



- 1. Offer and Acceptance.** Any quotations provided by Capol Inc. ("Seller"), to the named purchaser ("Purchaser") constitute an offer for the sale of products as detailed on the face of the quotation or any attached writing ("Products"). All offers are made exclusively subject to and conditioned upon acceptance of the terms contained in this document. Any agreement for the sale of Products by Seller, or in documents referencing these terms, shall be exclusively governed by the terms and conditions herein, along with Seller's order-specific terms agreed to in writing by the parties regarding product prices, quantities, specifications, delivery schedules, and locations (all collectively, the "Contract"). Purchaser's issuance of a purchase order or acceptance of Products constitutes acceptance of Seller's offer and this Contract, making all resulting sales between Seller and Purchaser governed exclusively by these terms. Any additional or different terms proposed by Purchaser, whether communicated via purchase order or otherwise, are expressly rejected by Seller and shall not form part of the Contract, except to the extent specifically superseded by a separately negotiated agreement between the parties. Order acceptance is subject to the availability of Products for delivery, unless otherwise stated in the quotation.
- 2. Price.** Prices quoted by Seller are valid for ten (10) days from date of quotation. Except where otherwise prohibited by law, all applicable sales, excise, use, or similar taxes or charges for the sale of Products shall be in addition to the stated price and the responsibility of Purchaser. Seller reserves the right to increase any price in the event of increased costs attributed to reasons beyond Seller's reasonable control (e.g., force majeure events), and also including without limitation, increases related to: (a) energy, labor, and raw material costs, (b) modifications to specifications, quantity of ordered Products, or Product acceptance criteria requested by Purchaser, (c) price of goods manufactured by others and re-sold by Seller, and/or (d) any extra costs resulting from changes in the law, statutes, regulations, tariffs, and/or other regulatory compliance matters impacting the cost of goods manufactured or pricing.
- 3. Payment.** Purchaser agrees to pay in CAD or USD, as directed by Seller in the applicable quotation or invoice, without offset, all invoiced amounts within thirty (30) days from date of the invoice, unless otherwise stated in the invoice. Seller reserves the right to require advanced payment for all new accounts. All Contracts are conditional upon satisfactory results of credit checks on Purchaser, in Seller's sole discretion. Seller may require full or partial payment in advance of shipment if, in Seller's opinion, the credit or financial condition of Purchaser is, or is about to become, impaired. Overdue payments shall bear interest at the greater between the rate of 18% per annum (1.5% per month) or the maximum rate permitted by law. Seller shall have the right, among other remedies, including the right of setoff, either to terminate the Contract or applicable purchase order, or to suspend further deliveries under the Contract and/or other agreements with Purchaser or its affiliates in the event Purchaser fails to make any payment when due. Purchaser shall be liable for all expenses related to collection of past due amounts, including but not limited to, Seller's actual costs and attorneys' fees. If Purchaser requests delayed shipment, Seller may bill for Products when ready for shipment and charge reasonable daily storage fees. Upon delivery of the Products to Purchaser, Purchaser grants to Seller a security interest in such Products until payment is made in full, and Purchaser agrees to execute all documents, including a security agreement, as may be presented by Seller to perfect this security interest. Title to Products and tools shall pass to Purchaser upon payment in full by Purchaser to Seller.
