

## STANDARD TERMS AND CONDITIONS

VIBCO, Inc. ("Vendee")

1. Vendor represents and warrants that Vendor has absolute and good title to and full right to dispose of the goods sold hereunder, and that there are no liens, claims, or encumbrances, of any kind against the goods. Vendor represents and warrants that: (i) the goods to be delivered under this Agreement or any purchase order will conform to the description thereof in this Agreement or any purchase order and to the sample or specifications from any order; (ii) the goods are of the best materials and workmanship, merchantable, for the purpose for which purchased and free from defect; (iii) the goods sold hereunder and every part of them, do not infringe any patent, trademark, trade-name, copyright or any other property right of any third party; and (iv) that it has and will continue, during the performance of this Agreement, to comply with the provisions of all Federal, State and local laws and regulations from which liability may accrue to Vendee from any violation thereof. Inclusion herein of express warranties and representations by Vendor shall not be deemed to be a waiver of such other warranties as may be implied in law or fact, or provided for by any State or Federal statute or regulation. Any statements made by the Vendor's agents whether oral or written or in the Vendor's advertising or promotional literature, with respect to the quality, grade, performance, and use of such merchandise, shall be deemed express warranties included herein. All warranties, express or implied, shall survive delivery, inspection, acceptance and payment by Vendee. If any representation or warranty is breached, Vendee may, in addition to all other remedies, cancel this Agreement. Vendor will be responsible for maintaining information regarding their product(s) and all changes to such products(s). These warranties are in addition to all other warranties, express, implied or statutory. All warranties run not only to Vendee, but to its successors, assigns, customers, and to the users of the goods. Vendor further represents and warrants that Vendor is duly organized and validly existing under the laws of the state or country of its formation and has the full power and authority to carry out this Agreement and that the party executing this Agreement on behalf of Vendor is duly authorized to execute and deliver this Agreement and that the Agreement is a legal and valid obligation binding upon Vendor and is enforceable against Vendor in accordance with its terms.
2. Vendee may assign this Agreement without the consent of Vendor. This Agreement is executed with the understanding that no obligation for performance which this Agreement imposes on the Vendor or may be delegated to any other person without the written consent of the Vendee, and that the Vendee has a substantial interest in having the Vendor perform or control the acts required by this Agreement. Any such delegation attempted without Vendee's prior written consent shall be a breach of this Agreement. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and permitted assigns.
3. If any clause of this Agreement is held to be invalid by any court of competent jurisdiction, the clause in question shall be modified to eliminate the invalid element and as so modified and the clause shall be binding on the parties. The remaining provisions of the Agreement shall not be affected by the modification of any invalid clause.
4. Any and all taxes, fees, imports or stamps required by any law, ordinance, code, or regulations of any governmental entity having jurisdiction thereof by virtue of the sale, transport, or transmission of the merchandise delivered hereunder to the Vendee, shall be paid by the Vendor, including obligations incurred in connection with unemployment insurance or other social insurance or pensions, maintained pursuant to any laws, ordinances, codes or regulations. Prices recorded in the Agreement are not subject to increase. No additional amounts shall be chargeable to Vendee because of taxes or excises, presently or hereafter levied on Vendor. If Vendor's quoted prices for the goods covered by this Agreement are reduced (whether in the form of a price reduction, closeout, rebate, allowances or additional documents offered to anyone) at time of any shipment, Vendor agrees that the price to Vendee for such goods will be reduced accordingly, and that Vendee will be billed at such reduced prices.
5. Upon execution of this Agreement, Vendor agrees to sell Vendee such quantity of goods as may be ordered by Vendee from time to time pursuant to Vendee's standard purchase orders and Vendor agrees such goods will be sold to Vendee pursuant to the terms and conditions of this Agreement. Any terms and conditions contained in Vendor's invoice, acknowledgement, packaging or other documents shall not modify or amend the Agreement in any way, and the terms and conditions of this Agreement and not any other documents shall control and be binding on the parties. This writing contains the entire Agreement between the parties, and all Agreements entered into prior to or contemporaneously with this Agreement are excluded whether oral or in writing. Vendor shall provide Vendee prompt shipment of all goods ordered by Vendee. Prompt shipment shall mean by the date specified in Vendee's purchase order. The shipment of non-conforming goods shall be a breach of contract. This offer may only be accepted on these exclusive and exact terms set forth herein and no additional terms or modification shall be accepted. This Agreement cannot be modified in any way, except in writing signed by the parties hereto.
6. Goods purchased hereunder are subject to inspection and approval at Vendee's destination prior to Vendee's acceptance. Vendee reserves the right to either require correction or reject and return any goods found not to be in accordance with the Agreement and the warranties set forth herein. Costs incurred by the Vendee in connection with such inspection and return will be charged to Vendor and Vendee may purchase substitute goods elsewhere and charge Vendor with any loss thus incurred. The generality of the foregoing notwithstanding, Vendor agrees that Vendee shall be under no obligation to inspect goods prior to use or resale and that all warranties, express or implied, shall survive inspection, acceptance and payment by Vendee and Vendee's customers. Complaints or notices as to defects in goods or notice of any other breach, will be considered made within a reasonable time after Vendee receives notice of such defect or other breach. Vendee's failure to state a particular defect upon rejection shall not preclude Vendee from relying on unstated defects to justify rejection or establish breach. Resale, repackaging, or repacking for purposes of resale shall not be construed as an acceptance. The failure of Vendee to reasonably notify Vendor of the intention of Vendee to reject the goods purchased under this Agreement, shall not be deemed an acceptance of the goods by Vendee. The acceptance by Vendee of a specifically designated partial quantity of the total goods ordered, shall operate as an acceptance of that specific quantity only and shall operate as an acceptance of that specific quantity only and shall not operate as an acceptance of the balance of the goods to be delivered, or not specifically accepted. Each partial quantity shall be subject to separate acceptance by Vendee. If Vendee elects to return the goods to Vendor, Vendor shall bear the risk of loss and expense incurred in returning the goods. The risk of loss, damage or casualty to, or any liability with respect to the goods, regardless of the cause, shall remain with the Vendor until

