



COMPLIANCE WITH LAWS AND VENDOR REQUIREMENTS

1. ALL MERCHANDISE IS SAFE AND FIT FOR THE USE FOR WHICH IT WAS MANUFACTURED AND IS FREE FROM DEFECT AND OTHER MATERIALS WHICH MAY BE INJURIOUS TO PERSONS OR PROPERTY. IN ADDITION, THE GOODS ARE MANUFACTURED, LABELED, BRANDED, ADVERTISED, AND SOLD IN ACCORDANCE WITH ALL APPLICABLE FEDERAL, STATE, AND LOCAL LAWS, INCLUDING, WITHOUT LIMIT, THE ROBINSON PATMAN ACT (PRICE DISCRIMINATION ACT), CALIFORNIA'S SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 ("PROPOSITION 65"), U.S. FEDERAL CHILD LABOR LAWS, FEDERAL, STATE, AND LOCAL LAWS REGULATING MANUFACTURING AND SALE OF MERCHANDISE, AND THE FEDERAL WAREHOUSE AND BUSINESS RECEIPTS ACT OF 1937. THE FORM REQUIRED BY THE FEDERAL TRADE COMMISSION, AND THE WEIGHT AND MEASURES ACT, AS REQUIRED BY THE STANDARD METRIC GOVERNMENT, SHALL BE OBTAINED BY THE PURCHASER.

2. THE PURCHASER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS, LICENSES, AND APPROVALS FROM ALL APPLICABLE GOVERNMENT AGENCIES AND AGENCIES OF THE PURCHASER'S COUNTRY OF ORIGIN.

3. ALL MERCHANDISE IS LABELED, AS APPLICABLE, IN ACCORDANCE WITH FEDERAL, FEDERAL FOOD, PRODUCTS LABELING ACT, FLUR PRODUCTS ACT, LABELING ACT, HAZARDOUS SUBSTANCES LABELING ACT, FLAMMABLE FABRICS ACT, FEDERAL WOOD, PRODUCTS LABELING ACT, FLUR PRODUCTS ACT, PROTECTIONS AND TOY LABELING ACT, AND THE TEXTILE FIBER PRODUCTS IDENTIFICATION ACT.

4. ALL MERCHANDISE MUST BE INDIVIDUALLY MARKED CONSPICUOUSLY, LEGIBLY, AND PERMANENTLY WITH THE COUNTRY OF ORIGIN. THE PURCHASE ORDER WILL NOT INTERFERE WITH ANY CONTRACTUAL RIGHTS OF A THIRD PARTY.

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6. REASONABLE TESTS WERE PERFORMED TO ENSURE THE MERCHANDISE IS IN COMPLIANCE WITH THE FLAMMABLE FABRICS ACT, AS APPLICABLE.

7. THE MERCHANDISE IS NOT MANUFACTURED USING ANY SLAVE, CHILD, OR PRISON LABOR, AND THE MANUFACTURING FACILITIES SUBSTANTIALLY CONFORM TO WORKER SAFETY REQUIREMENTS.

8. VENDOR GUARANTEES THAT THE TEXTILE FIBER PRODUCTS SPECIFIED HEREIN ARE BRANDED, ADVERTISED, LABELED, AND INVOICED IN COMPLIANCE WITH THE TEXTILE FIBER PRODUCTS IDENTIFICATION ACT. THE RULES AND REGULATIONS THEREUNDER, AND VIOLATE NO PROVISION THEREOF. IN ADDITION TO THE FOREGOING, THE VENDOR FURTHER REPRESENTS AND WARRANTS THAT IT HAS ALL RIGHTS AND AUTHORITY TO SELL THE MERCHANDISE TO BUYER IN THE JURISDICTIONS TO WHICH THE MERCHANDISE IS SHIPPED, AND THAT THE MERCHANDISE DOES NOT CONSTITUTE GRAY MARKET GOODS.

9. THE VENDOR IS AUTHORIZED BY THE OWNER OR LICENSEE OF ANY AND ALL TRADEMARKS, TRADE NAMES, TRADE DRESS, COPYRIGHTS, PATENTS, AND OTHER INTELLECTUAL PROPERTY RIGHTS TO MANUFACTURE AND SELL THE MERCHANDISE.

