyer is in the form required by the applicable Bilateral Textile Agreement between the United States and the exporting territory, and any amendments thereto, and that any textile quota category reflected thereon accurately describes the exported merchandise; (iii) the genuine and true origin of its products, and the country of origin declaration(s) accompanying each shipment accurately describe(s) the true origin of each shipment, and the Seller, its employees, agents, independent contractors and suppliers have fully complied with all country of origin and other requirements of the U.S. Customs Service and related agencies, and all similar requirements of other applicable jurisdictions, with respect to all goods manufactured for the Buyer under the Purchase Order; (iv) the merchandise shipped pursuant to the Purchase Order is not misbranded or falsely advertised; (v) the goods delivered pursuant to the Purchase Order and the process of manufacturing such goods conform and comply with the applicable provisions of: the country of origin marking requirements of Section 304 of the Tariff Act of 1930, as amended; the Fur Products Labeling Act; the Wool Products Labeling Act; the Flammable Fabrics Act; the Textile Fibers Products Identification Act; the Lanham Act; the Hazardous Substances Labeling Act; the Food, Drug and Cosmetics Act; the Federal Trade Commission Act, including, without limitation, the care labeling regulations issued pursuant thereto; the FTC Guidelines, Trade Practice Rules and Regulations and all amendments thereto; the wage, hour and child labor provisions of the Fair Labor Standards Act; the Robinson-Patman Act; the Consumer Product Safety Act; the CPSIA, including, without limitation, any and all applicable product testing mandated by the United States Consumer Product Safety Commission, specifically including, without limitation, tests for

lead and phthalates set forth in the CPSIA; and, the Fair Packaging and Labeling Act, each as amended from time to time and, if not specifically applicable in the place of manufacture, then as if each were applicable in such jurisdiction; (vi) the goods sold comply with the applicable labeling and invoicing laws, if any; and, (vii) any advertising matter furnished by the Seller to the Buyer complies with law.

(c) In representing, warranting and guaranteeing the genuine and true origin of its products as set forth in Subparagraph 17(b)(iii) above, Seller agrees to maintain certain documents and records for each style number produced under the Purchase Order, as specified by Buyer, for a period of one (1) year following the date of shipment to the United States. These documents and records include, but are not limited to, the following: (i) raw material receiving records, (ii) cutting and sewing tickets, (iii) production orders, (iv) daily production records, (v) export and shipping records, and (vi) employee timecards and wage/payment records. Seller agrees to notify Buyer immediately in the event that a U.S. Customs Service Textile Production Verification Team visits the production facilities of Seller or Seller's subcontractor(s). Failure to notify Buyer of such visit shall be grounds for Buyer to cancel any unshipped orders placed with Seller. Buyer shall have the right to make unannounced visits to Seller's production facilities for purposes of reviewing such production records, and Seller agrees to produce such documents for Buyer in the event that the United States Customs Service detains entry, denies entry or assesses any penalty or claim of liquidated damages on the grounds of alleged false claims of country of origin. Buyer shall be entitled, at its discretion, and without prejudice, to withhold payment to Seller and to actual and consequential damages, attorneys' fees, and costs in connection with such a breach including any penalties or liquidated damages assessed by or paid to the United States Customs Service.

(d) Seller further warrants, represents and guarantees that: (i) all merchandise purchased pursuant to any Purchase Order is compliant with any current, or later adopted, law of either the country of manufacture or the United States governing the use of child labor, and/or governing the importation of merchandise produced with child labor into the United States; (ii) no prison labor is utilized in the production of any merchandise to be purchased pursuant to any Purchase Order; (iii) Seller complies with all applicable United States governmental laws, rules and regulations governing the fair and ethical treatment of laborers and pertaining to the safety, health, environmental and working conditions of laborers and, (iv) Seller complies with all the Terms and Conditions.

