

Terms and conditions of Purchase of products and services

Terms of Performance.

These Terms and Conditions of Purchase of Products and Services ("Terms" or "Agreement") constitute together with the written or electronic purchase order the "Purchase Order" or "PO", and any corresponding "statement of work" or "SOW" constitute the entire agreement by and between the parties with regard to the subject matter of these terms. "Supplier" means the entity issuing the PO, and any affiliates, subsidiaries, successors or assigns thereof. "S&S" means Schubert & Salzer, Inc., 4601 Corporate Drive, NW, Suite 100, Concord, NC 28027.

THE PO SHALL CONSTITUTE A BINDING CONTRACT AND AGREEMENT BETWEEN THE PARTIES. UNLESS EXPRESSLY AGREED TO IN WRITING BY S&S, ACCEPTANCE OF THE PO BY S&S IS EXPRESSLY LIMITED TO THE TERMS AS DEFINED HEREIN, AND ANY ADDITIONAL OR DIFFERENT TERMS OR CONDITIONS CONTAINED IN SUPPLIER'S INITIAL OFFER OR ANY RESPONSE TO THE PO SHALL BE DEEMED REJECTED BY S&S WITHOUT NEED OF FURTHER NOTICE OF REJECTION AND SHALL BE OF NO EFFECT NOR IN ANY CIRCUMSTANCES BINDING UPON S&S.

1. Definitions

1.1 "Affiliate" means, with respect to any Person, as of the Effective Date or anytime thereafter during the Term of the Agreement, any other Person which directly or indirectly controls, is controlled by or is under common control with such Person, where "control" means the possession, directly or indirectly, of the power to direct the management and policies of the applicable entity whether through the ownership of voting securities or otherwise.

1.2 "Business Day" means any of Monday through Friday, excluding all US national bank holidays.

1.3 "Confidential Information" means all non-public information which is disclosed by S&S, its Affiliates, and/or its agents, whether in written, graphic, machine-readable form, or oral form, and shall include all Personal Information, and any information obtained visually or aurally during any visits to S&S facilities or meetings with S&S. Confidential Information also includes the existence of this Agreement or any working relationship with S&S, as well as any bids or proposals submitted to S&S in connection with any proposed or actual business relationship. "Confidential Information" shall not include any information that: (a) is or subsequently becomes publicly available through no fault of Supplier or Supplier's Personnel; (b) is, and can be proven through written records to have been: (i) known to Supplier prior to S&S disclosure of such information to Supplier; (ii) is received by Supplier from a third party who obtained such information without restrictions and without any obligation of confidentiality to S&S; or (iii) is independently developed by Supplier; or (c) is approved for release by written authorization from an officer of S&S. Failure to mark any "Confidential Information" as confidential shall not affect its status as Confidential Information under this Agreement.

1.4 "S&S Indemnitees" means S&S and its Affiliates and their respective directors, officers, employees, agents and successors-in-interest.

1.5 "Intellectual Property Right and Intellectual Property Rights" means: (a) all copyright rights under the copyright Laws of the United States and all other countries where Products or Services are sourced, manufactured, sold or licensed or which are in any other way directly or indirectly associated with the processing of the Products or rendering of the Services hereunder for the full term thereof (and including all rights accruing by virtue of bilateral or international copyright treaties and conventions), whether registered or unregistered, including all renewals, extensions, reversions or restorations of copyrights now or hereafter provided for by Law and all rights to make applications for copyright registrations and records, regardless of the medium of fixation or means of expression; (b) all rights to and under all new and useful, patentable and non-patentable inventions, discoveries, designs, technology and art, including all improvements thereof and all know-how related thereto, including all letters patent and patent applications in the United States and all other countries (and all letters patent that issue therefrom) and all reissues, reexaminations, extensions, renewals, divisions and continuations (including continuations-in-part and continuing prosecution applications) thereof, for the full term thereof; (c) all statutory and common law trademark and service mark rights and all applications and registrations to issue therefrom under all intellectual property Laws of the United States, each U.S. state, and all other countries for the full term and any renewals thereof; (d) Internet domain names and applications therefor and URLs; (e) electronic or other databases to the extent protected by intellectual property or other Law in any jurisdiction; (f) all Trade Secrets; (g) all know-how; and (h) all worldwide intellectual property rights, industrial property rights, proprietary rights and common law rights, whether registered or unregistered, not otherwise included in the foregoing, including all trade dress, algorithms, concepts, processes, methods and protocols.

1.6 "Law" means each of the following to the extent it is applicable to the provision in which the term Law appears: conventions, treaties, common law, statutes, codes, laws, regulations, rules, judgments, orders, ordinances, and mandates.

1.7 "Person" means any natural person, partnership, trust, estate, association, limited liability company, corporation, custodian, nominee, governmental body or agency, body politic or any other entity in its own or any representative capacity.

1.8 "Product" means the product or products related in any manner whatsoever to, or specified in, this Agreement, an SOW and/or a PO (as defined herein).

1.9 "Services" means, the services to be performed and Products to be provided by Supplier pursuant to this Agreement and each SOW and/or PO.

1.10 "Statement of Work" or "SOW" means a document substantially in the form attached as Exhibit A, which outlines the obligations of the parties regarding Services, Products, and deliverables and which is subject to and incorporates the terms of this Agreement.

1.11 "Supplier's Personnel" means Supplier's employees, agents, contractors and subcontractors.

1.12 "Trade Secrets" means Confidential Information rising to the level of a "trade secret" under applicable Law.

2. Products and Services

2.1 Order Processing

(a) Pursuant to the terms of this Agreement, S&S may, in its sole discretion, submit purchase orders to Supplier for the Products and/or Services listed on any SOW, as well as, from time to time, for Products and/or Services not listed on a SOW when such additional Products and/or Services are agreed to by the parties. All properly submitted requests for purchase are referred to herein singularly as a "Purchase Order" or "PO" or collectively as "Purchase Orders" or "POs". Supplier acknowledges and agrees that a PO is voidable by S&S unless issued by an authorized representative of S&S. Each PO shall state the type and quantity of Products ordered, the price to be paid per unit of Product, the required date of shipment or delivery, any shipping instructions and any other terms of purchase related to such Products and any terms of purchase related any Services.

(b) In the event of a conflict between this Agreement and any PO or SOW, the terms of this Agreement shall control, provided, however, that the terms of a specific PO or SOW shall control if such PO or SOW specifically identifies a provision of this Agreement and states that both parties agree that such PO or SOW controls over that specific provision of this Agreement.

(c) Each of S&S Affiliates shall have the right to purchase Products and/or Services from Supplier pursuant to the terms of this Agreement by issuing a PO hereunder and/or entering into an SOW hereunder. For the purposes of each PO issued, and/or each SOW entered into, by an Affiliate of S&S, all references to "S&S" in this Agreement shall mean and refer to such Affiliate. In addition, in the event of a material breach of an SOW by an Affiliate of S&S, Supplier may only terminate, in accordance with its rights under the "Termination" Section of this Agreement, the applicable SOW, or portion thereof, between Supplier and such Affiliate of S&S, and Supplier may not terminate (i) this Agreement or (ii) any other SOW.

