

RepublicConduit

SUPPLY OF GOODS - GENERAL TERMS AND CONDITIONS

UNITED STATES

1. Definitions

Affiliate: of any specified person, any other person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified person. For the purposes of this definition, **control** when used with respect to any specified person means the power to direct the management and policies of such person directly or indirectly, through the ownership of voting securities or the right to elect the majority of the members of the board of directors of such person; and the terms **controlling** and **controlled** have meanings correlative to the foregoing.

Agreement: the contract relating to the sale of Goods binding the Parties upon Client's express or implied acceptance of Supplier's commercial offer (Supplier's proposal terms including these Terms for the sale of Goods).

Client: the person to whom Goods are provided under the Agreement, including its successors and assigns.

Confidential Information: any information, data, trade secrets, know-how, drawings, manuals, specifications, standards, designs, plans, maps, manufacturing and production procedures and techniques, models, sketches, samples, formulations, project specific calculations, instruments, software and computer records, and other business and technical documentation, information and materials belonging to Supplier, regardless of whether it is marked as confidential or not or the form in which it is communicated or maintained (whether in writing, electronically, digitally or otherwise).

Goods: the goods to be provided in accordance with the Agreement.

Intellectual Property: all rights over inventions, patents, utility models, copyright and related rights, trademarks, service marks, trade names, domain names, industrial designs, computer software, databases, integrated circuit topographies, confidential information, know-how, trade and industrial secrets, and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals, continuations, substitutions, revalidations, reissues or extensions of such rights, and all similar or equivalent rights or forms of protection in any country or region of the world.

Order: the document issued by Client requesting the supply of Goods.

Order Acknowledgment: the acknowledgment form containing these Terms delivered by Supplier to Client in response to an Order.

Parties: collectively, Client and Supplier.

Supplier: the person identified in the offer or quotation, or named in the Order Acknowledgement, or, an Affiliate, that will supply Goods under the Agreement, including its successors and assigns.

Terms: these general terms and conditions for the supply of Goods.

2. Entire agreement

2.1 The Agreement represents the entire agreement of the Parties in relation to the sale of Goods, and supersedes any and all prior agreements with respect to the subject matter thereof. Client's acceptance of Supplier's offer or quotation containing these Terms, or receipt of an Order Acknowledgement without giving written objection thereto within five (5) business days from receipt of the same shall constitute acceptance by Client of the Agreement. UPON SUCH ACCEPTANCE, THE AGREEMENT MAY NOT BE CANCELLED, WITHOUT THE PAYMENT OF A 25% RESTOCKING CHARGE PLUS FREIGHT COSTS (BOTH WAYS).

2.2 No representations other than those set forth in the Agreement shall be deemed made. Any conflicting terms contained in any written document (including any correspondence between Client and Supplier), unless incorporated herein by a typed or hand written addition hereto expressly accepted by Supplier or a document signed by Supplier making reference to this clause, shall be of no force or effect and these Terms shall apply.

3. Applicability

These Terms shall apply to all sales of Goods agreed with Client, unless expressly provided otherwise in writing.

4. Delivery

Each delivery term used in the Agreement or otherwise by the Parties in the course of their dealings with one another shall have the respective meaning specified for each of those terms by **Incoterms 2010**, the International Chamber of Commerce official rules for the interpretation of trade terms published in 2010. Unless otherwise mutually agreed in writing by the Parties, delivery of Goods (including third-party products on which Services were performed under the Agreement) shall occur **FCA (Supplier's named location)**, whereby Client shall unload Goods (including third-party products, as applies). In the event that it becomes impossible to deliver Goods within the agreed terms due to material problems affecting production or delivery, the Parties shall make their best efforts to agree on new delivery terms taking into consideration the abovementioned problems. If, however, Goods are stored at the request of Client, they shall be deemed delivered upon arrival at the storage site (which may be Supplier's facility) and full payment shall be made in accordance with Article 6. In addition, Client shall pay Supplier reasonable storage charges calculated at the market rate. Client shall be responsible and pay any taxes assessed on the Goods after delivery to the storage site, in accordance with Article 7. Any accumulated and unpaid storage charges are payable before Goods are removed from storage.

5. **Title and Risk**

Title, risk of loss, destruction or damage, to Goods will pass from Supplier to Client upon delivery of Goods to Client in accordance with Article 4.

