

**Westbrook Mfg. Inc.**  
**Purchase Order Terms and Conditions**

**Introductory Statement and Definitions:**

As used herein, "Order" means Westbrook Purchase Orders and other associated purchasing documents transmitted to you as Seller in hard copy, via facsimile, or via any other mode of transmission. The following terms and conditions are incorporated by reference into each Westbrook Order issued to you as Seller.

"Buyer" means Westbrook Mfg. Inc.; Westbrook Mfg.; Westbrook or the Westbrook affiliate identified on the face of the Order; "Buyer's Terms" means the terms and conditions on the face and back of this Order and any other terms and conditions specifically incorporated herein by reference; "Seller" means the supplier shown on the face of this Order; and "Goods" means the products of Seller shown on the face of this Order and all raw materials, components, tooling, equipment and supplies to be delivered by and all services to be provided by Seller hereunder.

**1. ACCEPTANCE:**

- a) Seller will be deemed to have accepted this Order when Seller acknowledges this Order or begins performance under this Order. SELLER'S ACCEPTANCE IS EXCLUSIVELY LIMITED TO ACCEPTANCE OF BUYER'S TERMS. BUYER HEREBY OBJECTS TO AND REJECTS ANY PROPOSAL BY SELLER FOR ADDITIONAL OR DIFFERENT TERMS. If Seller proposes additional or different terms which relate to the description, quantity, price or delivery schedule of the Goods, Seller's proposal will operate as a rejection of Buyer's offer; in all other cases, Seller's proposal will be deemed a material alteration of Buyer's terms, and Buyer's terms will be deemed accepted by Seller without Seller's additional or different terms. If this Order is deemed an acceptance of Seller's prior offer, Buyer's acceptance is expressly conditional on Seller's assent to Buyer's terms.
- b) Buyer and Seller agree that, notwithstanding the prior or subsequent use by Seller of any Order form, invoice or other document containing printed terms or conditions, they are contracting solely on the basis of this Order, which contains the entire understanding of the parties and is intended as a final expression of their agreement and a complete statement of the terms thereof, and may not be amended, modified or otherwise supplemented unless such amendments, modifications or supplements are in writing and signed by Buyer's authorized representative. A provision contained in any Order form, invoice or other document used by Seller (whether prior or subsequent to the date of this Order) which is inconsistent with this subparagraph will have no force or effect and will not be binding on the Buyer unless such provision is contained in an Order form, invoice or other document, dated subsequent to the date hereof and is specifically initialed by Buyer's authorized representative.

**2. CHANGES:**

- a) Westbrook Mfg. Reserves the right at any time to direct changes, or cause Seller to make changes, to drawings and specifications of the goods or otherwise to change the scope or specific requirements of the work covered by this Contract, including work with respect to such matters as inspection, testing, shipping, packing or quality control, and Seller agrees to implement such changes promptly; any reasonable difference in Seller's cost or time for performance resulting from such changes shall be negotiated by the parties with a price adjustment and or change in delivery schedule after receipt of documentation in such form and detail as Westbrook Mfg. May reasonably direct. All changes must be in writing and signed by an authorized representative of Westbrook Mfg.
- b) Failure to agree to any adjustment shall be a dispute and shall not excuse Seller from proceeding with the Contract as changed.
- c) If any third party, e.g., Westbrook Mfg. Customer, changes Seller's performance requirements without Westbrook Mfg. Consent, Seller shall be liable to Westbrook Mfg. for any costs incurred by Westbrook Mfg. related to the change in the goods and services, including but not limited to re-inspection, late shipments to Westbrook Mfg. Customer, premium freight, sorting, etc.

