

AIRBORN, LLC

TERMS AND CONDITIONS OF PURCHASE

GENERAL PROVISIONS

Seller's acknowledgment, acceptance of payment or commencement of performance, shall constitute Seller's unqualified acceptance of these terms and conditions and the related contract. Unless expressly accepted in writing by AirBorn, additional or differing terms or conditions proposed by Seller or included in Seller's acknowledgment are objected to by AirBorn and have no effect. Seller may not ship under reservation.

1. APPLICABLE LAW

The validity, interpretation, and performance of these terms and conditions and any purchase made hereafter shall be governed by the laws of the State of Texas. Where not modified by the terms herein; the provisions of Article 2 of the Uniform Commercial Code shall apply to this transaction.

2. COMPLIANCE WITH LAWS

Seller hereby certifies that all supplies and services to be furnished hereunder will be manufactured or furnished by Seller in compliance with all applicable Federal, State and Local laws, executive orders, rules and regulations. Without limiting the scope and generality of the foregoing, Seller, in accepting this order, represents that it will comply with AirBorn ESG6017 (RoHS compliance) and ESG6023 (Specialty Metals compliance), unless otherwise specified, and the Fair Labor Standards Act, the Occupational Safety and Health Act (OSHA), the Foreign Corrupt Practices Act, the Corruption of Public Officials Act, the United Kingdom Bribery Act and the Toxic Substance Control Act. FAR, DFARS, and other agency clause flown down requirements for U.S. government contracts are defined in PP-R002, which is hereby incorporated into these terms and conditions by reference.

3. COMPLIANCE WITH U.S. EXPORT CONTROL LAWS

(a) Seller shall comply with all applicable laws, regulations, and rules, and complete all required undertakings (including obtaining any necessary license or government approval) regarding export-controlled items and technology, including but not limited to the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120 through 130 and the Export Administration Regulations (EAR), 15 CFR Parts 730 through 799, in the performance of this order.

(b) Seller shall indemnify AirBorn for all liabilities, losses, penalties, damages, costs, or expenses that may be imposed on or incurred by AirBorn in connection with any violations of export or import laws and regulations by Seller or by Seller's officers, employees, agents, or subcontractors.

4. RESERVED

5. OFCCP REQUIREMENT

This contractor and subcontractor shall abide by the requirements of 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals.

6. ATTACHMENTS

Any attachments referenced on this order shall be deemed for all purposes to be an integral part of this order. It is Seller's responsibility to go to the supplier matrix and forms page on the AirBorn website (www.airborn.com) to ensure that all needed documents and requirements are adhered to for all purchase orders.

7. MODIFICATIONS

Changes, modifications, waiver, additions or amendments to this order shall be binding on AirBorn only if such changes, modifications, waiver, additions or amendments are in writing and signed by a duly authorized representative of AirBorn.

8. CHANGES

- (a) AirBorn may change from time to time any of the following covered by this purchase order, and Seller shall comply with such change notices: (i) drawings, specifications, technical requirements or instructions for work; (ii) shipment or packing methods; (iii) place of delivery, inspection or acceptance; (iv) reasonable adjustments in quantities, delivery schedules or both; (v) amount of AirBorn-furnished property; (vi) time of performance; (vii) place of performance; and (viii) terms and conditions required to meet AirBorn's obligations under AirBorn's higher-tier customer contract. If such changes result in a decrease or increase in Seller's cost or in the time for performance, an adjustment in the price and time for performance may be made to the purchase order, provided, the Seller asserts its claim to AirBorn for such adjustments within thirty (30) days after Seller's receipt of the change notice, and, included in its claim, Seller provides sufficient evidence substantiating such cost or schedule changes. Nothing in this provision shall excuse Seller from proceeding immediately with the directed change(s). Changes shall not be binding upon AirBorn except when specifically confirmed in a written purchase order.
- (b) Seller must obtain prior approval from AirBorn, in writing, before any change can be made in design, material, process, packaging, place of manufacturing, or any subcontractor or subcontractor facility. Such written approval must come from the authorized procurement representative at AirBorn listed on the purchase order.
- (c) Where Seller is the design authority over the goods provided or furnished to AirBorn, except as otherwise directed or required by AirBorn under the purchase order or when required to meet compliance with AirBorn's higher-tier customer contract, Seller shall use configuration management processes in accordance with AS9100.

