

GENERAL TERMS AND CONDITIONS
(PURCHASE ORDERS)

*****PLEASE READ THIS CAREFULLY*****

These General Terms and Conditions (these “T&Cs”), together with any associated Purchase Orders (as defined below) (together with these T&Cs, collectively, the “**Agreement**”), shall constitute the binding legal agreement by and between Solidify Manufacturing LLC, a Minnesota limited liability company (“**Solidify**”), and each customer submitting Purchase Orders to Solidify (the “**Customer**”) in connection with each such Customer’s request for Solidify to manufacture for such Customer those certain custom products more fully set forth in the associated Purchase Order(s) on the specifications therefor more fully set forth in such associated Purchase Order(s) (the “**Specifications**”). By its submission of a Purchase Order to Solidify, the Customer shall be deemed to have agreed to be bound by these T&Cs, which shall be deemed incorporated into each Purchase Order submitted by the Customer as if more fully set forth therein.

1. **Products.** During the Term (as defined below), Solidify will manufacture for, and sell to Customer, and Customer will purchase from Solidify, the custom-manufactured products as more fully set forth on the purchase orders delivered in writing by the Customer to Solidify (each a “**Purchase Order**”). A Purchase Order shall not constitute a binding obligation of Solidify unless and until Solidify has delivered to the Customer written notice of acceptance of such Purchase Order (which may include acceptance by email) (an “**Acceptance Notice**”). Once accepted, Solidify will be deemed to have agreed to manufacture the products set forth in the Purchase Order in accordance with the Specifications. The Customer acknowledges and agrees that if it submits a modified Purchase Order to Solidify, or otherwise terminates a Purchase Order, in whole or in part, following Solidify’s acceptance of such Purchase Order, the Customer may incur and be liable to Solidify for the payment of an additional charge to accommodate that change.

a. **Intellectual Property Created in Connection with the Manufacture of the Products.** During the Term, Solidify and the Customer may, individually or together, develop, make or acquire intellectual property rights in connection with the performance of their respective obligations under the Agreement (“**Intellectual Property Rights**”). The Customer shall retain sole ownership of all Intellectual Property Rights that relate to or arise from the design of the products (including, without limitation, any copyrights in files, text, illustrations, software files, data and other materials provided by the Customer to Solidify as well as any deliverables and designs, including modifications or derivative works thereof, that may be produced for the Customer during the course of Solidify’s manufacture of the products) (collectively, “**Customer Intellectual Property Rights**”), and Solidify shall not (i) have or acquire any ownership of or rights in or to Customer Intellectual Property Rights, (ii) take any action that may interfere with any of the Customer’s rights in or to Customer Intellectual Property Rights, (iii) challenge any right, title or interest of the Customer in or to Customer Intellectual Property Rights or (iv) make any claim or take any action adverse to the Customer’s ownership of Customer Intellectual Property Rights; provided, that the Customer grants to Solidify a non-exclusive, royalty-free, fully paid up, worldwide and transferable right to use Customer Intellectual Property Rights, including any tangible materials embodying the same (including computer data and drawings), in order for Solidify exclusively to be able to manufacture the products to the Customer. Solidify shall retain sole ownership of all Intellectual Property Rights that relate to or arise from the manufacture of the products and the specific manufacturing processes associates therewith (including, without limitation, any proprietary software, processes and procedures developed or owned by Solidify for the quoting, analysis, design, automation and/or manufacture of the products and any related injection molds) (collectively, “**Solidify Intellectual Property Rights**”), and the Customer shall not (i) have or acquire any ownership of or rights in or to Solidify Intellectual Property Rights, (ii) take any action that may interfere with any of Solidify’s rights in or to Solidify Intellectual Property Rights, (iii)

challenge any right, title or interest of Solidify in or to Solidify Intellectual Property Rights or (iv) make any claim or take any action adverse to Solidify's ownership of Solidify Intellectual Property Rights.

b. **Customer Tooling and Equipment.** In connection with the manufacture of products, Customer may provide to Solidify certain tooling and equipment (the "**Tooling**") for its use in connection with such manufacture. The Tooling may include such items as special tooling, fixtures, molds, dies, jigs, production machinery, assembly machinery, testing equipment and related items. All Tooling shall remain the sole property of the Customer and Solidify will mark and label the Tooling as the Customer's property.

