

Project Name: _____

GUARDIAR USA LLC STANDARD TERMS AND CONDITIONS OF SALE

1. **Applicability.** All sales by Guardiar USA LLC, a Delaware limited liability company (“**Seller**”), are subject to these Standard Terms and Conditions of Sale (these “**Terms and Conditions**”), unless expressly varied in a specific contract executed by Seller. These Terms and Conditions, together with any Seller quotation or purchase order to which they are attached (a “**Purchase Order**”), constitute the entire agreement between Seller and the party to whom the Purchase Order is addressed (“**Buyer**”) as it relates to Buyer’s purchase of the products described in such Purchase Order (the “**Products**”), and supersede any and all prior or contemporaneous written or oral agreements, correspondence, quotations, understandings, negotiations or discussions between Buyer and Seller with respect to their subject matter.

2. **Purchase Orders.** Any Purchase Order accompanying these Terms and Conditions shall constitute only an offer by Seller to Buyer to sell the Products and/or perform the applicable services, if any, described in the Purchase Order (collectively, the “**Work**”), as applicable, subject to these Terms and Conditions. Neither the Purchase Order nor these Terms and Conditions shall constitute an acceptance of any offer made by Buyer. If, notwithstanding the foregoing, any acceptance of an offer by Buyer is deemed to be made hereby, such acceptance is expressly conditioned upon Buyer’s assent to these Terms and Conditions. Seller hereby objects to any additional or different terms that may be contained in any of Buyer’s purchase orders, acknowledgements or other forms, or in any other communication received from Buyer. All inconsistent or additional terms, modifications, or changes are deemed material, are expressly rejected, and do not form a part of this these Terms and Conditions unless Seller agrees to such terms in writing. **TERMS THAT ARE PRINTED ON OR CONTAINED IN A PURCHASE ORDER OR OTHER FORM PREPARED BY BUYER THAT ARE ADDITIONAL TO, IN CONFLICT WITH, OR INCONSISTENT WITH THESE TERMS AND CONDITIONS ARE, UNLESS SPECIFICALLY AGREED TO IN WRITING BY A DULY AUTHORIZED REPRESENTATIVE OF SELLER, REJECTED BY SELLER AND SHALL HAVE NO FORCE OR EFFECT.**

3. **Acceptance.** No order shall be binding on Seller until one (1) signed copy of these Terms and Conditions is returned a copy of the Purchase Order. No order may be cancelled or varied after acceptance by Seller without Seller’s express written consent, which consent may be withheld in Seller’s sole discretion.

4. **Prices; Taxes and Fees.** Unless otherwise specified in writing, price quotations contained on a Purchase Order are valid for thirty (30) days from the date stated on the Purchase Order. Unless otherwise stated in the Purchase Order, all prices are exclusive of any applicable federal, state or local sales, use, excise, other similar taxes, delivery and transportation fees, and all such taxes and fees related to the Products shall be the

responsibility of Buyer. Quoted prices are based upon the quantity and type of Product specified and may be changed at any time prior to Seller’s acceptance of a Purchase Order.

5. **Payment Terms.** Seller shall invoice Buyer the following amounts identified upon completion of each of the following milestones: (i) 50% of the purchase price is due upon order of Product, (ii) 40% of the purchase price is due upon delivery of the first shipment, and (iii) the remaining 10% is due upon delivery of the last shipment (the aforementioned milestones described in this Section 5(i), (ii) and (iii) shall be collectively referred to as “**Payment Milestones**”). Buyer shall pay Seller for each Payment Milestone within thirty (30) days from the date of invoice, or as otherwise expressly set forth on the Purchase Order, or other written agreement as mutually agreed upon between Seller and Buyer. If Buyer requests progress shipments, then Buyer agrees to accept and pay progress invoice within thirty (30) days from the date of invoice. Buyer shall pay interest in all late payments at the lesser of the rate of 1.5% per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. If Buyer fails to make any payment when due, Buyer shall be liable for all costs and expenses related to collection of past due amounts, including reasonable attorneys’ fees. Furthermore, in the event Buyer fails to pay for any Products or services on time and in full, Seller shall have the right to cease delivery of Products and/or provision services. Buyer shall be required to complete a credit application for any purchase of Products or services. If Buyer fails to meet credit limit requirements as required by Seller, then Buyer may be required to provide an irrevocable letter of credit or payment bond prior to the delivery of any Products or beginning of any services. For sales to International or non-USA persons, entities, governments or agencies, an irrevocable letter of credit confirmed with a corresponding bank of Seller’s choice is required.

