

CONDITIONS OF PURCHASE

AP Labs shall mean Advanced Processing Laboratories, Inc. UCC shall mean Uniform Commercial Code as enacted and in force in the State of California on the date of the purchase order (agreement).

1. **ACCEPTANCE OF AGREEMENT** – Acceptance of the agreement by Seller is limited within the meaning of UCC Sections 2207(2)(a) to terms and conditions hereof. Any additional or different terms and conditions proposed by Seller are hereby rejected and shall not be binding unless AP Labs expressly agrees to them in writing. Acceptances or confirmations which propose additional or different terms and conditions shall be operative as acceptances, provided, however, that if such additional or different terms and conditions shall be deemed material alterations within the meaning of UCC Section 2207(2)(b) and notice of objection to them pursuant to UCC Section 2207(2)(c) is hereby given.
2. **PRICE** – The parties intend not to be bound by this agreement unless they agree on price. If no price appears herein, the goods or services shall be charged at prices not exceeding last previously quoted or charged for like quantities. Seller represents that the prices quoted are as low as any net price now charged any other customer of the same class for like goods or services at like quantities. Seller agrees that if at any time during the pendency of this agreement lower net prices are quoted under similar conditions to any other customer of the same class for like goods or services at like quantities, such lower net prices shall be from that time automatically substituted for the prices specified herein. Except as may be otherwise provided in this agreement, the price includes all applicable federal, state and local taxes.
3. **PACKING, SHIPPING, DELIVERY, PAYMENT** – All shipments will be packed to prevent damage in transit, assure lower transportation costs and meet carrier's tariff requirements. No charge will be made for boxing, crating or storage without the prior written authorization of AP Labs. In the absence of specific instructions, shipments shall be forwarded by whatever means is necessary to comply with the delivery date specified. Seller shall not insure shipments in excess of the carrier's maximum liability. **Time is of the essence.** Goods or services shall be delivered in accordance with the delivery date specified. Notwithstanding any course of dealing or usage of trade to the contrary, all goods and services provided pursuant to this agreement shall be delivered in a single lot. Unless otherwise specifically agreed to in advance in writing, seller shall have no right to deliver in installments or to demand payment of each installment. Payment shall be due and owing at the time the last shipment of goods or services under this agreement is received by AP Labs.
4. **DELAYS** – Whenever Seller has knowledge that any event is delaying or threatens to delay the timely performance of the agreement, Seller shall immediately give notice thereof, including all relevant information with respect thereto, to AP Labs. AP Labs will fairly consider the effect of any such notice of delay, but the giving of such notice shall in no way affect any rights AP Labs may have under the **"DEFAULT"** clause or any other provision of this agreement.
5. **RISK OF LOSS, REJECTION** – Unless otherwise agreed to in advance in writing, this agreement is a destination contract. Goods and services provided must not be in excess of quantity ordered; overshipments may be returned at Seller's expense. Every tender of goods or services must fully comply with all provision of this agreement. If a tender is made which does not fully conform such non-conforming tender shall constitute a breach of this agreement and Seller shall not have the right to substitute a conforming tender unless specifically agreed to in advance in writing by AP Labs. AP Labs shall have a reasonable amount of time after receipt to accept or reject each tender of goods or services. AP Labs may require prompt replacement or

correction, at Seller's expense, of rejected foods or services including an equitable reduction in price. Seller shall not resubmit rejected goods without prior written approval and instructions from AP Labs. Seller shall identify resubmitted items as having been previously rejected.