6. **Payment**

6.1 Except as otherwise provided in the Agreement, Supplier shall invoice Client upon delivery of Goods, and Client will pay according to agreed terms. Any amounts owed hereunder by Client shall be paid by check or wire transfer, in immediately available funds, to the bank account designated by Supplier in the invoice.

6.2 All Orders and deliveries are subject to the determination of Client's creditworthiness by Supplier at its sole discretion. In addition, Supplier shall at all times be entitled to require from Client all payment guarantees it may deem necessary.

6.3 Interest shall accrue on the unpaid portion of the invoice at a rate of one and one-half percent (1.5%) per month (18% per annum), or, if lower, the highest rate permitted by law on past due accounts. Interest shall be compounded on a monthly basis.

6.4 In addition to the remedies set forth in Article 6.3, in the event of non-payment, Client agrees to pay to Supplier: (i) all costs of collection and incidental damages incurred by Supplier, including, but not limited to, reasonable attorneys' fees and expenses; (ii) any commercially reasonable charges, expenses or commissions incurred in stopping delivery; (iii) additional transportation charges; and, (iv) Supplier's net additional expense incurred for the care and custody of Goods in connection with their return or resale. In the event of any claim or legal action brought by Client for any cause whatsoever, Client shall have no rights of retention or set-off.

7. **TAXES**

Any taxes, including, but not limited to sales, use, excise, import duties, Goods and Services Tax (GST) and Value Added Tax (VAT), that Supplier is required to collect or pay with respect to the sale, shipment or delivery of Goods, pursuant to the Agreement are the responsibility of Client, and Client agrees to either provide Supplier with written proof of exemption from such taxes, pay such taxes directly or reimburse Supplier should Supplier be required by law to collect and remit such charges.

8. **Inspection, CLAIMS AND RETURNED GOODS**

8.1 UNDAMAGED AND CONFORMING GOODS ARE NOT RETURNABLE. IF CLIENT WRONGFULLY REJECTS, OR, REVOKES ITS ACCEPTANCE OF UNDAMAGED OR CONFORMING GOODS, OR, DOES NOT PROVIDE EVIDENCE OF THE ALLEGED DAMAGE OR NON-CONFORMANCE WITHIN THE CLAIM PERIOD, SUPPLIER SHALL HAVE THE RIGHT TO RECOVER ALL COSTS AND EXPENSES INCURRED AS A CONSEQUENCE OF, OR, IN CONNECTION WITH SUCH CLAIM.

8.2 Client shall (i) inspect Goods for **transportation-related** damage or shortage immediately upon delivery; (ii) describe any such damage or shortage on the bill of lading; and (iii) immediately report the damage or shortage to Supplier and transporter's local representative (if any). Client may not reject or revoke the acceptance of Goods or fail to make payment for Goods without filing a claim with proof of such damage or non-conformance. The claim must include photographs and a copy of the original bill of lading signed by Client noting in detail the claimed damage or non-conformance.

8.3 Client shall provide written notice of **non-transportation-related** claims within five (5) days from the date of discovery of any hidden damage or non-conformance or from the date on which a diligent purchaser should have discovered the hidden damage or non-conformance; and within fifteen (15) days from the date of delivery of Goods in case of patent damage or non-conformance. Failure to give written notice within the aforesaid period shall release Supplier from any liability thereof.

8.4 Client agrees to set aside, protect and hold such damaged or non-conforming Goods, at Client's sole cost, until Supplier can make arrangements for the return of Goods to Supplier's facilities. In no event shall damaged or non-conforming Goods be returned, reworked or scrapped by Client without Supplier's prior written authorization.

8.5 Upon notification that Client wishes to make a return for damaged or non-conforming Goods, Client shall submit its proofs of claim to Supplier, as well as any additional information that Supplier may reasonably require to establish the validity of the claim. Supplier reserves the right to require the submission of a sample of the damaged or non-conforming Goods.

9. Warranty

9.1 Subject to the limitations hereafter set forth, Supplier warrants that Goods manufactured by Supplier will meet the requirements or specifications set forth in the Agreement, and be free from defects in materials and workmanship for a period of twelve (12) months from delivery.