18. INTELLECTUAL PROPERTY RIGHTS; WARRANTY AGAINST INFRINGEMENT:

(a) Where goods ordered hereunder are made in accordance with designs, drawings, patterns, patents, textures, marks, trademarks, trade names, copyrights, or other intellectual property (hereinafter collectively referred to as "Intellectual Property") presented by, or offered to, the Buyer, its divisions, affiliates, or subsidiaries on an exclusive basis, or are to bear the Intellectual Property of the Buyer, its divisions, affiliates, or subsidiaries, the title to any and all Intellectual Property shall at all times vest in and remain with the Buyer. Seller expressly agrees that all uses of Buyer's Intellectual Property shall inure to the exclusive benefit of Buyer and that the Purchase Order does not confer any goodwill or other interests in said Intellectual Property upon or unto the Seller (other than the right to manufacture goods as specified hereunder). Solely for

purposes of rendering performance under the Purchase Order, complying with other written specifications of the Buyer, and being bound by the terms and conditions set forth herein, Seller is hereby granted a non-exclusive license and right to use Buyer's Intellectual Property.

(b) Seller represents and agrees it will only use Buyer's registered Trade Names and labels bearing Buyer's registered Trade Names for the items covered by the Purchase Order only. Any other use of Buyer's Trade Names and labels not authorized by Buyer in writing is prohibited. The goods shall not bear the trademark or other designation of the Seller (or the manufacturer if the Seller is not the manufacturer). Seller acknowledges it shall be fully liable for damages to Buyer for any unauthorized use of Buyer's Trade Name and labels by Seller including all penalties prescribed or allowed by Trade Name law.

(c) Upon the Buyer's request or upon completion of the Purchase Order, the Seller shall promptly return to the Buyer all copies of the Buyer's Intellectual Property.

(d) Seller represents, warrants and guarantees that all goods assembled or produced for Buyer will only be sold, distributed or exported, pursuant to the instructions of Buyer. Further, the Seller shall not furnish to any other party or person the same or similar goods without the Buyer's written permission. The Seller shall not distribute, offer for sale, sell or export any overages or rejected merchandise without the express written consent of the Buyer.

(e) Seller shall not, without obtaining Buyer's prior written consent, use in connection with any garment or product any trademark, trade name, design, other Intellectual Property that is confusingly or colorably similar to any of marks of the Buyer, its divisions, affiliates or subsidiaries, used in connection with the goods. Further, Seller shall not, without obtaining Buyer's prior written consent, use in relation to the goods a trademark or trade name which is not a trademark appearing on a label delivered to the Seller by Buyer for use on the goods.

(f) Seller shall not challenge the validity and/or distinctiveness of any of the trademarks, copyrights, designs or other Intellectual Property belonging to Buyer (or affiliated entity) or challenge either Buyer or such affiliated entity's ownership thereof or title thereto, nor will Seller, at any time whether now or in the future, in any place throughout the World, claim any right, title or interest in or to said trademarks, trade name, designs, patents, patterns, copyrights or other Intellectual Property owned by, belonging to or used by Buyer.

(g) In addition to the foregoing obligations and warranties, Seller agrees to immediately notify Buyer of any apparent infringement of or challenge to Seller's use of any of Buyer's Intellectual Property, or claim by any person of any rights in or to such Intellectual Property. Seller shall not communicate with any such person other than Buyer and Buyer's counsel in connection with any such infringement, challenge or claim, unless otherwise authorized by Buyer. As between the parties, Buyer shall have sole discretion to take such action, as Buyer deems appropriate in connection with the foregoing, and right to control exclusively any settlement, litigation, arbitration or other proceeding arising out of any such alleged infringement, challenge or claim or otherwise relating to any such Intellectual Property.

(h) Seller, at Buyer's expense, agrees to execute any and all instruments and documents, render

such assistance and do such acts and things as may, in the opinion of Buyer or Buyer's counsel, be necessary or advisable to protect and maintain the interests of Buyer in any litigation, proceeding or otherwise. Seller further agrees to comply with the terms and conditions set forth in any Purchase Order, and shall also take all such other action as may reasonably be required by Buyer to protect and preserve Buyer's good name and trademarks.

