

## Purchase Order Terms and Conditions

These Terms and Conditions apply to all goods and services (“Goods”) described in this purchase order (“Purchase Order”) referencing these Terms and Conditions and performed by you (“Supplier”) for Archway Marketing Services, Inc. (“Company”). The Purchase Order, these Terms and Conditions, and any attachments constitute the “Agreement.”

**1. Term and Termination.** Unless earlier terminated in accordance with this Section, this Agreement expires on the earlier of: (a) the date specified on the Purchase Order (if any), and (b) the date on which the Goods have been completed and delivered to Company. Either party shall have the right to terminate this Agreement: (a) upon breach by the other party of a material provision of this Agreement and that party’s failure to cure such breach within 10 days following written notice thereof from the non-breaching party; or (b) immediately upon notice to the other party following the commencement of any bankruptcy or insolvency proceeding (whether voluntary or involuntary) by or against such other party or its assets (which, in the event of an involuntary proceeding, is not dismissed within 60 days), the general assignment by the other party for the benefit of its creditors, or the appointment by or for the other party of a receiver, trustee or liquidator.

**2. Price.** Company shall purchase the Goods from Supplier at the prices set forth on the Purchase Order. Supplier shall not at any time sell the same or like Goods to a different purchaser at similar volumes for prices below those offered to Company. All prices include insurance and taxes related to the Goods, and any duties and charges of any kind imposed by any governmental authority with respect to, or measured by, the manufacture, sale, shipment, use or price of the Goods. All shipping and handling charges will be listed on a separate line item.

**3. Orders and Shipment.** Supplier shall electronically confirm acceptance of the Purchase Order within 24 hours of electronic receipt thereof. Supplier shall properly pack and ship any Goods and provide Company with shipment documentation showing the Purchase Order number, Supplier’s identification number for the subject Goods, the quantity of Goods in shipment, the number of cartons or containers in shipment, Supplier’s name, and any other relevant information. Supplier shall ship the Goods according to the terms specified on the Purchase Order. All prices are FOB the delivery location. If Supplier fails to ship the Goods within the shipment period specified on the Purchase Order, Company may cancel the portion of the Purchase Order for which timely shipment has not been made or elect to accept late shipment on terms mutually agreed with Supplier, in each case in Company’s sole discretion. Company may cancel any Purchase Order at any time upon notice to Supplier and, upon such notice of cancellation, Supplier shall stop work under such Purchase Order. Company shall only pay for the work completed prior to the written notice and Company shall be entitled to any and all partial Goods produced as a result of such completed work.

**4. Title and Risk of Loss.** Title to Goods shipped under any Purchase Order passes to Company upon receipt by Company at the specified delivery location. Risk of loss to Goods shipped under any Purchase Order passes to Company upon receipt by Company at the specified delivery location.

**5. Invoices.** Contemporaneously with each delivery of Goods to Company, Supplier shall issue an invoice to Company for the Goods being delivered. Invoices shall reflect the purchase price for the applicable delivery and shall be sent in accordance with Company’s standard procedures, as communicated from time-to-time by Company to Supplier.

**6. Payments.** Unless otherwise specified on the Purchase Order, payment terms are 2% 30 days net 60 days. Company shall pay all amounts due under any invoice submitted by Supplier within 60 days from the later of: (a) the date of receipt of the invoice and (b) the date of acceptance of the Goods related to such invoice in accordance with Section 9 (it being understood that Company’s obligation to pay for any Goods is subject to Company’s acceptance of the Goods as conforming).

**7. Disputes.** The parties shall seek to resolve any disputes with respect to the invoices issued to Company expeditiously and in good faith. The parties shall continue performing their obligations under this Agreement during any such dispute, including Supplier’s obligation to provide Goods and Company’s obligation to pay all due and undisputed invoice amounts in accordance with the terms of this Agreement.