10. THE VENDOR HAS GOOD TITLE TO THE MERCHANDISE, WHICH IS FREE AND CLEAR OF ANY LIENS.

11. WHERE APPLICABLE, THE VENDOR HEREBY CERTIFIES THAT THE DESCRIBED GOODS QUALIFY FOR THE GENERALIZED SYSTEM OF PREFERENCES (GSP) REQUIREMENTS UNDER U.S. LAW, AND MAKES THE FOLLOWING CERTIFICATIONS: (1) THE SUBJECT ARTICLE(S) ARE ELIGIBLE ARTICLES UNDER THE GSP. (2) THE ARTICLES ARE PRODUCTS OF A BENEFICIARY DEVELOPING COUNTRY (BDC) OR AN ASSOCIATION TREATED AS A SINGLE COUNTRY UNDER GSP. (3) THE ARTICLES ARE TO BE SHIPPED DIRECTLY TO THE UNITED STATES. (4) ONE OF THE FOLLOWING APPLIES: (A) THE ARTICLES ARE WHOLLY THE GROWTH PRODUCT OR MANUFACTURE OF A BDC OR AN ASSOCIATION OF COUNTRIES TREATED AS A BDC. (B) AT LEAST 35% OF THE APPRAISED VALUE OF THE ARTICLE IS ATTRIBUTABLE TO (I) THE COST OR VALUE OF THE BDC (OR ASSOCIATION OF COUNTRIES TREATED AS A BDC), OR (II) THE DIRECT COSTS INCURRED IN THE BDC OR ASSOCIATION OF COUNTRIES TREATED AS A BDC.

12. AS TO GOODS QUALIFYING FOR GSP AS DISCUSSED IN PARAGRAPH 11 ABOVE: IF THE MERCHANDISE IS WHOLLY THE GROWTH, PRODUCT OR MANUFACTURE OF A BDC, A STATEMENT TO THAT EFFECT SHALL BE INCLUDED ON THE COMMERCIAL INVOICE. IF THE MERCHANDISE IS NOT WHOLLY THE GROWTH, PRODUCT OR MANUFACTURE OF SINGLE BDC, THE VENDOR SHALL BE PREPARED TO SUBMIT TO U.S. CUSTOMS & BORDER PROTECTION A DECLARATION SETTING FORTH ALL PERTINENT DETAILED INFORMATION CONCERNING THE PRODUCTION OR MANUFACTURE OF THE MERCHANDISE. VENDOR AGREES TO SUBMIT THE GSP DECLARATION TO CUSTOMS WITHIN SIXTY DAYS OF REQUEST. VENDOR ALSO AGREES TO MAINTAIN ALL SUCH PRODUCTION AND MANUFACTURING EVIDENCE FOR A PERIOD OF FIVE YEARS.

13. BUYER RETAINS ALL RIGHTS TO ITS INTELLECTUAL PROPERTY. IF AN ORDER IS CANCELLED OR RETURNED FOR ANY REASON, ALL PRICE TICKETS, STICKERS, MARKINGS AND/OR BEARING BUYERS NAME OR TRADEMARK MUST BE IMMEDIATELY REMOVED FROM THE MERCHANDISE. NOTWITHSTANDING THE ABOVE, VENDOR MUST RECEIVE WRITTEN AUTHORIZATION FROM BUYER TO SELL ANY CANCELLED OR RETURNED MERCHANDISE THAT CONTAINS BUYER'S INTELLECTUAL PROPERTY.

SHIPPING AND PAYMENT REQUIREMENTS AND TERMS

15. THIS ORDER SHALL NOT BE FILLED AT PRICES HIGHER THAN THOSE SHOWN ON THE FRONT SIDE HEREOF UNLESS SUCH INCREASED PRICES HAVE BEEN AUTHORIZED IN WRITING BY BUYER. NO INVOICES SHALL BE ISSUED OR PAID PRIOR TO DELIVERY OF MERCHANDISE. VENDOR SHALL, IN ACCORDANCE WITH THE TERMS OF THE FRONT SIDE HEREOF, DELIVER TO BUYER COPIES OF ALL PACKING SLIPS AND SEPARATE INVOICE FOR EACH ORDER, UNLESS FREIGHT AND OTHER CHARGES ARE ITEMIZED. ANY DISCOUNT WILL BE TAKEN ON THE FULL AMOUNT OF INVOICES. ALL PAYMENTS ARE SUBJECT TO ADJUSTMENT FOR SHORTAGE OR REJECTION. PRICES SHOWN ON THIS ORDER ARE DEEMED TO INCLUDE ALL TAXES IMPOSED BY ANY TAXING AUTHORITY WITH RESPECT TO THE TRANSFER TO BUYER OF POSSESSION, TITLE OR BOTH TO THE MERCHANDISE INCLUDING BUT NOT LIMITED TO SALES, USE, PROPERTY, AND VALUE ADDED TAXES, BUT EXCLUDING INCOME TAX.