(i) Seller may, from time to time, provide Buyer with development samples of artistic designs for Buyer to review and evaluate whether Buyer desires to purchase such artistic designs. For a period to be agreed upon by the parties in a separate writing, Seller agrees not to sell, offer to sell, or distribute such development samples to any other person or entity (the "Sample Exclusivity Period"). If Buyer does not notify Seller that Buyer wishes to purchase such development samples within the Sample Exclusivity Period, Seller may offer such samples to others.

19. REMEDIES FOR BREACH OF WARRANTY: Seller agrees to indemnify and hold harmless Buyer against all losses, expenses and damages arising from violation or alleged violation of the law. Buyer may reject any goods which do not conform to Seller's warranties at any time after delivery, and before or after acceptance, when such breach of warranty becomes known to Buyer, in any manner, including, without limitation, recognition of latent defects ("non-conforming goods"), and Seller shall be liable for all costs, damages and losses suffered by Buyer by reason of such nonconforming goods. If Buyer learns that non-conforming goods have been delivered, Buyer shall have the right to do any one, or all, of the following: (a) cancel any undelivered portion of the order and, at Buyer's sole and absolute option, return either all of the goods or only the non-conforming goods at Seller's risk and expense for either credit or prompt replacement at the invoice price; (b) repair and use the non-conforming goods, deducting the cost incurred in such repair and use from any sums due Seller, or on demand from Buyer, Seller will reimburse Buyer for all such costs; (c) upon notice to Seller, hold the non-conforming goods for a reasonable time and resell or return them according to Seller's instructions (the net proceeds of any such resale shall be credited to Seller's account); (d) make such adjustments as may be required by reason of express or implied warranties given by Buyer to its customers; and (e) exercise any other remedies that may be available under applicable law. Buyer shall be entitled, at Buyer's sole and absolute discretion, and without prejudice, to withhold payment to Seller and to actual and consequential damages, attorneys' fees, and costs in connection with a breach of any warranty of Seller, including, without limitation, any penalties or liquidated damages assessed by or paid to the United States Customs Service, or any other federal, state or local government agency. In addition, if Seller uses any trademarks, copyrights, designs, patterns, domain names or other Intellectual Property belonging to or used by Buyer, its divisions, affiliates, or subsidiaries, in an unauthorized manner, Buyer may obtain a temporary restraining order and/or preliminary injunction to stop such activities, in addition to Buyer's other remedies hereunder. In the event any goods are returned or rejected by Buyer hereunder or as otherwise set forth in the Purchase Order, Seller shall ensure that all markings and/or goods bearing markings which contain any trademarks specified by Buyer or which identify Buyer or any of its affiliates in any way are destroyed, and are not sold, distributed, imported or exported.

20. NON-WAIVER; REMEDIES NOT EXCLUSIVE: Buyer's waiver of any breach or failure to enforce any of the Terms or Conditions at any time shall in no way affect, limit or

waive Buyer's rights hereafter to enforce strict compliance with every Term and Condition hereof. The remedies available to Buyer pursuant to provisions of any Purchase Order shall in no way limit any rights which Buyer may have at law or in equity by reason of any breach of any Purchase Order or any warranties contained herein, including, without limitation, Buyer's right to collect from Seller special, indirect, incidental and consequential damages (including, without limitation, economic loss) resulting from such breach.

21. INDEMNIFICATION: Seller agrees to indemnify, defend, and hold harmless Buyer, Buyer's divisions, affiliates, subsidiaries (including retail stores), successors or assigns, and their respective directors, officers, employees, agents and customers against and from all claims, suits, damages, losses, and costs and expenses (including, but not limited to, cost of investigating, all incidental and consequential damages, economic loss, property damage, personal injury or death, and attorneys' fees and costs) arising out of any claim or proceeding relating to a Purchase Order or any contract created under a Purchase Order, or any goods or services delivered to Buyer which involves or alleges: (a) breach by Seller of a Purchase Order or any contract applicable to the goods purchased thereunder, or which result from any non-conforming delivery (including late deliveries or incomplete deliveries); (b) infringement of any copyright, patent, trademark, design, or other intellectual property (whether or not registered, and whether or not Buyer furnishes specifications) based on the manufacture, use, importation or sale of any of the goods supplied by Seller including, without limitation, merchandise which contains labels or trademarks which belong to another, unless authorized; (c) unfair competition; (d) violations of law; (e) personal injury or property damage; (f) failure of goods or services to comply with any express or implied warranties of Seller, which in any manner result from any defect in the goods, non-conformity to or non-compliance with any law, rule or regulation relating to the safety, quality or design of the goods; and (g) Seller's negligence. Buyer shall have the right to appoint counsel for and defend itself against civil, administrative, or criminal actions, suits or proceedings arising out of the foregoing even if any of the allegations thereof are groundless, false or fraudulent. The obligations set forth in this Paragraph shall survive the cancellation, termination or completion of Buyer's orders.