(d) Nothing in this Agreement shall obligate S&S or its Affiliates to purchase Products and/or Services or to submit a PO for Products from Supplier or limit the right of S&S or its Affiliates to purchase products and/or services that are similar to or competitive with the Supplier's Products and/or Services from entities other than Supplier. For further clarification, this Agreement is not a requirements contract. Except for a valid PO, no other communication or documentation (whether oral, written or electronic), including a forecast, is a commitment by S&S or its Affiliates to purchase Products, unless otherwise specified in writing by an authorized representative of S&S.

(e) Each PO shall be deemed accepted by Supplier according to the terms, conditions and requirements of this Agreement if Supplier acknowledges the PO or ships any of the Products and/or provides any of the Services ordered. Supplier acknowledges and agrees that its acceptance of each PO submitted by S&S shall be according to the terms, requirements and conditions set forth in this Agreement. Supplier's modification of, or provision of additional terms to, a PO (i.e. writing in, striking through or providing additional documents) after its submission by S&S to Supplier shall have no effect unless the changes and/or additions are agreed to in writing and signed by an authorized representative of S&S, and shall not affect Supplier's acceptance of the PO. S&S may by the issuance of a change order, require additions, deletions, or other revisions to any PO which shall be entered into in accordance with this Agreement. Any alteration to the amounts to be paid, the payment rates, or the payment method as a result of such change in a PO shall be set forth in the change order. The terms and conditions of any change order shall be immediately binding upon S&S and Supplier unless Supplier rejects such change order within two (2) days of its receipt

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by providing S&S with written notice of such rejection. For purposes of this Subsection, change orders will be deemed received by Supplier three (3) Business Days after being sent by or on behalf of S&S.

(f) Supplier shall perform each PO and/or SOW in accordance with the terms and conditions set forth in this Agreement and the PO and/or SOW submitted by S&S. If any services, functions or responsibilities not specifically described in this Agreement or the PO or the SOW are reasonably required for the proper performance and provision of the Services, or are an inherent part of or necessary sub-task included within the Services, they will be deemed to be implied by and included within the scope of the Services, as applicable.

(g) All Product backorders are cancelable by S&S, without penalty or other recourse by Supplier. The requirements applicable to Supplier pursuant to this Agreement establish the minimum performance standards required of Supplier hereunder. Supplier will fulfill all POs submitted by S&S.

2.2 Supply

(a) Supplier shall take all necessary steps to ensure an uninterrupted supply of Products to S&S, shall treat S&S as a favored customer with respect to production capacities, and shall use its best efforts to provide the Products to S&S in a timely manner, without delay, interruption or slowdowns.

(b) Supplier agrees and understands that time is of the essence in the performance of this Agreement. Supplier represents that it has sufficient resources so that any services can be performed within the time frames set forth in any SOW or PO. Any delay beyond the control of S&S which results in production overtime or other additional expenses will be borne solely by Supplier, and S&S will owe no additional amounts.

(c) Supplier shall notify S&S in writing no less than fourteen (14) days in advance of any anticipated delays in production and/or shipping that may impact the Products' availability, delivery, quantity and/or quality. S&S, at its option, may take steps to assist Supplier in securing supply to Supplier of anything necessary for Supplier's performance. Any cost incurred by S&S in doing so shall, at S&S option, be charged back to or collected from Supplier.

2.3 Delivery

Supplier shall ship all Products to S&S in accordance with the terms of the applicable PO(s) and/or SOW and the terms of this Agreement. Supplier acknowledges that the timely, proper and complete delivery of the Products ordered is critical and that Supplier may be subject to charges for failure to comply with the shipping and delivery requirements. All Products will be shipped using S&S approved and specified carriers unless otherwise directed by S&S.

(a) All transportation, delivery and freight costs arising out of Supplier's non-compliance with the terms of a PO or the terms of this Agreement are the sole responsibility of Supplier and, at S&S sole discretion, may be charged back to or collected from Supplier.

(c) Prepaid freight shipments shall have a delivery date (and upon S&S request, a ship date) specified on, and all prepaid freight charges shall be separately itemized on applicable invoices. Supplier shall provide, upon S&S request, (i) a copy of the applicable freight bill for each prepaid invoice and (ii) for any shipment, whether prepaid or collect, an itemized invoice showing all costs and add-ons such as storage, expedited shipping, customs or other governmental charges, etc. For prepaid freight shipments, Supplier shall be solely responsible for the full and timely payment of all freight charges due to third party carriers with respect to such shipments and, with respect to any failures in this regard, Supplier shall indemnify, defend and hold S&S harmless against any claims by such carriers or other third parties with respect to such freight charges. In the event Supplier fails to make full and timely payment of such freight charges, S&S, in accordance with this Agreement, shall be entitled to charge back to or collect from Supplier all freight charges prepaid by S&S.

(d) All sales are D.A.P Concord unless otherwise agreed to in writing and signed by an authorized representative of S&S. Supplier agrees to provide pricing for alternative shipping and delivery terms as requested by S&S. During the Term of this Agreement, S&S shall have the right, in its sole discretion, to choose among such alternative shipping and delivery terms for any PO(s). For D.A.P Destination orders, no liability shall be incurred by S&S and the risk of loss shall not pass to S&S until legal title passes upon delivery of the Products to the final destination(s) of S&S, in good condition and accepted by S&S.

(e) Supplier will be solely responsible for, and will indemnify, defend and hold S&S harmless against claims by carriers or third parties for additional charges resulting from extended unloading time for unscheduled deliveries or any other failure to follow S&S routing requirements.

(f) Supplier agrees to ship all POs timely and complete. Supplier shall advise S&S immediately in writing if any Product cannot be shipped to be received by the date(s) specified on each individual PO. No Product shall be shipped for arrival to S&S prior to the specified delivery date unless consented to in writing and signed by an authorized agent of S&S. All collect

shipments must have a ship by date or arrival date, whichever is specified by S&S, set forth in the invoice. Any Product shipment or delivery that does not comply with the terms of this Agreement may subject Supplier to a charge, including, without limitation, the amount of the freight charge.

(g) In addition to compliance with the other terms and conditions of this Agreement and Law, Supplier shall ensure that a detailed packing slip and/or electronic advanced ship notice (as directed by S&S), including item number, the PO number, store and/or distribution center number (if applicable), model number, quantity and shipper's name accompanies each shipment of Product. All material furnished hereunder shall be packaged and marked for identification as follows: ship-to-location, all components will be marked with an assembly legend (if applicable) and a product identification label on each carton which provides the product item number, product description, number of units per carton, bar code, and ship unit definition. Multiple POs on the same truck must be segregated. Identical items on each PO must be unitized. When applicable, all additional packaging and bar coding standards shall be set forth in the SOW or as otherwise provided by S&S.