9. TERMINATION

- (a) AirBorn may terminate the work to be performed hereunder in whole or in part at any time without cause by written notice to Seller. Such notice shall state the extent and effective date of such termination and, upon the receipt of such notice, Seller will comply with the directions pertaining to work stoppage hereunder and the placement of further orders or subcontracts hereunder. The parties shall thereupon employ their best efforts to agree by negotiation, within thirty (30) days, upon the amount of reimbursement, if any, to be paid to Seller for

each Termination. Termination under this provision shall not be deemed a breach of contract. The provisions of this paragraph shall not limit or affect the right of AirBorn to terminate this order for cause and shall not apply to a termination with cause. Seller shall mitigate its claim to the maximum extent, and in any event, no claims shall exceed the lesser of fair market value or actual costs of raw materials and work in progress material, which Seller shows, can not be diverted to other uses. No claim shall be asserted or honored for loss on expected profits, or for any consequential or incidental damages, due to cancellation.

- (b) By written notice, and allowing a seven (7) calendar day period to cure, AirBorn may cancel the whole order, or any part of this order, in the any of the following circumstances: (i) if Seller fails to deliver within the time specified herein, or any extension thereof granted by AirBorn in writing; or (ii) if Seller fails to perform any material provision of this order or fails to make progress so as to endanger performance of this order. If AirBorn terminates this order completely or in part, it may acquire goods or services similar to those terminated, under terms and in the manner AirBorn considers appropriate, and Seller will be liable to AirBorn for any costs for those goods or services.
- (c) By written notice and without a cure period, AirBorn may terminate for default the whole order, or any part of this order, in the event of the suspension of Seller's business, insolvency of Seller, institution of bankruptcy, liquidation proceedings by or against Seller, appointment of a trustee or receiver for Seller's property or business, any assignment, reorganization, or arrangement by Seller for the benefit of creditors, or the debarment or suspension of Seller by any government agency.
- (d) If only part of the order is terminated, Seller is not excused from performance of the non-terminated portion of the order.

10. MATERIAL OBSOLESCENCE / END OF LIFE (EOL) For any goods or products being purchased by AirBorn hereunder, or any components or material thereof, Seller shall notify AirBorn of any obsolescence or EOL plans at least 12 months in advance of the effective date of obsolescence, and provide AirBorn the opportunity for last time buy.

11. TOOLING

Seller shall preserve all special drawings, dies, patterns, tooling or other items supplied or paid for by AirBorn in good condition, and they are the sole property of AirBorn unless otherwise specified in writing, and the same such items shall be returned in good condition when the work on the order has been completed or terminated, or at any other time as requested by AirBorn. Failure of AirBorn to request return of the items at the conclusion of this or any related order does not, in any way, constitute a waiver of rights, and ownership is retained by AirBorn at all times. No special drawing, die, pattern, tool or other item supplied by AirBorn or made by Seller for the use of or delivery to AirBorn, or for use by Seller in supplying AirBorn, shall be used by Seller for any purpose other than supplying AirBorn, without Seller's first obtaining the written consent of AirBorn thereto. If AirBorn furnishes material, equipment, special drawings, dies, patterns, or other items for performance of this purchase order, all risk of loss thereof or damage thereto shall be upon Seller from the time of shipment to Seller until redelivery to and receipt by AirBorn.

12. PATENTS AND COPYRIGHTS

Seller agrees to indemnify and to save AirBorn, its officers, agents, employees, and vendors (mediate and immediate) harmless from any and all loss, expense, damage, liability, claims or demands either at law or in equity for actual or alleged infringement of any patent invention, design, trademark, or copyright arising from the purchase, use or sale of materials or articles required by this purchase order, except where such infringement or alleged infringement arises by reason of designs for such materials or articles originally furnished to Seller by AirBorn.