22. FORCE MAJEURE: Neither party shall be liable for its failure to perform hereunder if due to any event beyond the reasonable control of the party affected, including but not limited to, acts of God, war, fire, bad weather, flood, explosion, accident, strikes or other labor trouble or shortage, civil disturbance, plant shutdown, devaluation or revaluation of currency, equipment failure, or voluntary or involuntary compliance with any applicable governmental regulation or order, which materially impairs such party's ability to perform. Any quantities not delivered, or delivered late and refused or returned by Buyer because of any such event impeding Seller's performance shall be eliminated from the contract. Any quantities not accepted by Buyer because of any such event impeding Buyer's ability to utilize the goods ordered hereunder shall be eliminated from the contract. Notwithstanding any of the foregoing, in the event any of the goods ordered hereunder, or raw materials utilized in the manufacture thereof, become scarce or unavailable, Seller shall fill and/or manufacture Buyer's order first, before any allocation is made among any of Seller's other customers. When Buyer's order is completely filled, Seller may then allocate to Seller's other customers such raw materials in any manner that Seller deems fair and reasonable. If any such events affect Seller's ability to perform, Seller will give written notice thereof to Buyer within five (5) days after any such occurrence. If such inability continues for

more than ten (10) days after the date of the notice, Buyer will have the right to suspend shipment of goods covered by Buyer's order or orders, or to cancel Buyer's orders, in whole or in part, at any time, when such suspension or cancellation is caused by the situations detailed above, by other law, order, or regulation, or other contingencies beyond the control of Buyer. Any costs incurred by Seller in connection with any such termination will be borne by Seller.

23. DEFAULTS, CANCELLATIONS, BANKRUPTCY AND INSOLVENCY:

Buyer, at its sole and absolute discretion, may cancel any order in whole or in part without liability to Buyer by written, electronic or verbal notice: (a) if Seller shall become insolvent or make a general assignment for the benefit of creditors; (b) if proceedings are commenced against Seller under functionally similar laws of a similar country; (c) if, at any time, Seller shall default in performance or shall so fail to make progress in the work so as to endanger performance, and provided Seller shall not remedy such default within ten (10) days after written or electronic notice by Buyer; or, (d) if additional duties, fees, quotas, or other restrictions are imposed on the merchandise that is the subject of a Purchase Order by the United States government or the government of the country of origin or country of exportation, beyond those which existed on the date of the Purchase Order. After receipt of notice of any such cancellation, Seller shall transfer title and deliver to Buyer any satisfactorily completed work, and any such work in progress as may be directed by Buyer. If the cost of completion is in excess of the contract price, then Seller shall be liable for such excess. However, except with respect to default of subcontractors, Seller shall not be liable for any of the excess costs if the failure to perform arises pursuant to Paragraph 23 and without default or negligence of Seller. If failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both Seller and the subcontractor, and without default or negligence of either of them, then Seller shall not be liable for any excess costs for failure to perform, unless the goods to be furnished by the subcontractor were obtainable from other sources in sufficient time to comply with the order. The term "causes beyond the control" as used herein may include those items listed in Paragraph 23 herein, but in every case the failure to perform must be beyond the control and without default or negligence of Seller or subcontractor, as the case may be. Wherever an actual or potential cause beyond the control of Seller is delaying or threatening to delay the performance of Buyer's order, Seller shall give Buyer notice within five (5) days of the occurrence.