(h) Supplier is responsible, at its cost, for procuring insurance for the Product to the D.A.P point for full replacement value, including freight, if applicable. Upon S&S's request, Supplier shall file claims for loss or damage in reference to any Product shipment, whether prepaid or otherwise. All uncollectible portions of a Product damage claim, concealed or otherwise, may be charged back to or collected from Supplier.

(i) Any shipments resulting in concealed damage that originated with Supplier or while Supplier had the risk of loss which is discovered upon receipt of the Products by S&S may be destroyed or returned by S&S without prior approval from Supplier. Supplier shall reimburse S&S for the cost of the damaged Products, the pro rata cost of the transportation charges for said Products, including without limitation, collect freight charges, customs brokerage fees, customs fees and duties and any other amounts lost by S&S (including lost profits) occasioned by the concealed damage.

(j) Without limiting any rights of S&S under this "Delivery" Section, S&S has the right to revoke acceptance and/or to return, reject or destroy Products defective in design, packaging, materials or workmanship supplied by Supplier and receive full credit for such Products. Supplier agrees that in the absence of a signed agreement to the contrary, S&S may destroy any defective Product without obtaining Supplier authorization. Upon S&S's request, Supplier shall provide S&S with any information necessary to facilitate S&S disposal or return to Supplier of any Products which are defective, off-specification, mislabeled or which otherwise fail to conform to any PO.

2.4 Cancellations

S&S reserves the right to cancel in whole or in part any PO at any time prior to shipment without recourse by Supplier. S&S reserves the right to refuse or return any Products comprising all or any portion of any PO that is not shipped complete, as ordered and in accordance with the terms in this Agreement and in compliance with all details, including requested ship and arrival dates, as outlined in the PO.

2.5 Notice of Defects

Supplier agrees that S&S has no duty to inspect Products (nor any Services that S&S receives) and that all warranties, representations and conditions, statutory or otherwise and whether express or implied, shall survive inspection, installation, acceptance and payment by S&S. Notice of defects in the Products or any other default by Supplier of the terms of this Agreement or any individual PO or SOW will be deemed timely given upon S&S's notice to Supplier after such defect or default is discovered by S&S.

2.6 Advance Notice of Material Changes

Supplier shall notify S&S in advance of any proposed changes in Products that would materially alter the nature, quality, durability, size, composition, style, performance, functionality or character of such Products. If, in S&S's opinion, any proposed material change will affect Products subject to an existing PO, S&S's receipt of Supplier's advance notice of the proposed material change in the Product shall, without limiting S&S's rights under the "Cancellations" Section, entitle S&S to cancel the subject PO without recourse to Supplier.

2.7 Continued Obligations

S&S revocation of acceptance of, or return, rejection or destruction of, Products shall not relieve Supplier from its obligations arising out of this Agreement and shall not relieve Supplier from liability from any failure to ship conforming Products under the PO and/or SOW or from breach of any representation or warranty. Failure of S&S to state a particular defect upon revocation of acceptance or return, rejection or destruction of Products shall not preclude S&S from relying on such unstated defect to establish a breach of this Agreement or otherwise.

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2.8 Return Shipping

S&S has the right to designate any Product returned to Supplier as F.O.B. Origin, Freight Collect without requiring Supplier return authorization. If S&S elects to return the Product Freight Prepaid, Supplier will, upon demand, reimburse S&S for the actual freight expense. Regardless of the method of return, Supplier agrees to reimburse S&S for any costs related to the Product return.

2.9 Installed Products

In the event any Product defective in design, packaging, labeling, materials or workmanship is installed by S&S and/or its independent contractors, Supplier agrees that such installation shall not preclude S&S ability to revoke acceptance or to initiate the return, rejection or destruction of such defective Product by S&S and shall not relieve Supplier from its obligations arising out of this Agreement.

III. Human Resources

3.1 Supplier's Personnel

Supplier shall provide qualified Supplier's Personnel who possess the proper skill, training, experience and background to perform the Services, and such Supplier's Personnel shall perform the Services in a professional and workmanlike manner in accordance with applicable industry standards. Supplier shall ensure that all Supplier's Personnel are, and shall remain at all times during the Term: (a) fully licensed in all jurisdictions in which the Services are rendered where licensure is required by Law; and (b) in compliance with Law. Supplier agrees it is an independent contractor, and this Agreement shall not be construed as constituting either party as partner, joint venturer or fiduciary of the other or to create any other form of legal association that would impose liability on one party for the act or failure to act of the other or as providing either party with the right, power or authority (express or implied) to create any duty or obligation of the other. Neither Supplier nor Supplier's Personnel are employees or agents of S&S; all such individuals shall for all purposes be Supplier's employees or Supplier's agents. Supplier, and not S&S, shall have the sole authority to hire, fire, direct, control, discipline, reward, evaluate, schedule, supervise, promote, suspend and/or terminate Supplier's Personnel. In addition, Supplier shall be solely responsible for the acts of Supplier's Personnel, whether commission or omission, and for all other charges and liabilities arising out of the employer-employee relationship or other contractual relationship with Supplier's Personnel including liabilities under any Law, including civil rights laws, wages and hour laws, immigration laws, equal employment opportunity acts, any union, welfare and pension contributions and the expense of prosecuting, defending or complying with the award in any labor arbitration proceeding.

3.2 Fair Labor Standard Act

Supplier agrees in connection with the manufacture of the Products to comply with the applicable requirements of the Fair Labor Standards Act, as amended, and of the regulation and orders of the Department of Labor issued thereunder. All invoices must carry the following certificate in order to be approved.

"We hereby certify that these Products were produced in compliance with all applicable requirements of Sections 6.7 and 12 of the Fair Labor Standards Act, as amended, and of regulations and orders of the United States Department of Labor issued under Section 14 thereof."

3.3 Equal Employment Opportunity

Supplier agrees that the contract provisions set forth in: (1) Section 202 of the Executive Order 11246, dated September 24, 1965, pertaining to equal opportunity and nondiscriminatory employment practices, (2) Section 60-250.4 of the Affirmative Action Regulations for Veterans codified as 41 CFR 60-250, and adopted pursuant to the Veterans Readjustment Act of 1974, and (3) Section 60 741.4 of the Affirmative Action Regulations on Handicapped Workers codified as 41 CFR 60 741, relating to Section 503 of the 1973 Rehabilitation Act, are incorporated herein by reference, except to the extent that this contract may be exempt from the provisions of said Regulations and Orders by rules and regulations issued thereunder.

