



## GENERAL TERMS AND CONDITIONS

These Master Terms and Conditions ("**Terms and Conditions**") apply to all goods ("**Goods**") sold to FTM by the Company as outlined in the Purchase Order for resale to customers within FTM's stores. Capitalized terms utilized in these Terms and Conditions have the meaning given to such terms in the Purchase Agreement executed between the parties.

**1. ORDERING AND INVOICING.** FTM will issue a purchase order (each an "**Order**") to Company each time FTM desires to order Goods. Company will have accepted the Order and its terms if not rejected within 24 hours of receiving the Order. Unless otherwise agreed in writing between the parties, payment terms are net 30 days. Company will include all taxes in its pricing except those which Company is required by law to collect from FTM. Company will pay any and all taxes collected from FTM to the proper governing agencies. Company will separately state such taxes, if any, on Company's invoice. All amounts payable to Company are subject to all FTM claims and defenses. FTM is permitted to set off and deduct against any such payments for amounts Company owes to FTM.

**2. REPRESENTATIONS AND WARRANTIES.** Company agrees that all Goods (and all inputs into such Goods) will be manufactured in the United States. Further all goods will be, tested, packaged, wrapped, inspected, marked, sold, stored, shipped, labeled, and registered accurately in the United States, in compliance with all applicable U.S. federal, state, and local laws and regulatory requirements including (collectively, "**Laws**"). In the event Goods are recalled or otherwise found to be out of compliance with Laws, Company will notify FTM, in writing, within 12 hours.

**3. INDEMNITY.** Company agrees to indemnify, defend, and hold harmless FTM; its parent, subsidiary, and affiliated companies, and their respective officers, directors, shareholders, partners, employees, and agents ("**Related Parties**") from and against any and all claims, demands, actions, proceedings, lawsuits, fees, government-imposed fines or penalties, liabilities, losses, damages, judgments, settlements, costs, and expenses (including reasonable actual attorneys' fees, internal legal personnel and administrative costs, expert witness

fees, costs associated with a recall (whether mandatory or voluntary) and all other costs) incurred by FTM or any Related Party ("**Losses**"), including claims for bodily injury to, or sickness or death of, any person (including Company's employees or agents), or property damage or destruction (including loss of use and proprietary rights infringement) actually or allegedly arising out of (i) any breach of these Terms and Conditions; (ii) the infringement (directly, indirectly, contributorily, or by inducement), misappropriation or other violation, of any third party's patent, trademark, copyright, trade secret, or other proprietary rights involving the Goods provided under these Terms and Conditions; (iii) the presence of Company's employees, agents, contractors, subcontractors, or equipment at a FTM facility; (iv) Company's violation of law; (v) data breach; (vi) the negligent, willful or fraudulent act or omission of Company or any of Company's employees, agents, contractors, or subcontractors; and (vi) the use, operation, placement, maintenance, repair or removal of any equipment owned by Company that is located on or about FTM's (or its affiliates') premises. These indemnity and defense obligations include claims of Company's employees, agents, contractors and subcontractors and claims alleging or involving FTM's joint, concurrent, or comparative negligence. Company agrees to give FTM the right to select counsel for defending FTM or the Related Parties against any and all claims, liability, and damages covered by this indemnity provision. The indemnification obligations under this section are not limited in any way by insurance limits or any limitation on the amount or type of damages, compensation, or benefits payable by or for the Company or anyone directly or indirectly employed by them under workers' compensation acts, disability benefit acts, or other employee benefit acts.

**4. INSURANCE COVERAGE.** Company will keep in force insurance coverage covering claims arising out of Company's obligation under these Terms and Conditions, including Commercial General Liability insurance, which includes coverages for premises / operations, products/completed operations, independent contractors, property damage, personal/advertising injury, and contractual liability, in an amount not less than \$1,000,000 per occurrence

and \$2,000,000 in the aggregate. FTM shall be named as additional insureds on an endorsement that extends coverage for contractual and products liability. Please submit a copy of your current certificate of insurance to FTM vendor management or such other contact representatives identified by FTM from time to time.

**5. GOVERNING LAW; DISPUTE RESOLUTION.** These Terms and Conditions, and all matters arising directly or indirectly from these Terms and Conditions will be construed only under Illinois law, excluding its choice of law provisions. Any controversy or claim arising relating to these Terms and Conditions will be determined only by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules. The arbitration will be in DuPage County, Illinois. This section does not prevent either party from seeking injunctive relief, including specific performance, at any time against the other party in any court of competent jurisdiction.

**6. PUBLICITY.** All media releases, public

announcements, or public disclosures (including promotional or marketing material) about these Terms and Conditions, or including the name, trade name, trademark of the other party, are not permitted without the other party's prior written consent.

**7. MISCELLANEOUS.** These Terms and Conditions, along with each Order issued, the Purchase Agreement and any other written agreement between the parties, constitutes the entire agreement between the parties with respect to the purchase of Goods. In the event of a conflict between the above agreements, the order of precedence is the Order, the Purchase Agreement and these Terms and Conditions. The parties may amend these Terms and Conditions through a writing signed by both parties. All information provided to Company that is not generally known to the public is confidential. Company will not disclose FTM's confidential information or use FTM's confidential information for any purpose other than as permitted by these Terms and Conditions.