- 4. Shipping and Delivery.** Seller will use reasonable efforts to deliver Products on time but will not be liable for any expenses or damages incurred as a result of late delivery or for delays caused by circumstances beyond Seller's reasonable control. If Purchaser does not provide routing instructions, Seller will decide the method for routing shipment. Orders with indefinite delivery dates are accepted upon the understanding that Seller shall have the right to fill said order as it sees fit in the course of its manufacturing schedules and to hold the Products for Purchaser's account at Purchaser's expense and risk pending receipt and Seller's approval of definite shipping instructions and, where required, of governmental authorization. All sales of Products are delivered FCA Seller's plant (Incoterms 2020) or EXW Origin Country Port of Export (Incoterms 2020) with respect to sales to international locations. All shipping and insurance expenses and risk of loss are assumed by Purchaser. Seller reserves the right to ship and Purchaser agrees to accept an underrun or overrun of any quantity up to and including 10% of the quantity ordered by Purchaser. If Seller is unable to meet Purchaser's delivery requirements or timing, Purchaser may, as its sole and exclusive remedy, cancel the affected order.
- 5. Rejections and Returns.** All shortages, defects, and/or non-conforming Products must be reported to Seller within seven (7) business days of delivery. Purchaser will be deemed to have inspected and accepted all delivered Products unless written notice of rejection, specifying the reasons in reasonable detail, is provided to Seller within this 7-day period. Seller will not be liable for defects that are reasonably discoverable upon careful examination and not reported within this timeframe. If Purchaser rejects a Product as non-conforming to the Limited Warranty, Purchaser shall retain the Product until Seller arranges for its removal or provides other reasonable instructions. Purchaser may not return Products without Seller's prior written approval in the form of a Return Material Authorization (RMA). If the return is approved, Seller may issue Purchaser a credit for the returned Products, subject to any fees or costs incurred by Seller in processing the return.
- 6. End Use, Storage, Handling, and Warnings.** Determination of the suitability of the Products for the uses contemplated by Purchaser or its customers is the sole responsibility of Purchaser and its customers. Purchaser and its customers assume all risks and liability for loss, damage or injury to property of Purchaser, Purchaser's customers, or others arising out of the use or possession of the Products furnished hereunder. Purchaser agrees that Seller is not responsible for any loss, damage or injury to persons or property arising out of Purchaser's purchase, possession, or use of any Products supplied by Seller. Purchaser shall comply with all applicable laws and regulations relating to the use, storage, and handling of the Products. This includes ensuring that the Products are used in accordance with all relevant laws, statutes, ordinances, regulations, labeling requirements, certifications, permits, codes, and standards, including but not limited to those established by Health Canada, the Canadian Food Inspection Agency (CFIA), the U.S. Food and Drug Administration, the U.S. Department of Transportation, the U.S. Environmental Protection Agency, the Occupational Safety and Health Administration, and uniform regulations set forth by the National Institute of Standards and Technology of the U.S. Department of Commerce. Purchaser shall have sole control and responsibility over any warnings to be given to end users concerning the use and handling of the Products or property, and for ensuring it does not sell misbranded Products, as defined by the Federal Food, Drug, and Cosmetic Act. Purchaser shall maintain commercially reasonable insurance to ensure compliance with all required laws and standards. Purchaser will not be named as an additional insured under Seller's insurance policy. Purchaser shall indemnify Seller against any claims or losses incurred by Seller resulting from Purchaser's failure to comply with the requirements set forth herein, as well as for any related other costs (including actual consultant, attorney, and expert fees).
- 7. Limited Warranty.** Seller warrants the Products will (a) be free from material defects upon delivery, (b) conform to Seller's or the specifications agreed upon by Seller in writing, and (c) transfer to Purchaser free of all liens, encumbrances except those created by Purchaser. This limited warranty applies to the original purchaser of the Products only and it does not extend to any third party. THE ABOVE LIMITED WARRANTY IS IN