16. THE MERCHANDISE WILL BE SHIPPED, ONLY ONE PURCHASE ORDER PER CARTON, WITH THE CARTON LABELED WITH PURCHASE ORDER NUMBER, DESCRIPTION OF CONTENTS, INDIVIDUAL CARTON NUMBER, COUNTRY OF ORIGIN, AND TOTAL CARTONS (E.G., "1 OF BILL OF LADING COVERING ALL CARTONS SHIPPED ON A SINGLE DAY, AND CARTONS LOADED TOGETHER BY PURCHASE ORDER AND BY STYLE").

17. FOR BUYING IMPORT POS, BUYING COMMISSIONS, SELLING COMMISSIONS, AND DUTIABLE ROYALTIES MUST BE CLEARLY NOTED ON THE COMMERCIAL INVOICE.

18. THE BILL OF LADING WILL SHOW: (A) AN EXACT DESCRIPTION OF THE MERCHANDISE; (B) ALL PURCHASE ORDER NUMBERS; (C) THE NUMBER OF CARTONS BEING SHIPPED.

19. BUYER HAS THE RIGHT TO CHARGE BACK TO THE VENDOR: (A) EXCESS CHARGES INCURRED BY BUYER DUE TO INCORRECT WEIGHT OR NUMBER OF CARTONS; (B) INCORRECT OR INCOMPLETE DESCRIPTIONS OF THE MERCHANDISE; (C) EXCESS CHARGES INCURRED BY BUYER DUE TO EACH ADDITIONAL INVOICE PAID; (D) THE FIRST WHERE THERE ARE MULTIPLE INVOICES PER SHIPMENT; AND (E) EXPENSES INCURRED DUE TO ANY OTHER NON-COMPLIANCE INCLUDING, WITHOUT LIMIT, FAILURE TO PAY COSTS OF DEFENSE OR INDEMNITY ARISING FROM OR RELATED TO CLAIMS MADE AGAINST BUYER OR ITS PARENT, SUBSIDIARY, OR OTHER RELATED OR AFFILIATED ENTITIES.

20. SHIPMENTS RECEIVED AFTER THE 20TH OF THE MONTH ARE CONSIDERED RECEIVED ON THE 1ST DAY OF FOLLOWING MONTH. RECEIVING DATE IS CONSIDERED THE DATE IN WHICH THE MERCHANDISE COMPLETES UNIT RECONCILIATION.

21. VENDOR WILL KEEP CONFIDENTIAL AND WILL NOT DISCLOSE TO ANY THIRD PARTY ANY NON-PUBLIC OR UNPUBLISHED INFORMATION RELATING TO BUYER'S COST OF GOODS SOLD OR OTHER COSTS, PROFITS, OR PROFIT MARGINS, INCLUDING WITHOUT LIMITATION ANY PRICES SHOWN ON THE FRONT SIDE HEREOF (OR ANY RELATED INVOICES).

DISPUTE RESOLUTION

22. IF BUYER FAILS TO PAY VENDOR, VENDOR'S EXCLUSIVE REMEDY SHALL BE TO RECOVER THE MERCHANDISE OR, IN THE EVENT THE MERCHANDISE HAS BEEN SOLD TO A THIRD PARTY, TO RECOVER AN AMOUNT EQUAL TO THE PURCHASE PRICE FROM BUYER. IN NO EVENT SHALL BUYER BE LIABLE FOR INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES EVEN IF BUYER KNEW OR HAD REASON TO KNOW OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF A REMEDY HEREIN FAILS OF ITS ESSENTIAL PURCHASE.

23. TO AVOID THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF A REMEDY HEREIN FAILS OF ITS ESSENTIAL PURCHASE, BUYER SHALL BE RESPONSIBLE FOR ALL FEES AND COSTS INCURRED BY BUYER OR FOR WHICH BUYER BECOMES LIABLE, AND ATTORNEY'S FEES AND COSTS INCURRED IN ENFORCING THIS OBLIGATION TO DEFEND, INDEMNIFY AND HOLD HARMLESS FROM DIRECT, CONSEQUENTIAL AND INCIDENTAL DAMAGES, ATTORNEY'S FEES AND COSTS INCURRED BY BUYER OR FOR WHICH BUYER BECOMES LIABLE, AND ATTORNEY'S FEES AND COSTS INCURRED IN ENFORCING THIS OBLIGATION TO DEFEND, INDEMNIFY AND HOLD HARMLESS FROM (INCLUDING CLAIM, ARISING IN CONNECTION WITH THE MERCHANDISE OR IN CONNECTION WITH THIS PURCHASE ORDER AND TRANSACTION (INCLUDING BUT NOT LIMITED TO ANY REPRESENTATIONS/GUARANTEES MADE BY VENDOR HEREIN) WHETHER OR NOT BUYER OR VENDOR HAS A VALID DEFENSE TO THE CLAIM, AND REGARDLESS OF WHETHER THE CLAIM IS TRUE OR VALID. A "CLAIM" INCLUDES, WITHOUT LIMIT, ANY DEMAND, LAWSUIT, ARBITRATION, GOVERNMENTAL ACTION (INCLUDING ADMINISTRATIVE PROCEEDING), OR ANY OTHER LEGAL PROCEEDING IN CONNECTION WITH THIS PURCHASE ORDER AND TRANSACTION.

