

GENERAL VENDOR TERMS AND CONDITIONS

- Independent Contractor Status. Vendor, and any persons providing goods or services (collectively "Services") to Company under this Agreement (collectively, "Vendor"), is an independent contractor and not a Company employee. Nothing herein creates or is intended to create any employment relationship between Vendor and Company. Vendor acknowledges that Company does not have control or the right to control Vendor as to the work done and the manner and means in which it is performed. Vendor shall not be eligible to participate in or receive any benefit from any benefit plan or program available to Company employees. Company shall not provide workers' compensation coverage for Vendor and any persons employed or retained by Vendor. Vendor shall comply with all applicable laws and regulations and shall have sole responsibility for the payment of all applicable taxes and withholdings with respect to Compensation paid to Vendor. All persons employed or retained by Vendor in connection with Vendor's performance of the Services shall not be considered employees of Company. Vendor retains sole and absolute discretion in the manner and means of creating and/or carrying out the Services. Vendor has no authority to bind Company to or under any obligation or liability.
- Insurance. Vendor shall maintain adequate insurance in a form satisfactory to Company, as requested by Company, and, if requested, will name Company as an additional insured thereunder.
- 3. Terms of Payment. Terms of payment net 90 days based on periodic billing date, unless specifically stated otherwise on the face of the Purchase Order or in a separate writing signed by both parties. Company shall have the express right of setoff for any sums due Vendor under this Agreement against sums owed or claimed to be owed to Company by Vendor under this or any other agreement or contract by and between Company and Vendor or by operation of law. All invoices will be issued by Vendor within ninety (90) days of delivery of the Services to Company.
- Vendor's Representations, Warranties, and Covenants. Vendor represents and warrants that it complies with all applicable laws, statutes, ordinances, regulations, and Company policies and procedures and maintains all licenses, permits and registrations required by law for the performance of the Services. In the event that Vendor is providing Company with any images, graphics, videos or photographs as part of the Services. Vendor represents and warrants that it has the right to transfer ownership of such material to Company and such transfer will not infringe or misappropriate the intellectual property rights of any third party. Company is an equal opportunity employer and federal contractor or subcontractor. Consequently, the parties agree that, as applicable, they will abide by the requirements of 41 CFR 60-1.4(a), 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a) and that these laws are incorporated herein by reference. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. These regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability. The parties also agree that, as applicable, they will abide by the requirements of Executive Order 13496 (29 CFR Part 471, Appendix A to Subpart A), relating to the notice of employee rights under federal labor laws.
- Trademarks and Confidential and Proprietary Information. Vendor agrees and acknowledges that Company or one of its affiliates is the exclusive owner of all trademarks and trade names relating to the products sold by Company ("Company's Products"). If necessary, Vendor may use such trademarks and trade names during the term of this Agreement for the sole purpose of supplying Services to Company under this Agreement. Vendor shall acquire no proprietary or other rights with respect to any such trademarks or trade names, and shall forthwith discontinue all use of such trademarks and trade names upon the termination of this Agreement. Vendor shall not advertise with, or otherwise use Company's name, logos, or brands without the express written permission of Company. All non-public, confidential or proprietary information of the Company, including, but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Company to Vendor, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential," in connection with the Purchase Order is confidential, solely for the use of performing the Purchase Order, and may not be disclosed or copied unless authorized by Company in a signed writing. Upon Company's request, Vendor shall promptly return all documents and other materials received from Company. Nothing in this Agreement is intended to abrogate the terms or conditions of any separate Confidentiality and Non-Disclosure Agreement signed by the parties and otherwise in effect.
- 6. Other Engagements. During the Term, Vendor will not, without the prior written consent of Company: (a) enter into or engage in any business that is preparing to compete or directly competes with the business or demonstrably anticipated business of Company; or (b) promote or assist, financially or otherwise, or invest in any person,