LIEU OF ALL OTHER WARRANTIES, WRITTEN OR UNWRITTEN, STATUTORY, EXPRESS OR IMPLIED. TO THE MAXIMUM EXTENT PERMITTED BY LAW, SELLER DISCLAIMS ANY OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, AND ALL IMPLIED WARRANTIES AND IMPLIED CONDITIONS CONTAINED IN THE SALE OF GOODS ACT AS ADOPTED IN THE PROVINCES OF CANADA. NO OTHER WARRANTY, WRITTEN OR ORAL, MAY BE INFERRED FROM A COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE. THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS SHALL NOT APPLY TO THIS WARRANTY STATEMENT OR TO SALES OF GOODS BEING SUPPLIED UNDER THIS CONTRACT. EXCEPT AS EXPRESSLY STATED IN THE AGREED SPECIFICATIONS, SELLER MAKES NO REPRESENTATION THAT THE PRODUCTS WILL CONFORM TO ANY OTHER LAWS, STANDARDS, OR REQUIREMENTS OF A FOOD DEFENSE PLAN. Seller reserves the right to make minor or technically unavoidable variations in physical and chemical measurements including colors, formulas, methods, and the application of raw materials. This also applies to other insignificant deviations from the agreed requirements or specifications.

**8. Limited Remedy.** Purchaser's exclusive remedy and Seller's sole liability shall be limited to a refund of the purchase price of, or replacement of, Products proven to be materially defective. Such refund or replacement is conditioned upon Purchaser giving Seller written notice within thirty (30) days from the date of shipment by Seller that such Products are nonconforming with respect to this limited warranty. Failure by Purchaser to give written notice of claim within the warranty period shall be deemed an absolute and unconditional waiver of Purchaser's warranty claim. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY LAW, SELLER SHALL NOT BE LIABLE UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY DAMAGES OF ANY TYPE, WHETHER DIRECT, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, OR CONSEQUENTIAL. THIS INCLUDES, BUT IS NOT LIMITED TO, DAMAGES FOR LOSS OF USE, LOSS OF REVENUE, LOSS OF PROFIT, ECONOMIC LOSS, PROPERTY DAMAGE, WORK STOPPAGE, AND ATTORNEYS' FEES. If requested by Seller, Purchaser will promptly return to Seller's plant all unconsumed Products proven to be materially defective, and Seller will pay freight thereon. Seller is not liable for any cost of extraction, removal, dismantling, or reinstallation. Purchaser will provide Seller with access to all available warranty data. Purchaser shall provide Seller with an opportunity to participate in root cause analysis performed by Purchaser concerning the Products. Neither Seller's Limited Warranty nor Seller's indemnity obligations in this Contract shall apply to the extent Products are or have been: (a) modified by Purchaser or a third party; (b) modified by Seller at Purchaser's request, in particular design or specifications which have been provided by Purchaser or Purchaser's customer; (c) made to design or specifications not provided by Seller; (d) used in a way not known to Seller or operated under conditions not known to Seller; (e) used in combination with other products not made by Seller; or (f) subject to misuse, abuse or improper storage, or maintenance.

**9. Limitation of Liability.** EXCEPT FOR BREACH OF CONFIDENTIALITY, MISAPPROPRIATION OF INTELLECTUAL PROPERTY, PURCHASER'S UNLAWFUL USE OF PRODUCTS OR FAILURE TO COMPLY WITH LAWS, OR LOSS OF SELLER'S ANTICIPATED PROFITS, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES. CONSEQUENTIAL DAMAGES INCLUDES, BUT IS NOT LIMITED TO, LOSS OF USE, LOSS OF REVENUE, LOSS OF GOODWILL, AND COST OF CAPITAL. THIS LIMITATION OF LIABILITY DOES NOT APPLY TO

PERSONAL INJURY OR DEATH RESULTING FROM EITHER PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. EXCEPT FOR PERSONAL INJURY OR DEATH DUE TO SELLER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, SELLER'S AGGREGATE LIABILITY RELATING TO SELLER'S OBLIGATIONS UNDER THIS CONTRACT (WHETHER BASED IN CONTRACT, TORT, DUE TO RECALL, DUE TO INDEMNITY, OR OTHERWISE, SHALL IN NO EVENT EXCEED: (a) ON AN AGGREGATED CLAIM BASIS, THE AMOUNT PAID TO SELLER UNDER THIS CONTRACT DURING THE SIX (6) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY ("THE COMBINED TOTAL"), OR (b) 10% OF THE COMBINED TOTAL ON A PER CLAIM BASIS. THE PARTIES EXPRESSLY AGREE THAT THE ABOVE LIMITATIONS ON LIABILITY PROVISION SHALL REMAIN IN FULL FORCE AND EFFECT EVEN IF IT IS FOUND THAT PURCHASER'S EXCLUSIVE REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