i. Customer represents and warrants that when delivered to Solidify, the Tooling will be in good working order, condition and repair. Solidify will inspect the Tooling upon delivery and promptly notify Customer if the Tooling is not in good working order, condition and repair. Solidify will at all times and at its own cost and expense, maintain and keep all Tooling in good working order, condition, and repair, and shall promptly repair or replace, at Customer's cost, any parts of the Tooling to prevent interruption to the production of the products. All repair and replacement parts shall be deemed Customer Tooling and shall be subject to the terms of the Agreement. At any time when Solidify proposes replacing a piece of the Tooling because (1) the life of the Customer Tooling has been expended or the Tooling is worn or damaged beyond economical repair or damage is the result of normal wear and tear, or (2) Specification changes by Customer necessitate modification or complete replacement, Solidify shall first notify Customer and Customer will pay all costs associated with replacement or modification of the Tooling, and the resulting Tooling will be subject to the terms of the Agreement.

ii. Solidify assumes the risk of any loss or damage to the Tooling while it is located on Solidify's premises or otherwise under Solidify's control. If there is loss or damage to the Tooling, Solidify will reimburse the Customer for the full actual value of the Tooling except for reasonable wear and tear, or use its best efforts to promptly replace the Tooling in order to reduce any down time related to manufacturing the products for Customer.

iii. Solidify agrees to maintain and use the Tooling in accordance with all applicable Occupational Safety and Health Administration ("**OSHA**") requirements and other safety codes or standards.

iv. Solidify will not allow any third party to place a security interest, lien, tax lien or other encumbrance ("**Encumbrance**") on any Tooling. Solidify will give Customer immediate written notice should any third party attempt to place or place an Encumbrance on Tooling.

v. During Solidify's normal business hours, Customer may inspect and inventory the Tooling. Solidify will provide Customer reasonable access to the premises where all Tooling is located.

2. **Pricing, Invoices and Payment.**

a. **Price.** The prices for products to be manufactured by Solidify for the Customer (the "**Prices**") shall be as set forth in the applicable Purchase Order or, if not set forth therein, in the associated Acceptance Notice. Prices are exclusive of all sales, use and excise taxes and any other similar taxes, duties and charges of any kind imposed by any governmental authority on any amounts payable by the Customer. The Customer shall be responsible for all such charges, costs and taxes; provided, that the

Customer shall not be responsible for any taxes imposed on, or with respect to, Solidify's income, revenues, gross receipts, personnel or real or personal property or other assets.

b. **Price Adjustments.**

i. **Changes in Raw Materials/Components.** Solidify may adjust the Prices (each a "**Price Adjustment**") to reflect the changes in the costs of the Resin Raw Materials (as defined below) or any Component (as defined below). Any Price Adjustment under this Section 2(b)(i) will be made on a dollar-for-dollar basis coincident with any change in the cost of Resin Raw Material or any Component. If Solidify adjusts the Prices under this Section 2(b)(i), Solidify will provide the Customer copies of invoices for the Resin Raw Materials and Components upon the Customer's request. For clarity, the Prices may increase or decrease in connection with changes in the cost of the Components. As used in this Section 2(b)(i), "**Component**" means and includes all items listed in the bill of materials set forth on the applicable Purchase Order. "**Resin Raw Material**" means all resin or components containing resin which are required to manufacture the products.

ii. **Changes in Specifications.** Unless otherwise agreed to by the parties, Solidify will also adjust the Prices if the Customer changes the Specifications for any product after the execution of the Purchase Order to reflect any increases or decreases in the cost to manufacture the products that arise as a result of the Customer's change in the Specifications.

c. **Invoices and Payment.** When it ships products to the Customer, Solidify will submit an invoice to the Customer. Payment is due thirty (30) days from the date of the invoice. If the Customer does not pay the invoice on time, Solidify may charge interest at a rate of one percent (1%) per month, or the maximum rate permitted by applicable law, whichever is less, on the outstanding balance until the invoice is paid in full. The Customer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Solidify, whether relating to Solidify's breach, bankruptcy or otherwise. Notwithstanding the delivery of any products, Solidify will retain a purchase money security interest in any products until the Customer has delivered payment to Solidify. The Customer hereby grants to Solidify a lien on and security interest in and to all of the right, title, and interest of the Customer in, to, and under the products, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under the Minnesota UCC. Further, to the extent any Tooling is provided under the Agreement, the Customer hereby grants to Solidify a security interest in that Tooling to secure the amount due on any invoice that is more than thirty (30) days past due. The parties agree that the Agreement shall constitute the security agreement required by the Uniform Commercial Code of the State of Minnesota (the "**Minnesota UCC**"). The Customer further authorizes Solidify to file a financing statement or other notice with the appropriate secretary of state, evidencing the security interests created under this Section 3(c). Solidify shall be entitled to all applicable rights and remedies of a secured party under applicable law.