13. INTELLECTUAL PROPERTY

Intellectual Property means any information or knowledge of an industrial, scientific, technical, commercial, literary, dramatic, artistic or otherwise creative nature relating to the Goods, whether oral or recorded in any form or medium and whether or not subject to copyright; this includes but is not limited to any inventions, designs, methods, processes, techniques, know-how, show-how, models, prototypes, patterns, samples, schematics, experimental or test data, reports, drawings, plans, specifications, photographs, manuals and any other documents, software, and firmware ("Intellectual Property").

- (a) Intellectual Property developed or otherwise acquired by AirBorn or Seller prior to or outside the scope of this contract ("Background Intellectual Property"), shall be owned by the party that developed or otherwise acquired the Background Intellectual Property and associated rights. Seller agrees that AirBorn is the sole owner of any Intellectual Property developed under the scope of this Contract ("Foreground Intellectual Property"), and that Seller shall have no rights except as specifically authorized by AirBorn in writing.
- (b) Seller agrees that parts manufactured based on AirBorn's drawings and/or specifications may not be used for Seller's own use or sold to third parties without AirBorn's express written authorization.
- (c) The provisions of this Section 13 shall survive the completion, termination or cancellation of this order.

14. ASSIGNMENTS

Performance obligations shall not be assigned or transferred by Seller without prior written approval by AirBorn, and any attempted assignment or transfer without such consent shall be void. Seller shall not subcontract any substantial portion of the work to be performed by it under this order without the prior written consent of AirBorn.

15. EXCUSED PERFORMANCE

If Seller is prevented from delivering, or AirBorn is prevented from receiving the materials or articles referred to in this order as a result of governmental actions or regulations, except as hereinafter provided, or of fires, strikes, accidents, and other unforeseeable causes beyond the control of either party, the obligation to receive or deliver shall be suspended for a reasonable time during which such cause continues to exist.

16. PACKING AND SHIPPING INSTRUCTIONS

Unless AirBorn stipulates specific packaging or shipment instructions, all items shall be suitably prepared for shipment (a) to secure the lowest transportation and insurance rates, (b) to meet carrier's requirements, and (c) to avoid any damage in transit.

- A. IDENTIFICATION- All shipments shall contain an easily located packing list describing the shipped material and shall clearly indicate the purchase order number on outside all packages, boxes, kegs, bails or bundles to expedite the receiving of said shipments.
- B. PACKING- Unless otherwise provided herein, no charges shall be made by Seller for containers, crating, boxing, bundling, dunnage, drayage, storage or other packing requirements. All material shall be packed, packaged, marked and otherwise prepared for shipping in accordance with sound commercial practices to meet requirements for obtaining the lowest transportation rates, or as otherwise specified herein.

17. DELIVERY

The obligation of Seller to meet the delivery dates, specifications, and quantities set forth herein is of the essence in the contract. Deliveries are to be made both in quantities and at times specified herein or such quantities and items specified pursuant to AirBorn's written instructions.

A. **EARLY DELIVERY** – AirBorn may at its option, either retain items received in advance of requested delivery schedule or return them to Seller at Seller's risk and expense. If retained, payment and discount shall be based on the schedule delivery dates.

B. **LATE DELIVERY** – In the event that Seller fails to deliver as and when specified, AirBorn reserves the right to cancel this order, or any part thereof, without prejudice to its rights or remedies; and Seller agrees that AirBorn may return part or all of any so shipment made, and if the order calls for partial shipments, the balance may be cancelled or suspended upon notice and AirBorn may charge Seller with any expedited routing charges or any loss or expense sustained as a result of such failure to deliver as specified. If only part of the order is cancelled, Seller is not excused from performance of the non-cancelled portion of the order.

