



DARDEN DIRECT DISTRIBUTION, INC.
General Terms and Conditions
(Food, Packaging, Supplies)

This Agreement is entered into as of _____ (the "Effective Date") by and between Darden Direct Distribution, Inc., a Florida corporation, having a place of business at 1000 Darden Center Drive, Orlando, Florida 32837 ("DDDI") and _____, a _____ corporation, having a place of business at _____, on behalf of itself and its Affiliates (as listed below), (the "Supplier") all of which shall be bound by these terms and conditions, as an Approved Supplier of DDDI.

GENERAL TERMS APPLICABLE TO ENTIRE AGREEMENT

1. Scope.

The Agreement shall apply to Supplier's and Supplier's Affiliates' sale of Approved Products to DDDI or its designated distributors (hereafter "Distributors"), as specified herein. Supplier's Affiliates shall include the following entities of which the Supplier named above owns at least a 51% share: _____.

For purposes of this Agreement, Affiliates shall be deemed included in the term "Supplier." Approved Products are products that have been approved by DDDI for sale or use including, but not limited to, the following Darden-branded concept restaurants: Bahama Breeze, Eddie V's, LongHorn Steakhouse, Olive Garden, Seasons 52, The Capital Grille, Yard House, Wildfish Grille, and Cheddars (collectively, the "Restaurants").

2. Acknowledgments by Supplier.

Supplier acknowledges that: (a) it has read these General Terms and Conditions ("General Terms"); and (b) agrees to be bound by these General Terms and the Supplier Code of Conduct.

3. Term.

These General Terms shall remain in effect so long as Supplier remains a DDDI Approved Supplier ("Term") or for the period of time following termination required to effectuate the purposes of any applicable provision hereof. Without limiting the preceding sentence, Provisions 6(b), 10, 11, 12, 13, and 15 shall survive the expiration or termination of any supply arrangement involving the parties for the period of all applicable statutes of limitations.

4. Termination.

DDDI may terminate this Agreement in whole or in part, at any time, for any reason, upon thirty (30) days prior written notice to Supplier. DDDI may also terminate this Agreement at any time if Supplier is no longer an Approved Supplier to DDDI or for breach of these terms. Termination of this Agreement for any reason shall be without prejudice to any rights which shall have accrued to the benefit of either party prior to such termination. Termination of this Agreement shall not relieve either party from its obligations which are expressly meant to survive termination of this Agreement and shall not terminate DDDI's obligation to pay undisputed invoices for products which have been shipped prior to termination.

5. Sale and Purchase of Approved Products.

(a) Approved Products.

Supplier shall sell to DDDI and to certain Distributors, at the Pricing set forth in the applicable purchase order or other relevant pricing schedule and only those products that have been approved by DDDI as reflected in a Master Product Description, or other electronic system designated by DDDI, or an Approved DDDI Supplier Commitment form (collectively, the "Approved Products").

(b) Sale of Approved Products by Supplier Directly to DDDI or by Supplier to Third Party

Distributors: Such Sale shall be in accordance with the applicable Supplier Guidelines and the Transportation Policy.

(c) No Set Quantities.

Unless otherwise indicated in writing on a Schedule, separately issued by DDDI and incorporated by reference, Supplier acknowledges there is no assurance that any particular quantity of Approved Products will be purchased by the Distributors for sale to DDDI, or directly to the Restaurants. DDDI shall not have any

liability to Supplier if the actual volumes of Approved Products that Supplier sells are for any reason (including without limitation the discontinuation of any Approved Product, the termination of any Distributor to which Supplier is authorized to sell Approved Products or the closing of any Distributor distribution center or Restaurant) less than any volume estimate previously provided by DDDI to Supplier, unless such Approved Product is a custom item exclusively produced for DDDI or its authorized distributors, redistributors, franchisees, or any other entities identified by DDDI in a writing.