**3. DELIVERY:**

- a) Time is of the essence. Delivery must be completed within the time specified on the face of this Contract or in accordance with the delivery method established by Westbrook Mfg. hereunder. If Seller fails to make deliveries in the correct quantities or perform services at the specified time, all damages suffered by Westbrook Mfg. including, without limitation, additional costs incurred in purchasing substitute goods or services and any premium transportation or other costs required to meet the specified delivery schedule (or minimize the lateness of deliveries) will be at the expense of Seller. Seller assumes such liability. Westbrook Mfg. retains the right to terminate this Contract, in whole or in part for any late deliveries.
- b) Unless otherwise specified in Westbrook Mfg. Purchase Order, the F.O.B. Point of items called for herein shall be made F.O.B. origin or "Ex Works Seller's Plant Loaded".

- c) Seller must also provide the specified quantity, volume, level or service, etc.
- d) Buyer will not be liable for Seller's commitments or production arrangements in excess of the amount or in advance of the time required under Buyer's delivery schedule. Where deliveries are specified to be in accordance with Buyer's releases, Seller will neither produce any Goods, nor procure raw materials, nor ship any Goods, except to the extent authorized by Buyer's written releases. Quantities noted as "planning" or with words of similar meaning are for Seller's planning purposes only and do not constitute a commitment by Buyer to purchase such quantities. If Seller delivers Goods in advance of Buyer's delivery schedule, Buyer may either (i) return such Goods at Seller's expense for proper delivery; or (ii) withhold payments for such Goods until the scheduled delivery date and place such Goods in storage for Seller's account until the scheduled delivery date. While the Goods are being returned in accordance with part (i) of the preceding sentence or being retained in accordance with part (ii) of such sentence, the Goods will be at Seller's risk.
- e) If Seller imports any parts into the United States that are ultimately consigned to Westbrook Mfg., or if the Seller shows Westbrook Mfg. as the Importer of Record, Seller shall include the appropriate U.S. import tariff number with each shipment. If Seller possesses a United States Customs "Binding Ruling", U.S. Customs document certifying the import tariff number, or documents supporting U.S. Customs special import programs, e.g., NAFTA, GSP Certificates of Origin, etc., Seller shall forward that information for approval of Westbrook Mfg. Logistics Department, c/o Buyer at Westbrook Mfg., before the first shipment. Seller shall not ship any goods until it has received such approval.
- f) Any goods being shipped into the United States that include solid wood packaging, as defined in the ISPM 15 (International Standards for Phytosanitary Measures) regulations, must comply with all requirements. See website: <http://www.sphis.usda.gov/ppq/wpm/export/requirements.html> for the most recent information. The supplier shall use only approved treatments for solid wood core temperature of 56 degrees Centigrade, or (b) fumigated with methyl bromide. Any WPM shall be marked with the current International Plant Convention (IPPC) logo found at the above website. Paper certificates will not be required or accepted.

#### **4. QUALITY:**

Seller will maintain an inspection and quality system acceptable to Buyer and in conformity with any drawings, specifications and data which are part of this Order and with any quality program of Buyer described in materials referenced on the face of this Order and incorporated herein by such reference. Seller will maintain adequate authenticated inspection and test reports, affidavits, and certifications relating to the work performed under this Order, retain such records for a period of ten (10) years after completion of this Order or as otherwise specified by Buyer, and make such records available to Buyer upon request. Seller acknowledges that Buyer may reduce its incoming inspection procedures in reliance upon Seller's maintenance of a quality system as required hereunder.