**8. Inspection.** Company shall inspect Goods received under this Agreement and either accept or, if any such Goods are nonconforming in any respect or contain defects (“Nonconforming Goods”), reject such Nonconforming Goods in Company’s sole discretion. If Company rejects any Nonconforming Goods, Supplier shall, at Company’s option, either: (a) replace such Nonconforming Goods with conforming, defect-free Goods; or (b) refund to Company such amount paid by Company, if any, to Supplier for such Nonconforming Goods returned by Company to Supplier. Company shall ship, at Supplier’s expense and risk of loss, all Nonconforming Goods to Supplier’s facility or to such other location as Supplier may instruct Company in writing. If Company exercises its option to have the Nonconforming Goods replaced, Supplier shall ship to Company at the location specified by Company, at Supplier’s expense and risk of loss, the replacement Goods.

**9. Indemnification.** Supplier shall indemnify, defend and hold harmless Company and its representatives, officers, directors, employees, agents, affiliates, successors and permitted assigns (collectively, the “Indemnified Parties”) against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys’ fees, fees and the costs of enforcing any right to indemnification under this Agreement and the cost of pursuing any insurance providers (collectively, “Losses”), arising out of or resulting from any third-party claim or any direct claim against any Indemnified Party alleging: (a) a breach or non-fulfillment of any representation, warranty, covenant or other term of this Agreement by Supplier; (b) any negligent act or omission of Supplier or its employees or representatives (including any recklessness or willful misconduct) in connection with the performance of this Agreement; (c) any use, sale, resale, or recall of the Goods caused by the willful or negligent acts or omissions of Supplier or its employees or representatives; (d) any failure by Supplier or its employees or representatives to comply with any applicable laws; and (e) any actual infringement, violation, or misappropriation of any patent, copyright, trade secret, trademark or other intellectual property rights of Company or a third party.

**10. Confidentiality.** During the term of this Agreement and for two years thereafter, Supplier shall hold, and shall cause its officers, directors, employees, accountants, counsel, consultants, advisors and agents to hold, in confidence, unless compelled to disclose by judicial or administrative process or by other requirements of law, all information received from Company (including the terms of this Agreement), except to the extent that such information can be shown to have been in the public domain through no fault of Supplier or lawfully acquired on a non-confidential basis by Supplier from sources that are not related to Company and do not have any obligation to Company or any third party to keep that information confidential.

**11. Ownership of Property.** All property used by Supplier in connection with this Agreement that is owned, furnished, charged to, or paid for by Company, including, but not limited to, intellectual property, materials, artwork/prepress files, tools, dies, molds, patterns, fixtures, equipment, drawings and other technical information, specifications, and any replacement thereof shall be and remain the property of

Company subject to removal and inspection, as applicable, by Company at any time without cost or expense to Company, and Company shall have free access to Supplier’s premises for the purpose of inspecting or removing such property. All such property shall be identified and marked as Company’s property and adequately insured by Supplier at its expense. Supplier shall assume all liability for, maintain and repair such property, and return the same to Company upon written request in its original condition, reasonable wear and tear excepted. Supplier shall not substitute any property for Company’s property and shall not use such property except in filling Company’s orders. In addition, any property (whether tangible or intangible) prepared or developed by Supplier or any Supplier employee, representative, subcontractor or other agent pursuant to this Agreement, or resulting from the services provided hereunder, shall be the sole and exclusive property of Company. Supplier hereby assigns to Company any and all inventions, creations, improvements, know-how, deliverables or other developments, and all patents, copyrights, trademarks or applications therefore, created or developed by Supplier pursuant to this Agreement, or resulting from the services provided hereunder.

**12. Supplier’s Ability to Sell.** Supplier warrants and represents that (a) the Goods (and, if applicable, their resale) will not infringe any patent of any third party other than as a result of any art work designed or provided by Company; (b) Goods sold under a trademark which is not owned or licensed by Company will not infringe any trademark, trade dress, trade name, or copyright of any third party; and (c) Supplier is not a party to any agreement or understanding that creates any impediment or restriction that limits, prohibits or prevents Supplier from selling and delivering the Goods or limits, prohibits or prevents Company from reselling the Goods.

**13. Insurance.** During the Term, Supplier shall, at its own expense, maintain and carry in full force and effect levels and types of insurance that are commercially reasonable for Suppliers in the line of business in which Supplier operates.

**14. Warranties.** Supplier warrants that the Goods (a) are free from all defects, including but not limited to defects in workmanship, materials, packaging, and construction; (b) fit for their intended use; and (c) conform to the specifications agreed to in writing from time to time by the parties.