(d) **Payment Terms.**

Supplier shall submit invoices for Approved Products after shipment of said Approved Products and upon completion of any services provided by Supplier. All invoices shall be submitted to the address specified in the Purchase Order or the written price contract issued by DDDI. Except as otherwise stated in this Agreement, Company agrees to pay all undisputed invoiced amounts net 30 thirty days after Company's acceptance of the Approved Products delivered by Supplier unless otherwise specified in the Purchase Order or written price contract issued by Company. Company may offset invoices or sums due hereunder by any amount due and owing to Company from Supplier.

6. Terms of Sale to Distributor/s by Supplier.

a) **Sale to Distributors.**

Supplier acknowledges that DDDI shall not have any financial responsibility for any sales made by Supplier to any Distributor. Supplier further acknowledges the following: (i) DDDI is not a guarantor or surety of any Distributor; (ii) DDDI makes no representation or warranty as to the financial condition or solvency of any Distributor; (iii) except as may otherwise expressly be agreed upon in writing by DDDI, no Distributor is an agent of DDDI. Supplier alone shall bear the financial risk with respect to any sales made by it to a Distributor; and (iv) any document Supplier may send to Distributor containing terms or conditions that conflict or our contrary to these General Terms are not binding on DDDI or any Distributor unless DDDI signs an acknowledgment agreeing to an amendment to these General Terms.

b) **Third Party Beneficiaries.**

Supplier acknowledges and agrees that each Distributor who purchases Approved Products, directly or indirectly, from Supplier shall be entitled, as a third party beneficiary, to the rights and benefits of the agreements, covenants, and warranties contained herein, but nothing herein contained shall prevent Supplier and DDDI from jointly modifying the provisions hereof in their sole discretion. DDDI shall be an intended third party beneficiary of each agreement that Supplier enters into with a Distributor. As a consequence of such status, DDDI shall have the right to pursue its legal and equitable remedies for Supplier's breach or violation of any agreement with a Distributor directly against Supplier even though DDDI shall not be liable, as a principal, surety, guarantor or otherwise, with respect to a Distributor's obligations to Supplier.

7. Certain Representations, Warranties and Agreements of Supplier.

Supplier represents and warrants to DDDI, and agrees with DDDI, as follows:

a) **Specifications.**

All Approved Products shall be manufactured, produced, transported, stored and shipped by Supplier in accordance with all quality assurance and other requirements of DDDI and in accordance with all specifications furnished by DDDI (collectively, the "DDD Specifications"), and the policies from time to time communicated by DDDI to Supplier (collectively, the "DDD Policies").

b) **Product Information.**

Any and all "Product Information", "Nutritional Data Sheet," "Supplier Profile" or similar information provided to DDDI by Supplier, including allergen and nutritional content information, have been and will be completed by Supplier accurately and to the best of Supplier's knowledge.

c) **Food Products.**

All food products, including food articles, food ingredients and food packaging comprising any Approved Products, or any part thereof, sold to any Distributor or to DDDI shall: (i) be in full compliance with all applicable federal, state and local laws, rules and regulations (collectively, the "Laws"), including without limitation the Federal Food, Drug and Cosmetic Act ("FDCA"), as amended from time to time, and the rules and regulations promulgated from time to time by the United States Department of Agriculture ("USDA") and/or the Food and Drug Administration ("FDA"); (ii) be manufactured, produced, transported, stored, shipped and delivered in accordance with all Laws, including without limitation the "Good Manufacturing Practices" under the FDCA or comparable regulations of the USDA and the FDA, the DDD Specifications and the DDD Policies; (iii) not be adulterated or misbranded within the meaning of the FDCA or USDA or any

other Law; (iv) not be a food product which may not, under applicable Laws, be introduced into interstate commerce; and (v) not be a food product adulterated or misbranded under any applicable Law.

d) General Warranties.

The Approved Products shall be merchantable and fit for their intended purpose, and shall meet or exceed the DDDI Specifications in all respects.

e) Recipes, Formulas and Processes.