#### **5. INSPECTION AND ACCEPTANCE OF GOODS:**

- a) Buyer may inspect all Goods ordered hereunder at all times and places, including during the period of manufacture. Such inspection may at Buyer's option include confirmation of Seller's compliance with required quality control procedures. Seller will permit Buyer and/or its designees access to Seller's facilities at all reasonable times and will provide all tools, facilities and assistance reasonably necessary for such inspection and/or confirmation at no additional cost to Buyer. All Goods are subject to final inspection and acceptance anytime after delivery to Buyer.
- b) Notwithstanding any acts of Buyer which may be deemed under applicable law to constitute acceptance of the Goods, payment for delivered Goods will not constitute acceptance thereof. Buyer may reject any Goods which do not meet the specifications set forth in this Order. Buyer may return any such Goods to Seller for reimbursement, credit, replacement or correction as Buyer may direct, or Buyer may correct and/or replace such Goods at Seller's cost. Any Goods rejected by Buyer will be at Seller's risk and expense and Seller will not thereafter tender such Goods for acceptance unless the former rejection or requirement of correction is disclosed. Seller will reimburse Buyer for any packaging, handling and transportation costs Buyer incurs with respect to rejected Goods.
- c) Buyer may revoke its acceptance of Goods at any time, whether or not a substantial modification to the Goods has been made, if a defect in the Goods which could not have been discovered during Buyer's normal inspection procedures or which is not normally discoverable until the Goods are used substantially impairs the value of the Goods to Buyer.
- d) Neither Buyer's exercise of nor its failure to exercise, any rights provided hereunder will relieve Seller from responsibility for such Goods as are not in accordance with the order requirements or impose liability on Buyer therefor.

#### **5. PRODUCT WARRANTIES:**

- a) Seller warrants that the Goods (i) will be fit and sufficient for the purpose intended (if Seller knows or has reason to know the particular purpose for which Buyer intends to use the Goods); (ii) will be of merchantable quality and free from all defects, including defects in material and workmanship and, if not of Buyer's detailed written design, defects in design; and (iii) will conform with all representations, descriptions, samples drawings, plans, specifications, designs and other data supplied by Seller or listed on the front side of this Order. Seller further warrants that, with respect to the Goods, Buyer is

and will at all times remain competitive in terms of price, quality, delivery, technology and service. The foregoing warranties are in addition to those available to Buyer by law.

- b) All warranties hereunder will survive Buyer's acceptance, use and/or payment and will run to Buyer and its customers.
- c) Buyer's review or approval of any samples, drawings, specifications or other data developed by Seller in connection with this Order will not limit Seller's responsibility under the warranties contained herein or alter the cost, rate of output or delivery requirements of this Order.
- d) Buyer's specifications and requirements take precedence over industry standards. Seller will advise Buyer in writing if Buyer's specifications or requirements are not as extensive as industry standards.
- e) If Westbrook Mfg., Inc.'s products are subject to any recall, service fix or safety campaign (whether required or recommended by Seller, Westbrook Mfg., Inc. any government or regulatory body or third party) as a result of suspect, defective or allegedly defective goods sold by Seller hereunder and incorporated in Westbrook Mfg., Inc.'s products, Seller shall reimburse Westbrook Mfg., Inc. for all costs and expenses arising therefrom or relating thereto.

**6. PRICE AND OTHER WARRANTIES:**

- a) Seller warrants that the prices for the goods or services sold to Westbrook Mfg. hereunder are complete, including all applicable taxes, fees, duties, etc. and are no less favorable than Seller currently extends to any other customer for the same or similar goods or services in similar quantities. If Seller reduces its prices for such goods or services to one or more other customers during the term of this Contract, Seller will correspondingly reduce its prices to Westbrook Mfg. for such goods or services. During the term of this Contract, Seller agrees not to ask for any price increase, regardless of the cause or reason. Further, unless otherwise requested in writing by a duly authorized representative of Westbrook Mfg., such requests for price increases shall have no effect.
- b) Seller shall warrant its pricing, terms, delivery, service and quality to be consistent and competitive with the industry. If Westbrook Mfg. reasonably determines that Seller's performance is not competitive with the industry, Westbrook Mfg. will give Seller an opportunity to correct the deficiencies within (a) ten (10) days of Westbrook Mfg. notice in the case of noncompetitive delivery, service or quality or (b) sixty (60) days of Westbrook Mfg. notice in the case of noncompetitive pricing. If Seller fails to correct such deficiency within the applicable period, then Westbrook Mfg. may terminate this Agreement and/or any undelivered quantities of such Components under outstanding purchase orders. In the event of such termination, Westbrook Mfg. shall have no liability other than payment of the agreed purchase price for components delivered prior to the termination date.
- c) Further, Seller warrants that it shall refund to Westbrook Mfg. or otherwise credit Westbrook Mfg. account or invoices for any refunds, credits, returns, etc., that Seller receives for customs, duties, taxes, or other expenses.