**10. Recall.** In the event Seller conducts a voluntary or government-mandated recall, field correction, market withdrawal, stock recovery, or other similar action with respect to the Products ("Recall"), Seller and Purchaser will consult each other without delay; however the final decision for handling any Recall shall rest solely with Seller. Purchaser will immediately notify Seller within 24 hours if Purchaser learns of a potential Recall implicating the Products or if a complaint alleges a death or serious deterioration in health has occurred. In other cases, Purchaser will notify Seller of complaints within two (2) calendar days. Purchaser will provide all reasonable assistance requested by the Seller in the conduct of a Recall, and will: (a) provide Seller with performance evaluations, accident reports, engineering investigations, and other data relating to the potential Recall; (b) provide Seller a reasonable opportunity to participate in inquiries and discussions among Purchaser, its customer, and governmental agencies regarding the need for, and scope of, a Recall; and (c) consult with Seller about the most cost-effective method of modifying or replacing the Products, to remedy the alleged defect or non-compliance. Seller shall be solely responsible for notifying governmental or regulatory authorities regarding any such matters, and Purchaser will cooperate with Seller in reporting requirements or other follow-up activities, including, but not limited to, corrective action relating thereto. Each party will designate a representative responsible for the exchange of such information and for all other regulatory information. Purchaser will not make any public statements concerning a Recall without Seller's prior written approval. If a Recall arises from other reasons, such as Purchaser's products, acts, or omissions in marketing, distribution, storage, or handling of Products, Purchaser shall bear the costs and responsibilities of the Recall. Both parties will maintain records of all Product sales sufficient to administer a Recall for the period required by applicable law. Seller's liability for Recall costs due to Product non-conformance will be negotiated on a case-by-case basis based on (i) a good faith allocation of responsibility, (ii) the reasonableness of costs and damages, (iii) the quantity purchased and price of affected Products, and (iv) other relevant factors. Seller's liability under this Section is conditioned upon Purchaser (1) notifying Seller promptly of a potential Recall implicating the Products, (2) providing Seller with all relevant data, (3) providing Seller a reasonable opportunity to participate in inquiries and discussions among Purchaser, its customer, and governmental agencies regarding the need for, and scope of, the Recall, and (4) consulting with Seller about the most cost-effective remedies.

**11. Intellectual Property Infringement.** Seller will defend or settle, at its sole expense, any third-party claim, demand, or suit against Purchaser alleging that the use of any Product designed and made by Seller infringes a U.S. or Canadian patent, copyright, trade secret, or other intellectual property right ("IP Claim(s)"); provided: (a) the alleged infringement does not arise from Seller's compliance with specifications or designs furnished by Purchaser; (b) Seller receives prompt written notice of such IP Claim and exclusive control over its defense and/or settlement; and (c) Purchaser provides Seller with all information available to Purchaser for the defense,

cooperates with Seller, and does not take a position adverse to Seller. Further, Seller will have no liability under this Section, and Purchaser will indemnify Seller for any third-party IP Claims against Seller as well as for any related other costs (including actual consultant, attorney, and expert fees) if and to the extent an IP Claim is based on: (i) a Product modification made by Purchaser or a third party, or made by Seller at Purchaser's request; (ii) use or mixture by Purchaser of the Product in combination with other products not made or sourced by Seller; (iii) use in a way not known to Seller; or (iv) Products made to designs or specifications not provided by Seller. Purchaser will defend and settle, at its sole expense, any third-party IP Claim arising from the foregoing activities (i)-(iv), provided: (1) Purchaser receives prompt written notice of such claim, demand, or suit; and (2) Seller reasonably cooperates with Purchaser in defending such IP Claim. Seller's exclusive obligation to Purchaser as to Products declared to infringe, and Seller's right as to Products which Seller believes are likely to infringe, is the acquisition of a license, the replacement of Products with non-infringing goods, the modification of the Products so that they are non-infringing, or the return of the purchase price for the Products, as Seller may elect in its sole discretion. THIS SECTION 11 STATES THE ENTIRE LIABILITY OF SELLER AND PURCHASER'S LIMITED REMEDIES AS TO IP CLAIMS.

