TERMS AND CONDITIONS

1. DEFINITIONS. The term “Buyer” refers to the entity listed as CornellCookson, LLC (which entity may be purchasing for itself and/or for one or more legal entities affiliated with CornellCookson, LLC). “Vendor” means the company(ies) or person(s) listed as Vendor on attached Purchase Order(s) ("Purchase Order"). For purposes of these Terms and Conditions, all packing, conforming performance, shipping, compliance with laws, and warranty obligations hereunder shall be the responsibility of the Vendor, and Vendor shall indemnify and hold Buyer harmless for any losses or damages incurred in connection with the return of any defective or nonconforming items rejected by Buyer in accordance with this Section 2.

2. COMPLIANCE WITH PURCHASE ORDER. Each of the terms and conditions of sale contained in this Purchase Order is an essential, integral part of Buyer’s offer to purchase the items. No addenda, deletions, substitutions, or other modifications to this Purchase Order shall be made except pursuant to an amended Purchase Order issued by Buyer to Buyer in writing, and date and notice shall be deemed invalid and not cure any errors or omissions.

3. DELIVERIES AND SHIPMENTS. Deliveries shall be made to the location specified on the purchase order; and such terms of sale shall be shipped to Buyer and risk of loss shall pass to Buyer when the Items are delivered to the location specified. For FOB, DDU, or DDP terms which are not shipped to the correct Ship To Address or on the specified Release Date, Buyer shall have the right to reject any items that, upon inspection by Buyer, are determined to fail to conform to Buyer’s specifications. All items supplied by Vendor hereunder shall be deemed to be accepted by Buyer (a) upon Buyer’s issuance of a written notice of acceptance, or (b) ninety (90) days after delivery if no written notice of non-conformance or shipment. Buyer shall have the right to examine any Item and, at Buyer’s expense, Buyer may conduct tests in order to determine whether the Item is conforming. Buyer will pay for all costs necessary to determine whether the Item is conforming. Buyer shall have the right to inspect, inspect, or reject any Item, and Buyer reserves the right to hold Vendor liable for any defective or nonconforming Item. Vendor shall bear the risk of loss and shall incur all costs incurred in connection with the return of any defective or nonconforming Item rejected by Buyer in accordance with this Section 2.

4. CORRESPONDENCE AND COMMUNICATIONS. All correspondence, acknowledgments, notices, consents, or other communications related to this Purchase Order shall be in writing, and shall be addressed to Buyer. Purchasing, or Vendor, as applicable. Any written notice or other communications addressed to the Buyer, the Purchasing Office, or Vendor, as applicable, shall be deemed to have been given if sent by registered mail, return receipt requested, to the address specified on the Purchase Order; (b) all commercial, financial, or technical information supplied by Buyer, Vendor, or any third party, in connection with the shipment, to Buyer; (c) which, upon receipt by Buyer, are found to be defective or do not conform to Buyer’s Specifications for any reason, or (c) shipped based on DDU or DDP terms which are not shipped to the correct Ship To Address or on the specified Release Date. Buyer shall have the right to reject any items that, upon inspection by Buyer, are determined to fail to conform to Buyer’s specifications. All items supplied by Vendor hereunder shall be deemed to be accepted by Buyer (a) upon Buyer’s issuance of a written notice of acceptance, or (b) ninety (90) days after delivery if no written notice of non-conformance or shipment. Buyer shall have the right to examine any Item and, at Buyer’s expense, Buyer may conduct tests in order to determine whether the Item is conforming. Buyer will pay for all costs necessary to determine whether the Item is conforming. Buyer shall have the right to inspect, inspect, or reject any Item, and Buyer reserves the right to hold Vendor liable for any defective or nonconforming Item. Vendor shall bear the risk of loss and shall incur all costs incurred in connection with the return of any defective or nonconforming Item rejected by Buyer in accordance with this Section 2.

5. TERMINATION OF PURCHASE ORDER. If Vendor: (a) fails to deliver or ship the Item(s) in compliance with the requirements of this Purchase Order; (b) fails to deliver goods on or before the time specified; (c) becomes insolvent; or (d) breaches any provision of this Purchase Order or violates any law, Buyer reserves the right to immediately cancel this Purchase Order or, at any time after it has been delivered, Buyer may reject any Item that, upon inspection by Buyer, is determined to be defective. Buyer shall have the right to inspect, inspect, or reject any Item, and Buyer reserves the right to hold Vendor liable for any defective or nonconforming Item. Vendor shall bear the risk of loss and shall incur all costs incurred in connection with the return of any defective or nonconforming Item rejected by Buyer in accordance with this Section 2.