24. IN THE EVENT OF A CLAIM, BUYER HAS THE RIGHT TO EITHER CANCEL THE PURCHASE ORDER, RETURN THE MERCHANDISE, DESTROY THE MERCHANDISE, DELIVER THE MERCHANDISE TO A THIRD PARTY, WITHHOLD PAYMENTS DUE TO SELLER, AND OFF-SET ANY AMOUNTS DUE TO BUYER BY THE ESTIMATED COST THEREOF.

25. BUYER SHALL PROTECT, DEFEND, INDEMNIFY AND HOLD HARMLESS VENDOR FROM AND AGAINST ALL CLAIMS, LIABILITY, LOSSES, DAMAGES, ACTIONS AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES ARISING OUT OF ANY ACTUAL OR ALLEGED DEATH OR INJURY TO ANY PERSON OR OTHER DAMAGES OR LOSSES BY WHOMSOEVER SUFFERED, RESULTING OR CLAIMED TO RESULT IN WHOLE OR IN PART FROM GUARANTIES OR WARRANTIES HEREUNDER OR IN ANY WAY CLAIMED TO BE CONNECTED TO THIS PURCHASE ORDER OR RESULTING IN WHOLE OR IN PART FROM ANY ACTUAL OR ALLEGED DEFECT IN SAID GOODS OR SERVICES, AND SUCH OBLIGATIONS SHALL SURVIVE ACCEPTANCE OF THE GOODS OR SERVICES AND PAYMENTS THEREFOR BY BUYER.

26. VENDOR LIABILITY FOR SAID INDEMNITY SHALL APPLY TO ANY AND ALL LOSSES AS SET OUT ABOVE, WHETHER ARISING OUT OF THE ACTS

OR OMISSIONS, WILLFUL MISCONDUCT OR NEGLIGENT CONDUCT, WHETHER ACTIVE OR PASSIVE, ON THE PART OF VENDOR OR IF IN ANY WAY CONNECTED TO THE GOODS OR SERVICES AS REFLECTED IN THE PURCHASE ORDER AND WILL NOT BE REDUCED BY ANY NEGLIGENCE OF BUYER, WHETHER ACTIVE OR PASSIVE AND WILL APPLY REGARDLESS OF THE CAUSE OF THE LOSS UNLESS SAID CAUSE AROSE OUT OF THE SOLE NEGLIGENCE OR WILLFUL MISCONDUCT OF BUYER.

27. ANY DISPUTE REGARDING THIS PURCHASE ORDER OR THE MERCHANDISE WILL BE CONSTRUED UNDER CALIFORNIA LAW, INCLUDING THE LAW RELATING TO PRODUCTS LIABILITY, NEGLIGENCE AND INDEMNITY. THE PARTIES AGREE THAT ANY DISPUTE WILL BE RESOLVED EXCLUSIVELY IN THE STATE AND FEDERAL COURTS IN ALAMEDA COUNTY, CALIFORNIA.

28. VENDOR WARRANTS AND REPRESENTS THAT THEY CARRY COMMERCIAL GENERAL LIABILITY INSURANCE INCLUDING PRODUCTS AND COMPLETED OPERATIONS COVERAGE AS WELL AS CONTRACTUAL LIABILITY COVERAGE. SUCH INSURANCE SHALL CONTAIN POLICY LIMITS OF NO LESS THAN \$2 MILLION PER OCCURRENCE/\$5 MILLION AGGREGATE POLICY LIMITS. SUCH INSURANCE SHALL BE PRIMARY AND NON-CONTRIBUTORY. SUCH INSURANCE SHALL BE PLACED WITH AN ADMITTED INSURANCE CARRIER IN THE UNITED STATES OF AMERICA OR ITS TERRITORIES WITH AN AM BEST RATING OF AT LEAST A-7/VI OR GREATER. THE POLICY LIMITS REQUIRED HEREIN CAN BE MET WITH ANY COMBINATION OF LIMITS, CO-SHARE POLICIES OF INSURANCE SO LONG AS THE PROVIDER THAT THE PURCHASER IS ADDRESSED AS COMBINATION OF LIMITS, CO-SHARE POLICIES OF INSURANCE WITH A CHANGES TO THE POLICY IN FAVOR OF THE PURCHASER UNDER THIS PURCHASE ORDER. SUCH COVERAGE SHALL ALSO INCLUDE A WAIVER OF SUBROGATION IN FAVOR OF PURCHASER.