**7. PRODUCT INDEMNIFICATION:**

Seller will indemnify, defend and hold harmless Buyer, its officers, employees, agents, successors, assigns, customers, and users of its products from and against any and all losses, expenses, damages, claims, suits and liabilities (including recall, repair and replacement expenses and other incidental and consequential damages; court costs and attorneys' fees) arising as a result of actual or alleged breach of any warranties or other terms contained herein or arising under any strict tort or negligence claims premised on either an actual or alleged defect in the Goods. At Buyer's request, Seller will at Seller's own expense assume promptly full responsibility for the defense of any action described in this paragraph which may be brought or threatened by a third party against Seller and/or Buyer.

**8. INFRINGEMENT INDEMNIFICATION:**

Seller will indemnify and hold harmless Buyer, its officers, employees, agents, successors, assigns, customers and users of its products from and against any and all losses, expenses, damages, claims, suits and liabilities (including incidental and consequential damages, court costs and attorneys' fees) arising as a result of any claim that the manufacture, use sale or resale of any Goods infringes any patent, utility model, industrial design, copyright, or other intellectual property right in any country. Seller will, when requested by Buyer, defend any action or claim of such infringement at its own expense. Seller's obligations under the preceding two sentences will apply even though Buyer furnishes all or any portion of the design of or specifies all or any portion of the processing for the Goods. If the sale and/or use of the Goods is enjoined or, in Buyer's sole judgment, is likely to be enjoined, Seller will, at Buyer's election and Seller's sole expense, either procure for Buyer the right to continue using such Goods, or replace same with equivalent non-infringing goods, or modify such Goods so they become non-infringing, or remove same and refund the purchase price, including transportation, installation, removal and other charges incidental thereto.

**9. FORCE MAJEURE:**

If, due to forces beyond its control, Buyer determines to alter Buyer's delivery schedule to delay delivery, the provisions of this paragraph (rather than the preceding paragraph) will control. Seller will hold any such delayed Goods at the direction of Buyer and will deliver them when the cause affecting the delay has been removed. Buyer will be responsible only for Seller's direct additional costs (excluding interest on the purchase price) incurred in holding the Goods or delaying performance at Buyer's request. Any delay or failure of either Buyer or Seller to perform its obligations hereunder shall be excused if, and to the extent that it is caused by an event or occurrence

beyond the reasonable control of the party and without its fault or negligence, such as by way of example and not by way of limitation, acts of God, actions by any governmental authority (whether valid or invalid), fires, floods, windstorms, explosions, riots, natural disasters, wars, sabotage, labor problems (including lockouts, strikes and slow downs), inability to obtain power, material, labor, equipment or transportation, or court injunction or order. During the period of such delay or failure to perform by Seller, Seller shall provide Buyer with prompt written notice of such delay (including a description of the cause of the event or circumstance, an estimate of the duration of the delay and a statement regarding the remedial steps that are being undertaken to resume performance and Seller's interim allocation plans, if any, for the supply of Goods during the delay). During such period, Buyer, at its option, may purchase goods from other sources and reduce its schedules to Seller by such quantities, without liability to Buyer, or have Seller provide the goods from other sources in the quantities and at the delivery times requested by Buyer and at the price set forth in this Order. In addition, at least ten (10) days prior to the expiration of any labor contract of Seller, Seller at its expense will establish at least thirty (30) working day supply of Goods in a neutral warehouse at a location reasonably acceptable to Buyer. If requested by Buyer, Seller shall, within ten (10) days of the request, provide adequate assurances that any delay shall not exceed thirty (30) days. If the delay lasts more than thirty (30) days or Seller does not provide adequate assurance that the delay will cease within thirty (30) days, Buyer may immediately cancel the Order without liability.