9.2 EXCEPT FOR THE WARRANTIES CONTAINED HEREIN, NEITHER SUPPLIER NOR ITS SUBCONTRACTORS MAKE ANY OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, RESULT, NON-INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS, OR ANY IMPLIED WARRANTIES ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE. THE WARRANTIES CONTAINED IN THIS ARTICLE 9 ARE IN LIEU OF ALL OTHER WARRANTIES, TERMS, REPRESENTATIONS, GUARANTEES OR LIABILITIES, WHETHER ORAL, WRITTEN, EXPRESS, IMPLIED OR STATUTORY, AND SUCH OTHER WARRANTIES, TERMS, REPRESENTATIONS, GUARANTEES OR LIABILITIES, BASED IN LAW, STATUTE, COMMON LAW, CONTRACT, TORT, EQUITY OR OTHERWISE (INCLUDING, WITHOUT LIMITATION, STRICT LIABILITY AND NEGLIGENCE) ARE DISCLAIMED. SUPPLIER'S (INCLUDING ITS SUBCONTRACTOR'S) WARRANTY OBLIGATIONS HEREUNDER, AND CLIENT'S REMEDIES (EXCEPT AS TO TITLE) ARE SOLELY AND EXCLUSIVELY AS STATED IN THIS ARTICLE 9.

9.3 Liability of Supplier under this warranty shall be limited to repair, replacement or refund of the purchase price of the non-conforming Goods.

9.4 Supplier further warrants all corrective actions it performs against defects in material or workmanship for a period of twelve (12) months from the date of the applicable repair or replacement.

9.5 Products not manufactured by Supplier are guaranteed in the manner and to the extent guaranteed by the actual manufacturer, and then only to the extent that Supplier is reasonably able to enforce it.

9.6 Neither Supplier nor its subcontractors shall have any warranty obligations with respect to any Good, or part thereof, which: (i) is normally consumed in operation, (ii) has a normal life inherently shorter than the warranty period specified herein, (iii) is not properly stored, installed, maintained or repaired, or is modified other than pursuant to Supplier's instructions or approval, or (iv) has been subjected to any other kind of detrimental exposure, or has been involved in an accident for which Supplier could not be responsible.

9.7 If Client resells Goods, Client shall include the same Supplier's warranty, liability limitations and exclusions of liability, dispute resolution and governing law terms (in the form attached to these Terms as *Exhibit A*) in the agreed terms of such resale. Client shall save, defend, indemnify and hold Supplier harmless for any and all demands, claims, suits, damages, losses, judgments and liabilities, including, reasonable attorneys' fees, expenses and other costs of litigation, fines, penalties or assessments asserted against Supplier, in excess of the limitations and exclusions of liability and warranties set forth under this Agreement. Client undertakes not to grant in the name or on behalf of Supplier any warranty or undertaking whatsoever, including any warranty for defect or faulty design, materials, etc., other than those expressly granted by Supplier and given in this Agreement.

10. Termination for default

10.1 If Supplier fails to commence actions to remedy any default of its obligations under the Agreement within thirty (30) days from written notice given by Client, then Client may terminate the Agreement without penalty or liability except for amounts payable in respect of Goods previously supplied to Client.

10.2 In the event that Client becomes voluntarily or involuntarily the subject of proceedings under any bankruptcy or insolvency law, or other legal procedure for the relief of financially distressed debtors, or is unable, or, admits in writing its inability, to pay its debts as they mature, or takes or suffers any action for its liquidation or dissolution, or has a receiver or liquidator appointed for all or any part of its assets and, in the event any act of the aforesaid character is involuntary, the consequences thereof are not cured within thirty (30) days from written notice by Supplier, then Supplier will be entitled to immediately terminate all Agreements with Client by giving it written notice of termination.

10.3 If Client defaults in any of its obligations under the Agreement, Supplier shall be entitled to (i) terminate totally or partially its obligations under the Agreement and any other agreements with Client or (ii) suspend totally or partially deliveries of Goods under the Agreement and any other agreements with Client. For such purposes, Supplier will give Client written notice of termination or suspension, which shall become effective if Client does not remedy its default within five (5) working days from receipt of Supplier's notice.

10.4 Any legal action arising from the Agreement, based on any grounds whatsoever, must be brought by Client within twelve (12) months from the date of delivery of the respective Goods.