3.4 Removal of Personnel

S&S shall have the right to reject any Supplier's Personnel whose qualifications, in S&S reasonable judgment, do not meet the standards considered by S&S as necessary for the performance of the Services. In addition, if S&S becomes dissatisfied with any of Supplier's Personnel providing the Services for any reason that is not unlawful, S&S may notify Supplier of the details of its dissatisfaction, and if S&S requests, Supplier shall immediately remove that individual from the engagement and replace the individual with other qualified Supplier's Personnel in accordance with the requirements of this Agreement.

3.5 Replacement Personnel

Supplier shall use its best efforts to ensure the continuity of Supplier's Personnel assigned to perform the Services. If for any reason Supplier replaces Supplier's Personnel who have been providing Services with other Supplier's Personnel, fees for the Services by the replacement personnel shall be no higher than the rates previously charged, and S&S shall not be obligated to pay for any time replacement personnel spend reaching the proficiency required to effectively perform the Services.

3.6 Payment

Supplier shall be solely responsible for the compensation of Supplier's Personnel, and payment of workers' compensation, disability and other income and other similar benefits, unemployment and other insurance for withholding income and other taxes and social security and for all other employee-related benefits. Supplier is an independent business and shall not be eligible for, and shall not participate in, any employer pension, health, or other fringe benefit plan of S&S. If any of Supplier's Personnel files a lien or threatens to file a lien against S&S for Services or Products related to this Agreement, Supplier shall immediately obtain a release of any such lien and post a bond indemnifying S&S against all loss by reason of such lien.

3.7 Subcontractors

Supplier shall not subcontract the performance of any portion of this Agreement, any SOW, Services or Products without S&S prior written consent. In cases in which S&S does consent, the following terms shall apply: (a) In no event shall Supplier be relieved of any of obligations under this Agreement by virtue of any subcontract or assignment hereof; (b) Supplier shall be liable for the performance of its subcontractors and shall monitor and manage such subcontractors; (c) Supplier shall remain directly responsible for the performance of Services and provision of Deliverables subcontracted by Supplier; and (d) Supplier shall remain directly responsible for the acts and omissions of all subcontractors concerning the treatment of Confidential Information as if they were Supplier's own acts and omissions.

3.8 Assignment of Rights

Supplier shall, for each business entity and each individual (whether employed by Supplier or its subcontractor) who shall perform Services, or who is likely to be in a position to obtain any Confidential Information or Trade Secret of S&S, in advance of performing any Services: (a) deliver to S&S a signed copy of a confidentiality agreement at least as restrictive as Supplier's obligations to S&S hereunder; and (b) a signed copy of either: (i) an agreement evidencing assignment to Supplier of such business entity's or individual's rights in all work products or other materials they create as a result of the performance of Services hereunder including all Intellectual Property Rights therein; or (ii) an assignment of rights, signed by such business entity or individual.

3.9 Solicitation of Employment

Supplier will not solicit for employment or hire any S&S employee while they are employed at S&S or for a period of one year after their voluntary or involuntary termination of employment at S&S.

3.10 Drug Testing and Background Checks

S&S reserves the right to request any prospective Supplier's Personnel to submit to both drug testing and criminal background checks. Supplier's Personnel who refuse to submit to such tests may be excluded from activity, assignment or access to all S&S locations. Any of Supplier's Personnel who fail to pass any drug test or background check, as determined by S&S in its sole discretion, shall be excluded from activity, assignment or access to all S&S locations.

IV. Payment

4.1 Price

The agreed upon prices for the Products and Service will be specified in the SOW. Supplier agrees that S&S will not be liable for any charges not specified in the SOW, and in no event will any charges exceed these prices. S&S will reimburse Supplier for reasonable out of pocket costs and expenses required and actually incurred by Supplier in performing the Services, only if (a) Supplier obtains S&S prior written consent; (b) Supplier details such expenses on a form acceptable to S&S; (c) the expenses are consistent with S&S own expense policies; and (d) Supplier submits supporting documentation satisfactory to S&S. Supplier acknowledges receipt of S&S current expense and travel policy.

4.2 Terms of Payment

Unless other payment terms are specified on the SOW, Supplier will submit one invoice per PO with no backorders being allowed by S&S. Each invoice submitted to S&S from Supplier shall be accompanied by a description of the Products, Services and/or deliverables, as applicable, provided,

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including copies of time reports which relate to the Services being invoiced, and an itemization of all fees and expenses being invoiced, specifically any installation fee, if applicable, and evidence of any reimbursable expenses actually paid by Supplier. All invoices, except for amounts disputed by S&S, will be payable within thirty (30) days of receipt. Any disputed amounts will not affect payment of non-disputed charges and expenses. S&S may elect, in its sole discretion, to use any form, method, or mode of payment, and Supplier (i) agrees to use such form, method, or mode of payment and (ii) shall adhere to any terms and conditions (including, but not limited to, set forth by the card provider) required in relation thereto. If payment is made in the form of Electronic Data Interchange, such payment will be credited to S&S account immediately. Otherwise payment will be credited upon receipt by Supplier, but be deemed timely made if mailed by the due date.

4.3 Setoff

S&S shall have the right, at any time and in its sole discretion, to setoff or recoup any debt owing by S&S to Supplier against any claim S&S might have against Supplier. S&S may exercise its setoff and recoupment rights by deducting the amounts owed to it by Supplier from S&S next payment to Supplier, or in any other manner deemed appropriate by S&S.

V. Taxes

5.1 Taxes

Financial responsibility for taxes will be allocated between the parties as follows:

(a) Each party shall be responsible for any real or personal property related taxes, assessments or levies on property it owns or property taxes it otherwise has a responsibility to report and remit; any franchise, business and occupation taxes, and privilege taxes on its business; any taxes based on its net or gross income or gross receipts (not otherwise in the nature of a sales/use tax); and any taxes arising from the employment or independent contractor relationship between such party and its personnel or contractors.

(b) Supplier shall be responsible for any sales, use, excise, value added, services, consumption, and other taxes and duties payable by Supplier on any goods or services or products used or consumed by Supplier in providing the Products, Services, and/or deliverables where the tax is imposed on Supplier's acquisition or use of such goods or services and the amount of tax is measured by Supplier's costs in acquiring such goods or services or products.

(c) S&S shall be responsible for the payment of any sales, use, excise, value added, services, consumption or other tax during the Term that is assessed on S&S purchase of Products or on the provision of Services or deliverables received by S&S from Supplier, unless S&S provides Supplier with a valid and applicable exemption or resale certificate.

(d) Supplier shall be responsible for withholding, paying and reporting any and all required federal, state or local income, employment and other taxes and charges imposed by any jurisdiction in respect of or in connection with compensation of all personnel performing Services under this Agreement or an SOW. Supplier understands and agrees that, subject to Law to the contrary, S&S shall have no responsibility for and shall make no deduction from payments to Supplier for federal or state tax withholdings, social security, unemployment, workers' compensation or disability insurance.