the goods have been accepted by the Vendee at Vendee's specified destination. Any credit balance due Vendee arising from any return of goods shall be offset against any undisputed monies due and payable from Vendee and any balance after such offset shall be promptly paid to Vendee.

7. No waiver of any breach or of any of the terms and conditions of this Agreement shall be construed as a waiver of any subsequent breach of such term or condition or of any other term or condition of the same or different nature of this or any other Agreement, nor shall the receiving of any goods under the Agreement be deemed a waiver of any Vendee's rights with respect to any prior failure by Vendor to comply with the provisions of the Agreement.
8. Vendor's acceptance of this Agreement is Vendor's warranty that Vendor is complying with the U.S. Fair Labor Standards Act of 1938 as amended and all applicable laws.
9. If Vendor shall default in the performance of any of the terms hereof, or breach any of its obligations hereunder, or any other Agreement placed with Vendor, or breaches any representation or warranty, or if Vendor becomes insolvent or makes an assignment for the benefit of creditors, or a petition in bankruptcy if filed by or against it, or a trustee or receiver is appointed over any of its property, then Vendee may in addition to all other rights and remedies available hereunder or at law or in equity cancel the Agreement in whole or in part by written notice or telefax and Vendee shall have no obligation to Vendor whatsoever by reason of such cancellation. In addition, in the event of Vendor's default hereunder, the Vendee shall be entitled to offset against amounts due by Vendee to Vendor under this Agreement or any other Agreement any amount for which Vendee is entitled to indemnification hereunder and shall, in the event of Vendor's breach have all remedies provided by law.
10. Vendor agrees to appear, defend, by counsel reasonably satisfactory to Vendee, indemnify and hold harmless Vendee, and its directors, officers, subsidiaries, affiliates, successors, assignees, partners, shareholders, representatives, agents and employees, from and against any and all actions, litigation, claims, liabilities, loss, damages (whether direct or indirect, incidental, consequential or otherwise), expenses or costs, including attorney's fees (collectively, "Claims"), including without limitation, (x) claims based upon death or injury to any person, including Vendee's or Vendor's employees, (y) claims for damage to any property, which Claims are brought against Vendee by any person or entity, including without limitation any customer of Vendee, or (z) claims based on alleged patent, copyright or trademark infringement or breach of any right of privacy/publicity law and which may (i) arise out of, relate to, or be connected in any way with the manufacture, design, shipment, resale, demonstration, advertisement and/or use, including the misuse, of any merchandise purchased from Vendor whether or not pursuant to this agreement, by any person, whether used or resold independently or as a part or component and incorporated into other merchandise or products, whether or not resulting from the negligence of the Vendor or any other person or entity (except to the extent of loss or damage resulting solely from the negligence of Vendee) and/ or (ii) result from Vendor's default or the breach of any covenant, representation or warranty made by Vendor in connection with such merchandise.  
  