#### **10. TERMINATION FOR CONVENIENCE:**

Buyer may terminate this Order or any part of it for its convenience by written notice to Seller. Upon receipt of notice of termination, Seller will immediately stop all work hereunder and cause any of its suppliers or subcontractors to cease such work. Buyer will pay Seller for all goods which (i) are ready for shipment in accordance with this Order's delivery schedule prior to Seller's receipt of the termination notice, (ii) conform to all requirements of this Order, and (iii) are free and clear of all encumbrances. Notwithstanding the foregoing, in the event that this Order relates to Buyer's purchase of equipment (as that term is defined under Article 9 of the Uniform Commercial Code), Buyer's obligation to pay Seller will be limited to:

- a) The lesser of: (i) Seller's actual cost for direct labor and other expenses directly and reasonably incurred pursuant to this Order prior to receipt of notice of termination or (ii) the percentage of the original purchase price as the work done by Seller prior to receipt of notice of termination bears to the entire work covered by this Order.
- b) Less any previous payments.

Except as provided in this Paragraph 10, Buyer will not be liable for and will not be required to make payments to Seller, directly or on account of claims by Seller's subcontractors, for loss of anticipated profits, unabsorbed overhead, interest on claims, product development and engineering costs, facilities and equipment rearrangement costs or rental, unamortized depreciation costs, or general and administrative burden charges from the termination of any Order for Buyer's convenience. Buyer will not pay for any work done after Seller's receipt of notice of termination, nor for any costs incurred by Seller's suppliers or subcontractors which Seller could reasonably have avoided.

#### **11. TERMINATION FOR CAUSE:**

Buyer may terminate this Order or any part hereof for cause in the event of a Default by Seller. "Default" means (i) Seller's failure to comply with any of the terms and conditions of this Order; (ii) Seller's failure to give Buyer, upon request, reasonable assurances of Seller's future performance; (iii) insolvency, bankruptcy, liquidation or dissolution of Seller, or (iv) any other event which causes reasonable doubt as to Seller's ability to render due performance hereunder. If, after termination for Default, it is determined that Seller was not in Default, the rights and obligations of the parties will be the same as if the termination was for Buyer's convenience.

#### **12. DEFAULT – CANCELLATION:**

In the event of Default, Buyer may, upon written notice to Seller but without further liability to Seller, (i) waive all or any part of the Default; (ii) agree in writing to any change in or modification of this Order as Buyer may in its judgment deem advisable; (iii) cancel this Order in whole or in part; (iv) purchase goods in substitution for those to be supplied by Seller hereunder and charge Seller for any excess cost resulting therefrom; and/or (v) exercise any other rights or remedies Buyer may have under applicable law. Seller's liability for Default will include Buyer's incidental and consequential damages. Seller will reimburse Buyer for attorneys' and other professional fees and court costs incurred by Buyer in connection with any Default by Seller or any action by Buyer to enforce its rights under this Order.

#### **13. PROPRIETARY INFORMATION – CONFIDENTIALITY – ADVERTISING:**

- a) Seller will consider all information furnished by Buyer hereunder (including drawings, specifications, or other documents prepared by Seller for Buyer in connection with this Order) to be confidential and will not disclose any such information to any other person, or use such information itself for any purpose other than performing this Order, unless Seller obtains Buyer's prior written permission. Seller will not advertise or publish the fact that Buyer has contracted to purchase Goods from Seller, or disclose any information relating to the Order without Buyer's written permission.
- b) Unless otherwise agreed in writing, no information disclosed in any manner or at any time by Seller to Buyer will be deemed secret or confidential, and Seller will have no rights against Buyer with respect thereto except such rights as may exist under patent laws.