6. **DEMAND FOR ASSURANCE** – In the event any delivery is more than ten (10) days late, non-conforming or varies in quantity from that set forth in this agreement, AP Labs shall have the right to demand assurance of performance with respect to ensuing deliveries. Seller agrees that the assurance shall be in the form of a performance bond with sufficient sureties and in the amount sufficient to ensure the complete performance of this agreement conditioned on the proper, timely and full delivery of all ensuing deliveries. Such bond shall be furnished within ten (10) days after receipt by Seller of the demand to assurance.
7. **CHANGES** – AP Labs may at any time by a written notification make changes within the general scope of this agreement in any one or more of the following: (a) drawings, designs or specifications, where the goods are to be specially manufactured for AP Labs in accordance therewith; (b) method of shipment or packing, and (c) place of delivery. If any such changes causes an increase or decrease in the cost of or the time required for the performance of any part of the work under this agreement, an equitable adjustment shall be made in the agreement price of delivery schedule or both and the agreement shall be modified in writing accordingly. Any claim by Seller for adjustment under this clause must be asserted within twenty (20) days from the date of receipt of the notification provided, however, that AP Labs, if it decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment. However, nothing in this clause shall excuse Seller from proceeding with the agreement as changed. AP Labs technical personnel may exchange technical information with Seller's technical personnel concerning goods to be furnished. Any such exchange of information shall be only by way of assistance and shall in no way relieve Seller of its obligation to perform under this agreement. AP Labs shall not be bound by any change effected by Seller unless it is specifically authorized by AP Labs in advance in writing.
8. **RESERVATIONS OF RIGHTS, WAIVER** – The failure of AP Labs to object to the manner of performance of any of the terms or conditions stated herein shall not be considered a waiver of any rights or remedies, past, present, or future and the fact that objection is not taken with respect to any performance which is not in compliance herewith shall not be construed as an acceptance or acquiescence in such performance. AP Labs reserves the right to insist upon strict compliance with this agreement at all times. No claim or right arising out of a breach of this agreement can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the waiving party. No waiver of an executory portion of this agreement shall be valid and enforceable unless it is in writing, supported by consideration and signed by the waiving party.
9. **DEFAULT** – Seller shall be in default for any action of failure to act constituting a breach of contract at law including but not limited to (a) failure to deliver the goods in accordance with the delivery schedule, (b) failure to comply, within ten (10) days of having received written notice from AP Labs, with any other provision hereof or (c) failure to make progress, thereby endangering performance. Notice of default will be given by AP Labs to Seller. If Seller is in default, AP Labs may terminate this agreement or any part thereof and may invoke all rights and remedies provided by law including but not limited to "cover" within the meaning of UCC Section 2712.
10. **WARRANTY** – Seller warrants that its goods or services are merchantable, of best quality, free from defects in materials and workmanship, as ordered and described and in strict conformance

with all descriptions, drawings and specifications submitted by AP Labs. All warranties shall be deemed conditions as well as warranties. The failure of Seller to perform any condition of warranty will relieve AP Labs of its obligation to accept and pay for the goods or services. In the alternative, AP Labs may accept the goods or services and treat Seller's non-conformance as a breach of warranty. This warranty shall survive acceptance and payment for the goods or services: acceptance shall not bar revocation for latent defects.

11. **INSPECTION** – All goods or services to be supplied under this agreement shall at all times and places, including the period of manufacture, be subject to inspection and test by AP Labs or its authorized agents. AP Labs shall have access to all areas of Seller's premises and to the premises of Seller's subcontractors in which work on this agreement is being performed. Seller and Seller's subcontractors shall provide all reasonable facilities to and assistance to AP Labs' representatives in the performance of their duties. All items to be supplied under this agreement are subject to final inspection and acceptance at AP Labs' plant, notwithstanding any payment or other prior inspections, or design approvals. Seller shall provide and maintain a quality assurance and control system acceptable to AP Labs.
12. **WORK ON AP LABS' OR THIRD PARTY'S PREMISES** – If seller or any of its agents or subcontractors in the performance of this agreement enters upon premises occupied by AP Labs or upon the premises of a third party, Seller shall take all precautions necessary to prevent injury to persons or property. Seller shall indemnify AP Labs against all loss (including death) on account of claims of injury to persons or damage to property which may result in any way from an act or omission of Seller or of its agents, employees, or subcontractors. Seller shall also maintain such public liability, property damage, employer's liability compensation and motor vehicle liability (personal injury and property damage) insurance as well protect Seller (or its contractors) and AP Labs from any risk and from any claims under any applicable workman's compensation or occupational disease statutes.
13. **NONDISCLOSURE AND SAFEGUARDING OF PROPRIETARY INFORMATION** – Goods made in accordance with AP Labs' specifications, drawings, or samples shall not be furnished or quoted to any third party nor shall they be copied, sold, offered or advertised for sale by Seller without prior written authorization of AP Labs. All specifications, drawings, technical data, tools, jigs, dies, fixtures, materials and other items or information furnished by AP Labs or the cost of which is charged against this agreement shall be considered proprietary information and shall be and shall remain the property of AP Labs and must be returned to AP Labs immediately upon request. Seller agrees to protect the confidentiality of all such proprietary information against unauthorized disclosure and shall mark all such items or information with the name of "Advanced Processing Laboratories, Inc." and the corresponding drawing number, where applicable, and shall be responsible for the safekeeping of such items when in its custody. If an item is to become the property of the United States Government, it shall be marked in accordance with instructions furnished by AP Labs. All items furnished or paid for by AP Labs shall remain or shall become the property of AP Labs, shall be subject to removal without additional cost at any time upon demand by AP Labs, shall be used only in conjunction with agreements between Seller and AP Labs, shall be kept separate from other materials and shall be clearly identified as the property of AP Labs. Seller assumes all liability for loss or damage and shall protect against such eventuality by insurance acceptable to AP Labs.
14. **INTELLECTUAL PROPERTY** – To the extent the goods or services provided subject hereto are in accordance with designs originated or otherwise furnished by Seller. Seller warrants and guarantees that such goods or services do not infringe any valid patent, copyright or trademark