The obligation of Vendor to indemnify, hold harmless and defend Vendee shall at all times be effectively protected by insurance which shall provide such indemnity, contractual and defense coverage, and name Vendee as an additional insured under the policy; provided, however, that any such liability shall be set forth at minimum limits of \$1,000,000 per occurrence/\$10,000,000 aggregate, the liability of Vendor shall extend to such excess or portion that is uninsured, including any applicable deductible. Proof of insurance shall be rendered to Vendee upon reasonable demand and thereafter, annually, in the form of an additional insured vendors endorsement, naming Vendee and providing coverage to Vendee for all such products, merchandise or components as Vendee has or will obtain from Vendor. Vendee is to be notified by Vendor's insurance company of any cancellation or material change in Vendor's insurance company of any cancellation or material change in Vendor's insurance policy.
11. Vendee's purchase orders are conditioned upon the ordered goods being delivered by the dates specified in the purchase orders. If goods are not delivered on date specified, Vendee reserves the right without liability, in addition to other rights and remedies, to terminate this contract by notice to Vendor, or to purchase, substitute goods elsewhere, or, alternatively, to refuse to accept such merchandise upon delivery thereof, or Vendee may return such merchandise in whole or in part, to Vendor at Vendor's expense and risk, and to charge Vendor with any loss incurred. Acceptance of delivery of goods shipped after the date(s) specified shall not constitute a waiver of Vendee's rights to recover damages for the late delivery.
12. Vendee reserves the right at any time, and from time to time, without cause, to cancel all or any part of the undelivered portion of the purchase Agreement by notice to Vendor. In the event of such cancellation, Vendee shall not be liable to Vendor for consequential or special damages or loss of anticipatory profits. The provisions of this paragraph shall not limit or affect Vendee's right to terminate the purchase Agreement as a result of the default of Vendor.
13. Vendor hereby waives and relinquishes all liens and claims, statutory or otherwise, which Vendor now has or may hereafter have as a result of labor done and materials furnished by Vendor in performance of this Agreement.
14. Limitation of Liability: IN NO EVENT SHALL VENDEE BE LIABLE TO THE VENDOR FOR A MONETARY AMOUNT GREATER THAN THE AMOUNTS DUE AND OWING FOR GOODS ACTUALLY RECEIVED BY VENDEE PURSUANT TO THIS AGREEMENT, AND IN NO EVENT SHALL VENDEE BE LIABLE TO VENDOR FOR ANY NEGLIGENCE, ANY FUTURE OR CONTEMPLATED AGREEMENT OR BUSINESS RELATIONSHIP, ANY LOSS OR INJURIES TO EARNINGS, PROFITS, OR GOODWILL, OR FOR ANY INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY PERSON OR ENTITY, WHETHER ARISING IN CONTRACT, TORT, OR OTHERWISE, IN CONNECTION WITH THIS AGREEMENT OR ITS BREACH, OR ARISING FROM THE RELATIONSHIP OF THE PARTIES OR THE CONDUCT OF BUSINESS BETWEEN THEM, EVEN IF VENDEE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE LIMITATIONS SET FORTH IN THIS SECTION SHALL APPLY EVEN IF ANY OTHER REMEDIES FAIL OF THEIR ESSENTIALPURPOSE. THE PROVISIONS OF THIS AGREEMENTALLOCATE THE RISKS BETWEEN THE PARTIES. VENDEE'S PRICING REFLECTS THIS ALLOCATION OF RISK AND THE LIMITATION OF LIABILITY IN THIS SECTION.