**12. Ownership of Proprietary Materials.** Seller will have and retain all intellectual property rights in all Products furnished or developed by Seller in connection with or pursuant to this Contract, including, without limitation, patents, utility models, design rights (and any pending applications), trademarks, copyrights, technical, business, economic, or know-how information, trade secrets, confidential proprietary information, inventions, data, recipes, formulae, material compositions, drawings, tooling, specifications, prototypes, manufacturing processes, product pricing, and any right related thereto (whether or not patentable) that is not generally available to the public ("**Proprietary Materials**"). No Proprietary Materials created by Seller in connection with, or pursuant to, this Contract will be considered "works made for hire" as that term is used in connection with the U.S. Copyright Act nor shall Purchaser be entitled to any moral rights or similar rights as that term is used in connection with the Canadian Copyright Act. To the extent Purchaser owns any rights in such Proprietary Materials, Purchaser hereby irrevocably assigns to Seller all rights, title, and interest, including all intellectual property rights in and to such Proprietary Materials.

**13. Tooling.** Any tools purchased and fully paid for by Purchaser in Seller's possession that are solely for the manufacture of Products shall be the property of Purchaser and may be removed from Seller's premises upon reasonable notice after termination of this Contract, with the exception of tools containing Seller's Proprietary Materials. To the extent tools contain Seller's Proprietary Materials, such tools may not be removed from Seller's premises and must remain in the custody of Seller unless Seller's Proprietary Materials are removed from such tools or as otherwise mutually agreed to in writing. Tools partially paid for by Purchaser will remain the property of Seller. Seller will at its expense maintain the tools in good condition, normal wear and tear excepted, however, Purchaser will be responsible for the cost of any capital expenditures related to the tools including improvements to extend the life of, or add value or capacity to, the tools.

**14. Technical Advice.** Unless specifically otherwise agreed mutually in writing, any technical advice furnished by Seller to Purchaser before or after delivery of the Products is provided "as is" and on a gratuitous basis, without charge, and on the basis it represents Seller's good faith judgment, but without warranty of any kind, and is accepted at Purchaser's sole risk.

**15. Compliance with Law.** The parties will comply with all applicable federal, state, provincial, local, and foreign laws, orders, rules, regulations, and ordinances. If the Purchaser exports, re-exports, or imports Products, Purchaser assumes sole responsibility for complying with all applicable laws and regulations and for obtaining the necessary export and import authorizations in any applicable jurisdiction or country. Unless otherwise agreed in this Contract, Purchaser also assumes sole responsibility for costs and for legal compliance, including but not limited to: (a) the European

regulation for the Registration, Evaluation, Authorization, and Restriction of Chemicals ("REACH"); (b) the withdrawal of the United Kingdom from the European Union, commonly referred to as "BREXIT"; (c) California law known as Proposition 65 for products sold by Purchaser; (d) compliance with any applicable Canadian laws, including but not limited to the Canadian Environmental Protection Act (CEPA) and relevant provincial regulations, particularly regarding product safety and environmental standards; (e) compliance with regulations regarding the sale of hazardous materials in Canada; (f) compliance regarding products made by Purchaser which incorporate the Products; and (g) compliance concerning any use of Products by Purchaser or its customers not covered by the Limited Warranty of this Contract. The parties will also comply with all applicable anti-corruption laws, including but not limited to the U.S. Foreign Corrupt Practices Act (FCPA), the U.K. Bribery Act, and Canadian anti-corruption laws. Neither party, nor any of their subcontractors, vendors, agents, or other associated third parties, will engage in any form of commercial bribery, nor directly or indirectly provide or offer to provide anything of value to or for the benefit of any official or employee of a governmental authority or of any government-owned, government-controlled, or government-affiliated entity to obtain or retain any contract, business opportunity, or other business benefit, or to influence any act or decision of that person in his/her official capacity. Seller reserves the right to request additional information regarding the end-user and/or destination of the Products, and Purchaser shall provide such information upon request. Seller also reserves the right to refuse to proceed with any transaction if it determines that such transaction may violate any such laws or regulations. Additionally, Seller may terminate and discontinue business with Purchaser if Seller determines Purchaser has engaged in transactions that could place Seller at risk of violating these laws. Purchaser shall indemnify Seller against any claims or losses incurred by Seller resulting from Purchaser's failure to comply with the requirements set forth herein, as well as for any related other costs (including actual consultant, attorney, and expert fees).