11. Liabilities and indemnities

11.1 Client acknowledges that it has a superior knowledge of the ultimate use of Supplier's Goods and Client acts as a *learned intermediary* in regards to such ultimate use. Client shall save, defend, indemnify, and hold Supplier (and its successors and assigns) harmless, and their respective directors, officers, employees and agents from and against all demands, claims, suits, damages, losses, judgments and liabilities of whatever kind or nature, including, without limitation, reasonable attorneys' fees, expenses and other costs of litigation, fines, penalties or assessments asserted against or suffered by the indemnitees by reason of, arising out of, or in any way related to, Client's use (or any subsequent end-user's use) of Supplier's Goods or Client's negligence or willful misconduct. Without limitation, Client's obligation to save, defend, indemnify and hold indemnitees harmless shall exist with respect to accidents, occurrences, disease, injuries to persons (including death), environmental or other property damage, property or economic losses, and violation of applicable law or regulation.

11.2 SUPPLIER'S LIABILITY, IN EXCESS OF THE COST TO REPLACE OR REPAIR NON-CONFORMING GOODS (IF ANY), FOR DAMAGES, COSTS, EXPENSES AND LOSSES HOWEVER ARISING FROM OR RELATED TO THE FULFILLMENT OR THE NON-FULFILLMENT OF THE AGREEMENT, WHETHER BASED IN LAW, STATUTE, COMMON LAW, CONTRACT, TORT, EQUITY OR OTHERWISE, SHALL BE LIMITED TO THE COMPENSATION OF DIRECT DAMAGES, COSTS, EXPENSES AND LOSSES AND SUCH COMPENSATION SHALL BE LIMITED TO THE HIGHEST OF (A) TWENTY FIVE PERCENT (25%) OF THE VALUE OF THE RELEVANT ORDER OR (B) TWENTY THOUSAND UNITED STATES DOLLARS (US\$ 20,000).

11.3 NEITHER PARTY SHALL BE LIABLE FOR DAMAGES FOR LOSS OF PROFITS, INCOME, REVENUE OR PRODUCTION, NOR ANY OTHER INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF GOODS OR OTHER PRODUCTS, FINANCIAL LOSS, COST OF CAPITAL, COST INCURRED IN CONNECTION WITH LABOR, OVERHEAD, GENERAL ADMINISTRATION, TRANSPORTATION, SUBSTITUTE FACILITIES, SUPPLY SOURCES) OR OTHER SIMILAR DAMAGES, WHETHER ANY SUCH LIABILITY WOULD BE BASED IN LAW, STATUTE, COMMON LAW, CONTRACT, TORT, EQUITY OR OTHERWISE.

11.4 In no event shall Supplier be responsible for retrieving damaged or non-conforming Goods, delay or curtailment of operations, pollution or cost of dismantling and removal of Goods to be repaired or replaced, resulting from non-conforming material, faulty workmanship or otherwise.

11.5 Should Goods be subjected to transformation including mechanical and technical procedures other than by Supplier, Client shall save, defend, indemnify and hold Supplier harmless from, against, for and in respect of any loss, liability, claim, damage asserted or incurred by Client or a third-party by reason of any defects in Goods (or third-party products, as applies) attributable to such transformation.

11.6 CLIENT SHALL SAVE, DEFEND, INDEMNIFY AND HOLD SUPPLIER HARMLESS FROM, AGAINST, FOR AND IN RESPECT OF ANY CLAIM, LOSS, LIABILITY OR DAMAGE (INCLUDING CONSEQUENTIAL OR INCIDENTAL) ASSERTED AGAINST SUPPLIER BY ANY THIRD-PARTY IN EXCESS OF THE LIMITATIONS OF LIABILITY SET FORTH UNDER THESE TERMS.

11.7 If Supplier receives a claim for which Client is obligated to provide indemnification under this Article 11, Supplier shall notify Client of such claim and Client shall provide Supplier with the sums necessary to discharge the amounts payable by Supplier (including reasonable attorneys' fees and all expenses and costs related thereto).

11.8 Client acknowledges that these Terms include provisions for the indemnification or exoneration of Supplier against the consequences of its own negligence or fault, and agrees that these Terms comply with the express negligence rule, are conspicuous and afford fair notice.

