

# SUPPLY AGREEMENT

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This Supply Agreement (this "**Agreement**") is entered into as of [EFFECTIVE DATE] (the "**Effective Date**") by and between:

[SUPPLIER LEGAL NAME], a [STATE] [ENTITY TYPE, e.g. limited liability company] with its principal place of business at [SUPPLIER ADDRESS] (the "**Supplier**"); and

[BUYER LEGAL NAME], a [STATE] [ENTITY TYPE] with its principal place of business at [BUYER ADDRESS] (the "**Buyer**").

Supplier and Buyer are each a "**Party**" and together the "**Parties**."

**Recitals.** Buyer wishes to purchase, and Supplier wishes to manufacture and supply, certain goods on a recurring basis, on the terms below. Specific quantities will be ordered through purchase orders that reference this Agreement. In consideration of the mutual promises below, the Parties agree as follows.

## 1. Products and Specifications

**1.1 Products.** Supplier will manufacture and supply to Buyer the goods described in **Exhibit A (Products and Specifications)** (the "**Products**"), which the Parties may amend by signed written agreement.

**1.2 Specifications.** Each Product will conform to the specifications, drawings, tolerances, and quality standards in Exhibit A (the "**Specifications**"). Supplier will not change a Specification, or the materials, processes, or facility used to make a Product, without Buyer's prior written consent.

**1.3 Forecasts.** Buyer may provide non-binding rolling forecasts of its expected requirements for planning purposes. A forecast is an estimate only and does not create a purchase commitment except as Section 2 provides.

**1.4 Minimum and maximum volumes.** [OPTIONAL: During each [PERIOD], Buyer will purchase at least [MINIMUM] units, and Supplier will supply up to [MAXIMUM] units on the standard lead time. Define how shortfalls or excess demand are handled.]

## 2. Ordering and Lead Time

**2.1 Purchase orders.** Buyer will order Products by issuing written purchase orders (each, a "**Purchase Order**") stating the Products, quantities, prices, delivery dates, and delivery locations. A Purchase Order is governed by this Agreement, and conflicting pre-printed terms on either Party's forms have no effect.

**2.2 Acceptance.** Supplier will accept or reject each Purchase Order in writing within [NUMBER, e.g. 5] business days. A Purchase Order that conforms to this Agreement and is within accepted forecast volumes is deemed accepted if Supplier does not reject it within that period.

2.3 **Lead time.** Supplier will deliver accepted Purchase Orders within the lead time stated in Exhibit A, or as otherwise agreed in writing for a given Order.

2.4 **Capacity and continuity.** Supplier will maintain sufficient capacity, materials, and qualified personnel to meet accepted Purchase Orders and reasonable forecasted demand. Supplier will promptly notify Buyer of any event likely to disrupt supply.

### 3. Pricing and Payment

3.1 **Prices.** Prices for the Products are stated in Exhibit A. Unless Exhibit A says otherwise, prices are in **[CURRENCY, e.g. US dollars]**, are exclusive of taxes, and include standard packaging.

3.2 **Price adjustments.** Prices are firm through **[DATE OR PERIOD]**. Thereafter, Supplier may propose a price change on **[NUMBER, e.g. 60]** days' prior written notice, supported by documentation of cost changes. A proposed change does not apply to Purchase Orders already accepted, and the Parties will negotiate proposed changes in good faith.

3.3 **Invoicing and payment.** Supplier will invoice Buyer on delivery, and Buyer will pay each undisputed invoice within **[NUMBER, e.g. 30]** days of the invoice date. Undisputed amounts not paid when due accrue interest at the lesser of **[e.g. 1.5%]** per month or the maximum rate permitted by applicable law.

3.4 **Taxes.** Buyer is responsible for sales, use, and similar taxes arising from a purchase, except taxes based on Supplier's net income, stated separately on each invoice.

### 4. Delivery, Title, and Risk of Loss

4.1 **Delivery terms.** Delivery terms are **[e.g. FOB Destination / FOB Origin — confirm and define the shipping term or Incoterm]**. Title and risk of loss pass to Buyer in accordance with that term.

4.2 **Packaging and shipping.** Supplier will package and label the Products to protect them in transit and in accordance with Buyer's reasonable written instructions and applicable law.

4.3 **Late delivery.** If Supplier cannot meet a delivery date, it will promptly notify Buyer and, at Buyer's request, use expedited shipping at Supplier's expense to mitigate the delay. Buyer may cancel any Order not delivered within **[NUMBER]** days after the agreed date, without liability for the canceled portion.

4.4 **Inspection and rejection.** Buyer may inspect Products on delivery and may reject any that fail to conform to the Specifications by notifying Supplier within **[NUMBER, e.g. 15]** days. Supplier will, at its expense, promptly replace rejected Products and arrange return or disposal of nonconforming units.

### 5. Quality and Warranties

5.1 **Warranty.** Supplier warrants that each Product will: (a) conform to the Specifications; (b) be free from defects in material and workmanship for **[WARRANTY PERIOD]**; (c) be new and free of liens on delivery; and (d) be manufactured in compliance with applicable law.

5.2 **Quality system.** Supplier will maintain a documented quality-control system appropriate to the Products and, on reasonable notice, permit Buyer to audit Supplier's facility and quality records relating to the Products.

5.3 **Epidemic or systemic defect.** If a defect affects **[PERCENTAGE]** or more of units in any lot, or a defect arises from a common root cause across lots, Supplier will, at Buyer's request, conduct a root-cause analysis, implement corrective action, and replace affected units at Supplier's expense.