3. **Shipping; Inspection and Rejection.** Except as set forth in any Purchase Order, Solidify will ship products from Solidify's location in the United States to the Customer's location(s) in the United States, FOB Rogers, Minnesota. Solidify will make all shipments in accordance with the instructions set forth in the Purchase Order. Solidify may, in its sole discretion, without liability or penalty, make partial shipments of products to the Customer, with each shipment constituting a separate sale, and the Customer being required to pay for the units shipped whether such shipment is in whole or partial fulfillment of the applicable Purchase Order. Solidify will package the products according to the Specifications set forth in

the Purchase Order. Each shipment will include a packing list containing the Purchase Order number and the product number, quantity shipped and date of shipment.

a. **Late Shipments.** Solidify acknowledges that TIME IS OF THE ESSENCE WITH RESPECT TO SHIPMENTS UNDER THE AGREEMENT. Solidify will notify the Customer as soon as reasonably practicable after Solidify learns that a shipment (each a “**Late Shipment**”) will not be made on the delivery date specified in the Purchase Order (the “**Original Delivery Date**”). In such case, the Customer can direct Solidify to dispatch any Late Shipment in the most expeditious manner or cancel the Purchase Order. Solidify will reimburse the Customer for fifty percent (50%) of the commercial ground freight charges for any Late Shipment that is delivered more than thirty (30) days after the Original Delivery Date, which will be applied as a credit on the Customer’s next invoice. If the Customer cancels the Purchase Order because of a Late Shipment, the Customer will have no liability for payment of any of the products to be shipped under that Purchase Order. The remedies set forth in this Section 3(a) are the Customer’s sole remedy for a Late Shipment.

b. **Title and Risk of Loss.** Solidify will have title and risk of loss and damage to the products until the date Solidify has delivered the products to the carrier to be shipped (the “**Delivery Date**”). At that time, title and risk of loss and damage will pass to the Customer.

c. **Inspection and Rejection of Products.** The Customer shall inspect products within three (3) days of receipt thereof (the “**Inspection Period**”). The Customer will be deemed to have accepted the products unless it notifies Solidify in writing of any non-conforming products during the Inspection Period and furnishes such written evidence or other documentation as reasonably required by Solidify. If the Customer timely notifies Solidify of any non-conforming products, Solidify shall, in its sole discretion, have the remedies set forth in Section 4(c)(ii).

4. **Warranty/Allocation of Liability**

a. **Warranty.** Solidify represents and warrants to the Customer that it has absolute and clear title to all of the products, free of all liens, claims, or Encumbrances. Solidify further represents and warrants that, for a period of one year following the date of shipment of the products, the products will conform strictly to and be manufactured in accordance with all Specifications set forth in the Purchase Order, be new (upon shipment), be free from material defects in title, material and workmanship, have received all applicable regulatory certifications relating to the manufacture, packaging and shipment of the products as required, and be manufactured, processed, and assembled by Solidify or by a third party under Solidify’s direction. OTHER THAN THE WARRANTIES SET FORTH IN THIS SECTION 4(a), SOLIDIFY MAKES NO OTHER REPRESENTATIONS OR WARRANTIES OF ANY KIND RELATING TO THE PRODUCTS OR THEIR MANUFACTURE OR THE PERFORMANCE OF ITS OBLIGATIONS UNDER THE AGREEMENT, WHETHER SUCH WARRANTY BE EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY WARRANTY OF COURSE OF DEALING OR USAGE IN TRADE. Solidify shall not be liable for a breach of the warranty set forth in Section 4(a) unless (i) the Customer gives written notice of the defect, reasonably described, to Solidify within thirty (30) days of the time when the Customer discovers or ought to have discovered the defect, (ii) Solidify is given a reasonable opportunity after receiving the notice to examine such products and the Customer (if requested to do so by Solidify) returns such products to Solidify at Solidify’s cost for the examination to take place there, and (iii) Solidify reasonably verifies the Customer’s claim that the products are defective. Solidify shall not be liable for a breach of the warranty set forth in Section 4(a) if (i) the Customer makes any further use of such products after giving such notice, (ii) the defect arises because the Customer failed to follow Solidify’s oral or written instructions as to the use of the products or (iii) the Customer alters or repairs such products without the prior written consent of Solidify.