11.9 The limitations and exclusions of liability hereunder shall extend to Supplier's subcontractors.

12. INTELLECTUAL PROPERTY INDEMNITY

12.1 In case Goods are alleged to infringe or misappropriate third-party's Intellectual Property, Supplier shall then at its own expense and option: (i) procure for Client the right to continue using Goods; (ii) replace or modify Goods so that they do not infringe or misappropriate third-party's Intellectual Property; (iii) await a final decision by a court of competent jurisdiction so as to take at Supplier's sole option one or more of the actions under (i) and (ii).

12.2 Client warrants that it shall save, defend, indemnify and hold Supplier (and its successors and assigns) harmless, and their respective directors, officers, employees and agents, from and against all demands, claims, suits, damages, losses, judgments and liabilities of whatever kind or nature, including, without limitation, reasonable attorneys' fees, expenses and other costs of litigation, fines, penalties or assessments asserted against or suffered by Supplier by reason of, arising out of, or in any way related to, any actual or alleged infringement of Intellectual Property which might arise out of information, instructions, designs or specifications provided by Client, regardless of the form in which such information, instructions, designs or specifications are communicated, and even if the demands, claims, suits, damages, losses, judgments, liabilities, expenses and costs result from the sole or concurrent negligence of Supplier (including its subcontractors).

12.3 In no event shall Supplier be responsible for any actual or alleged Intellectual Property infringement directly or indirectly based on or arising out of products manufactured by third-parties, or Supplier's non-proprietary products.

13. TRADEMARKS and identifying information

Client agrees that it will not alter, remove, tamper or otherwise improperly deal, nor will it allow any third-party to alter, remove, tamper or otherwise improperly deal, the trade-marks, certificates of origin, mill test reports or any other stencil information coming into the possession or custody of Client in connection with the Agreement. Should Client breach in any way the provisions under this Article 13, Supplier shall be entitled, in addition to any other remedy it may be entitled at law or equity, to immediately terminate the Agreement without any liability whatsoever towards Client. Client agrees that it will maintain a complete, clear and accurate record of its activities in relation to Goods purchased under the Agreement. Supplier shall have the right to inspect and audit all such books and records and make copies thereof, provided, however that the information obtained will only be used to enforce Supplier's rights and determine whether Client is in compliance with the terms and conditions of this Agreement. Any such audit shall be conducted upon not less than seven (7) days notice at Client's offices during regular business hours and in such a manner as not to unreasonably interfere with Client's normal business activities.

14. FORCE MAJEURE

Supplier is not liable for a failure to perform any of its obligations in so far as Supplier proves (i) that the failure was due to an impediment beyond its control; (ii) that it could not reasonably be expected to have taken the impediment and its effects upon its ability to perform into account at the time of the execution of the Agreement, and (iii) that it could not reasonably have avoided or overcome it or at least its effects; including, but not limited to, war, whether declared or not, civil war, riots and revolutions, acts of piracy, acts of sabotage, natural disasters such as violent storms, cyclones, earthquakes, tidal waves, floods, destruction by lightning, explosions, fires, breakdown or destruction of machines, of factories, and of any kind of installations boycotts, strikes and lock-outs of all kinds, work slowdowns, occupation of factories and premises, and work stoppages which occur in Supplier's enterprise, lack of or inability to obtain raw materials, fuels or supplies, acts of Client or civil or military authority, whether lawful or unlawful, apart from acts for which Supplier has assumed the risk by virtue of other provisions of the Agreement. A ground of relief under this clause relieves Supplier from damages, penalties and other contractual sanctions to the extent that the ground persists. Further it postpones the time for performance, for such period as may be reasonable, thereby excluding Client's right, if any, to terminate or rescind the Agreement. If the grounds of relief persist for more than sixty (60) days, either Party shall be entitled to terminate the Agreement with prior written notice. Each Party may retain what it has received from the performance of the Agreement carried out prior to the termination. Each Party must account to the other for any unjust enrichment resulting from such performance. The payment of the final balance shall be made without delay.

15. Assignment and subcontracting

Supplier may assign, license or subcontract to any of its Affiliates or subcontractors all or any part of its rights and obligations under the Agreement without Client's consent, provided Supplier remains liable as primary obligor under the Agreement. Client may not assign or in any way dispose of its rights or obligations under the Agreement without the prior written consent of Supplier.