18. ACCEPTANCE AND WARRANTY

Final acceptance of material by AirBorn will not be until after arrival at the AirBorn facility from which this order originates, unless otherwise specified herein. Title to, and risk of loss of, the goods shall pass from Seller to AirBorn upon AirBorn's acceptance of the goods. Seller warrants that all articles, material and work supplied by Seller under this order conform to the requirements, specifications, drawings, samples, or other descriptions furnished or adopted by AirBorn and that are of good material and workmanship and free from defects in manufacture or design, and are of merchantable quality and fit for their intended purchase. Such warranties by Seller shall run to the benefit of AirBorn, its employees and purchasers from AirBorn. AirBorn's approval of designs furnished by Seller shall not relieve Seller of its obligation under this warranty. Seller's warranty shall be effective for a period of five years from the date of acceptance of goods by AirBorn, or for such longer period specified by Seller. At AirBorn's option, any nonconforming article or materials covered by this warranty shall be repaired or replaced at AirBorn's option. Seller shall bear all costs associated with rework, removal, testing, reinstallation and process improvements associated with the non-conforming article or materials, including AirBorn's costs related thereto. Seller will make process control data, inspection and test reports covering the articles or goods and their parts available for review and subject to examination by AirBorn or its authorized representative(s) to verify conformance to such applicable specifications and drawings. A Certificate of Conformance must accompany individual shipments and shall include, at a minimum: (i) AirBorn part number, (ii) purchase order number, (iii) total quantity with date code or lot number specified for each quantity identified; (iv) a statement that certifies that goods delivered to AirBorn are compliant to the purchase order requirements including all applicable specifications and drawing requirements. Results of all substantiating tests and other evidence supporting such documentation must be on file and made available for each product if requested by AirBorn.

19. INCOMING INSPECTION

Any article or materials not accepted by AirBorn may be returned to Seller at Seller's expense for full credit of the purchase price. Inspection may be performed at AirBorn's option on a statistical sampling basis. The entire lot may be rejected on defects revealed by such sampling. At AirBorn's option, the rejected lot will be either returned to seller for replacement or credit or 100% screened by AirBorn with cost of screening paid by Seller. The initial inspection performed at AirBorn on receipt of material is a conditional acceptance, and shall not waive the right of AirBorn to return material to Seller which exhibits or develops defects due to latent causes during or after installation or testing of the end product. Replacement material shall be sent freight prepaid from seller, who will absorb the burden of premium transportation when defect or replacement material places critical time or delivery schedule constraints on AirBorn.

20. WAIVER

Any failure of AirBorn to enforce at any time, or for any period of time, any of the provisions of this purchase order shall not constitute a waiver of such provisions nor of AirBorn's right to enforce each and every provision.

21. PAYMENTS

Seller shall send all invoices to AirBorn at the address shown on the reverse side, Attn: Accounts Payable. All invoices shall include (a) the purchase order number, (b) AirBorn's applicable part number, (c) a description of each item as it appears on each order, and (d) Seller's part number. Payment of invoice shall not constitute acceptance of supplies or services and be subject to adjustments for error, shortages, rejects or any other failure of Seller to meet the requirements of this order. All payments shall be Net 60 unless otherwise stated on the Purchase Order. Payment due dates, including discount periods, will be computed from date of receipt of goods.

22. PRICE ADJUSTMENT

- (a) AirBorn will not accept shipment at any increase in price above that indicated on this order. Any general price decrease announced by Seller in classification of equipment and/or materials similar to the items described on this order shall automatically reduce the priced thereof by a comparable percentage.
- (b) Prices under this purchase order are firm-fixed by Seller and are not subject to change. If any goods purchased by AirBorn hereunder have, or are anticipated to have, a price increase, now or anytime in the future, Seller hereby agrees to provide AirBorn with at least sixty (60) days advance written notice of the effective date of such price increase.
- (c) Seller's prices include: (i) the cost of packaging in a manner suitable for shipment by the method specified by AirBorn, and (ii) all taxes, fees, tariffs and/or duties applicable to the purchase order.

23. PAYABLES OFFSET

AirBorn shall be entitled at all times to offset any amount owing, for any reason, at any time, from Seller to AirBorn against any amount payable at any time by AirBorn in connection with this order.