If and to the extent that Supplier shall have developed or may hereafter develop any recipe, formula or process relating in any manner to any Approved Product at the request or for the benefit of DDDI, Supplier hereby conveys, assigns and transfers to DDDI, for its exclusive use and benefit, all rights not already owned by DDDI in each and every such recipe, formula and process.

f) Brokerage Arrangements.

All arrangements for brokerage, agent, administrative or other fees, commissions, or other consideration or payments to be made, directly or indirectly, to third parties in connection with the negotiation, execution or performance by Supplier of its obligations to DDDI are set forth in a written instrument previously delivered to DDDI. Supplier shall notify DDDI in advance and in writing of its intention to pay, directly or indirectly, to third parties any such brokerage, agent, administrative or other fees, commissions or other consideration or payments which have not been disclosed to DDDI in a written instrument delivered to DDDI on or before the date of these General Terms.

8. Approved Product Management.

(a) Inventory and Production.

Supplier shall maintain adequate levels of inventory so that it can service DDDI, the Distributors and Restaurants with an adequate supply of Approved Products as may customarily be required by DDDI, the Distributors or the Restaurants, as applicable; however, it is understood that specific decisions regarding the levels of raw material, work in process and finished inventory, or the addition of new production lines or new plant capacity, shall be in the sole discretion of Supplier. DDDI shall have no liability whatsoever for loss or damage incurred by Supplier as a result of any decision regarding inventory or capacity made by Supplier or for changes in the DDDI Specifications, the DDDI Policies, DDDI's marketing, sales plans or projections, the introduction or deletion of any Approved Product, or any items containing an Approved Product, from the Restaurants' menus, the termination of Supplier's Approved Supplier status, or any breach or default by Supplier pursuant to these General Terms or otherwise.

(b) Emergency Product Allocation.

In the event of a shortage of any Approved Products, as determined by DDDI, Supplier shall allocate DDDI its share of available Approved Products based on historical and future sales of the Approved Products among Distributors or Restaurants, as directed by DDDI.

(c) Product Recall.

Supplier shall bear the entire cost and expense resulting from the sale, shipment or transport of any Approved Product which is not in accordance with the DDDI Specifications or the DDDI Policies, or which does not conform with applicable health and safety Laws, including without limitation all costs and expenses incurred in recalling Approved Products and in furnishing an adequate amount of substitute Approved Product on a timely basis, by air shipment if necessary. Within ten days after the execution and delivery of these General Terms, Supplier shall furnish to DDDI in writing a copy of its recall procedures with respect to Approved Product, and thereafter shall provide updates to such procedures not less frequently than annually.

(d) Restaurant Credits.

In the event DDDI requests a credit for a Restaurant (in connection with a product complaint or defect) the credits will be charged back to the Supplier through a deduction on future payment. The credit will include a \$3.50 per case fee for delivery charges and administration charges, in addition to any re-delivery costs actually incurred by DDDI.

9. Inspection and Laboratory Testing.

(a) Inspection.

DDDI shall have the right to inspect, without advance notice during Supplier's normal business hours: (i) the premises of Supplier at which the Approved Products are produced; (ii) all of Supplier's facilities and equipment relating to the manufacture, production, storage, transportation and shipment of Approved Products and all components thereof; (iii) all of Supplier's books and records relating to the manufacture,

production, quality assurance, storage, transportation and shipment of Approved Products and all components thereof; and (iv) Approved Products prior to their shipment to the Distributors or Restaurants. Neither DDDI nor any of its employees or agents shall be required by Supplier to execute a confidentiality agreement, waiver or other agreement as a condition to engaging in inspections related to the Approved Products. DDDI may engage the services of an independent inspection firm, selected in the sole discretion of DDDI, to perform these inspections. Supplier shall pay the reasonable cost of any such third party inspection.

(b) **Testing.**

At DDDI's request, Supplier shall promptly submit to DDDI samples of the Approved Products or samples of any components in accordance with any testing schedule established from time to time by DDDI. Further, if requested by DDDI, Supplier shall send the sample to an independent laboratory, selected from an DDDI approved list of independent laboratories. Supplier shall pay the reasonable cost of any such third party laboratory testing.