16. Export control

Any sale hereunder shall at all times be in strict conformity with all relevant export control laws and regulations, Client shall at all times in connection with the performance of this Agreement be in compliance with all economic sanctions and export control regimes applicable to any party to the Agreement, including but not limited to the United Nations, United States, and European Union regimes. Client shall not make any disposition by way of trans-shipment, re-export, diversion or otherwise, of Goods, except as said laws and regulations may expressly permit, and no such disposition or transfer will be made other than to the ultimate country of destination specified in the Order or as declared as the country of ultimate destination on Supplier's invoice. Any act or omission or failure of Client to act in compliance with the foregoing that results in Supplier, including its Affiliates, or any of the parties involved in the transaction (Indemnified Parties) being subject to any governmental or authority investigation or violation of applicable laws, including, without limitation, the imposition of fines and penalties, Client shall reimburse all Indemnified Parties for and release, defend, indemnify and hold harmless the Indemnified Parties (including banks involved) against any claim, demand, liability, loss or damage imposed by the applicable governmental authority arising out from such an action, omission or failure to act or as a result of Client's breach of its obligations under this Article 16. Neither Supplier nor any of the Indemnified Parties assume any liability to Client or to any other person for Client's acts of non-compliance with export control laws, sanctions, restrictive measures and embargoes.

17. CONFIDENTIALITY

17.1 Client acknowledges that in connection with the sale of Goods, Client has received or will receive from Supplier certain proprietary and Confidential Information, which is of substantial proprietary value to Supplier.

17.2 Client agrees to hold in strict confidence, and not to disclose to third-parties or use for any purpose other than the purpose of this Agreement, any Confidential Information.

17.3 Client shall be liable for any loss or damage to any Confidential Information, and shall not be released from its obligations of confidentiality, non-use and non-disclosure until and unless: (i) Confidential Information becomes non-confidential information without any breach of this Agreement or (ii) Supplier releases Client from its confidentiality obligations hereunder by written notice.

17.4 All technical documents developed by Supplier and to be provided to Client as part of the obligations assumed hereunder, including any copyright therein, shall be the sole property of Supplier and shall always be treated as confidential.

17.5 Except as otherwise agreed by Supplier in writing, no information or knowledge disclosed by Client shall be deemed confidential.

18. Severability

If any term or other provision of the Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of the Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated thereby is not affected in any adverse manner to either Party hereto. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties hereto shall negotiate in good faith to modify the Agreement so as to affect the original intent of the Parties hereto as closely as possible in an acceptable manner, to the end that the transactions contemplated in the Agreement may be fulfilled to the extent possible.

19. DISPUTE RESOLUTION/GOVERNING LAW

The Parties agree that in the event of a dispute or any allegation of breach concerning the Parties' performance under the terms of the Agreement, that the Parties shall, for a period not to exceed fifteen (15) calendar days following notice by one Party to the other Party that a dispute exists, endeavor to resolve such dispute through good faith negotiations. In the event that the Parties fail to resolve their dispute in the foregoing manner, the alleged breach or dispute shall be submitted to binding arbitration before an arbitral tribunal consisting of three (3) arbitrators, under the commercial arbitration rules of the American Arbitration Association. The arbitration shall be conducted in the English language. Arbitration shall be the sole and exclusive remedy with respect to any such dispute or alleged breach. These proceedings shall be private and confidential. The arbitral tribunal shall have no power to add to, detract from, or alter the Agreement in any way. Pending final decision by the arbitral tribunal, there shall be no action taken by either Party to the controversy. All costs and expenses incidental to and arising out of the arbitration shall be borne by the losing Party, including reasonable attorneys' fees. The award rendered shall be final and conclusive and judgment on the award rendered by the arbitral tribunal may be entered in any court having competent jurisdiction thereof. The place of arbitration shall be Louisville, Kentucky, U.S.A. The Agreement shall be governed and interpreted in accordance with the laws of the State of Delaware, U.S.A, without regard for its conflicts of laws provisions, and, the arbitral tribunal shall not be authorized to decide any dispute, controversy or claim *ex aequo et bono*, but shall strictly apply such laws.