#### **14. LICENSE TO REPAIR; USE OF COPYRIGHTED MATERIALS:**

Seller hereby grants to Buyer a nonexclusive, royalty-free, irrevocable worldwide license to repair, rebuild, reconstruct and relocate the Goods. Seller also grants to Buyer a nonexclusive, paid-up, irrevocable, worldwide license to use all copyrighted materials of Seller which are furnished to Buyer during the course of Seller's performance hereunder and which relate to Goods. Without limiting the generality of the foregoing, Buyer's use of such copyrighted materials pursuant to such license may include reproduction, distribution to customers and others and public display.

**15. INDEMNITY/INSURANCE:**

To the extent Seller's agents, employees or subcontractors enter upon premises occupied by or under the control of Buyer or any of its customers or suppliers in the course of the performance of this Order, Seller will take reasonable steps to prevent any injury to persons or property arising out of acts or omissions of such agents, employees or subcontractors. Except to the extent that any such injury or damage is due solely and directly to Buyer's negligence, Seller will indemnify, defend and hold Buyer, its officers, employees and agents, harmless from and against any and all losses, expenses, damages, claims, suits, or any liability whatsoever (including incidental and consequential damages, court costs and attorneys' fees) arising out of any act or omission of Seller, its agents, employees or subcontractors. Seller will maintain and require its subcontractors to maintain (i) public liability and property damage insurance, including contractual liability (both general and vehicle) in amounts sufficient to cover obligations set forth above, and (ii) workers' compensation and employer's liability insurance covering all employees engaged in the performance of this Order for claims arising under any applicable workers' compensation, occupation disease or health and safety laws and/or regulations. Seller will furnish certificates evidencing such insurance which will expressly provide that no expiration, termination or modification will take place without thirty (30) days' written notice to Buyer. Any property of Buyer used by Seller in the performance of this Order will be deemed to have been under the sole custody and control of Seller during the period of such use by Seller.

**16. BUYER'S PROPERTY:**

- a) All supplies, materials, tools, jigs, dies, gauges, fixtures, molds, patterns, equipment and other items furnished by Buyer, either directly or indirectly, to Seller to perform this Order, or for which Seller has been reimbursed by Buyer, or for which Buyer has agreed to reimburse Seller, will be and remain the property of Buyer and held by Seller on a bailment basis ("Buyer's Property") and will be marked or tagged by Seller as such. Buyer's Property will include 3D models and other data used to produce Buyer's Property. Seller will bear the risk of loss of and damage to Buyer's Property. Buyer's Property will not be used by Seller for any purpose other than the performance of this Order; will not be commingled with the property of Seller or with that of a third person; and will not be moved from Seller's premises or altered without Buyer's prior written consent. Seller will keep adequate records of Buyer's Property, which records will be made available to Buyer upon request, and will store, protect, preserve, repair and maintain Buyer's Property in accordance with sound industrial practice, all at Seller's expense. Any Buyer's Property repaired, rebuilt, modified or replaced by Seller will remain the property of Buyer, regardless of whether Buyer has reimbursed Seller for such repair, rebuild, modification or replacement. Buyer will have the right to enter Seller's premises at reasonable times to inspect Buyer's Property. To the extent permitted by law, Seller waives any lien or other rights that Seller might otherwise have on any of Buyer's Property for work performed on such property or otherwise.
- b) If Buyer's Property becomes lost or damaged while in Seller's possession, Seller will indemnify Buyer or replace such property at Seller's expense, in accordance with Buyer's request. Upon the request of Buyer, Buyer's Property will be immediately released to Buyer or delivered to Buyer by Seller either (1) F.O.B. transport equipment at Seller's plant, property packed and marked in accordance with the requirements of the carrier selected by Buyer to transport such property, or (2) to any location designated by Buyer, in which event Buyer will pay to Seller the reasonable costs of delivering such property to such location. Seller's obligations to release or deliver Buyer's Property shall not be subject to any set off or counterclaim arising from this or any other transaction with Seller except that if Buyer agreed to amortize the purchase price of Buyer's Property in a written amortization schedule, Buyer will pay the unamortized balance of such purchase price contemporaneously with the release or delivery of such item of Buyer's Property. To the extent that Buyer's Property is in the possession or control of a subcontractor or supplier to Seller, Seller will cause such party to release such property to Buyer in accordance with this paragraph.