(c) **Reports.**

Supplier shall furnish to DDDI upon request, copies of all quality and inspection reports performed by Supplier or its agent.

10. Record Retention.

For a period of at least three years from the date of shipment, Supplier shall retain complete records relating to the manufacture, production, storage, shipment, transportation and sale of Approved Products, and all components thereof, and, upon request, will make these records available to DDDI or its agent. If Supplier is sued or a claim is otherwise asserted against Supplier, or Supplier is notified of any suit or claim against any Distributor, DDDI, any of the Restaurants, or any affiliate of any of them, relating to Approved Products sold to the Distributors or Restaurants by Supplier, then Supplier shall thereafter maintain all applicable records until such claim or suit is settled or fully adjudicated, but in no event less than three years.

11. Insurance.

Unless additional insurance is required in Supplier's agreement with any Distributor, Supplier shall maintain commercial general liability insurance, including products liability coverage, in the minimum amounts of US \$1,000,000 per occurrence for damage, injury and/or death to persons and US \$500,000 per occurrence for damage or injury to property. Such insurance shall be on a date-of-occurrence basis. Supplier's insurance company must be reasonably acceptable to DDDI. Supplier shall furnish evidence of such insurance to DDDI upon request, and no less often than annually, including a certificate of insurance naming DDDI as co-insureds and the Distributors (if applicable) as additional insureds. Such certificate shall also provide that such insurance coverage may not be cancelled or modified unless DDDI and Distributor (if applicable) have been given at least thirty days prior written notice. The parties understand and agree that any policy costs related to DDDI's status as a co-insured are assumed in the price-cost model for the Approved Products and will not be separately charged to DDDI.

12. Confidentiality.

Supplier acknowledges that, unless and only to the extent DDDI specifically agrees to the contrary in writing in advance, these General Terms, and all other information as to quantity, cost, and prices charged to the Distributors by Supplier for Approved Products, all information relating to marketing, new products, sales volume and data regarding the operations of DDDI and the Restaurants, the DDDI Specifications and the DDDI Policies and other information identified or reasonably identifiable as confidential or proprietary, shall be maintained in confidence by Supplier, except that such information may be provided by Supplier to its employees who have a need to know such information, its auditors, consultants and advisors but in each case (a) only if such discloser agrees in a writing substantially similar to this Section 12 not to use or disclose such information, such document being directly enforceable by DDDI, and (b) it being understood that Supplier shall remain liable to DDDI for any breach by any employee, auditor, consultant or advisor to whom Supplier directly or indirectly makes such disclosure. The confidentiality obligations of this Section shall not apply to information which: (i) Supplier is compelled to disclose by judicial or administrative process; provided, however, that Supplier shall promptly give DDDI advance notice of its intention to make such disclosure so that DDDI may have the opportunity to prevent or restrict such disclosure if it deems such prevention or restriction in its best interests; (ii) Supplier can show to have been generally available to the public other than as a result of a breach of this Section 12; (iii) Supplier can show was within its legitimate possession prior to the time of disclosure by DDDI; or (iv) is disclosed to Supplier by a third party having legitimate possession thereof and the unrestricted right to make such disclosure.

13. Indemnification.

(a) **Indemnity.**

Supplier shall indemnify, defend and hold harmless DDDI, its parent and affiliated corporations and entities, and the shareholders, directors, officers, employees and agents of all of them (collectively, the "Indemnitees"), of and from the full amount of any and all claims, demands, actions, causes of actions, losses, liabilities, damages, costs and expenses (including without limitation reasonable attorneys' fees and disbursements and the costs and expenses in supplying substitutes or replacements for Approved Products to the Distributors, DDDI and/or Restaurants) (collectively, the "Damages") paid, suffered or incurred by the Indemnitees, or any one or more of them, based upon, arising out of or incident to any of the following: (i) any breach or alleged breach by Supplier of any of the provisions of these General Terms; (ii) any injury, illness or death caused or alleged to have been caused, in whole or in part, by the manufacture, production, labeling or branding, storage, transport or delivery by Supplier of any of the Approved Products; or (iii) any injury, illness or death caused or alleged to have been caused, in whole or in part, by contact with, use or consumption of any of the Approved Products by any Indemnitee or any customer of any Indemnitee; provided, however, that Supplier shall not be liable for Damages to any Indemnitee if and to the extent that such Damages result from the gross negligence or willful misconduct of such Indemnitee.