**15. Non-Circumvention.** Without the prior written consent of Company, neither Supplier nor any of Supplier’s representatives will, directly or indirectly, (a) initiate or cause to be initiated (other than through Company) any communication with any person or entity that is a customer of or has a business relationship or prospective business relationship with Company, concerning this Agreement, the Goods, or a transaction with Company or such person or entity, or any other matter concerning Company, (b) cause, induce or attempt to cause or induce such person or entity to cease entering into a transaction or doing business with Company, or in any way interfere with Company’s relationship with such person or entity, (c) initiate, solicit, encourage or conduct discussions or negotiations, or enter into an agreement or other arrangement, with such person or entity, or (d) circumvent Company by entering into a transaction or business relationship with such person or entity without Company or that competes with the business of Company. For the avoidance of doubt, Supplier shall not be in violation of the previous sentence to the extent Supplier was engaged in a relationship with any such person or entity that is a current or potential customer or business partner of Company if Supplier’s relationship with such person or entity existed prior to the date of this Agreement and such relationship continues during the term of this Agreement.

**16. Compliance with Laws.** Supplier shall at all times comply with all laws applicable to this Agreement, Supplier’s performance of its obligations hereunder and Supplier’s manufacture, use or sale of the Goods. Without limiting the generality of the foregoing, Supplier shall (a) at its own expense, maintain all certifications, credentials, licenses and permits necessary to conduct its business relating to the manufacture, sale, purchase, or use of the Goods and (b) not engage in any activity or transaction involving the Goods, by way of sale, resale, lease, shipment, use or otherwise, that violates any law. Supplier shall at all times comply with the Fair Labor Association Workplace Code of Conduct (<http://www.fairlabor.org/labor-standards>) (the “Workplace Code”). Supplier acknowledges that the Workplace Code includes, among other things, standards related to child and forced labor. Supplier shall use reasonable efforts to ensure that its own domestic and international suppliers comply with the Workplace Code. Supplier shall maintain and make available to Company and its agents all records necessary to demonstrate compliance with the Workplace Code and shall make those records available for audit during Supplier’s regular business hours at Supplier’s office and available in electronic form at Company’s request. Supplier shall notify Company promptly regarding any violation of this Section 16.

**17. Audit and Inspection.** Supplier shall maintain and make available to Company and its agents all records and books of account detailing any costs charged under this Agreement or any invoice. Supplier shall make these records available for audit during Supplier’s regular business hours at Supplier’s office and available in electronic form at Company’s request. Company may send one or more of its employees or agents to inspect, during Supplier’s regular business hours and upon reasonable advance notice, those portions of Supplier’s facilities at which the Goods are manufactured and stored.

**18. Assignment and Successors.** Supplier shall not assign or subcontract this agreement or any of its related rights or obligations unless Company agrees to that assignment or subcontracting in writing. This Agreement shall inure to the benefit of and be binding upon each of the parties and their respective permitted successors and assigns.

**19. No Agency.** The relationship between the parties is that of Supplier and customer, and this Agreement does not establish a partnership, joint venture, or other agency relationship.

**20. Notices.** Any notice or other communication required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given (a) upon hand delivery, (b) on the third day following delivery to U.S. Postal Service as certified or registered mail, return receipt requested and postage prepaid, (c) on the first day following delivery to a nationally recognized United States overnight courier, fees prepaid, return receipt or other confirmation of delivery requested or (d) when sent by facsimile transmission or electronic mail. Any such notice or communication shall be directed to a party at its address set forth on the Purchase Order or at such other address as may be designated by a party in a notice given to all other parties hereto in accordance with the provisions of this Section.

**21. Complete Agreement.** Neither this Agreement nor any provision hereof may be changed, waived, modified, discharged, amended or terminated unless by an instrument in writing signed by all parties hereto. The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any other or subsequent breach. The failure of any party at any time or times to require performance of any provision hereof shall in no manner affect its right at a later time to enforce the same. This Agreement constitutes the only agreement among the parties hereto concerning the subject matter hereof and supersedes all prior agreements, whether written or oral, relating thereto.

**22. Governing Law.** The parties agree that this Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to conflicts of laws provisions thereof.