24. DISPUTE RESOLUTION

- (a) Seller agrees that any controversy or claim arising out of or relating to this order, or the breach thereof, shall be settled, to the extent possible, by good faith negotiations. Any dispute which the parties cannot resolve by good faith negotiations within 30 days or such longer period as Seller and AirBorn may mutually agree shall be submitted and finally resolved by a court of competent jurisdiction as provided in Section 25.
- (b) The costs of any dispute resolution proceedings, including judicial proceedings, as well as reasonable attorneys' fees shall be borne by the non-prevailing party.
- (c) Pending resolution of any dispute between AirBorn and Seller related to this order, Seller shall proceed diligently with the performance of

work under the order, including delivery in accordance with AirBorn's direction.

(d) All disputes under this order that are not disposed of by mutual agreement may be decided by recourse to an action at law or in equity. Pending final resolution of a dispute hereunder, Seller shall proceed diligently with the performance of this order and in accordance with all the terms and conditions contained herein and with AirBorn's direction thereof. AirBorn and Seller shall each bear its own costs of processing any dispute hereunder. In no event shall the Seller acquire any direct claim or direct course of action against the United States Government.

25. CHOICE OF LAW AND FORUM

This order and all related documents, and all matters arising out of or relating to these terms and this order, are governed by, and construed in accordance with, the laws of the State of Texas, United States of America, without giving effect to provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of Texas. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. Each Party irrevocably and unconditionally agrees that it will not commence any action, litigation, or proceeding of any kind whatsoever against any other party in any way arising from or relating to this order or these terms and all contemplated transactions in any forum other than the courts located in Williamson County, Texas. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of such courts and agrees to bring any such action, litigation, or proceeding only in the courts located in Williamson County, Texas. Each Party agrees that a final judgment in any such action, litigation, or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

26. INDEPENDENT CONTRACTORS

The relationship between the parties is that of independent contractors and not that of principal and agent, employer and employee, joint employers or legal partners. Neither party will represent itself as the agent or legal partner of the other party nor perform any action that might result in other persons believing that it has any authority to bind or enter into commitments on behalf of the other.

27. PRIORITY RATING

If so identified in writing, this purchase order is a "rated order" certified for national defense use, and Seller shall follow all the requirements of the Defense Priorities and Allocation System Regulation (15 C.F.R. Part 700).

28. SHELF LIFE

All items and articles, including components, incorporated into this order must be new and shall have a suitable shelf life at the time of receipt by AirBorn. The items and/or components are to be provided to AirBorn with a minimum shelf life remaining of six (6) months, or as provided in writing by AirBorn.

29. RIGHT OF ACCESS

Upon reasonable notice, Seller agrees to permit AirBorn, AirBorn's customer, regulatory authority, or Government representative(s) if this purchase order is for a U.S. Government contract or subcontract, to verify the quality of supplies and services being provided under this purchase order at any production stage in the Seller's facility, or any of Seller's subcontractors facilities performing any work related to this purchase order. Verification may consist of a physical assessment/ surveillance of the Seller's facilities and quality programs and/or a source inspection. AirBorn personnel shall have access to all applicable areas of Seller's facilities, or Seller's subcontractor's facilities, at any level of the supply chain involved in the order and to all applicable records as deemed necessary by AirBorn. This right shall also extend to the Seller's subcontractors. The applicable quality program requirements may be as defined, documented, and furnished by AirBorn. Deficiencies identified during such verification shall be positively corrected by the Seller in the most expeditious manner possible. The Seller shall provide all reasonable facilities and assistance for the safety and convenience of personnel engaged in such verification. Seller agrees to include into each subcontract Seller might make hereunder appropriate provisions to the same effect.

30. SALES AND USE TAX EXEMPTION

If indicated on the face hereof that the goods ordered herein are exempt from the Texas Sales And Use Tax, then AirBorn hereby certifies that such property purchased for resale or become an ingredient or component part of, or be incorporated into or used or consumed in the manufacturing process of a product produced for ultimate sale at retail.

31. NOTICES

Any notices required or permitted to be given herein shall be in writing and shall be valid and sufficient dispatched by registered or certified mail, postage prepaid, at any post office in the United States.

