1. AGREEMENT: These Purchase Order Terms and Conditions (these “Terms”), together with the other terms on the purchase order or other document to which these Terms are attached or incorporated (the “PO”), become a binding agreement (collectively, the “Agreement”) between TOK America (the “TOK”) and the party identified on the PO (“Supplier”), on the sooner of (a) Supplier’s delivery to TOK America of a signed acceptance copy of the PO or Supplier otherwise confirming acceptance of the PO, or (b) Supplier commencing performance of the Agreement, including shipping or providing all or any portion of the labor, work or services covered by the Agreement (“Services”) or the materials, products, components, merchandise or Services deliverables covered by the Agreement (“Goods”). The Agreement includes any specifications, drawing attached to, or referenced in, the PO. Except as otherwise provided in these Terms, any of the provisions of the Agreement that are provision in any acceptance or acknowledgment hereof, inconsistent with, or in addition to, the terms of the Agreement, are expressly rejected and shall have no force or effect. Supplier, by its acceptance of the PO or by its commencement of performance, shall be deemed to have agreed to all the terms of these Terms, as well as any other terms on the PO or the other document to which these Terms are attached.

2. PACKING AND SHIPPING: All Goods shall, at no extra charge, be packed and packaged per instructions or specifications attached to the PO, or in the absence of any instructions or specifications, in compliance with best commercial practices. A packing list showing purchased goods and quantities shall accompany each shipment. Upon request and for no additional charge, Supplier will provide a “Certificate of Analysis” for the Goods. No charges will be allowed Supplier for packing, freight, express delivery, or cartage, unless stated in the PO.

3. DELIVERY: Deliveries of Goods and Services are to be made to the address specified on the PO and in the quantities and on the schedule specified on the PO or on release schedules furnished against the Agreement. Unless otherwise expressly provided in the PO, terms of shipping for Goods are DDP, destination (Incoterms 2010). Title and risk of loss shall pass at the point of shipment for Goods are DDP, destination (Incoterms 2010). All costs, including customer charges and penalties, incurred by TOK America due to Supplier’s failure to make timely delivery (whether or not there was a valid cause for the delay), are to be charged to Supplier’s risk and expense, if Supplier defaults in the manner or time of delivery. Title and risk of loss shall pass at TOK America’s materials, products, components, merchandise or Services deliverables covered by the Agreement. Supplier’s breach of the Agreement will include any specification, drawing attached to, or referenced in, the PO. Except as otherwise provided in these Terms, any of the provisions of the Agreement that are provision in any acceptance or acknowledgment hereof, inconsistent with, or in addition to, the terms of the Agreement, are expressly rejected and shall have no force or effect. Supplier, by its acceptance of the PO or by its commencement of performance, shall be deemed to have agreed to all the terms of these Terms, as well as any other terms on the PO or the other document to which these Terms are attached.

4. INSPECTION: All Goods are subject to inspection and testing before final acceptance by TOK America at its premises. If any inspection or test is made on Supplier’s premises, Supplier shall provide TOK America’s inspectors with reasonable facilities and assistance at no additional charge. Acceptance and/or inspection by TOK America shall not constitute a waiver of any defect or nonconformity. TOK America may reject, and require, at its option and at no charge to TOK America, the replacement or correction of any item found to be defective.

5. CHANGES/CANCELLATIONS: TOK America, through its Administration Department, may, without cause, change the drawings, design specifications, quantities, delivery schedules, methods of shipment or packaging and place of inspection, acceptance and/or point of delivery of any Goods or Services. Unless otherwise stated on the PO, the price for all or any part of the undelivered portion thereof shall be changed or cancelled. Without affecting TOK America’s rights, Supplier shall promptly notify TOK America if Supplier is unable to make any such delivery and state the reasons. Supplier is responsible for cost of all return shipments for any reasons described, with title and risk of loss passing at TOK America’s materials, products, components, merchandise or Services deliverables covered by the Agreement. Supplier’s breach of the Agreement will include any specification, drawing attached to, or referenced in, the PO. Except as otherwise provided in these Terms, any of the provisions of the Agreement that are provision in any acceptance or acknowledgment hereof, inconsistent with, or in addition to, the terms of the Agreement, are expressly rejected and shall have no force or effect. Supplier, by its acceptance of the PO or by its commencement of performance, shall be deemed to have agreed to all the terms of these Terms, as well as any other terms on the PO or the other document to which these Terms are attached.

6. PRICE; INVOICES: The price for the Goods and Services shall be as stated on the PO or otherwise agreed upon by the parties. Unless otherwise specified on the PO, the price includes all costs and Supplier is responsible for payment of, all applicable federal, state, and local taxes, as well as import and export duties and tariffs. Supplier warrants that the price will not be higher than Supplier’s lowest prevailing price for the same or similar items effective at any time prior to delivery to TOK America. Unless stated otherwise on the PO, the price paid by TOK America will pay invoices which strictly comply with the Agreement within 60 days from receipt thereof.