- firm, association, partnership, corporation or other entity engaged in any business that is preparing to compete or directly competes with the business or demonstrably anticipated business of Company, except for passive investments of less than 5% in publicly traded companies.
- Indemnification. Vendor shall defend, indemnify, and hold harmless Company, and Company's affiliates, successors or assigns, directors, officers, shareholders and employees and Company's customers (collectively, "Indemnitees") against any and all loss, injury, death, damage, liability, claim, deficiency, action, judgment, interest, award, penalty, fine, cost or expense, including reasonable attorney and professional fees and costs, and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers (collectively, "Losses") arising out of or occurring in connection with the Products purchased from Vendor or Vendor's negligence, willful misconduct or breach of this Agreement. Vendor shall not enter into any settlement without Vendor's or Indemnitee's prior written consent.
- 8. Notices. Whenever notice is to be served hereunder, service shall be given under this Agreement in writing to the address set forth on the first page of this Agreement. Service shall be by (i) hand delivery, and deemed received upon delivery, (ii) first class certified mail, return-receipt request, postage prepaid, and deemed received five (5) business days after being so mailed, or (iii) a reputable overnight delivery service, postage or delivery charges prepaid, and deemed received three (3) business days after being so sent. If to Buyer, notice shall be sent to the attention of the General Counsel. Any party may change its address for notice and the address to which copies must be sent by giving notice of the new address to the other party pursuant to this paragraph.
- Further Assurances. From time to time, each party hereto shall execute and deliver such
 instruments as may be reasonably necessary to carry out the purposes and intent of this
 Agreement, including, without limitation, verification of tax identification number.
- 10. Governing Law. This Agreement shall be governed by the internal laws of California, without reference to its rules regarding conflicts of law. Any dispute arising out of this Agreement will be submitted to a state or federal court sitting in Fresno, California, which will have the exclusive jurisdiction regarding the dispute and to whose jurisdiction the parties irrevocably submit.
- 11. Counterparts. Where applicable, this Agreement may be executed in multiple counterparts, each of which shall constitute an original and all of which together shall constitute one instrument. Delivery of executed signature pages to this Agreement may be by facsimile transmission with confirmation of received transmission or other electronic means that faithfully reproduces the original with the same effect as if a manually signed original were personally delivered.
- Amendment. No modification or amendment of this Agreement shall be effective unless made in writing and signed by both Vendor and Company.
- Survival; Assignment. The provisions of paragraphs 3 through 11 shall survive and continue in full force and effect after any termination or expiration of this Agreement. This Agreement is personal to Vendor and may be assigned, delegated, or subcontracted by Vendor only with Company's prior written consent and may be assigned, delegated, or subcontracted by Company in its sole discretion and will inure to the benefit of the successors and assigns of Company, and is binding upon Vendor's successors, heirs and legal representatives. Any assignment, delegation, or subcontracting in violation of this section shall be void.
- 14. No Waiver. No waiver of any term, provision, or condition of this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed to be or be construed as a further or continuing waiver of any such term, provision or condition or as a waiver of any other term, provision or condition of this Agreement.
- Headings. Headings used in these Supplier Terms and Conditions are provided for convenience only and shall not be used to construe meaning or intent.
- Severability. If any term or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be found to be invalid, void, or unenforceable, the remaining provisions of this Agreement and any application thereof shall, nevertheless, continue in full force and effect without being impaired or invalidated in any way.
- 17. Entire Agreement. These General Vendor Terms and Conditions, any Confidentiality and Non-Disclosure Agreement signed by both parties and otherwise in effect, and any written agreement signed by both parties (or Purchase Agreement if there is no separate, signed agreement) constitute the full and entire agreement of the parties with regard to the Services. In the event of a conflict between the above-referenced documents, any order of priority language contained in the signed, written agreement will control. In the event that there is no signed, written agreement, or such agreement does not contain any order of priority language, the following order of priority shall apply: (1) any written agreement signed by the parties; (2) any Confidentiality and Non-Disclosure Agreement signed by both parties and otherwise in effect; (3) the Purchase Order; (4) these General Vendor Terms and Conditions.

Post Office Box 37 Dinuba, California 93618-0037 Telephone (559) 591-5510 FAX (559) 591-1593