owned or controlled by any third party. Seller agrees to defend, indemnify and hold AP Labs and its customers harmless against any and all liability, loss or expense by reason of any claim, action or litigation arising out of any alleged or actual direct or contributory infringement of any patent, copyright, or trademark, foreign or domestic, resulting from the use or re-sale of such goods or services or any component part thereof. AP Labs agrees to give Seller timely notice, an opportunity to settle such claim and such opportunity as is offered by applicable laws, rule or regulations to undertake the defense of any action or litigation arising therefrom.

15. **ASSIGNMENT, DELEGATION, SUBCONTRACTS** – No right or interest in this agreement shall be assigned without the prior written consent of the other party. Seller shall not subcontract any portion of the work under this agreement without the prior written consent of AP Labs. Seller may assign claims for monies due under this agreement only with prior written consent of AP Labs, however, all claims for monies due or to become due from AP Labs shall be subject to setoff or counterclaim arising out of this or any other AP Labs agreement with Seller whether before or after the date of this agreement. No delegation of any obligation owed or the performance of any obligation by Seller shall be made without the prior written consent of AP Labs. Any attempted assignment, delegation or subcontract shall be void and totally ineffective for all purposes unless made in accordance with this paragraph.
16. **PUBLICITY** – Seller shall not, without prior written consent from AP Labs, in any manner advertise or publish the fact that the goods or services provided hereunder have been furnished or have contracted to be furnished to AP Labs. Specific details of this agreement shall not be disclosed to any third party nor shall goods made to AP Labs' design or specifications be supplied to any third party without prior written consent of AP Labs.
17. **COMPLIANCE WITH LAWS** – Seller shall comply with the Fair Labor Standard Act of 1938, as amended, and all other local, state and federal laws and regulations and with the most recent Executive Orders regarding non-discrimination against any employee or applicant for employment because of race, creed, color, national origin, age or sex and agrees to indemnify AP Labs against any loss, liability or damage by reason of Seller's violation thereof.
18. **INSOLVENCY** – In the event of any proceeding, voluntary or involuntary, in bankruptcy or insolvency by or against Seller, or in the event of the appointment, with or without the Seller's consent, of an assignee for the benefit of creditors or of a receiver, AP Labs may elect to cancel this agreement without further cost or liability.
19. **FINALITY, MODIFICATIONS** – This writing is intended by the parties as a final expression of their agreement and is intended as a complete and exclusive statement of the terms and conditions thereof. No course of dealing or usage of trade shall be relevant to contradict or modify any term or condition stated herein. Whenever a term defined by the UCC is used in this agreement the definition contained in the UCC is controlling. This agreement can be modified, amended or rescinded only by a writing signed by both parties.
20. **APPLICABLE LAW** – This agreement and all the rights and obligations of the parties shall be governed by and interpreted in accordance with the laws of the State of California including the UCC as enacted and in force in the State of California on the date hereof.
21. **GOVERNMENT CONTRACTS** – If this is an agreement under a Government prime contract or subcontract, applicable additional clauses set forth in the Federal Acquisition Regulation (FAR) in effect on the date of this agreement are incorporated by reference herein. AP Labs shall make a copy of such applicable FAR clauses available to Seller upon Seller's request therefor in writing, in interpreting any such applicable FAR clauses or this agreement, "Contractor" shall mean Seller,

“Contracting Officer” and “Government” shall mean AP Labs and “Contract” shall mean this agreement.

22. **EQUAL EMPLOYMENT OPPORTUNITY** – The provisions of Executive Order 11246, as amended by Executive Order 11375 (Equal Employment Opportunity), 38 USC 2012 (Vietnam Era Veterans Readjustment Assistance Act of 1974), Section 503 of the Rehabilitation Act of 1973 (Handicapped Regulations), and the implementing regulations found at 41 CFR 60-1&2, 41 CFR 60-741, respectively are hereby incorporated by reference.