7. WARRANTIES. Supplier expressly warrants to TOK America and its customers that (a) the Goods are genuine, unused and not counterfeit; (b) Supplier will transfer to TOK America genuine, unused and not counterfeit Goods; (c) the Goods and Services are genuine, unused and not counterfeit; (d) the Goods will perform in all respects to the applicable specifications, drawings and other requirements, or in descriptions given; (d) the Goods will be free from defects in material, workmanship and design, (ii) of merchantable quality and fit for the use intended by TOK America, (iii) manufactured following current good manufacturing practices that are at least consistent with industry standards, and the practices used for any samples provided to and approved by TOK America, and (iv) not be adulterated, mislabeled, or misbranded; (e) the Services will be performed in a workmanlike manner and (f) all Goods and Services shall comply with all applicable laws, rules, regulations, codes, standards, orders, codes and ordinances applicable to the manufacture, handling and transportation of such hazardous materials, as applicable to TOK America. All Goods shall, at no extra charge, be packaged and delivered in accordance with current good manufacturing practices that are at least consistent with industry standards, and the practices used for any samples provided to and approved by TOK America.

8. HAZARDOUS MATERIALS: If Goods include hazardous materials, Supplier shall provide to TOK America a Safety Data Sheet prior to delivery of the related Goods. Supplier represents and warrants that Supplier understands the nature of, and hazards associated with, the Goods, and agrees that Supplier will correctly classify, label, package, and otherwise handle the Goods so as to comply with all applicable laws, rules, regulations, codes, standards, orders, codes and ordinances applicable to the manufacture, handling and transportation of such hazardous materials, as applicable to TOK America. Supplier is fully responsible for any liability resulting from Supplier’s actions in connection with providing hazardous materials to TOK America.

9. TITLE TO DEVELOPMENTS AND MATERIALS. As between the parties, TOK America shall at all times have title to all drawings, specifications, technical data, tools and other materials and information, and related intellectual property rights (collectively, “TOK America Materials”) (a) furnished by TOK America to Supplier in connection with the Agreement, or (b) automatically assigns, and will ensure that its subcontractors automatically assign, to TOK America (i) all of Supplier’s or any subcontractor’s right, title and interest in any processes, inventions, discoveries, technologies, or materials developed in connection with any Services or the performance of the Agreement and all related intellectual property rights, but expressly excluding pre-existing or purchased or created items (collectively “Developments”), and (b) all right, title and interest in any TOK America Materials purchased for TOK America under the Agreement. Supplier will execute, and will cause each subcontractor to execute, any documents reasonably necessary to effect such assignments. Supplier will notify TOK America of any Developments as soon as practicable following creation. Supplier shall use TOK America Materials only in connection with the Agreement and shall not disclose or supply such materials or Developments to any person, firm or corporation other than, in confidence and as required to perform the Agreement. To the extent that Supplier engages subcontractors, Supplier shall ensure that the subcontractors grant to TOK America an irrevocable, non-exclusive right, title, and interest in the TOK America Materials delivered or to be delivered to TOK America under the Agreement. Supplier will execute, and will cause each subcontractor to execute, any documents reasonably necessary to effect such assignments.

10. TERMINATION: TOK America may cancel all or any part of the Agreement if (a) Supplier breaches the Agreement and such breach is deemed material by TOK America; or (b) Supplier files or has filed against it a bankruptcy proceeding, is insolvent, or has appointed an assignee for the benefit of creditors or a receiver. In such case, Supplier’s rights under the Agreement are held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision, and the affected provisions will be enforced to the fullest extent possible.

11. INDEMNIFICATION: Supplier warrants to TOK America (a) the Goods and Services and the items thereof are genuine, unused and not counterfeit, or in combination with other materials, do not and will not infringe or misappropriate any third party’s patent, copyright, trademark, trade secret, trade dress or other proprietary right (“IP Rights”). Supplier agrees to defend, indemnify, and hold harmless TOK America against all claims, liabilities, obligations, penalties, fines, attorney’s fees, costs and causes of action of whatever nature, including economic loss, injury to or death of any person or damage to or destruction of any property, or any resulting claim, suit or proceeding brought against TOK America (a) asserting that the Goods or Services infringe or misappropriate any IP Right of any third party; or (b) as a result of the acts or omissions of Supplier or the performance or lack of performance of the Agreement or the Goods or Services, excluding only those caused by the sole negligence of TOK America.

12. NON-PUBLICITY: Supplier shall not make any news release, public announcement, denial or confirmation of the Agreement or its subject matter, or in any manner advertise or publish the fact that TOK America issued the PO.

13. GOVERNING LAW; CONSENT TO JURISDICTION; ATTORNEYS FEES. The Agreement is governed by the laws of the State of Oregon, except to the extent that enforcement or performance of the Agreement conflicts with the Agreement, then the terms of the Agreement will control. If the other terms on the PO conflict with these Terms, the terms on the PO will control. No terms, conditions, understandings, usages of the trade, courses of dealing or agreements purporting to modify, vary, explain or supplement the Agreement shall be binding unless and until made in writing and signed by Supplier and TOK America’s Administration Department. The failure of either party to enforce any of its rights hereunder shall not constitute a waiver of such rights or of any other rights hereunder. TOK America will have the right, without any notice to Supplier or any invoice. Supplier also represents and agrees that it is in compliance with Executive Order 11246 and implementing regulations, unless exempted. Supplier shall not delegate, subcontract, assign, or perform in whole or in part any portion of the Agreement, or any portion of the PO, without TOK America’s written consent of TOK America, and any such attempted delegation or assignment without such consent shall be void. The Agreement will be deemed to be the product of both parties, so no ambiguity will be construed in favor of, or against, either party. If any of the provisions of the Agreement are held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision, and the affected provisions will be enforced to the fullest extent possible.