(b) **Procedure.**

With respect to claims made pursuant to Section 13(a) by any third party, DDDI shall, or shall cause any other affected Indemnitee, to give notice to Supplier, and shall tender the defense thereof to Supplier (provided, however, that, as a condition to accepting such tender, Supplier must furnish to DDDI satisfactory evidence of its ability to pay the claimed Damages if the claimant is successful). If Supplier shall fail or refuse to accept such tender or shall fail to demonstrate the requisite ability to pay the claimed Damages as provided above, then DDDI or the other affected Indemnitee, as the case may be, shall have the right to defend or settle such claim, and Supplier shall be liable for Damages resulting therefrom. If Supplier shall accept the tender of such defense, then DDDI or such Indemnitee, as the case may be, shall have the right to participate in such defense and any related settlement discussions, but at its own cost and expense.

14. Trademarks.

DDDI shall have the right to approve Supplier's plan of disposition of any Approved Products bearing any of DDDI's trademarks (collectively, "Trademarked Products") upon the expiration or termination of its Approved Supplier status or if such Approved Products do not comply with the DDDI Specifications or the DDDI Policies. Supplier shall not dispose of any Trademarked Products without first obtaining DDDI's written approval of any plan of disposition.

15. Anti-Bribery

Supplier agrees to refrain from (i) giving commissions, payments, gifts, kickbacks, lavish or extensive entertainment, or other things of value to any employee or agent or any other related party of potential influence of DDDI in connection with this Agreement;. Supplier shall not engage in any behavior or encourage action by DDDI's employees that is contrary to (i) DDDI's policies regarding conflicts of interest (www.darden.com/corporate/), (ii) public policy, or (iii) any applicable local, state, federal, or international law, regulation, ordinance, standard, or guidelines.

16. Systems Access.

Supplier may be provided access to DDDI's computer or electronic systems ("System Access"). System Access applies to all types of computer or electronic systems (or any substitute therefor) including but not limited to, any third party computer or electronic systems, e-mail, intranet, internet, extranet and telephone voicemail to which Supplier may be given access. Supplier shall be responsible for all of Supplier's actions relating to such system including use of any logon IDs, passwords or other authentication methods provided to Supplier. All Supplier connectivity or attempted connectivity to DDDI systems shall be only through DDDI's security gateways or DDDI's firewalls. Supplier shall not access, and shall not permit unauthorized persons or entities within its control to access, DDDI's computing systems without DDDI's express written authorization and any such actual or attempted access shall be consistent with any such authorization.

17. Miscellaneous Provisions.

(a) **Entire Agreement.**

These General Terms supersede all prior discussions, understandings and agreements between the parties with respect to the matters contained herein and contain the sole and entire Agreement between the parties hereto with respect to the sale by Supplier to either the Distributors or the Restaurants, of Approved Products.

(b) **Notices.**

All notices, requests, demands, tenders and other communications required hereunder shall be in writing and, shall be duly given (i) if delivered, (certified or registered mail, postage prepaid) or sent by overnight courier to the other party at its address set forth below, or (ii) if transmitted by facsimile to the facsimile number of the other party set forth below, or (iii) delivered electronically to a valid authorized email address. Either party may change its contact details by giving notice to the other party in the manner provided herein.