6. **Security Interest.** As collateral security for the payment of all amounts due from Buyer, Buyer grants to Seller a lien and security interest in and to all of the right, title, and interest of Buyer in, to and under the Products purchased, in the parts and accessories attached to the Products, and in the proceeds of such Products, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof. At Seller’s request, Buyer will promptly sign financing statements and any other documents appropriate to perfect and/or continue the security interest; provided that Buyer authorizes Seller to file any such financing statements or other documents to perfect this security interest at any time.

7. **Delivery; Risk of Loss.** Any stated delivery time represents Seller’s intended or typical delivery time, but actual delivery times may vary. Seller reserves the right to limit quantities at any

Initials

time. Unless otherwise agreed, all sales are FOB Seller's shipping point, and title and risk of loss or damage transfers to Buyer at that point or, if delivered directly by Seller, upon delivery to Buyer. Seller shall bear any risk of loss or damage to the Work until completion of delivery as set forth in the Purchase Order, at which time risk of loss or damage shall pass to Buyer. If for any reason Buyer fails to accept delivery of any of the Products on the agreed upon date identified on the Purchase Order or other writing exchanged between the Parties, or if Seller is unable to deliver the Products on such date because Buyer has not provided appropriate instructions, documents, licenses or authorizations: (i) risk of loss to the Products shall pass to Buyer; (ii) the Products shall be deemed to have been delivered; and (iii) Seller, at its option, may store the Products until Buyer picks them up, whereupon Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance). Any liability of Seller for non-delivery of the Products shall be limited to replacing the Products within a reasonable time or adjusting the invoice respecting such Products to reflect the actual quantity delivered.

8. Inspection; Claims. Buyer shall carefully inspect all Products and shipping documents promptly upon delivery. No claim for shortages or Products damaged during delivery will be valid or enforceable against Seller unless (a) Buyer notifies Seller in writing specifying in detail the shortage or damage within five days from the date of delivery; (b) Buyer returns the damaged Products to Seller within 10 days following delivery; (c) upon return, Seller confirms such damage; and (d) Buyer has fulfilled all of the payment terms. Buyer's notice must be accompanied by the original freight bill, with notation on the face thereof by an authorized agent for the carrier as to the Products claimed to be short or damaged during transit. Buyer shall be deemed to have waived any claim for shortages or Products damaged in transit if Buyer fails to so notify Seller within five (5) days following delivery. Any processing or use of the Products by Buyer, other than return to Seller, shall be conclusive as to Buyer's acceptance of the Products as being satisfactory and in accordance with these Terms and Conditions. Buyer acknowledges and agrees that the remedies set forth in this Section 8 are Buyer's exclusive remedies for the delivery nonconforming Products.

9. Cancellation and Returns. Buyer may not cancel any order of Products for Buyer's convenience without Seller's prior written consent. Seller may, in its sole opinion, authorize Buyer in writing to cancel Products normally carried in Seller's inventory. Any cancellation so authorized shall be subject to a cancellation charge of 15% of the purchase price. Buyer may not cancel any processed Products, specially manufactured Products, or Products not normally carried in Seller's inventory.

10. Changes. Seller shall have the right to make changes to the scope of services, drawings, designs, requirements, specifications, materials, packaging, hardware and equipment, time and place of performance, delivery, and method of transportation stated in an PO, through the use of a Change Order ("Change Order"). Buyer shall submit a request for a Change Order, to be approved by Seller, should such changes cause an increase or decrease in the cost or the time required for performance under the PO. Buyer agrees to accept such changes, once mutually agreed upon in writing.

