

1. GENERAL/ACCEPTANCE – The purchase order (includes all documents incorporated by reference therein) is the exclusive agreement between the parties for the supplies/services. Any additional or different terms proposed by the buyer are objected to and are hereby rejected unless the same shall be accepted in writing by UltraCell LLC.

2. COMPLIANCE WITH LAWS AND REGULATIONS – (a) Buyer shall comply with any applicable laws, Executive Orders, or regulations. (b) Buyer agrees to indemnify UltraCell LLC against any loss, cost, liability or damage by reason of Buyer's violation of any applicable law, Executive Order, or regulation.

3. INVOICING AND PAYMENT – All valid invoices shall be paid in accordance with the terms agreed to in writing by UltraCell LLC.

4. TERMINATION FOR CONVENIENCE- Without limiting UltraCell LLC' right to cancel this order for default of Buyer as provided below, UltraCell LLC may terminate all or any part of the work under this purchase order and process Buyer's claim therefore in accordance with the provisions of the "Termination for the Convenience of the Government (Fixed-Price)" clause set forth in FAR 52.249-2 in effect on the date of this order.

5. WARRANTY – UltraCell LLC warrants each of its products to be free from defects in material and workmanship under normal use and storage; our obligation under this warranty being limited at UltraCell LLC sole discretion to the repair or replacement, at our factory, of any product returned intact within one year of date of shipment with transportation charges prepaid, and which upon its examination shall show to be thus defective.

6. INDEMNITY - Buyer will defend, indemnify and hold harmless UltraCell LLC and its affiliates and their officers, agents, employees, successors and assigns, against any claims, loss, damage or expenses including, without limitation, payment of direct, special, incidental and consequential damage and expense of defending claims, including attorney's fees. This duty to defend, indemnify and hold harmless extends to any suit, claim, judgment or demand that may arise out of or in connection with Buyer's performance or nonperformance of this purchase order issued by UltraCell LLC, out of Buyer breach of warranty, out of any patent infringement or misappropriation of trade secrets, or failure of buyer to pay royalties, or any other breach of Buyer's obligation hereunder, whether such claim or suit is based upon contract, warranty, strict liability in tort, negligence, or other legal theory and also extends not only to "third party claims" but also to any direct loss suffered by UltraCell LLC.

7. DISPUTES - Any dispute arising under this purchase order which is not settled by agreement of the parties will be litigated in the state or federal courts of New York located in Suffolk County.

8. PROTECTION OF INFORMATION – Trade Secrets and proprietary information of UltraCell LLC (hereafter collectively referred to as "information") shall mean information disclosed to Buyer by UltraCell LLC in connection with this purchase order which is either identified to Buyer as being proprietary or which is information that a reasonable person would understand to be such information. This paragraph is not intended to conflict with FAR 52.203-6, "Restrictions on Subcontractor Sales to the government."

9. PROPERTY RIGHTS – Any intellectual property, invention, discovery, proprietary information, maskwork, software, system, data or report resulting from the work performed under this purchase order shall be the sole property of UltraCell LLC (unless otherwise previously agreed to in writing between the buyer and UltraCell LLC).

10. SPECIAL TOOLING (ST), SPECIAL TESTING (STE) AND FACILITIES (FAC) – Unless specifically provided to the contrary in this purchase order, the price set forth in this purchase order does not include any special tooling or special testing.

11. CHOICE OF LAW - This purchase order will be constructed and interpreted according to United States Law. To the extent that the federal common law of government contracts is not applicable, the laws of New York shall apply without regard to choice of law principles.

12. INTEGRATION AND MERGER – This purchase order contract constitutes the entire agreement between UltraCell LLC and Buyer, and supersedes all prior representations, agreements, understandings, and communications. No amendment or modification of this contract or a purchase order shall be binding upon UltraCell LLC unless it is set forth in a written instrument signed by authorized representatives of UltraCell LLC.

13. FORCE MAJEURE - Neither party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including, but not limited to Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, severe weather, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected.

14. ASSIGNMENTS AND SUBCONTRACTING – Neither party may assign this Contract to any successor without prior written approval from UltraCell LLC.

15. RIGHT TO ACCESS – UltraCell LLC will have the right to authorize any access to any UltraCell LLC facility any Regulatory Agency involved in this order and to all applicable records.

16. GOVERNMENT CONTRACT REQUIREMENTS - When a government contract is noted in the purchase order, government inspection, material certification and testing, price justification, cancellation for convenience and DPAS (Defense Priority and Allocations System) regulations must be separately approved by UltraCell LLC prior to being incorporated as part of the purchase order. Any other specific requirements of the contract will be flowed down and noted as well. All parties concerned will comply will applicable Department of State and Department of Commerce guidelines, including any information or products covered by the International Traffic in Arms Regulations (ITAR). **An End-Use statement is required for each order.**

17. ADDITIONAL DOCUMENTATION – Request for additional documentation such as a "Certificate of Origin" may incur additional charges.

18. SHIPPING – Unless noted in purchase order and approved by UltraCell LLC, all shipments will be:

EXW (Ex Works) Livermore, CA, USA (Incoterms 2010)

19. CANCELLATION / RESTOCKING FEES – Unless agreed to in advance, any standard product already on order or that have shipped with no actual use for a maximum of 45 calendar period will incur a 15% restocking fee. For custom products, the cancellation fee will be 100% of the order value unless agreed to in writing by UltraCell LLC, Inc.

20. CHANGES – Changes to this purchase order shall not be binding unless approved in writing by both parties.