(e) Unless notified to the contrary, Supplier shall charge all state and local sales and use taxes for each taxing jurisdiction occupied by S&S as applicable on each separate invoice. Supplier will bill taxes as separate item(s) on each invoice and shall not include taxes in Supplier's Services price.

Each unique tax charged shall be separately itemized and so characterized as to identify the state and locality of Service being taxed. S&S shall have the right to have Supplier contest any such taxes that S&S deems improperly levied at S&S expense and subject to S&S sole discretion and control.

(a) For the purpose of clarification, and in addition to and not in lieu of any of the foregoing, all sales, use, environmental fees and other transfer taxes imposed directly on or solely as a result of the supplying of Products and/or Services and/or deliverables provided under this Agreement and/or any SOW shall be stated separately on Supplier's invoice, and shall be remitted by Supplier to the appropriate tax authority, unless S&S provides valid proof of tax exemption prior to the effective date of the transfer of the Products and/or Services and/or deliverables, or otherwise as permitted by Law. Furthermore, Supplier acknowledges and agrees it is Supplier's responsibility to: (i) determine the taxability of the Products and/or Services and/or deliverables sold to S&S, (ii) register for the collection of such taxes with any and all appropriate taxing jurisdictions where legally required to do so prior to invoicing, (iii) collect such taxes from S&S at the time of invoicing, and (iv) reimburse S&S for any taxes, interest and/or penalties as well as all costs (including attorneys' fees and expenses) related thereto S&S pays or is required to pay as a result of Supplier's failure to perform its obligation under this "Taxes" Section.

VI. Joint Developments

With acknowledgment that the terms and conditions of this paragraph have been expressly bargained for, with respect to any Product(s) developed jointly by S&S and Supplier ("Joint Products"), Supplier acknowledges and agrees that as between it and S&S, S&S owns and shall own all right, title and interest in and to the Joint Products, including, without limitation, all Intellectual Property Rights. To the extent that as between the parties all such rights do not automatically vest in S&S hereunder or by operation of Law, Supplier agrees to and hereby assigns, conveys and transfers all right, title and interest it may have or acquire in or to any Joint Products to S&S, including, without limitation, all Intellectual Property Rights therein and all rights of action against third parties that Supplier had, has or may have in the future based thereon and waives all moral rights in respect thereof. Supplier will, at Supplier's expense, cause its employees, agents and subcontractors who are involved in the development or design of Joint Products to assign and convey to or in favor of S&S (or if applicable, waive), without royalty or other consideration, their entire right, title and interest, including any Intellectual Property Rights, in and to the Joint Products and all inventions, discoveries, improvements, innovations, ideas, designs, drawings, works of authorship, formulas, methods, techniques, concepts, configurations, compositions of matter, computer programs, computer code, writings, or any combination thereof, produced or created by them, alone or in conjunction with others, in connection with the development or design of the Joint Products. Supplier shall provide S&S with assistance as reasonably required to vest or perfect S&S ownership of all right, title and interest in and to the Joint Products, including without limitation, all Intellectual Property Rights therein, and to cooperate with S&S and to do all acts reasonably requested by S&S to evidence, establish, procure, apply, register, record, maintain, enforce and defend S&S ownership interests therein within such time period(s) as is reasonably required to enable S&S to timely preserve or assert its rights in the United States or any other jurisdictions. Supplier shall not challenge S&S ownership of the Joint Products or any part thereof. S&S hereby grants Supplier a non-exclusive, non-assignable, royalty-free license (without the right to sublicense) to use the Intellectual Property Rights in the Joint Products to manufacture, have manufactured, and import the Joint Products, but only to the extent necessary to sell and deliver the Joint Products to S&S and provide service to S&S. S&S will have the exclusive right to use the Joint Products as it chooses, and Supplier will not use, give, sell, lease, provide, or otherwise convey the Joint Products, or any portion thereof, to any individual or entity other than S&S without the prior written consent of S&S. Notwithstanding any provision of this Agreement to the contrary, S&S specifically disclaims any and all warranties with respect to any Joint Products, including without limitation that they will be free of any third-party claims of infringement, and Supplier hereby waives any and all right to indemnity in the event of such a claim.

VII. Confidentiality

7.1 Confidentiality.

(a) During the Term of this Agreement, and with respect to (i) Confidential Information for a period of ten (10) years thereafter and (ii) with respect to Trade Secrets as long as they remain "Trade Secrets" under applicable law, Supplier shall maintain all Confidential Information and Trade Secrets in confidence, and shall not, except as otherwise permitted herein or directed in writing by S&S, use, copy, reproduce, or remanufacture, or disclose or permit any unauthorized person access to, any Trade Secrets or Confidential Information, whether learned by or disclosed to Supplier before or after the Effective Date and irrespective of the form of communication. In the event of any inconsistency between this Agreement and any prior confidentiality agreement still in effect, the terms of that prior confidentiality agreement shall control all Confidential Information and Trade Secrets disclosed after the Effective Date of this Agreement.

(b) Supplier shall limit access to Confidential Information or Trade Secrets to only its counsel, officers, and employees reasonably needing to know the Confidential Information or Trade Secrets in order to conduct business with S&S and then only on the following conditions: (i) each authorized employee to whom Confidential Information or Trade Secrets are communicated shall be informed of this Agreement and that the Confidential Information or Trade Secrets are confidential hereunder; and (ii) prior to receiving any Confidential Information or Trade Secrets, each authorized employee of Supplier shall be informed not to use Confidential Information except for the purpose of conducting business with S&S, to S&S benefit and as otherwise permitted by S&S.

(c) Notwithstanding the provisions of this "Confidentiality" Article, Supplier may disclose Confidential Information or Trade Secrets to the extent that Confidential Information or Trade Secrets are required to be disclosed pursuant to a requirement of a governmental agency or Law, provided that: (i) Supplier has given S&S prior written notice of such disclosure and takes all available steps to maintain the confidentiality of the information disclosed; and (ii) S&S has been afforded a reasonable opportunity to contest the

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necessity, scope and conditions of such disclosure.

(d) All software, computer disks, technical information, data records, files, memoranda, reports, price lists, customer lists, drawings, plans, sketches, notes, documents and the like (together with all copies and all computer files stored in any medium thereof) relating to the business of S&S, and all materials provided by S&S in any form, format or medium (including computer files stored in any medium), which Supplier receives, has access to or comes in contact with as a result of, this Agreement or any SOW (collectively, the "Materials") shall, as between the parties hereto, remain the sole property of S&S. At no time during the Term shall Supplier remove any Materials from S&S premises without S&S prior written authorization. Upon S&S request, Supplier shall immediately return all Materials and delete or destroy all computer files and all copies of the Materials in any form, format or medium.

(e) Supplier acknowledges and agrees that, in the event of a breach or threatened breach of any of the foregoing provisions, S&S may have no adequate remedy in damages and, accordingly, may be entitled to injunctive relief against such breach or threatened breach in addition to any other remedies available at Law or in equity.