(c) **Waiver.**

Any term or condition of these General Terms may be waived at any time by the party hereto which is entitled to the benefit thereof, but such waiver shall be effective only if evidenced by a written document signed by such party. A waiver by DDDI must be signed by the designated representative. A waiver on one occasion shall not be a waiver of the same or any other breach on any other occasion. No course of dealing or performance by a party, and no failure, omission, delay or forbearance by a party, in whole or in part, in exercising any right, power, benefit or remedy, shall constitute a waiver of such right, power, benefit or remedy.

(d) **Amendments and Modifications.**

These General Terms may be amended or modified only by a written document signed by each of the parties hereto.

(e) **Cumulative Remedies.**

No remedy conferred upon either party is intended to be exclusive of any other remedy, and each and every such remedy shall be in addition to, and not in limitation of or substitution for, every other remedy available at law or in equity or by statute or otherwise.

(f) **Independent Contractor Relationship.**

Nothing contained herein or in any other instrument, agreement or other document delivered pursuant hereto or in connection herewith shall make either party hereto the partner, joint venture, agent or employee of the other. It is intended that Supplier is and shall continue to be an independent contractor of DDDI and Supplier shall be responsible for all of its obligations and liabilities with respect to the operation of its business.

(g) **Successors, Assigns and Affiliates.**

Except as is expressly otherwise provided herein, these General Terms are binding upon and shall inure to the benefit of the parties, their affiliates and their respective heirs, executors, legal representatives, successors and permitted assigns. Supplier may not, directly or indirectly, assign, delegate, transfer, convey or subcontract all or any portion of its rights, duties and obligations under these General Terms without the prior written consent of DDDI, which consent may be arbitrarily withheld, except in the case of an assignment to a subsidiary of Supplier where Supplier remains liable for such subsidiary's payment and performance.

(h) **Severability.**

If any provision of these General Terms or any instrument or other document delivered pursuant to these General Terms or in connection herewith is for any reason held to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect any other provision of these General Terms or any other instrument or document, and these General Terms and such other instruments and documents shall be interpreted and construed as if such invalid, illegal or unenforceable provision had not been contained therein.

(i) **Force Majeure**

Neither party shall be held responsible for any delay or failure in performance of any part of this Agreement to the extent such delay or failure is caused by fire, flood, strike, civil, governmental or military authority, act of God or other similar causes beyond its control and without the fault or negligence of the delayed or nonperforming party or its subcontractors.

18. Compliance with Laws.

Supplier shall comply at its own expense with all applicable current and future local, national, regional and international (as applicable) laws, ordinances, regulations and codes, including the identification and procurement of required permits, certificates, licenses, insurance, approvals and inspections in performance under these General Terms and Conditions and shall indemnify, defend and hold harmless DDDI and its officers, directors, employees and agents, from and against any claims arising from Supplier's failure to so comply. Supplier specifically agrees to comply with all laws regarding anti-corruption in all countries in which it operates, including the U.S. Foreign Corrupt Practices Act.

19. Governing Law; Forum.

These General Terms have been accepted by DDDI in Orange County, Florida, and shall be interpreted and construed in accordance with the United States laws of the State of Florida, without regard to its choice of law principles. If a dispute relates to this Agreement, or its breach, and the parties have not been successful in resolving such dispute through negotiation, the parties agree to attempt to resolve the dispute through mediation by submitting the dispute to a sole mediator selected by the parties or, at any time at the option of a party, to mediation by the American Arbitration Association ("AAA"). Any such mediation will be held in Orange County, Florida. Each party shall bear its own expenses and an equal share of the expenses of the mediator and the fees of the AAA. All defenses based on passage of time shall be suspended pending the termination of the mediation. Nothing in this clause shall be construed to preclude any party from seeking injunctive relief in order to protect its rights pending mediation. In the event mediation is unsuccessful, the parties agree to submit the matter for binding arbitration by AAA before three (3) arbitrators, one chosen by DDDI, one chosen by Supplier and the third chosen jointly by DDDI and Supplier, and in accordance with the AAA rules for commercial arbitration. Any such arbitration will be conducted in Orange County, Florida. In such event, each party shall bear its own expenses and an equal share of the arbitrator fees of the AAA.

