Purchase Order Terms and Conditions

Vendor and The Sun Products Corporation ("Buyer") agree to be bound by all terms and conditions contained or incorporated herein, all of which are a part of each Purchase Order issued to Vendor by Buyer ("Order") and should be carefully read. Any provisions in Vendor's invoices, billing statements, acknowledgment forms or similar documents which are inconsistent with the provisions of an Order shall be of no force or effect. The cost price set forth in each Order includes the cost of manufacturing, packaging, labeling and shipping unless otherwise specified in the Order.

1. **Vendor's Acceptance**. Vendor's commencement of or promise of shipment of the Merchandise shall constitute Vendor's agreement that it shall deliver the Merchandise in accordance with the terms and conditions of the applicable Order. Vendor agrees to follow the shipping and invoicing instructions issued by Buyer, Buying office, Transportation and Accounting Departments, which instructions are incorporated by reference into the applicable Order. Vendor agrees to establish and maintain a quality system as defined in the Sun Supplier Quality Expectations Manual.

2. **Vendor's Representations and Warranties**. Vendor represents and warrants to Buyer, in addition to all warranties implied by law, that each item of merchandise described on the face of an Order (or in an EDI or telephone Order), together with all related packaging and labeling and other material furnished by Vendor ("Merchandise"), shall (a) be free from defects in design, workmanship and/or materials including, without limitation, such defects as could create a hazard to life or property; (b) conform in all respects with all applicable federal, state and local laws, orders and regulations, including, without limitation, those regarding occupational safety and health; c) not infringe or encroach upon Buyer's or any third party's personal, contractual or proprietary rights, including, without limitation, patents, trademarks, copyrights, rights of privacy or trade secrets; (d) conform to all of Buyer's specifications and to all articles shown to Buyer as Merchandise samples.

3. **Vendor's Indemnification of Buyer**. Vendor agrees to reimburse, indemnify, hold harmless and to defend at its expense (or to pay any attorney's fees incurred by Buyer) The Sun Products Corporation against all damage, loss, expense, claim, liability or penalty, including, without limitation, claims of infringement of patents, copyrights, trademarks, unfair competition, bodily injury, property or other damage, arising out of any use, possession, consumption or sale of said Merchandise and from any failure of Vendor to properly perform an Order. Vendor shall obtain adequate insurance to cover such liability under each Order and shall provide copies of the applicable certificate(s) of insurance upon request of Buyer.

4. **Defective or Non-conforming Merchandise**. If any Merchandise is defective, unsuitable, does not conform to all terms hereof and of the Order and all warranties implied by law, Buyer may at its option return it to Vendor for full credit or refund of the purchase price or repair it at Vendor's expense, and may charge Vendor such price or expense and the cost of any incurred inbound and outbound freight and a handling, storage and inspection charge of 7½% of the returned Merchandise invoice price.

5. **Buyer's Right to Cancel**. Buyer may terminate and rescind all or part of an Order in the event Vendor breaches or fails to perform any of its obligations in any material respect, or in the event Vendor becomes insolvent or proceedings are instituted by or against Vendor under any provision of any federal or state bankruptcy or insolvency laws or Vendor ceases its operation. Time is of the essence to each Order, and Vendor's failure to meet any delivery date shall constitute a material breach of the Order.

6. **Special Features**. All material designs, patents and trade names which are supplied by Buyer to Vendor or which are distinctive of Buyer's Material ("Special Features") shall be the property of Buyer and shall be used by Vendor only for Buyer. Buyer may use the Special Features on or with respect to goods manufactured by others and obtain legal protection for the Special Features including, without limitation, patents, patent designs, copyrights and trademarks. Materials with Special Features which is not delivered to Buyer for any reason shall not be sold or transferred to any third party without written authorization of Buyer.

7. **Deductions and Set Off**. Any sums payable to Vendor shall be subject to all claims and defenses of Buyer, whether arising from this or any other transaction, and Buyer may set off and deduct against any such sums all present and future indebtedness of Vendor to Buyer. Buyer shall provide a copy of the deduction voucher(s) for debits taken by Buyer against Vendor's account as a result of any returns or adjustments. Vendor shall be deemed to have accepted each such deduction unless Vendor, within 90 days following receipt of the deduction voucher, notifies Buyer in writing as to why a deduction should not be made and provides documentation of the reason(s) given. Such written notice shall be directed to: Vendor Audit Department, The Sun Products Corporation, P.O. Box 25057, Salt Lake City, Utah 84125. Buyer shall not be liable to Vendor for any interest or late charges.

8. **Utah Contract and Jurisdiction**. EACH ORDER SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF UTAH, AND IT IS AGREED THAT VENDOR SHALL EXERCISE ANY RIGHT OR REMEDY THEREUNDER EXCLUSIVELY IN, AND HEREBY CONSENTS TO THE JURISDICTION OF THE STATE OF UTAH COURTS OF SALT LAKE COUNTY, UTAH OR THE UNITED STATES DISTRICT COURT IN SALT LAKE CITY, UTAH.

9. **Miscellaneous**. (a) All rights granted to Buyer hereunder shall be in addition to and not in lieu of Buyer's rights arising by operation of law. (b) Any provisions of a hard copy Order which are typewritten or handwritten by Buyer shall supersede any contrary or inconsistent printed provisions therein. c) No modification of terms of an Order shall be valid without the written authorization of Buyer. (d) Should any of the provisions of an Order be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of any remaining provisions.