Exhibit A

Warranty, and. Limitations and Exclusions of Liability

UNITED STATES

1. DEFINITIONS

Affiliate: of any specified person, any other person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified person. For the purposes of this definition, *control* when used with respect to any specified person means the power to direct the management and policies of such person directly or indirectly, through the ownership of voting securities or the right to elect the majority of the members of the board of directors of such person; and the terms *controlling* and *controlled* have meanings correlative to the foregoing.

End User: the person to whom Goods are provided, either directly or indirectly, including its successors and assigns.

Goods: the goods to be provided by Republic Conduit, either directly or indirectly, to End User.

Republic Conduit: Republic Conduit Manufacturing, a Kentucky general partnership and its partners Maverick C&P, Inc., a Delaware corporation and Republic Conduit Holding, LLC, a Delaware limited liability company, or, an Affiliate, including their successors and assigns.

Terms: these terms and conditions of Republic Conduit's warranty, and, limitations and exclusions of liability.

2. Warranty

2.1 Subject to the limitations hereafter set forth, Republic Conduit warrants that Goods manufactured by Republic Conduit will meet the specifications set forth in the applicable mil! test certificate, and be free from defects in materials and workmanship for a period of either. (i) twelve (12) months from delivery; or, (ii) 24 months from the date of production, whichever period expires first

2.2 EXCEPT FOR THE WARRANTIES CONTAINED HEREIN, REPUBLIC CONDUIT MAKES NO OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE

WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, RESULT, NON-INFRINGEMENT OF INTELLECTUAL PROPERTY, OR ANY IMPLIED WARRANTIES ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE. THE WARRANTIES CONTAINED IN THIS ARTICLE 2 ARE IN LIEU

WHETHER ORAL, WRITTEN, EXPRESS, IMPLIED OR STATUTORY, AND SUCH OTHER WARRANTIES, TERMS, REPRESENTATIONS, GUARANTEES OR LIABILITIES, BASED IN LAW, STATUTE, COMMON LAW, CONTRACT, TORT, EQUITY OR OTHERWISE (INCLUDING, WITHOUT LIMITATION, STRICT LIABILITY AND NEGLIGENCE) ARE DISCLAIMED. REPUBLIC CONDUIT'S WARRANTY OBLIGATIONS HEREUNDER, AND END USERS REMEDIES (EXCEPT AS TO TITLE) ARE SOLELY AND EXCLUSIVELY AS STATED IN THIS ARTICLE 2

2.3 Liability of Republic Conduit under this warranty shall be limited to repair or replacement, of the non-conforming Goods.

2.4 Republic Conduit further warrants all corrective actions it performs against defects in material or workmanship for a period of twelve (12) months from the date of the applicable repair or Replacement

2.5 Republic Conduit shall have no warranty obligations with respect to any Goods, or part thereof, which: (i) is normally consumed in operation, (ii) has a normal life inherently shorter than the warranty period specified herein, (iii) is not properly stored, installed, maintained or repaired, or is modified other than pursuant to Republic Conduit's instructions or approval, or (iv) has been subjected to any other kind of detrimental exposure, or has been invoked in an accident for which Republic Conduit could not be responsible

3. LIMITATIONS AND EXCLUSIONS OF LIABILITY

3.1 End User acknowledges that it has a superior knowledge of the ultimate use of Republic Conduit's Goods and End User acts as a *learned intermediary* in regards to such ultimate use. End User warrants that it shall save, defend, indemnify and hold Republic Conduit harmless and its directors, officers, employees and agents, from and against all demands, claims, suits, damages, losses, judgments and liabilities of whatever kind or nature, including, without limitation, reasonable attorney's fees, expenses and other costs of litigation, fines, penalties or assessments asserted against or suffered by the indemnitee by reason of, arising out of, or in any way related to, End User's use (or any subsequent end-user's use-) of Republic Conduit's Goods, or End User's negligence or willful misconduct. Without limitation, End User's obligation to save, defend, indemnify, and hold indemnitees harmless shall exist with respect to accidents, occurrences, disease, injuries to persons (including death), environmental or other property damage, property or economic losses, and violation of applicable law or regulation.