29. BUYER SHALL HAVE THE RIGHT TO CANCEL THIS PURCHASE ORDER AND/OR DELAY PERFORMANCE, IN WHOLE OR IN PART, DUE TO CAUSES BEYOND ITS REASONABLE CONTROL, THAT AFFECT EITHER BUYER'S BUSINESS OR VENDOR'S PERFORMANCE, WHICH COULD INCLUDE ACTS OF NATURE, ACTS OF ANY GOVERNMENT, PANDemics, SARS, TERRORISM, CIVIL UNREST, FIRES, FLOODS, ACCIDENTS, STRIKES, COMMUNICATIONS FAILURE, OR OTHER UNUSUAL CIRCUMSTANCES. BUYER'S CANCELLATION SHALL NOT BE SUBJECT TO ANY DAMAGES OR COSTS INCURRED BY VENDOR, EXCEPT AS TO MERCHANDISE THAT BUYER HAS ACCEPTED PRIOR TO THE CANCELLATION.

30. BUYER SHALL HAVE THE RIGHT TO CANCEL THIS PURCHASE ORDER, IN WHOLE OR IN PART, WITHOUT PENALTY, SUBJECT TO EVENT(S) PROXIMATELY RELATED AND/OR CAUSED BY BUSINESS IMPOSSIBILITY, IMPRACTICALITY, INSOLVENCY, BANKRUPTCY, THIRD-PARTY CLAIMS, AND/OR A FAILURE OF VENDOR TO COMPLY WITH THE AGREED UPON TERMS. BUYER SHALL GIVE REASONABLE NOTICE OF CANCELLATION PURSUANT TO THIS PARAGRAPH AND SHALL NOT BE LIABLE FOR ANY DAMAGES OR COSTS INCURRED BY VENDOR, EXCEPT AS TO MERCHANDISE THAT BUYER HAS ACCEPTED PRIOR TO THE CANCELLATION.

31. THE PARTIES REGARDING THE SUBJECT MATTER AND SUPERSEDES ALL OTHER RELATED DOCUMENTS AND AGREEMENTS (E.G., SALES CONTRACTS, INVOICES, AND OTHER DOCUMENTS). A WAIVER OF NON-PERFORMANCE OF ANY AGREEMENT IS DEEMED INVALID OR UNENFORCEABLE. THAT ACKNOWLEDGEMENT OR INVOICE). A WAIVER OF NON-PERFORMANCE WITH APPLICABLE LAW AS NEARLY AS POSSIBLE TO REFLECT THE ORIGINAL INTENTIONS OF THIS PURCHASE ORDER; AND IN ANY EVENT, THE REMAINING PROVISIONS OF THIS PURCHASE ORDER WILL REMAIN IN FULL FORCE AND EFFECT.

32. BY SHIPPING GOODS UNDER THIS PURCHASE ORDER, THE VENDOR AGREES TO THE TERMS OF THIS PURCHASE ORDER. BUYER OBJECTS AND REJECTS ALL TERMS AND MODIFICATIONS WHETHER CONTAINED IN VENDORS INVOICE OR OTHERWISE THAT DIFFER FROM THESE TERMS AND CONDITIONS. BUYER'S ACCEPTANCE OF THIS ORDER SHALL CONSTITUTE ACCEPTANCE OF ALL TERMS OF THIS PURCHASE ORDER.

33. IN THE EVENT MERCHANDISE FAILS TO CONFORM TO THE REQUIREMENTS OF THIS ORDER OR FAILS TO COMPLY WITH THE FOREGOING WARRANTIES OR THE TERMS OF THE VENDOR COMPLIANCE MANUAL (NONCONFORMING MERCHANDISE), BUYER, AT ITS SOLE OPTION AND AT VENDOR'S SOLE COST AND EXPENSE, MAY ELECT TO ACCEPT, CANCEL, RETURN, OR DISPOSE OF ALL OR ANY PART OF THIS ORDER.

34. THE U.N. CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS IS SPECIFICALLY EXCLUDED FROM THIS ORDER.