11. Indemnification. Buyer agrees to defend, indemnify and hold Seller, and their respective officers, directors and employees harmless from and against all claims, demands, liabilities, losses, damages, suits, judgments, costs, expenses and reasonable attorney's fees (collectively, "Claims") including those arising, in any manner, out of or resulting from bodily injury, sickness, disease or death of any person or persons, or damage to or destruction of property, including any resulting loss of use arising from breach of contract or any non-conforming Work, including but not limited to, latent defects or environmental liability, except to the extent that any such Claims are the result of the gross negligence of Seller.

12. Limited Warranty. Seller warrants that Products shall be free from defects in material and workmanship at the time of shipment from Seller's facility or other place of shipment. THIS LIMITED WARRANTY IS THE ONLY WARRANTY MADE BY SELLER, AND IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, AND ANY STATEMENTS MADE BY EMPLOYEES, AGENTS OF SELLER OR OTHERS REGARDING THE PRODUCTS OR WORK. THE SOLE AND EXCLUSIVE REMEDY OF BUYER FOR ANY BREACH OF THE FOREGOING WARRANTY SHALL BE REPLACEMENT OR REPAIR OF THE PRODUCTS AND/OR WORK OR A REFUND OF THE PURCHASE PRICE OF SUCH PRODUCTS AND/OR WORK, WHICH REMEDY SHALL BE DETERMINED BY SELLER IN SELLER'S SOLE DISCRETION. Products manufactured by a third party ("Third Party Product") may constitute, contain, be contained in, incorporated into, attached to or packaged together with, the Goods. Third Party Products are not covered by the warranty in Section 12. For the avoidance of doubt, SELLER MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD-PARTY PRODUCT, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (c) WARRANTY OF TITLE; OR (d) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE. THE REMEDIES SET FORTH IN THIS SECTION 12 SHALL BE THE BUYER'S SOLE AND EXCLUSIVE REMEDY AND SELLER'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH HEREIN. Any description of the products, whether made in writing or orally by Seller or Seller's agents, or in any Purchase Order, specifications, samples, models, bulletins, drawings, diagrams, engineering sheets, catalogues, product brochures, photographs and/or other illustrations are for the sole purpose of identifying the Products and shall not be construed as an express warranty and shall not form part of the terms of the transaction between Seller and Buyer unless expressly confirmed to be such in writing by Seller.

13. Limitation of Liability. (A) IN NO EVENT SHALL SELLER BE LIABLE TO BUYER OR ANY THIRD PARTY

Initials

FOR ANY LOSS OF USE, REVENUE, OR LOST PROFITS OR OTHER INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES, WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. (B) IN NO EVENT SHALL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THESE TERMS AND CONDITIONS, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE PURCHASE PRICE PAID FOR THE PRODUCT OR WORK BY BUYER. The aforementioned limitations of liability shall not apply to (i) liability resulting from Seller's gross negligence or willful misconduct and (ii) death or bodily injury resulting from Seller's acts or omissions.

14. Intellectual Property. As between Buyer and Seller, all intellectual property rights relating to Products shall be and remain the exclusive property of Seller. The sale of Products by Seller does not confer any right or license upon Buyer to use or exploit in any way intellectual property rights subsisting in or relating to such Products. Buyer agrees not to copy, alter, modify, reverse engineer, or attempt to derive the composition or underlying information, structure or ideas of any Product or Confidential Information and must not remove, overprint, deface or change any notice of confidentiality, copyright, trademark, logo, legend on any Product or on notices of ownership or Confidential information it receives from Seller.

15. Confidential Information. All non-public, confidential or proprietary information of Seller, including but not limited to specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Seller to Buyer, 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 these Terms and Conditions or Order is confidential, solely for the use of performing the Order and may not be disclosed or copied unless authorized in advance by Seller in writing. Upon Seller's request, Buyer shall promptly return all documents and other materials received from Seller. Seller shall be entitled to injunctive relief for any violation of this Section 14. This Section 14 does not apply to information that is: (a) in the public domain; (b) known to Buyer at the time of disclosure; or (c) rightfully obtained by Buyer on a non-confidential basis from a third party.