b. **Limitation of Liabilities and Remedies.**

i. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY SPECIAL, EXEMPLARY, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY KIND OR NATURE WHATSOEVER (INCLUDING, WITHOUT LIMITATION, LOST REVENUES, PROFITS, SAVINGS OR BUSINESS, OTHER THAN AMOUNTS DUE AND PAYABLE TO SOLIDIFY) OR LOSS OF RECORDS, FILES OR DATA, EVEN IF SUCH PARTY HAS BEEN INFORMED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES OR SUCH DAMAGES COULD HAVE BEEN REASONABLY FORESEEN BY SUCH PARTY.

ii. IN NO EVENT SHALL SOLIDIFY'S LIABILITY TO THE CUSTOMER ARISING OUT OF, RELATED TO OR IN CONNECTION WITH THE AGREEMENT OR THE PRODUCTS EXCEED, IN THE AGGREGATE, THE LESSER OF (A) THE TOTAL AMOUNTS PAID BY CUSTOMER TO SOLIDIFY DURING THE PRECEDING TWELVE (12) MONTH PERIOD UNDER THE AGREEMENT OR (B) THE TOTAL AMOUNTS PAID BY CUSTOMER TO SOLIDIFY FOR THE APPLICABLE PURCHASE ORDER.

iii. The limitations set forth in this Section 4(b) shall apply whether in an action based on contract, warranty, strict liability, statute or tort (including, without limitation, negligence) or otherwise. The parties agree that the Agreement is solely for the benefit of the parties to it and no provision of the Agreement shall be deemed to confer upon any other person or entity any remedy, claim, liability, reimbursement, cause of action or other right whatsoever. The parties have agreed that the limitations specified in this Section 4(b) will survive and apply even if any limited remedy specified in the Agreement is found to have failed of its essential purposes, represents an allocation of risk between the parties and is an essential and material part of the Agreement.

c. **Warranty Remedies.**

i. **Warranty Period.** The warranties set forth in Section 4(a) of these T&Cs will survive for a period of twelve (12) months from the Delivery Date (the "**Warranty Period**").

ii. **Warranty Remedies/Returns.** The remedies set forth in this Section 4(c)(ii) (the "**Warranty Remedies**") are the Customer's sole and exclusive remedies for a non-conforming product or other breach of any warranty. If a product does not conform to the Specifications set forth in the Purchase Order or Solidify otherwise breaches a warranty, the Customer must report it to Solidify during the Warranty Period to receive the Warranty Remedies. Upon receipt of a Customer's report that a product is non-conforming or defective, Solidify may request that the Customer (1) take a photo of the non-conforming product or provide other information or data documenting the defect or nonconformity, (2) return the non-conforming product to Solidify's facility for inspection, or (3) destroy the product. Within forty-eight hours of its receipt of notice of a deficiency, Solidify will inform the Customer whether it has determined that the product is defective or non-conforming (in each case, a "**Returned Product**"). For each Returned Product, Solidify will, at its cost, including shipping, promptly replace the Returned Product and use commercially reasonable efforts to deliver the replacement to the Customer within ten (10) business days after receipt of the Returned Product, or if Solidify has instructed the Customer to destroy the Returned Product, the date that Solidify gave the Customer that instruction (such date, the "**Notice Date**"). If it will take longer than ten (10) business days to replace and return the Returned Product, Solidify will promptly notify the Customer. For Returned Product that the Customer has sent back to Solidify, it will credit the costs of shipping the Returned Product back on the Customer's next invoice. Further, if Solidify is unable to replace the Returned Product within sixty (60) days from the Notice Date, the Customer may, at its option, require (A) Solidify to credit the Price of such Returned Product on the Customer's next invoice, or