32. U.S. GOVERNMENT FUNDS

Seller hereby acknowledges that United States Government (USG) funds may be used to finance this order. Acceptance of this order will constitute acknowledgement of such notification of USG financing, if applicable.

33. IMPROPER PAYMENTS

Acceptance and implementation of the subcontract constitutes a declaration and agreement by the principal executive officers of the subcontractor that no bribes, rebates, gifts, kickbacks, or gratuities to secure the Purchase Agreement or the subcontract, or for favorable treatment under such agreements, or for any other purpose relating to the Purchase Agreement or the subcontract have been or will be directly or indirectly offered or given to, or have been or will be arranged with officers, officials or employees of the Purchaser by the subcontractor, its employees or agents.

34. COUNTERFEIT WORK

a. The following definitions apply to this clause:

"Counterfeit Work" means work that is or contains unlawful or unauthorized reproductions, substitutions, or alterations that have been knowingly mismarked, misidentified, or otherwise misrepresented to be an authentic, unmodified part from the original manufacturer, or a source with the express written authority of the original manufacturer or current design activity, including an authorized aftermarket manufacturer. Unlawful or unauthorized substitution includes used work represented as new, or the false identification of grade, serial number, lot number, date code, or performance characteristics. "Suspect Counterfeit Work" means work for which credible evidence (including, but not limited to, visual inspection or testing) provides reasonable doubt that the work part is authentic.

- b. Seller shall provide electrical, electronic, and electromechanical ("EEE") goods, including any items or articles thereof, in accordance with, and compliant to, the latest revision of SAE AS5553.
- c. Seller shall not deliver Counterfeit Work or Suspect Counterfeit Work to AirBorn under this order.
- d. Seller shall only purchase products to be delivered or incorporated as work to AirBorn directly from the Original Component Manufacturer (OCM)/Original Equipment Manufacturer (OEM), or through an OCM/OEM authorized distributor chain. Seller may use another source only if (i) the foregoing sources are unavailable, (ii) Seller's inspection and other counterfeit risk mitigation processes will be employed to ensure the authenticity of the work, and (iii) Seller obtains the advance written approval of AirBorn.
- e. Seller shall maintain counterfeit risk mitigation processes in accordance with industry recognized standards and with any other specific requirements identified in this order.
- f. Seller shall immediately notify AirBorn with the pertinent facts if Seller becomes aware that it has delivered Counterfeit Work or Suspect Counterfeit Work. When requested by AirBorn, Seller shall provide OCM/OEM documentation that authenticates traceability of the affected items to the applicable OCM/OEM. Seller, at its expense, shall provide reasonable cooperation to AirBorn in conducting any investigation regarding the delivery of Counterfeit Work or Suspect Counterfeit Work under this order.
- g. This clause applies in addition to and is not altered, changed, or superseded by any quality provision, specification, statement of work, regulatory flowdown, or other provision included in this order addressing the authenticity of work.
- h. In the event that work delivered under this order constitutes or includes Counterfeit Work, Seller shall, at its expense, promptly replace such Counterfeit Work with genuine work conforming to the requirements of this order. Notwithstanding any other provision in this order, Seller shall be liable for all costs relating to the removal and replacement of Counterfeit Work, including without limitation AirBorn's costs of removing Counterfeit Work, of installing replacement work and of any testing necessitated by the reinstallation of work after Counterfeit Work has been exchanged. The remedies contained in this paragraph are in addition to any remedies AirBorn may have at law, equity or under other provisions of this order.

35. INSURANCE

Seller shall procure and maintain, at its sole cost and expense, general liability, property damage, workers' compensation, and automotive liability insurance, in prudent, reasonable and/or statutory amounts adequate to cover Seller's obligations, including those detailed in Section 12, Patents and Copyrights, and Section 13, Intellectual Property. In no event shall the general liability be less than \$1,000,000 per occurrence.