16. Force Majeure. Seller shall not be liable or responsible to Buyer, nor be deemed to have defaulted or breached these Terms and Conditions, for any delay or failure in fulfilling or performing any term of these Terms and Conditions or any Order when and to the extent such failure or delay is caused by or results from acts beyond Seller's control, including but not limited to: acts of God, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riots, or other civil unrest, national emergency, revolution, insurrection, epidemic, vandalism, sabotage, explosions, accidents, fires, earthquakes, floods,

lockouts, strikes, labor disputes (whether or not relating to either party's workforce), mechanical breakdown, shortages or delays in obtaining suitable parts or equipment, material, power outage, labor or transportation, governmental actions, acts of any unit of government or a governmental agency, or any similar cause, the non-occurrence of which was a basic assumption of the parties.

17. Termination. Seller may terminate these Terms and Conditions with immediate effect upon written notice to Buyer, if Buyer: (i) fails to pay any amount when due under this Agreement or any Order and such failure continues for seven (7) days after Buyer's receipt of written notice of nonpayment; (ii) has not otherwise performed or complied with any of these Terms and Conditions; or (iii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

18. Assignment. Neither party may delegate or assign its rights or obligations without the other party's prior written consent, except that Seller may assign its rights and obligations to an affiliate upon prior written notice to Buyer. Any delegation or assignment without such written consent shall be null and void, and without any legal force or effect. Notwithstanding Seller's consent to any assignment or delegation by Buyer, these Terms and Conditions shall be fully binding on Buyer, its successors and permitted assigns.

19. Third-Party Beneficiaries. These Terms and Conditions are for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer or grant upon any third party any legal or equitable rights, benefits or remedies of any nature whatsoever under or by reason of these Terms and Conditions.

20. Waiver. Any waiver of these Terms and Conditions, to be valid or binding, must be in writing and signed by the party against which such waiver is to be enforced, and shall not constitute a continuing waiver of any other breach or default, and acceptance by Seller of any payments with knowledge of any breach or default shall not constitute such waiver. No omission or delay by either party in exercising any right, power or privilege shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise thereof or exercise of any other right, power, or privilege.

21. Governing Law; Disputes. These Terms and Conditions and any subsequent Purchase Orders between Seller and Buyer shall be governed by and construed in accordance with the laws of South Carolina without regard to the principles of conflicts of law. Any controversy or claim arising out of or relating to these Terms and Conditions or any Purchase Order shall be resolved through binding arbitration before a sole arbitrator in South Carolina, administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules. The arbitrator shall have the authority to award any remedy or relief that a court in South Carolina, applying South Carolina law, could order or grant, excluding punitive damages. All fees and expenses owed to the arbitrator shall be paid equally by Seller and Buyer. Judgment

Initials

upon any award rendered by the arbitrator, including any injunctive relief, may be entered in any court, federal or state, having jurisdiction. In the event of any claim, dispute or controversy arising out of or relating to these Terms and Conditions, the prevailing party shall be entitled to recover its attorneys' fees, arbitration costs and court costs from the non-prevailing party.

22. Notices. All notices, request, consents, claims, demands, waivers and other communications hereunder (each, a "Notice") shall be in writing and addressed to the parties at the addresses set forth on the face of the Order or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.

23. Amendment and Modification. These Terms and Conditions may only be amended or modified in a writing which specifically states that it amends these Terms and Conditions and is signed by authorized representatives of each party.

24. Relationship of the Parties. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

25. Severability. In the event that any provision of these Terms and Conditions is determined to be unenforceable or invalid under any applicable law or be so held by applicable court or arbitration decision, such unenforceability or invalidity shall not render these Terms and Conditions unenforceable or invalid as a whole, and, in such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law or applicable court or arbitration decision.

26. Survival. The provisions of these Terms and Conditions, which by their nature should survive will remain in force and effect after any termination or expiration of these Terms and Conditions including, but not limited to, the following provisions: 5, 6, 11, 12, 13, 14, and 15.