(B) terminate the Agreement. Solidify will send back to the Customer any products that it determines are not defective or non-conforming or that the Customer did not give Solidify a notice of deficiency during the Warranty Period. In such case, the Customer will reimburse Solidify upon invoice for all shipping charges. In addition, the Customer will be responsible to pay Solidify for the Price of the products.

d. **Indemnification.**

i. **Solidify's Indemnification to the Customer.** Solidify shall indemnify, defend and hold the Customer and its affiliates and their respective successors, permitted assigns, officers, directors, managers, employees, agents, distributors, customers and users of the products (collectively, the "**Customer Indemnified Parties**") and each a "**Customer Indemnified Party**") harmless from and against any and all liabilities, expenses, losses, damages, claims, workers compensation, fines, penalties and costs (including all reasonable attorney's fees) (collectively, "**Losses**") that a Customer Indemnified Party may sustain or incur (including those sustained or incurred as a result of a claim by a third party) as a result of third party claims related to the following: (1) any injury or death of any of the Customer's employees arising out of or relating to the willful or grossly negligent acts or omissions of Solidify or its employees in the performance of their obligations under the Agreement; (2) damage to any tangible personal property caused by Solidify's failure to manufacture the products in accordance with the Specifications set forth in the Purchase Order or related to the use or maintenance of the Tooling while in Solidify's control; (3) any claim that the method of manufacture or assembly of the products, or any Solidify Intellectual Property Rights, infringe any patent or any other intellectual property right of a third party; and (4) any recall or corrective action arising from or related to product defects or conditions due to Solidify's alteration of the Specifications without the Customer's consent; provided, that Solidify is not obligated to indemnify or defend (if applicable) a Customer Indemnified Party in accordance with the foregoing if the applicable Losses arise out of or result from, in whole or in part, the Customer Indemnified Party's (x) negligence or more culpable act or omission (including recklessness or willful misconduct), (y) bad faith failure to comply with any of its obligations set forth in the Agreement or (z) use of the products in any manner not otherwise authorized under the Agreement or that does not materially conform with any usage instructions or guidelines provided by Solidify with respect thereto.

ii. **Customer's Indemnification of Solidify.** The Customer shall indemnify, defend and hold Solidify and its affiliates and their respective successors, permitted assigns, officers, directors, managers, employees and agents (collectively, the "**Solidify Indemnified Parties**") and each a "**Solidify Indemnified Party**") harmless from and against any and all Losses that a Solidify Indemnified Party may sustain or incur (including those sustained or incurred as a result of a claim by a third party) as a result of third party claims related to the following: (1) any injury or death of any of Solidify's employees arising out of or relating to the willful or grossly negligent acts or omissions of the Customer or its employees in the performance of their obligations under the Agreement; (2) damage to any tangible personal property caused by a product that conforms with the Specifications set forth in the Purchase Order or that arises out of the improper use of the product by the Customer or its employees; (3) any claim that the design (including Specifications) of the products, or any Customer Intellectual Property Rights, infringe any patent or any other intellectual property right of a third party; and (4) any recall or corrective action arising from or related to product defects or conditions due to Solidify's alteration of the Specifications set forth in the Purchase Order with the Customer's consent; provided, that the Customer is not obligated to indemnify or defend (if applicable) a Solidify Indemnified Party in accordance with the foregoing if the applicable Losses arise out of or result from, in whole or in part, the Solidify Indemnified Party's (x) negligence or more culpable act or omission (including recklessness or willful misconduct), or (y) bad faith failure to comply with any of its obligations set forth in the Agreement.

iii. **Limitations.** The limitations on liability set forth in Section 4(b) of these T&Cs shall apply to the parties' indemnification obligations under this Section 4(d).

5. Term

a. **Term.** The Agreement shall commence upon delivery of the Acceptance Notice and shall remain in effect until final delivery to the Customer of the products manufactured by Solidify and the Customer's acceptance thereof (the "Term"), unless earlier terminated in accordance with this Section 5.

b. **Termination for Material Breach.** Either party may terminate the Agreement during the Term by written notice if the other party breaches any material term of the Agreement and fails to cure that breach within sixty (60) days following written notice, specifying in detail the nature of the breach and the steps that must be taken to cure the breach. Customer may also terminate the Agreement in the limited circumstance described in Section 4(c)(ii)(B). Notwithstanding the foregoing, Solidify may terminate the Agreement immediately upon written notice if the Customer has failed to pay any invoice within ten (10) days' notice from Solidify that payment is past due. Further, either Solidify or the Customer may terminate the Agreement immediately upon written notice if it is required to give the other party notice of a material breach of the Agreement more than six (6) times during any calendar year of the Term, even though the other party has cured the material breaches.