Seller shall provide AirBorn, upon AirBorn's request, certificates of insurance executed by the insurer or its authorized representative that certify the required coverage. The furnishing of acceptable evidence of the required coverage shall not relieve Seller from any liability or obligation for which it is responsible.

36. ORDER OF PRECEDENCE

These terms, and all attachments referenced, are fully incorporated into this order. In the event of any inconsistency or conflict in the referenced attachments or other terms and conditions associated with this order, precedence shall be given in the following descending order of priority:

- (a) The face of the purchase order;
- (b) PP-F001 AirBorn, Inc. Terms and Conditions of Purchase;
- (c) PP-R002 Flowdowns for U.S. Government Contracts;
- (d) The drawings and specifications included by reference in the purchase order; or
- (e) Any other documents incorporated into these terms and conditions.

37. SEVERABILITY

If any term or provision of this order is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this order or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon a determination that any term or provision is invalid, illegal, or unenforceable, the court may modify this this order to effect the original intent of the parties as closely as possible in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

38. GRATUITIES

Seller warrants that neither Seller, nor any of its employees, agents, or representatives, have offered or given, or will offer or give, any gratuities to AirBorn's employees, agents, or representatives for the purpose of securing this order, and that Seller will not make or solicit kickbacks in violation of FAR 52.203-7, Anti-Kickback Procedures, or the Anti-Kickback Act of 1986 (41 U.S.C. 51 et seq.), both of which are incorporated into these terms by reference.

39. CONFIDENTIALITY

From time to time during the term of this agreement, AirBorn may disclose or make available to the Seller information about its business affairs, products or services, confidential intellectual property, trade secrets, third-party confidential information and other sensitive or proprietary information, whether orally or in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" (collectively, "Confidential Information"). Confidential Information shall not include information that, at the time of disclosure and as established by documentary evidence: (i) is or becomes generally available to and known by the public other than as a result of, directly or indirectly, any breach of this section 39 by Seller or any of its representatives; (ii) is or becomes available to Seller on a non-confidential basis from a third-party source, provided that such third party is not and was not prohibited from disclosing such Confidential Information; (iii) was known by or in the possession of Seller or its representatives before being disclosed by or on behalf of AirBorn; (iv) was or is independently developed by Seller without reference to or use, in whole or in part, of any of the Confidential Information; or (v) is required to be disclosed under applicable federal, state or local law, regulation or a valid order issued by a court or governmental agency of competent jurisdiction. Seller shall: (A) protect and safeguard the confidentiality of the Confidential Information with at least the same degree of care as seller would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care; (B) not use the Confidential Information, or permit it to be accessed or used, for any purpose other than to exercise its right to perform its obligations under this agreement; and (C) not disclose any such Confidential Information to any person or entity, except to Seller's representatives who need to know the Confidential Information to assist Seller, or act on behalf, to exercise its rights or perform its obligations under the agreement. Seller shall be

responsible for any breach of this section 39 caused by any of its representatives. At any time during or after the term of this agreement, at AirBorn's written request, Seller shall promptly notify return, and shall require its representatives to return to AirBorn all copies, whether in written, electronic or other form or media, of the Confidential Information, or destroy all such copies and certify in writing to AirBorn that such Confidential Information has been destroyed. In addition to all other remedies available at law, AirBorn may seek equitable relief (including injunctive relief) against Seller and its representatives to prevent the breach or threatened breach of this section 39 and to secure its enforcement.

40. RELEASE OF INFORMATION

Except as required by law, Seller shall not release any information, with respect to this order or the subject matter hereof without the prior written approval of AirBorn. Requests for approval shall be made at least fifteen (15) days before the proposed date for release and shall identify the specific information to be released, the medium to be used, and the purpose for the release. Seller agrees to insert the substance of this clause, including this sentence, in any lower tier subcontract. Seller shall be liable to AirBorn for any breach of such obligation by Seller and/or any of its subcontractors.

41. CODE OF CONDUCT

Seller agrees, on behalf of itself and its subcontractors, to comply with AirBorn's Supplier Code of Conduct (PP-0017), or an equivalent code of conduct policy maintained by Seller.