3.2 REPUBLIC CONDUIT'S LIABILITY, IN EXCESS OF THE COST TO REPLACE OR REPAIR NON-CONFORMING GOODS (IF ANY), FOR DAMAGES, COSTS, EXPENSES AND LOSSES, WHETHER BASED IN LAW, STATUTE, COMMON LAW, CONTRACT, TORT, EQUITY OR OTHERWISE, SHALL BE LIMITED TO THE COMPENSATION OF DIRECT DAMAGES, COSTS, EXPENSES AND LOSSES AND SUCH COMPENSATION SHALL BE LIMITED TO TWENTY THOUSAND UNITED STATES DOLLARS (US \$20,000)

3.3 NEITHER PARTY SHALL BE LIABLE FOR DAMAGES FOR LOSS OF PROFITS, INCOME, REVENUE OR PRODUCTION, NOR ANY OTHER INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF GOODS OR OTHER PRODUCTS, FINANCIAL LOSS, COST OF CAPITAL, COST INCURRED IN CONNECTION WITH LABOR, OVERHEAD, GENERAL ADMINISTRATION, TRANSPORTATION, SUBSTITUTE FACILITIES, SUPPLY SOURCES) OR OTHER SIMILAR DAMAGES, WHETHER ANY SUCH LIABILITY WOULD BE BASED IN LAW, STATUTE, COMMON LAW,

3.4 In no event shall Republic Conduit be responsible for retrieving damaged or non-conforming Goods, delay or curtailment of operations, pollution or cost of dismantling and removal of Goods to be repaired or replaced, resulting from non-conforming material, faulty workmanship or otherwise.

3.5 Should Goods be subjected to transformation including mechanical and technical procedures other than by Republic Conduit, End User shall save, defend, indemnify and hold Republic Conduit harmless from, against, for and in respect of any loss, liability, claim, damage asserted or incurred by End User or a third party by reason of any defects in Goods attributable to such transformation.

3.6 END USER SHALL SAVE, DEFEND, INDEMNIFY AND HOLD REPUBLIC CONDUIT HARMLESS AGAINST, FOR AND IN RESPECT OF ANY CLAIMS, LOSS, LIABILITY OR DAMAGE (INCLUDING CONSEQUENTIAL OR INCIDENTAL) ASSERTED AGAINST REPUBLIC CONDUIT BY ANY THIRD PARTY IN EXCESS OF THE LIMITATIONS OF LIABILITY SET FORTH UNDER THESE TERMS.

3.7 If Republic Conduit receives a claim for which End User is obligated to provide indemnification under this Article 3, Republic Conduit shall notify End User of such claim and End User shall provide Republic Conduit with the sums necessary to discharge the amounts payable by Republic Conduit (including reasonable attorney's fees and all expenses and costs related thereto).

3.8 End User acknowledges that these Terms include provisions for the indemnification or exoneration of Republic Conduit against the consequences of its own negligence or fault, and agrees that these Terms comply with the express negligence rule, are conspicuous and afford fair notice.

4. DISPUTE RESOLUTION/GOVERNING LAW

Republic Conduit and End User agree that in the event of a dispute or any allegation of breach concerning Republic Conduit's or End User's performance under these Terms, Republic Conduit and End User shall, for a period not to exceed fifteen (15) calendar days following notice that a dispute exists, endeavor to resolve such dispute through good faith negotiations. In the event that Republic Conduit and End User fail to resolve their dispute in the foregoing manner, the alleged breach or dispute shall be submitted to binding arbitration before an arbitral tribunal consisting of three (3) arbitrators, under the commercial arbitration rules of the American Arbitration Association. The arbitration shall be conducted in the English language.

Arbitration shall be the sole and exclusive remedy with respect to any such dispute or alleged breach. "These proceedings shall be private and confidential. The arbitral tribunal shall have no power to add to, detract from, or alter the Terms in any way.

Pending final decision by the arbitral tribunal, there shall be no action taken by either party to the controversy. All costs and expenses incidental to and arising out of the arbitration shall be borne by the losing party, including reasonable attorney fees.

The award rendered shall be final and conclusive and judgment on the award rendered by the arbitral tribunal may be entered in any court having competent jurisdiction thereof. The place of arbitration shall be Louisville, Kentucky, U.S.A. These Terms shall be governed and interpreted in accordance with the laws of the State of Delaware, U.S.A, without regard for its conflicts of laws provisions, and the arbitral tribunal shall not be authorized to decide any dispute, controversy or claim *ex aequo et bono*, but shall strictly apply such laws.