(f) Supplier shall, upon the earlier of, S&S request or termination of this Agreement, immediately cease any use of and return or destroy all or designated written and/or tangible Confidential Information and Trade Secrets. S&S, in its sole discretion, shall be entitled to determine whether such written and/or tangible Confidential Information and Trade Secrets shall be returned or destroyed and the manner of such return or destruction. With respect to the Confidential Information or Trade Secrets returned or destroyed, Supplier shall not retain any copies or extracts, in whole or in part. Any such return or destruction shall be certified in writing to S&S by an authorized officer of Supplier supervising the same.

(g) Supplier acknowledges that securities Laws impose certain restrictions with respect to the communication of material, non-public information and acknowledges that Confidential Information and Trade Secrets disclosed to Supplier and/or Supplier's Personnel may be considered material, non-public information and that they shall abide by such securities Laws.

VIII. Representations and Warranties

8.1 Quality

The manufacture, production, packaging, construction, formulation, development of standards, preparation, processing, assembly, instruction manuals, assembly manuals, use manuals, testing, warning, labeling, distribution, contents, design, workmanship and quality of Products, and all conduct of Supplier in connection therewith, shall comply in all respects with all the terms and conditions of this Agreement and Laws. Products delivered (whether paid for or not) are subject to inspection, testing and approval by S&S before acceptance.

Supplier acknowledges its obligations under the warranties, guarantees and representations of this Agreement are not relieved even if S&S accepts the Products or if the designs and/or the specifications of the Products purchased by S&S originated with S&S.

8.2 Representations and Warranties of Supplier

Supplier represents, warrants and covenants to S&S as follows:

(a) Supplier is not under any obligation which is inconsistent or in conflict with this Agreement or which prevents, or limits Supplier's performance hereunder;

(b) Supplier has not granted any rights or licenses to any Intellectual Property Rights or technology that would conflict with Supplier's obligations or S&S rights under this Agreement, including rights with regard to Products and/or deliverables;

(c) Neither S&S use of any Product and/or deliverable nor the performance of any Services or SOW will infringe upon or violate any Person's legal rights or the patent, copyright, trade secret or other proprietary right of any third party. To the extent relevant, S&S shall receive free and clear title to all works, materials, information and Products and/or deliverables prepared and/or developed in connection with this Agreement and there shall be no liens, pledges, encumbrances, security interests, options or other similar restrictions directly or indirectly affecting such Products and related materials or S&S rights to use such Products and related materials;

(d) From and after the time of acceptance by S&S, each Product and/or deliverable will conform to all applicable specifications;

(e) The Products and deliverables have been and will be manufactured or compiled in compliance with all Law;

(f) Supplier will not deliver to S&S any Products and/or deliverables that it knew, or should have known were defective, incomplete, mislabeled, non-conforming or otherwise inaccurate;

(g) After learning of any defect or inaccuracy in any Product and/or deliverable provided to S&S, Supplier shall immediately notify S&S in writing of the existence of the specific defect or inaccuracy in said Product and/or deliverable and will remedy the defect and correct the inaccuracy at Supplier's

sole expense;

(h) Supplier warrants that all Products will be of good quality, material and workmanship, merchantable and free from any and all defects. Supplier warrants that each Product shall be new, merchantable, without defect and of first quality and uniform workmanship, and shall be made in accordance with industry standards. Supplier shall promptly and without additional charge repair or replace, as necessary, the Products or any part thereof which fails to conform to the foregoing warranties.

(i) Supplier, by entering into this Agreement and accepting any PO, warrants, represents and guarantees that all Products comply with any and all applicable S&S specifications; and

(j) Supplier warrants that the Products furnished under this Purchase Order conform to and comply with all applicable standards pursuant to the Occupational Safety and Health Act of 1970, as amended. It is the obligation of Supplier to advise Purchaser of any precautions necessary in the storage and handling of Products purchased pursuant to this Purchase Order. Supplier agrees to all obligations and requirements set forth in the Purchaser's Quality Assurance Manual electronically published and available on Purchaser's website effective at the time of the Purchase Order (the "QAM"). Supplier further warrants that all raw materials components or other parts used in or in conjunction with the Products subject to these Terms have been sourced in strict compliance with all Laws, including but not limited to US customs laws and regulations, restricted or blacklisted geographical areas or entities or Products or parts or components thereof produced or sourced through forced labor or from embargoed or sanctioned countries or entities.

8.3 Supplier Requirements for all Transactions.

Supplier shall, and shall cause its officers, directors, agents, employees and subcontractors to perform its obligations under this Agreement in compliance with: (a) S&S Supplier Code of Conduct; (b) all Law; and (c) all safety and security requests, inspections and programs, made by: (i) any governmental entity; or (ii) S&S and made available to Supplier, and provide documented proof of such compliance, upon S&S's request. Supplier agrees that S&S, in its sole discretion, may make changes or additions to the VCC, including changes made on S&S Internet site at <https://www.schubertsalzerinc.com/> and Supplier and Supplier's Personnel shall be subject to and shall comply with the VCC as amended.

9.1 Termination

(a) S&S may terminate this Agreement and/or any or all SOWs without advance notice and immediate effect for the following acts or omissions of Supplier: (i) negligence, dishonesty, fraud or misconduct in the provision of the Products or deliverables or the performance of the Services hereunder; or (ii) an incurable breach of a term of this Agreement or a SOW; or (iii) if there exists (A) a series of material breaches of the Agreement by Supplier that are cured within the permissible periods, or (B) non-material persistent breaches of the Agreement by Supplier (which may include breaches of different obligations) that in the aggregate have a material adverse impact on: (1) the Services or deliverables or Products; (2) use of the Products; or (3) the operations or financial performance of S&S; or (iv) the failure or refusal to perform the Services or provide the Products or deliverables required under this Agreement.

(b) S&S may terminate this Agreement by written notice to Supplier, and may regard Supplier as in an incurable breach and/or default of this Agreement, if Supplier: (i) materially breaches or is otherwise in material default of any obligation hereunder, which default is incapable of cure or which, being capable of cure, has not been cured within thirty (30) days after receipt of written notice of such default, (ii) becomes insolvent; (iii) makes a general assignment for the benefit of creditors; (iv) suffers or permits the appointment of a receiver for its business or assets; (v) becomes subject to any proceeding under any bankruptcy or insolvency Law whether domestic or foreign; (vi) ceases doing business in the ordinary course; (vii) has wound up, dissolved or liquidated, voluntarily or otherwise; or (viii) sells, assigns or transfers, voluntarily or involuntarily, all or substantially all of its assets or voting capital stock.

(c) Notwithstanding any other provision in this Agreement or any SOW, this Agreement and/or any SOW and/or any other agreement between S&S and Supplier, may be terminated in whole or in part without cause by S&S by providing Supplier with not less than thirty (30) days' advance written notice and S&S shall not have any further obligations or liabilities hereunder and/or any SOW, unless specifically stated herein.