6. SHIPMENT OF GOODS. RISK OF LOSS AND TRANSFER OF TITLE. Unless a different standard track or transportation is specified in the purchase order, all items shall be shipped to the Buyer and risk of loss shall be transferred to the Buyer when the shipment is delivered to the location specified on the Purchase Order; and such terms of sale shall be shipped to Buyer and risk of loss shall pass to Buyer when the Items are delivered to the location specified. For FOB, DDU, or DDP terms which are not shipped to the correct Ship To Address or on the specified Release Date, Buyer shall have the right to reject any items that, upon inspection by Buyer, are determined to fail to conform to Buyer’s specifications. All items supplied by Vendor hereunder shall be deemed to be accepted by Buyer (a) upon Buyer’s issuance of a written notice of acceptance, or (b) ninety (90) days after delivery if no written notice of non-conformance or shipment. Buyer shall have the right to examine any Item and, at Buyer’s expense, Buyer may conduct tests in order to determine whether the Item is conforming. Buyer will pay for all costs necessary to determine whether the Item is conforming. Buyer shall have the right to inspect, inspect, or reject any Item, and Buyer reserves the right to hold Vendor liable for any defective or nonconforming Item. Vendor shall bear the risk of loss and shall incur all costs incurred in connection with the return of any defective or nonconforming Item rejected by Buyer in accordance with this Section 2.

7. VENDOR WARRANTIES. In addition to any other warranties offered by Vendor, Vendor warrants that all items will (1) conform to Buyer’s Specifications, and (2) be merchantable, of good workmanship and materials in substantial compliance with such specifications, and free from defect, claim encumbrance or lien. Unless manufactured pursuant to design furnished by Buyer, Vendor warrants that the Items will be free from defect and suitable for the purpose intended by Buyer. If items furnished by Vendor do not meet the warranties specified or otherwise applicable and Buyer provides written notice of such non-conformance to Vendor within the longer of ninety (90) days calendar days from the date Buyer’s receipt of those items in accordance with the terms of this Purchase Order, Vendor’s warranty period accompanying the product(s) provided, or provided in any Vendor- provided quote, then Vendor shall, at its sole expense, repair or replace those non-conforming items, or shall provide Buyer with a full refund of the purchase price for those items and any related freight costs borne by Buyer, and/or shall indemnify Buyer for any damages caused by such non-conformance to Buyer in the performance of – or obligations/requirements/representations under – this Purchase Order. Vendor shall indemnify, defend, and hold Buyer harmless from any and all claims, suits, losses, expenses, damages, costs, or any other amounts paid out in connection with shipment. Buyer’s Purchase Order number, the quantity of items shipped, Buyer’s side-mark, the unit price of the items, and a description of the items must be plainly marked on each and all packages, boxes, bills of lading, shipping orders, packing lists, and correspondence related to this Purchase Order, or Buyer may return such non-conformed Item(s) to Vendor in Buyer’s sole discretion, and all such packing and shipping labels shall accompany each individual box or package. Except as consented to by Buyer in an amended Purchase Order, Vendor, without the prior written consent of Buyer, shall add their own return address to the purchase order number. Vendor will deliver or ship the exact quantities ordered.
LIMITATION OF LIABILITY – LIABILITY FOR ACTUAL DAMAGES ONLY: EXCEPT IN CONNECTION WITH VENDOR’S BREACH OF CONFIDENTIALITY, FRAUD, GROSS NEGLIGENCE, WILFUL MISCONDUCT, OR INDEMNIFICATION OBLIGATION OWED TO BUYER, EACH PARTY WAIVES ANY RIGHT TO CLAIM AGAINST THE OTHER PARTY FOR INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE, SPECIAL, OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOST OPPORTUNITIES, LOST PROFITS FROM THIS TRANSACTION OR ANY OTHER TRANSACTION, OR LOST SAVINGS, ARISING OUT OF OR RELATING TO ACTS OR OMISSIONS UNDER, REGARDLESS OF THE FORM OF ACTION, AND EVEN IF REASONABLY FORESEEABLE OR IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. VENDOR AGREES THAT ITS SOLE REcourse FOR CLAIMS ARISING FROM OR RELATING TO ANY PURCHASE ORDER WILL BE AGAINST ONLY BUYER OR ITS SUCCESSORS AND ASSIGNS. IN NO EVENT WILL THE SHAREHOLDERS, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, OR CUSTOMERS OF BUYER AND ITS AFFILIATES BE PERSONALLY LIABLE OR BE NAMED AS PARTIES IN ANY ACTION BY VENDOR. VENDOR FURTHER AGREES THAT IT WILL STIPULATE TO A DISMISSAL WITH PREJUDICE OF ANY CLAIMS BROUGHT CONTRARY TO THIS SECTION.