**16. Confidentiality.** If Purchaser has access to Seller's confidential information, including, without limitation, inventions, developments, know-how, specifications, business plans, data, trade secrets, formulae, drawings, confidential information, processes, results of testing, systems, financial information, product information, methods of operation, customer information, supplier information, and compilations of data, or any such information or materials obtained by Seller ("**Confidential Information**"), Purchaser will use Seller's Confidential Information only for the purposes contemplated under this Contract and shall not disclose it to third parties or otherwise use it to its own advantage, such as through analysis, reverse engineering, resale, or other distribution, or in any manner which would be to Seller's detriment in any way. Purchaser is permitted to disclose Seller's Confidential Information to its employees and authorized subcontractors on a need-to-know basis only, provided that such employees and authorized subcontractors have written confidentiality obligations no less stringent than the confidentiality obligations under this Section. Purchaser's use of Seller's Confidential Information for purposes other than those specifically described here shall render Purchaser liable to Seller for the full extent of Seller's damages. Neither Seller's disclosure of Confidential Information, nor any transmission of documents, samples, or models shall give rise to any right of Purchaser to any ownership rights whatsoever. Upon termination or expiration of this Contract, Purchaser shall return Seller's Confidential Information and shall not use Seller's Confidential Information for its own, or any third party's benefit. Purchaser's confidentiality obligations shall survive termination or expiration of this Contract for so long as Seller's Confidential Information remains confidential. To ensure Seller is able to obtain the full benefit of the restrictions set forth in this Section, Seller shall be entitled to injunctive relief, including, but not limited to, emergency, preliminary, temporary and permanent injunctions, from any court of competent jurisdiction as may be necessary to enjoin any violation of the foregoing covenants, without the necessity of proving immediate irreparable harm or an inadequate remedy at law. If the parties have already

entered into a Confidentiality or Non-Disclosure Agreement (“NDA”), the terms and conditions of the NDA shall apply and control for confidentiality obligations between the parties in lieu of this Section. Seller will not provide internal financial data such as audited financial statements or tax returns and any audit or site visit is subject to prior announcement and mutual agreement.

**17. Termination by Seller.** In addition to any other rights of Seller to terminate or suspend performance of this Contract, Seller may, upon written notice to Purchaser, immediately terminate all or any part of this Contract or suspend performance under this Contract, without any liability to Purchaser: **(a)** if Purchaser **(i)** repudiates, breaches, or threatens to breach any of the terms of this Contract, **(ii)** fails to accept or threatens not to accept Products in accordance with this Contract, or **(iii)** fails to make timely payment, or **(b)** upon the occurrence or threat of insolvency or bankruptcy or sale of substantially all assets of Purchaser. Upon termination of this Contract by Seller: **(1)** Seller shall be relieved of any further obligation to Purchaser; **(2)** Purchaser shall be liable to Seller for the immediate payment of amounts then billed to date by Seller to Purchaser; **(3)** Purchaser shall purchase and pay Seller immediately for all unique raw materials, work in process, and finished goods under this Contract; **(4)** Purchaser shall reimburse Seller for any unreimbursed and unamortized research and development costs, capital equipment, and supplies that are unique to the Products; and **(5)** Purchaser shall immediately reimburse Seller for all preparation and other expenses incurred by Seller or its subcontractors in connection with this Contract and for all other losses or costs arising from termination.

**18. Termination by Purchaser.** If Seller fails to perform any material obligation under this Contract or delivers Product after an agreed upon delivery date, and, if the non-performance can be cured but Seller fails to cure the non-performance within thirty (30) business days after written notice from Purchaser, Purchaser may terminate this Contract without further obligation. Otherwise, upon giving written notice to Seller not less than ninety (90) days prior to shipment Purchaser may cancel any purchase order or scheduled delivery under this Contract, in which case: **(a)** Seller will be relieved of any further obligation to Purchaser; **(b)** Purchaser will pay all amounts then due; **(c)** Purchaser will purchase and pay Seller immediately for all unique raw materials, work in process, and finished goods under this Contract; and **(d)** Purchaser shall reimburse Seller for any unreimbursed and unamortized research and development costs, capital equipment, and supplies that are unique to the Products. A 15% restocking charge shall apply for Purchaser canceled orders and for returns.