(d) Any termination by S&S of this Agreement and/or any SOW shall be in addition to, and not in lieu of, any other rights and remedies available to S&S.

9.2 Obligations Upon Expiration or Termination

In the event of any termination or expiration of this Agreement:

(a) S&S shall pay Supplier undisputed fees for all Services satisfactorily

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satisfactorily performed prior to such date and any Products or deliverables provided prior to such date that satisfy applicable specifications;

(b) At S&S option, Supplier shall cooperate with S&S in completing all work in progress and other such matters which may require Supplier's assistance under all outstanding SOWs;

(c) Upon any termination or expiration of this Agreement, S&S shall provide Supplier notice of its intention regarding the purchase or delivery of all Products and deliverables, whether completed or in progress, as well as all materials which were furnished to Supplier by S&S or which were prepared or procured by Supplier for such Products or deliverables and any Services (such materials prepared by Supplier will be deemed to be Products or deliverables for all purposes under this Agreement, except that incomplete Products or deliverables will not be subject to warranty provisions that would apply to finished Products or deliverables);

(d) Supplier shall cooperate with S&S in transitioning all work in progress to a successor product and/or service provider or to S&S and shall otherwise cooperate with S&S as reasonably requested to prevent disruption to S&S business operations; and

(e) Supplier shall refund any pre-paid fees for which Services were not performed or Products or deliverables were not provided, and S&S may offset any fees due to Supplier against any refunds due to S&S.

9.3 Survival

The terms of this Agreement that would, by their nature, survive termination, shall survive any termination or expiration of this Agreement and/or any SOW.

X. Audit Rights

10.1 Records

Supplier shall maintain, in accordance with generally accepted accounting principles, complete and accurate accounting records related to its performance of the Services and provision of the Products and deliverables, as reasonably necessary to substantiate the charges paid by S&S hereunder. Supplier shall maintain all such records during the Term and for a period of three (3) years thereafter or any longer period required by Law.

10.2 Audit Rights – Physical Inspection

At any time during the Term and for a period of three (3) years after the final payment by S&S under this Agreement, S&S or its designated agent shall have the right to examine and audit Supplier, upon not less than five (5) Business Days' prior notice and during Supplier's normal business hours, with respect to any and all matters that relate to: (a) any of S&S payments under this Agreement; or (b) Supplier's compliance with its obligations under this Agreement, including all Law and standards.

XI. Indemnification

11.1 Indemnification by Supplier

To the greatest extent permitted by applicable Law, Supplier shall indemnify, defend and hold harmless S&S Indemnitees from and against any and all liabilities, damages, losses, claims, demands (including any subpoenas, civil investigative demands, or other compulsory processes received by S&S), assessments, actions (including declaratory judgment actions brought by any S&S Indemnitee in response to a claim described herein), causes of action, costs (including attorneys' fees and expenses) and any of them, arising out of or resulting from any of the following:

(a) any breach of this Agreement;

(b) personal injury or death or damage to property, including theft, on account of or resulting from Products, deliverables, or performance of work or Services by Supplier or Supplier's Personnel;

(c) any claim or demand asserted against S&S resulting from an act or omission of Supplier or Supplier's Personnel;

(d) any failure of Supplier or Supplier's Personnel to comply with Law, S&S procedures, rules, regulations, policies (including privacy policies), working hours and holiday schedules;

(e) a reclassification or attempt to reclassify Supplier's Personnel as employees of any S&S Indemnitee;

(f) any liens, pledges, encumbrances, security interests, options or other similar restrictions directly or indirectly affecting: (i) any of S&S rights to any Product or related materials under this Agreement; or (ii) any real property or improvements owned or leased by a S&S Indemnitee as a result of any Services performed by subcontractors engaged by Supplier;

(g) any claim that any Services, Products, or deliverables infringes upon or misappropriates any third party's Intellectual Property Rights. In addition, in case any of the Products or deliverables or any portion thereof is held, or in Supplier's or S&S reasonable opinion is likely to be held, in any such suit to constitute infringement, Supplier shall within a reasonable time, at its option and its sole expense, either (i) secure for S&S the right to continue the use of such infringing item; or (ii) replace such item with a substantially equivalent non-infringing item or modify such item so that it becomes

non-infringing. In the event Supplier is, in Supplier's reasonable discretion, unable to either procure the right to continued use of the allegedly infringing item or replace the allegedly infringing item as provided in clauses (i) and (ii) of the immediately preceding sentence, Supplier shall refund to S&S two (2) times the total of all fees paid for or allocable to such Product or deliverable and any other Products or deliverables that function, or are integrated or used, with the defective Product or deliverable, provided S&S either returns or de-installs and ceases all use of, such Product or deliverable. The foregoing remedy shall be in addition to all other applicable remedies available to S&S in Law or equity;

(h) any failure by Supplier to make full and timely payment of freight charges payable to third parties, including, as required by the "Delivery" Section; and

(i) any Supplier litigation or Supplier transaction, including those in connection with an ownership or entity change.

11.2 Procedures

(a) Notice

If any third party makes a claim against a S&S Indemnitee and such S&S Indemnitee intends to seek indemnification under this Agreement, S&S or the S&S Indemnitee shall give notice of such claim to Supplier, provided, however, that any failure of such notice shall not relieve Supplier of its obligations hereunder.

(b) Assumption of Defense

For any claim, Supplier shall be obligated to defend the S&S Indemnitees in question. Supplier shall pay all judgments against and assume the defense of S&S Indemnitees upon S&S Indemnitees' demand with respect to any claim. Notwithstanding the above, the S&S Indemnitees shall have the right, but not the obligation, to participate as they deem necessary in the handling, adjustment, defense or settlement of any such matters. To facilitate the defense of the S&S Indemnitees, S&S shall be entitled, upon notice to Supplier, at any time, to: (i) approve of Supplier's selection of counsel to defend the S&S Indemnitees, at Supplier's sole expense, such approval to not be unreasonably withheld; or (ii) undertake and assume sole control of the S&S Indemnitees' defense with counsel of S&S own selection, at Supplier's sole expense. With respect to any claim, Supplier agrees that the relevant S&S Indemnitees shall have the right, at their own expense, to employ separate counsel. Supplier shall keep the relevant S&S Indemnitees and their designees fully apprised at all times of the status of the defense including providing reports and information, and all offers of settlement, at times and in a format mutually agreed upon. The S&S Indemnitees shall not be bound by and Supplier has no authority to bind the S&S Indemnitees to the terms of any settlement of a claim entered into by Supplier unless S&S has given its prior written consent. The S&S Indemnitees shall have the exclusive right to settle or otherwise proceed to resolution of any dispute, in their sole discretion and without Supplier's consent. Supplier shall reimburse the S&S Indemnitees for all payments, costs and expenses paid by or for S&S Indemnitees in respect to said settlement. S&S Indemnitees, at their sole option, may charge back or setoff any monies due by Supplier to S&S in respect to the settlement of any claims under this Agreement.