24. DISCRETIONARY TERMINATION: If merchandise herein is not shipped on or before the date specified in the Purchase Order, which must be strictly observed, Buyer shall have the option to cancel any such Purchase Order without penalty to Buyer. Such cancellation shall be without prejudice to any right or remedy Buyer may have by reason of Seller's default.

25. LIMITATION OF LIABILITY: Under no circumstances shall Buyer be liable to Seller as a result of any cancellation or otherwise for any amount in excess of the purchase price set forth in any Purchase Order. All claims for incidental, special, exemplary, or consequential damages are hereby waived by Seller.

26. CARGO AND SUPPLY CHAIN SECURITY: Seller agrees to: (a) meet and/or exceed US Customs Service Customs-Trade Partnership Against Terrorism ("C-TPAT") security requirements and Buyer's C-TPAT Supply Chain Security Expectations; (b) develop, implement and maintain records of a sound written plan to enhance cargo and supply chain security

procedures in accordance with the Manufacturer Security Guidelines pursuant to the U.S. Customs Service C-TPAT Program; (c) upon request, grant access to Buyer's agents, and/or the U.S. Customs Service to Seller's facilities, Seller's Supply Chain Security Plan, and any and all supporting records; and (d) implement all required and reasonable measures to ensure the integrity and security of Seller's shipments to Buyer in the supply chain. Buyer reserves the right to request proof of Seller's ability to meet and/or exceed Buyer's and the U.S. Customs Service C-TPAT Supply Chain Security requirements. Further, Buyer reserves the right, at its sole and absolute discretion, to cease business relations and/or cancel any order, in whole or in part, at any time, without liability to Buyer, by providing written or electronic notice to Seller, if Seller fails to comply with Buyer's C-TPAT Supply Chain Security Expectations.

27. NOTICE: All notices required or permitted by a Purchase Order shall be in written form and shall be sent by certified or registered mail, return receipt requested, by recognized overnight service, by personal delivery against receipt, by telecopier or other facsimile transmission or by e-mail or other electronic transmission, and shall be deemed to have been validly served, given or delivered (a) when delivered against receipt; (b) in the case of certified or registered mail, seven (7) business days after deposit in the mail, postage prepaid; (c) in the case of recognized overnight delivery services, three (3) business days after delivery to such service; or (d) in the case of facsimile or electronic transmission, when received at the office of the noticed party. Any written notice that is not sent in conformity with the provisions hereof shall nevertheless be effective on the date such notice is actually received by the noticed party.

28. ASSIGNMENT: Seller shall not delegate or assign any duties or claims, in whole or in part, under any Purchase Order without Buyer's prior written consent.

29. ENTIRE AGREEMENT; AMENDMENT; SEVERABILITY: Nothing in any Purchase Order will require Buyer to enter into contracts for the purchase of goods or services from Seller. Each Purchase Order and the Terms and Conditions are intended as the final expression of the parties' agreement and is the complete and exclusive statement of the terms thereof. No statements or agreements, oral or written, made prior to or at the signing hereof, shall vary or modify the written terms hereof. No amendment, modification or release from any provision hereof, shall arise out of a course of action or mutual agreement unless such agreement is in writing, signed by the party sought to be bound, and specifically stating that it is an amendment to the Purchase Order. If any provision of a Purchase Order is, or becomes, invalid and if that provision is not so important that its omission would have reduced the value of the Purchase Order to either party, then the remaining provisions of such Purchase Order shall continue with the same force and effect as if such an enforceable or invalid provision had not been included herein, provided that the Buyer shall not be required to pay for goods not delivered.

30. GOVERNING LAW; VENUE; JURISDICTION: Any questions concerning the validity, interpretation or performance of any Purchase Order, shall be governed by the internal laws of the State of Florida. Any actions brought under any Purchase Order shall be brought only in the State or Federal courts sitting in Manatee County in the State of Florida, or in the Federal District Court for the Tampa District in the State of Florida. The parties to the Purchase Order each consent to the jurisdiction of such courts, agree to accept service of process by mail, and waive any jurisdictional or venue defenses otherwise