IN WITNESS WHEREOF, each of the parties has executed and delivered this instrument.

DARDEN DIRECT DISTRIBUTION, INC.

SUPPLIER NAME:

(on behalf of itself and its Affiliates as defined in paragraph 1 above)

By:

By (Signature):

Douglas J. Milanese
Senior Vice President
1000 Darden Center Drive
Orlando, Florida 32837
Facsimile: (407) 241-5523

Name (Print): _____
Title: _____
Address: _____
City, State, Zip: _____
Facsimile: _____

ATTACHMENT A

INTERNATIONAL TERMS AND CONDITIONS

INTERNATIONAL TERMS

In addition to the terms and conditions contained in the body of the Agreement, the following terms shall apply to purchases made hereunder from non-U.S. Suppliers:

I. PACKING, MARKING AND CUSTOMS INVOICES

- A. Identification of the products must include the name of the country of origin
- B. All products must be prepared and packed by line item for export shipment in a manner acceptable to DDDI and in compliance with carrier regulations so as to prevent damage or deterioration. Order line must be packed separately.
- C. The packing must clearly delineate line items when more than one line item is included in the shipment.
- D. All unit containers, intermediate containers and other shipping containers shall be marked in English and in accordance with DDDI's instructions.
- E. The No. 1 shipping container in each shipment shall contain one (1) copy in English of
 - (i) the packing list listing the contents of the entire shipment; and
 - (ii) any test reports specified in the applicable specifications
- F. All containers and shipping documents must be marked as follows:

NOTIFY THE BROKER FOR CUSTOMS CLEARANCE

- G. Immediately after shipment, airmail one (1) complete set of documents which consists of three (3) copies of commercial invoices and one (1) copy of original shipper's Bill of Lading to the attention of DDDI _____. Also, attach one (1) complete set of the above described documents to the air bill/ocean bill and place another set in the No. 1 container.
- H. Prior to export, one (1) copy of the required Customs Invoice shall be enclosed in a waterproof envelope or wrapper, clearly marked CUSTOMS INVOICE, and securely attached to the outside of the No. 1 shipping container in each shipment.
- I. Additional copies of packing lists, test reports, and Customs Invoices shall be furnished to DDDI in accordance with DDDI's written instructions.
- J. Unless otherwise specified, the price stated in the Order includes the costs of preparing and packaging for shipment, container marking, and furnishing packing lists and test reports, all in accordance with this clause.
- K. Supplier shall, at its expense, obtain all necessary export licenses, approvals and authorizations required to export products.

II. DELIVERY

- A. All products delivered in accordance with the terms and place of delivery specified in Provision 5(b) of the Agreement and shall be governed by the provisions of the Incoterms as published by the International Chamber of Commerce. In the case of any conflict between the provision of this Agreement (including a purchase order) and the Incoterms, the provision of the Agreement (including the Purchase Order) shall govern.
- B. The delivery dates contained in the Purchase Order are the dates that the products are required on dock by DDDI.

C. If Supplier fails to meet the delivery schedule, DDDI, without limiting its other remedies, may direct expedited routing and the difference between the expedited routing and the original routing costs shall be paid by Supplier.

III. CUSTOMS DUTY DRAWBACK/OFFSET – Supplier will cooperate with and assist DDDI in obtaining all Customs Duty Drawback and offset credits DDDI is entitled to receive, as a result of this Agreement.

IV. VENUE – If the parties are precluded by reason of governmental authority, law or other mandate, from pursuing Arbitration as required by the Agreement, the parties agree that any lawsuit or other legal actions shall be filed in the court of general jurisdiction in the State of Florida, U.S.A., or in the Federal District Court for Central Florida, U.S.A. Supplier agrees to submit to the jurisdiction of any such court; agrees to venue in such court; waives any defense of forum nonconveniens; agrees to notice and service of process by mail at its address specified in the Agreement; and agrees to the enforcement of any award or judgment in any jurisdiction in which Supplier has business, is an agent or has assets.