(c) Control of Defense

Without limiting any other rights of a S&S Indemnitee, should Supplier fail to assume and/or abide by its defense and indemnity obligations in accordance within this Article within a reasonable time, Supplier agrees the S&S Indemnitees shall have the right, but not the obligation, to proceed on their own behalf to defend by way of engaging their own legal counsel and the services of any other experts or professionals deemed necessary to prepare and present a proper defense. Supplier shall reimburse and indemnify the S&S Indemnitees for all costs and expenses incurred in such defense and for any and all penalties, judgments, fines, interest or other expenses incurred as a result of such claim.

(d) Separate Defense

Notwithstanding the foregoing, the relevant S&S Indemnitees shall retain, and may assume, or reassume sole control over every aspect of the legal defense that they believe is not the subject of the defense and indemnification provisions of this Article.

(e) Insurance

Supplier's agreement to defend, indemnify, and hold harmless the S&S Indemnitees is independent of and in addition to Supplier's agreement to maintain insurance under the "Insurance" Section. Supplier's insurer's position regarding insurance coverage for S&S and its parent company, subsidiaries, related entities and Affiliates, and the respective officers, employees and agents thereof, as additional insureds, does not in any way modify or limit Supplier's obligation to defend, indemnify and hold harmless the S&S Indemnitees as set forth in this Article. Supplier's obligations under the Agreement shall not be limited by any Law, including, without limitation,

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any workers' compensation Law and, in respect to Supplier's obligations under this Agreement, Supplier waives any limitations, protections, and caps available under any Law, including, without limitation, any workers' compensation Law.

XII. Insurance

Insurance. Except to the extent that insurance coverages and requirements are set forth in an SOW executed between S&S and Supplier, Supplier agrees to maintain the insurance coverages by S&S from time to time.

XIII. Miscellaneous

13.1 Dispute Resolution.

(a) Any controversy or claim arising out of or relating to this Agreement, its breach, termination or invalidity, shall be submitted to and resolved by the American Arbitration Association ("AAA"), with such arbitration to be held in Charlotte, NC, in accordance with the AAA's Commercial Arbitration Rules then in effect. Each party hereby irrevocably agrees that service of process, summons, notices as other communications related to the arbitration procedure shall be served as prescribed for herein. The arbitration shall be conducted by one arbitrator, as selected by the AAA. Any award or decision rendered in such arbitration shall be final and binding on both parties, and judgment may be entered thereon in any court of competent jurisdiction if necessary. Except as may be provided to the contrary herein, each party hereto shall pay any and all expenses incurred by such party in connection with such arbitration proceeding, unless otherwise determined by the arbitrator. The arbitration including any statements of evidence, documents, awards, admissions or settlements made or obtained in its process shall remain confidential under the terms provided for herein for a period of five (5) years.

(b) Notwithstanding subsections (a) of this Section to the contrary, any party may seek injunctive relief against the other party at any court of proper jurisdiction with respect to any and all preliminary injunctive or restraining procedures pertaining to this Agreement or the breach thereof. Any provisions to the contrary herein notwithstanding, the law applicable in the jurisdiction of such court shall apply with respect, but limited to, all such preliminary injunctive or restraining procedures.

13.2 Governing Law; Venue

The parties agree that this Agreement and all matters arising out of, directly or indirectly, or related to this Agreement shall be governed by and interpreted in accordance with the Laws of [New York, NC, GA?], without giving effect to any choice-of-law rules that may require the application of the Laws of another jurisdiction. The United Nations Convention on contracts for the international sale of goods shall not apply to this agreement.

13.3 Assignment

S&S may assign any of its rights or delegate any of its obligations under this Agreement without the consent of Supplier. Supplier shall not assign any of its rights, nor delegate any of its duties, under this Agreement or any SOW without the prior written consent of S&S. Any attempted transfer, assignment or sublicense of this Agreement or any SOW without S&S prior written consent may be null and void ab initio, at S&S sole discretion. This Agreement shall be binding upon and shall inure to the benefit of Supplier, S&S and their respective successors and permitted assigns.

13.4 Severability

It is the intent of the parties that the provisions of this Agreement shall be enforced to the fullest extent permitted by Law. To the extent that the terms set forth in this Agreement or any word, phrase, clause or sentence is found to be illegal or unenforceable for any reason, such word, phrase, clause or sentence shall be modified or deleted in such manner so as to afford the party for whose benefit it was intended the fullest benefit commensurate with making this Agreement, as modified, enforceable, and the balance of this Agreement shall not be affected thereby, the balance being construed as severable and independent.

13.5 Notices

All notices, consents, waivers, and other communications under this Agreement must be in writing and shall be deemed to have been duly given when: (a) delivered by hand (with written confirmation of receipt); or (b) when received by the addressee, if sent by certified or registered mail, return receipt requested or by a nationally recognized overnight delivery service (receipt requested) to, in the case of S&S, the appropriate addresses below (or to such other addresses as S&S may designate by notice to Supplier), and, in the case of Supplier, the then current address of Supplier as communicated in writing to S&S.

To S&S:

Schubert & Salzer Inc.
4601 Corporate Drive NW, Suite 100
28027 Concord, NC

Any request for information related to a party's performance under this Agreement shall be subject to the notice provisions above, and any information responsive to such request shall not be considered admissible in any proceeding or arbitration unless certified in writing by an officer of S&S of at least vice president level. Failure to send such requests to the appropriate addressee shall be considered a material breach of this Agreement.

13.6 Third-Party Beneficiaries

This Agreement is solely between, and may be enforced only by S&S and Supplier, and, subject to the "Indemnification" Article hereof, will not be deemed to create any rights in third parties, including suppliers, customers or subcontractors of a party, or to create any obligations of a party to any such third parties.

13.7 Counterparts

This Agreement may be executed in one or more counterparts, each of which shall constitute an original but all of which together constitute a single document.

13.8 Entire Agreement, Amendment and Waiver

This Agreement and any exhibits, attachments and appendices which are incorporated herein by reference and/or attached hereto, future POs, and future SOWs, and/or amendments explicitly referencing this Agreement, collectively represent the entire Agreement between the parties hereto and is intended to be the final expressions of their agreement with respect to the subject matter hereof. No modification of this Agreement may be made except by written agreement, signed by duly authorized representatives of the parties hereto. Furthermore, for the avoidance of doubt, the parties agree that no amendment, modification or addendum to this Agreement or any SOW may be effectuated by email or text message. No failure by the parties to insist upon the strict performance of any provision of this Agreement or to exercise any right or remedy upon a breach thereof shall constitute a waiver. Any waiver must be made in writing and a waiver shall only be effective as to the specified event and shall not be deemed a waiver of any other right, remedy or any other provision.