c. **Effect of Termination.** Unless the parties otherwise agree in writing, termination of the Agreement shall not terminate the rights or obligations of either party with respect to Purchase Orders that are outstanding on the effective date of termination, unless the Agreement has been terminated by Solidify as a result of the Customer's wrongful nonpayment. In the event the Agreement is terminated by Solidify as a result of the Customer's wrongful nonpayment, in addition to any other remedies set forth herein, Solidify shall: (A) be relieved of all obligations to perform any remaining obligations under any outstanding Purchase Order and (B) have the right to reject any future Purchase Order from Customer. The rights and obligations of the parties set forth in Sections 2(c), 4 and 6(e) shall continue in full force and effect subsequent to the termination of the Agreement. In addition, any such termination shall not relieve either party of any other accrued obligations and each party shall retain all available legal and equitable remedies after such termination. Further, upon the termination of the Agreement for any reason or any changes to the Specifications set forth in the Purchase Order by the Customer that cause any products or raw materials to become obsolete, Customer shall purchase from Solidify all products that are manufactured (the "Finished Goods"), all work-in-process and raw materials. Solidify will charge the Customer for Finished Goods at the Price for a completed product under the Purchase Order. Solidify will charge the Customer for work-in-process and raw materials sold at eight percent (8%) margin. In addition, Customer will remove any Tooling from Solidify's facility within sixty (60) days of the effective date of termination. The Customer will be responsible for all packaging, transportation and other costs associated with the purchase of the Finished Goods, work-in-process, and raw materials and the removal of the Tooling unless the Agreement terminates as a result of Solidify's material breach. If the Agreement is terminated as a result of Solidify's material breach, Solidify will be responsible for all packaging costs associated with the purchase of the Finished Goods, work-in-process and raw materials and the removal of the Tooling, and the Customer will continue to be responsible for all transportation and other costs.

6. **Confidential Information.** All non-public, confidential or proprietary information of Solidify, including, but not limited to, samples, patterns, designs, plans, drawings, documents, data, pricing, discounts, or rebates, disclosed by Solidify to the Customer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential," in connection with the Agreement is confidential, solely for the use of performing under the Agreement and may not be disclosed or copied unless authorized in advance by Solidify in writing. The Customer shall (a) protect and safeguard the confidentiality of Solidify's confidential Information with at least the same degree of care as the Customer would protect its own confidential Information, but in no event with less than a commercially reasonable degree of care, (b) not

use Solidify's confidential information, or permit it to be accessed or used, for any purpose other than to exercise its rights or perform its obligations under the Agreement and (c) not disclose any such confidential information of Solidify to any person, except to the Customer's representatives who need to know the confidential information to assist the Customer, or to act on its behalf, to exercise its rights or perform its obligations under this Agreement. Upon Solidify's request, the Customer shall promptly return all documents and other materials received from Solidify. Solidify shall be entitled to injunctive relief for any violation of this Section 6. This Section 6 does not apply to information that is (a) in the public domain, (b) known to the Customer at the time of disclosure or (c) rightfully obtained by the Customer on a non-confidential basis from a third party.

7. **Miscellaneous.**

a. **Independent Contractor.** Solidify and the Customer's relationship under the Agreement is that of independent contractors. Nothing in the Agreement shall be deemed to create a partnership, joint venture, or similar relationship between the parties, and no party shall be deemed to be an agent of the other party.

b. **Assignment.** The Customer shall not assign any of its rights or delegate any of its obligations under the Agreement without the prior written consent of Solidify. Any purported assignment or delegation in violation of this Section 6(b) is null and void. No assignment or delegation relieves the Customer of any of its obligations under the Agreement.

c. **No Third-Party Beneficiaries.** The Agreement is for the sole benefit of Solidify and the Customer and their respective successors and permitted assigns and nothing in the Agreement, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of the Agreement.