**5.4 Recalls.** If a recall, withdrawal, or corrective field action is required for Products due to Supplier's breach, Supplier will bear the reasonable costs of the action attributable to its breach. The Parties will cooperate on any recall.

**5.5 Disclaimer.** Except as expressly stated in this Section, and to the extent permitted by law, Supplier disclaims all other warranties, express or implied, including merchantability and fitness for a particular purpose.

## 6. Confidentiality and Intellectual Property

**6.1 Confidential Information.** Each Party will protect the other's non-public information disclosed under this Agreement with at least reasonable care, use it only to perform under this Agreement, and disclose it only to those who need it and are bound by comparable obligations. The obligations do not apply to information that is public, already known, rightfully obtained from a third party, or independently developed.

**6.2 Buyer IP.** Buyer retains all right, title, and interest in its intellectual property, including specifications, designs, tooling, and trademarks it provides. Supplier may use Buyer's IP only to perform under this Agreement.

**6.3 Tooling.** Tooling Buyer pays for is Buyer's property, will be marked as Buyer's property, and will be returned or made available to Buyer on request or on termination. Supplier will maintain such tooling in good working order.

**6.4 Supplier IP.** Supplier retains its own pre-existing manufacturing know-how, processes, and improvements, except improvements that incorporate Buyer's Confidential Information or that the Parties agree in writing belong to Buyer.

## 7. Indemnification and Liability

**7.1 Indemnification by Supplier.** Supplier will defend Buyer against third-party claims arising from (a) a defect in the Products, (b) Supplier's negligence or willful misconduct, or (c) a claim that a Product, as supplied by Supplier, infringes a third party's intellectual property rights, and will indemnify Buyer for resulting damages finally awarded or agreed in settlement.

**7.2 Indemnification by Buyer.** Buyer will defend Supplier against third-party claims arising from Specifications, designs, or materials Buyer required Supplier to use, and will indemnify Supplier for resulting damages, except to the extent caused by Supplier's failure to manufacture as directed.

**7.3 Procedure.** The indemnified Party will give prompt written notice, allow the indemnifying Party to control the defense, and provide reasonable cooperation. No settlement may impose liability or admission on the indemnified Party without its consent.

**7.4 Exclusion of indirect damages and cap.** Except for the matters in Section 7.5, neither Party is liable for indirect, incidental, special, consequential, or punitive damages, and each Party's total aggregate liability will not exceed the amounts paid or payable for the Products giving rise to the claim in the **[NUMBER, e.g. 12]** months before the event giving rise to the liability.

**7.5 Exclusions from the limitations.** The limitations in Section 7.4 do not apply to a Party's indemnification obligations, breach of confidentiality, gross negligence or willful misconduct, recall costs allocated under Section 5.4, or amounts owed for Products delivered.

## 8. Term and Termination

**8.1 Term.** This Agreement begins on the Effective Date and continues for **[INITIAL TERM, e.g. two years]**, then renews for successive **[RENEWAL TERM]** periods unless either Party gives written notice of non-renewal at

least [NUMBER] days before the end of the then-current term.

**8.2 Termination for cause.** Either Party may terminate immediately on written notice if the other materially breaches and fails to cure within [NUMBER, e.g. 30] days after written notice, or becomes insolvent or subject to bankruptcy proceedings not dismissed within [NUMBER] days.

**8.3 Last-time buy.** On notice of non-renewal or termination other than for Buyer's uncured breach, Supplier will, at Buyer's request, accept a final "last-time buy" Purchase Order for a reasonable quantity of Products to support Buyer's transition, on the then-current terms.

**8.4 Effect of termination.** Termination does not affect accepted Purchase Orders unless canceled by agreement. Buyer will pay for Products properly delivered and accepted, and for work in progress and non-cancelable materials specifically procured for accepted Orders.

**8.5 Survival.** Sections 3 (for accrued amounts), 5, 6, 7, and 9, and any provision that by its nature should survive, survive termination.

## 9. General Provisions

**9.1 Independent contractors.** The Parties are independent contractors. Nothing creates a partnership, joint venture, agency, or employment relationship.

**9.2 Assignment.** Neither Party may assign this Agreement without the other's prior written consent, except to a successor in connection with a merger, acquisition, or sale of substantially all assets, on written notice.

**9.3 Governing law and venue.** This Agreement is governed by the laws of the State of [STATE], without regard to its conflict-of-laws rules. The Parties submit to the exclusive jurisdiction of the state and federal courts located in [COUNTY, STATE].

**9.4 Notices.** Notices must be in writing and sent to the addresses above (or as updated in writing) and are effective on receipt.

**9.5 Force majeure.** Neither Party is liable for delay or failure caused by events beyond its reasonable control, provided it gives prompt notice, uses reasonable efforts to mitigate, and, in the case of Supplier, allocates available supply among its customers on a fair and reasonable basis.

**9.6 Entire agreement; amendment.** This Agreement, together with its Exhibits and accepted Purchase Orders, is the entire agreement between the Parties on its subject and supersedes prior discussions. It may be amended only by a writing signed by both Parties.

**9.7 Severability and waiver.** If any provision is unenforceable, the rest remains in effect. A Party's failure to enforce a provision is not a waiver.

**9.8 Counterparts and electronic signature.** This Agreement may be signed in counterparts and by electronic signature, each of which is an original and all of which together form one agreement.

**IN WITNESS WHEREOF,** the Parties have executed this Agreement as of the Effective Date.

**SUPPLIER**

**BUYER**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

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Printed name: **[NAME]**

Printed name: **[NAME]**

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Title: **[TITLE]**

Title: **[TITLE]**

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Date: \_\_\_\_\_

Date: \_\_\_\_\_

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