**17. SELLER'S PROPERTY:**

- a) Unless otherwise specified in this Order, Seller, at its expense, will furnish, keep in good condition, and replace when necessary all machinery, equipment, tools, jigs, dies, gauges, fixtures, molds, patterns and other items ("Seller's Property") necessary for the production of the Goods. Seller will insure Seller's Property with full fire and extended coverage for its full replacement value.
- b) Seller grants Buyer an irrevocable option to take possession of and title to any of Seller's Property that is special for the production of the Goods upon Buyer's payment to Seller of the net book value of such of Seller's Property less any amounts that Buyer has previously paid to Seller for the cost of such items; provided, however, that this option will not apply to any item of Seller's Property that is used to produce a substantial quantity of products for other customers of Seller.

**18. COMPLIANCE WITH LAWS:**

In the performance of this Order, Seller will fully comply with all applicable laws and will hold Buyer harmless from any liability resulting from Seller's failure to so comply.

**19. TAXES:**

Seller's prices will be exclusive of any federal, state or local sales, use or excise taxes levied upon, or measured by, the sale, the sales price, or use of the Goods. Seller will list separately on its invoice any such tax lawfully applicable to the Goods and payable by Buyer with respect to which Buyer does not furnish to Seller lawful evidence of exemption.

**20. SETOFF:**

In addition to any right of setoff or recoupment provided by law, all amounts due to Seller shall be considered net of indebtedness or other obligations of Seller and its affiliates/subsidiaries to Buyer and its affiliates/subsidiaries and Buyer shall have the right to set off against or to recoup from any amounts due to Seller and its affiliates/subsidiaries from Buyer and its affiliates/subsidiaries.

**21. PAYMENTS:**

Buyer will pay the prices stipulated on this Order for Goods delivered and accepted, less deductions, if any, as herein provided, but only (i) upon submission by Seller of an invoice or (ii) pursuant to other mutually agreed upon arrangements. The prices for Goods will not be subject to any variation without the prior written consent of Buyer. Unless otherwise specified, Buyer will pay for partial deliveries accepted by the Buyer.

**22. REMEDIES:**

The rights and remedies provided Buyer herein will be cumulative and in addition to any other remedies provided by law or equity. Buyer's waiver of a breach of any provision hereof will not constitute a waiver of any other breach.

**23. SEVERABILITY:**

Any provision of this Order which is finally determined to be unlawful will be deemed severed from this Order and every other lawful provision of this Order will remain in full force and effect.

**24. ASSIGNMENTS AND SUBCONTRACTING:**

No part of this Order may be assigned or subcontracted without the prior written approval of Buyer. If Seller is authorized to use subcontractors, Seller will obtain from each such subcontractor rights and obligations no less favorable to Buyer than the provisions of this Order.

**25. EQUAL OPPORTUNITY; GOVERNMENT CONTRACTS:**

- a) The Equal Employment Opportunity Clause in Section 202-Executive Order No. 11246, as amended relative to Equal Employment Opportunity, and the implementing rules and regulations of the Office of Federal Contract Compliance are incorporated herein by specific reference. The Veterans job listing provisions of Title 41 Part 50, of the Code of Federal Regulations are also hereby incorporated herein by specific reference. The Affirmative Action Clause and implementing regulations set forth in 41 CFR Part 60-741: Affirmative Action for Handicapped Workers, and 41 CFR Part 60-250: Affirmative Action for Veterans, are also hereby incorporated herein by specific reference.
- b) If the face of this Order specifies that it is issued under a government contract, the terms and conditions on form GC-1 shall govern this Order and incorporated herein by reference and each reference to Buyer shall be deemed to include a reference to the United States Government.