**19. Force Majeure.** Neither party will be liable if its performance is delayed or made impossible or commercially impracticable due to acts of God, unusually severe weather, civil commotion, terrorism, military authority, war, riot, fire, labor trouble or strikes, unavailability of materials or components, explosion, breakdown or accident, delay in transportation, plant shutdown, compliance with governmental requests, laws, regulations, order or actions, unforeseen circumstances, or other causes beyond such party’s reasonable control.

**20. Governing Law, Jurisdiction and Venue.** The terms of this Contract is governed by and construed in accordance with the laws of the State of Michigan, United States, without reference to the choice of law principles thereof. The Convention on Contracts for the International Sale of Goods is expressly excluded. Subject to the provisions of Dispute Resolution below, each party irrevocably submits to the jurisdiction of the Courts of the State of Michigan and the United States District Court for the Eastern District of Michigan and hereby waives, to the fullest extent it may effectively do so, the defense of an inconvenient forum to the maintenance of such action or proceeding.

**21. Dispute Resolution.** In the event of any dispute or disagreement between Seller and Purchaser arising out of or relating to this Contract or a Product (“Dispute”), such Dispute, upon the written request of Seller or Purchaser, shall be referred to the chief financial officers of each party or their respective designees. The chief financial officers or their respective designees shall promptly meet in good faith to resolve the Dispute and if

they do not agree upon a resolution within thirty (30) calendar days after the reference of the Dispute to them, then such Dispute, upon written notice from one party to the other of its intent to arbitrate (“Arbitration Notice”), shall be submitted to and settled exclusively by final and binding arbitration in lieu of any judicial proceeding; provided, however, that nothing contained in this Section shall preclude any party from seeking or obtaining from a court of competent jurisdiction: **(a)** injunctive relief, or **(b)** equitable or other judicial relief to specifically enforce the provisions of this Contract or to preserve the status quo prior to the event(s) leading to the Dispute. Arbitration shall be conducted by the American Arbitration Association in Southfield, Michigan, United States, before a single arbitrator in accordance with the Commercial Arbitration Rules of the American Arbitration Association existing at the date of submission of the Dispute to arbitration. Any arbitration award shall be binding and enforceable against Seller and Purchaser and judgment may be entered thereon in any court of competent jurisdiction. Notwithstanding the forgoing, any Dispute relating to or arising out of, in whole or in part, any breach of Purchaser’s obligations of confidentiality hereunder or for the misuse or infringement of Seller’s intellectual property rights by Purchaser shall not be subject to binding arbitration under this Contract. Any action against Seller for breach of Contract, breach of warranty, or any other claim, must be commenced within one (1) year after the cause of action has accrued. Purchaser shall be obligated to Seller for all costs and expenses (including reasonable attorney’s fees and expenses and fees for collection agencies) incurred by Seller in exercising any of its rights pursuant to these terms and conditions.

**22. Assignment, Waiver, Entire Agreement, Severability.** Purchaser may not assign or delegate any of its rights or obligations under this Contract without prior written consent from Seller. Seller may terminate this Contract upon giving at least sixty (60) days written notice to Purchaser, without any liability to Purchaser, if there is a change of control of Purchaser. Seller may assign its rights and obligations under this Contract at any time, without Purchaser’s prior written consent. The failure of either party to enforce any right or remedy provided in this Contract or by law on a particular occasion will not be deemed a waiver of that right or remedy on a subsequent occasion or a waiver of any other right or remedy. This Contract constitutes the entire agreement between the parties with respect to its subject matter and supersedes all prior oral or written representations or agreements by the parties with respect to the subject matter of this Contract. This Contract may not be modified unless in writing and signed by authorized representatives of both parties. Any provision found invalid or unenforceable will not affect the validity or enforceability of any other provision and the invalid provision may be judicially modified to the extent enforceable.

**Capol Inc.**

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