17. ASSIGNMENTS AND SUBCONTRACTS BY VENDOR. Neither this Purchase Order nor any resulting duty or right shall be delegated or assigned by Vendor without the prior written consent of Buyer. Buyer shall not unreasonably withhold its consent for Vendor to assign any claims for monies due or to become due under this Purchase Order, provided Vendor notifies Buyer in writing of its intent to make such assignment, Vendor remains fully liable for any non-payment and guarantees payment, and the assignee can legally accept payment. Vendor agrees that it will not subcontract the design, manufacture or production of Items, or any material components thereof, without Buyer’s prior written consent. Any attempted assignment or delegation by Vendor not made in accordance with the terms and conditions of this Section 12 is void, and will have no effect. To the maximum extent permitted by applicable law, Buyer may freely assign this Purchase Order and any or all of its rights and remedies hereunder, and may delegate any or all of its duties hereunder, without notice or other restriction.

18. ENDORSEMENT, SOLICITATION. Vendor shall not claim or imply in any way whatsoever to any third party the endorsement by Buyer or Vendor or of any Items sold by Vendor. Vendor shall not circularize, solicit, or advertise in any way to the business units or legal entities affiliated with CornellCookson LLC unless written permission is first obtained from Buyer or the relevant legal entity.

19. COMPLIANCE. Buyer may at any time insist upon strict compliance with these terms and conditions, notwithstanding previous custom, practice, or course of dealing to the contrary. Vendor further represents and warrants that the Items covered by this Purchase Order shall be manufactured and sold in compliance with all applicable laws, including the requirements of the Robinson-Patman Act, the Fair Labor Standards Act, the Occupational Safety and Health Act, and the regulations pursuant to each, all applicable state and federal laws and regulations relating to anti-discrimination, and all applicable federal affirmative action rules.

20. TIMING. Time is of the essence under this Purchase Order. If Vendor does not deliver within the time specified under this Purchase Order, Buyer reserves the right to cancel this Purchase Order or reject any late deliveries without prejudice. In any event, Vendor shall notify Buyer immediately of any potential delays, and Buyer may elect to require partial or express shipments at Vendor’s expense or cancel this Purchase Order in its entirety. Notwithstanding paragraph 5 of this Purchase Order, neither party is responsible for delays or defaults due to causes beyond its reasonable control such as natural disasters or national emergency. In the case of such delay or default, Buyer, at its sole discretion, may purchase substitute materials.

21. WAIVER. The failure of Buyer to enforce at any time any of these terms shall not constitute a waiver or the right of Buyer to claim damages or to terminate this Purchase Order for any subsequent default.

22. SEVERABILITY. If a court of competent jurisdiction determines any provision(s) of this Purchase Order and its terms to be illegal, excessively broad or otherwise unenforceable, the Purchase Order and its terms shall be construed so that the remaining provisions shall not be affected thereby but shall remain in full force and effect, and any such illegal, overbroad or unenforceable provision(s) shall be deemed, without further action by any person, to be modified and/or limited to the extent necessary to render the same valid and enforceable.

23. MASTER AGREEMENT AND QUOTATION(S). Notwithstanding any other provision in this Purchase Order to the contrary, if this Purchase Order is being issued by Buyer pursuant to a signed master agreement between Buyer and Vendor, and any terms and conditions herein are inconsistent or incompatible with the terms and conditions in the master agreement, the master agreement shall control. Notwithstanding any other provision in this Purchase Order to the contrary, if this Purchase Order is being issued by Buyer in connection with a Vendor quotation, such quotation shall be identified on the purchase order and part of the entire agreement of the parties. To the extent of any conflict between the terms and conditions of this purchase order and the quotation, the terms of the purchase order shall control.