**26. FAIR LABOR STANDARDS:**

Seller warrants that the Goods will be made in compliance with the Fair Labor Standards Act of 1938, as amended.

**27. SERVICE AND REPLACEMENT PARTS:**

Seller will sell Buyer Goods necessary for Buyer to fulfill its current model service and replacement parts requirements at the prices set forth in this Order. During the 15 year period after Buyer completes current model purchases, Seller will sell Goods to Buyer to fulfill Buyer's past model service and replacement part requirements. Unless otherwise agreed to by Buyer, the prices during the first five (5) years of this period will be the OE prices in effect at the conclusion of the current model purchases. For the remainder of the period, the prices will be the OE prices in effect at the conclusion of current model purchases plus agreed adjustments to compensate for reduced volumes. As used in this paragraph, the term "OE prices" means the prices of Goods that are used in products that are shipped directly or indirectly to a vehicle assembly plant to support vehicle production.

**28. GOVERNING LAW:**

This Order will be governed by the laws of the state shown in Buyer's address on the face of this Order, and the Convention on Contracts for the International Sale of Goods shall not apply. The parties hereby stipulate irrevocably that they hereby submit to the personal jurisdiction of the courts of the above referenced state and for purposes hereby waive all challenges to the personal jurisdiction of such courts.

**29. SPECIAL NOTICE BY SELLER AND SELLER'S CONTINUING OBLIGATIONS FOR BREACH**

- a) The parties expressly acknowledge that the items purchased or ordered by Westbrook Mfg. from Seller represent a component that will be incorporated in a motor vehicle. The automotive industry has distinct market conditions such as competitive pricing, qualification requirements, high quality standards, recalls, PPAP's, just-in-time inventory, supply continuity, national and international regulations, etc. Certain Seller's obligations under this section shall also apply for Seller's breach.
- b) Accordingly, the parties agree that Seller shall provide at least 6 months (180 days) written notice in advance of any contract expiration, or of any extension, to Westbrook Mfg. if Seller unilaterally decides to cease or discontinue production of the part(s) under this Order, including at the end of such Order. After notifying Westbrook Mfg. of a decision to discontinue production or for Seller's breach, Seller shall build an inventory adequate to allow a proper transition of tooling, raw materials, tooling, customer approvals, ramp up schedules, long-lead time items, arrangements for alternate Seller/Supplier etc.
- c) Seller accepts and understands the distinct market conditions outlined above. Accordingly, if Seller fails to provide timely notice under this section or for its breach, it waives all defenses, immunities, etc., to Buyer's application for injunctive relief, declaratory judgment or other relief. Seller agrees to continue its performance, without objections or conditions, for a reasonable time but not less than 120 days after any contract, order, release, or written authorization issued by Buyer has expired.
- d) Seller accepts complete liability for all damages and costs, incurred or suffered by Westbrook Mfg. because of Seller's failure to provide such timely notice, breach of the contract, failure to perform or incomplete performance under the transition plan, or the parties failure to agree on a transition plan. Seller agrees Westbrook Mfg. shall have the right to withhold any payment for any Seller failure.
- e) Regardless of any timely notice or for breach by Seller, Seller shall not be relieved of producing parts unless and until Westbrook Mfg. agrees that the transition to another Seller has been completed and Westbrook Mfg. has obtained any customer approval. Further, regardless of any timely notice, Westbrook Mfg. reserves the right, and Seller agrees without objection, to extend the term of this Contract by up to 12 months with pricing, terms, and conditions in effect at the end of this existing Contract.
- f) In addition, regardless of any special notice, transition, or exit from the business, Seller shall retain its obligation to provide service parts under previous section (Service and Replacement Parts), unless Westbrook Mfg. agrees that the obligation has been properly accepted by the successor Seller or Supplier.