d. **Force Majeure.** Neither Solidify nor Customer shall be responsible for any delay or failure in performance of any part of the Agreement (except for any obligations of the Customer to make payments to Solidify) to the extent that such delay or failure is caused by an event that could not have reasonably been anticipated by the party and is beyond its reasonable control, including, but not limited to, fire, flood, explosion, war, acts of terrorism, strike, embargo, government requirement, civil or military authority and acts of God (a "**Condition**"). Increases in raw material costs or labor disputes shall not be considered a Condition. If any such Condition occurs, the party delayed or unable to perform (the "**Affected Party**") shall provide written notice to the other party (the "**Non-Affected Party**") within three (3) business days of the occurrence of such Condition and, within ten (10) days of receiving a request from the Non-Affected Party, provide such additional details of the Condition and the prospects for resolving the Condition as the Non-Affected Party may reasonably request. If such Condition remains at the end of the thirty (30)-day period beginning with the commencement or initial occurrence of the Condition, the Non-Affected Party may elect to (i) terminate the Agreement and/or any outstanding Purchase Order(s), or (ii) suspend any outstanding Purchase Order for the duration of the Condition, and resume performance of such Purchase Order once the Condition ceases. The Non-Affected Party shall also have the option to extend the term of the Agreement for a period of time equal to the length of time by which performance has been delayed as a result of the Condition.

e. **Waiver.** Any waiver of the Agreement or any term or condition under the Agreement must be in a writing signed by the party waiving such term or condition. No failure or delay by either party in enforcing any of its rights under the Agreement shall be construed as a waiver of the right to subsequently enforce any of its rights, whether relating to the same or a subsequent matter.

f. **Notices.** All notices and other communications required or permitted under the Agreement will be in writing and will be deemed given when delivered (i) by hand, (ii) by a reputable national over-night courier service, (iii) by confirmed email transmission, or (iv) three (3) business days after mailing when mailed by registered or certified mail (return receipt requested), postage prepaid, to Solidify at Solidify Manufacturing LLC, 20600 County Road 81, Rogers, MN 55374, Email: _____, and to Customer at the notice address set forth on the Purchase Order (or if no such address is provided in the Purchase Order, to the delivery address set forth in the Purchase Order). Any party may change the address to which notice is to be provided by providing notice with respect thereto to the other party in the manner set forth above.

g. **Governing Law.** The Agreement and any controversy, claim or dispute arising under or related to the Agreement shall be governed by the laws of the State of Minnesota, without regard to its conflicts of law rules. The United Nations Convention on Contracts for the International Sale of Goods shall not apply. In all disputes arising under the Agreement, Customer agrees to submit to the sole and exclusive authority of any state court located in Hennepin County, Minnesota, or any federal court located in the District of Minnesota.

h. **Severability.** The invalidity of any portion of the Agreement shall not invalidate any other portion of the Agreement and, except for such invalid portion, the Agreement shall remain in full force and effect. If for any reason, any portion of the Agreement is illegal or unenforceable, such provision will be severed and the remainder of the Agreement shall be interpreted in a manner that will not affect the enforcement of the remaining provisions.

i. **Headings; Counsel Review.** The headings contained in the Agreement are for reference only and shall not affect in any way the meaning and interpretation of the terms and conditions set forth in the Agreement. Customer agrees that it has had the opportunity to seek legal counsel to review the Agreement before submitting a Purchase Order to Solidify.

j. **Entire Agreement; Amendment.** The Agreement embodies the entire agreement and understanding of the parties with respect to the sale and manufacture of the products and supersedes all prior and contemporaneous negotiations, undertakings and agreements between the parties with respect to such subject matter. The Agreement may be amended only by written agreement signed by duly authorized officers of Solidify and the Customer. Purchase Order(s) shall be binding on the parties in all respects from and after the delivery of an Acceptance Notice.

k. **Conflicts.** The parties acknowledge and agree that if there is any conflict between these T&Cs and the terms and conditions of any Purchase Order, these T&Cs shall supersede and control. Solidify expressly rejects any and all terms and provisions set forth in any Customer-prepared form of Purchase Order or purchase acknowledgement unless otherwise agreed to by Solidify in writing, and Solidify's fulfillment of a Customer's order submitted on a Customer-prepared form of Purchase Order does not constitute acceptance of any of the Customer's terms and conditions and does not serve to modify or amend these T&Cs.

l. **Survival.** Provisions of the Agreement which by their nature should apply beyond their terms will remain in force after any termination or expiration of the Agreement, including, but not limited to, Sections 1(a), 2(c), 4, 6 and 7 of these T&Cs.