



VENDOR/SUPPLIER SUPPLEMENTAL TERMS AND CONDITIONS

AGREEMENT TO TERMS: By signing the attached or commencing the delivery of services ("Services") to **Umbra Cuscinetti, Inc.** in Everett, Washington ("Umbra") by a duly authorized vendor ("Vendor"), Vendor agrees to be bound by these Supplemental Terms and Conditions. A purchase order or schedule shall contain a description of the Services, including pricing and performance.

1. **SUBCONTRACTING:** Vendor shall not have the right to subcontract any or all of the Services under this Agreement to a third party ("Subcontractor") without the prior written permission of Umbra. If Umbra approves the use of a Subcontractor, Vendor shall comply with the following conditions:

- (a) Vendor guarantees Subcontractor's fulfillment of applicable Vendor obligations;
- (b) Vendor indemnifies Umbra for all damages and costs of any kind incurred by Umbra or any third party and caused by Subcontractor's acts or omissions;
- (c) Vendor makes all payments to Subcontractor. If Vendor fails to pay Subcontractor for Services performed, Umbra shall have the right but not the obligation to pay Subcontractor and offset any amounts due to Vendor with amounts paid to Subcontractor. Vendor shall indemnify Umbra for all damages and costs of any kind, without limitation, incurred by Umbra and caused by Vendor's failure to pay a Subcontractor; and
- (e) Vendor shall not mark up Services fees because of Vendor's use of a Subcontractor.

2. **PAYMENT TERMS:** Net amount is due upon receipt of a valid invoice net 30 days, or except as otherwise shall be established by written agreement with Umbra which shall be advised to Vendor prior to shipment or delivery.

3. **DELIVERY SCHEDULE AND ACCEPTANCE OF SERVICES:** Vendor shall complete and deliver the Services to Umbra according to the delivery schedule and in conformance with the specifications described in the applicable Schedule, PO or SOW. Umbra shall evaluate the Services and shall submit a written acceptance or rejection to Vendor within fifteen (15) days after Umbra's receipt of the Services. Conformity to specifications and Vendor's warranties herein shall determine Umbra's right to accept or reject the Services. If rejected, Vendor shall promptly complete or correct the Services. If Vendor fails to correct the Services within fifteen (15) days after notice of rejection; then Umbra may terminate the applicable Schedule, PO or SOW and receive a full refund of amounts paid thereunder. If the Work is not delivered on the due date(s) specified, or if the Work does not meet the specifications required, or if the services provided by Vendor are not performed in a professional manner or are not of a high grade, nature, and quality, Umbra may, at its option and upon written notice to Vendor, terminate the applicable Schedule or PO for a full refund of amounts paid thereunder and/or have the Services properly prepared at Vendor's expense. Alternatively, at Umbra's sole discretion, Umbra may accept the Services if the parties agree on a reduced fee.

4. **TAXES:** All taxes shall be the responsibility of Vendor, except for sales tax on the product or service covered by this Agreement where such sales or other applicable customer tax has been specifically set out as an item in the price or this Agreement.

5. **CONFIDENTIALITY & SECURITY:** Any information obtained by Vendor during the course of its work for Umbra or its Vendor, whether related to the premises, staff, customers, projects and operations, shall be strictly confidential and not released to any third party without the express written consent of an officer of Umbra. Vendor agrees to follow and to be bound by any security policies and procedures governing Umbra and access to or operations on its premises.



6. **INSURANCE:** Vendor shall maintain (a) a Commercial General Liability “occurrence” form with policy limits of not less than \$1,000,000 each occurrence for bodily injury and damage to property including coverage for premises and operations, contractual liability, broad form property damage, and products and completed operations. The policy shall name Umbra as an additional insured to the extent of contractual liability assumed by Vendor in any Schedule or PO, (b) automobile liability insurance covering any vehicles used the delivery of the Services with policy of not less than \$2.0m combined single limit for bodily injury and property damage combined, or if limits are obtained on a per person and per accident basis, not less than \$1.0m per person and per accident for bodily injury, and \$500,000 per accident for property damage, and (c) Vendor’s program for compliance with workers’ compensation and occupational disease laws, statutes and regulations shall provide for a full waiver of rights of subrogation against Umbra and its officers, employees and agents, and Vendor shall indemnify Umbra therefore. Vendor shall provide a Certificate of Insurance to the Vendor prior to the commencement of any work, and shall comply with all applicable workers’ compensation, occupational health and safety laws, statutes and regulations.

7. **INDEMNITY:** Vendor agrees to defend, hold harmless and indemnify Umbra, and/or its subsidiaries, affiliates, directors, officers, employees, Vendors and assigns (“Umbra Indemnified Parties”) of Umbra, from and against any and all actions, causes of action, claims, demands, losses, costs, liabilities, expenses and damages (herein referred to as “Claims”), arising out of, or in connection with (i) any claim for bodily injury, death, or property damage in connection with the Services, (ii) any claim that the Services, names, and marks furnished by Vendor under this Agreement constitute an infringement of any confidential information, trade secret, patent, copyright, trademark, trade name, or other legal right of any third party, or (iii) any other claim that would constitute a breach of the Vendor’s warranties set forth in Section 8 below except to the comparative extent such Claims arise from the negligence or willful acts of Umbra.

8. **LIMITATION OF LIABILITY AND WARRANTY:** Umbra warrants to Customer that the Products purchased pursuant to this Agreement shall be performed by qualified personnel with appropriate licenses, shall meet specifications, and shall be free from defects in material and workmanship at the time of delivery under this Agreement.

If Customer gives Umbra written notice of any defect described above of the defective Product(s) on or before six (6) months from the date of delivery, then, Umbra will, at its election, either:

- (a) provide the materials and labor required to correct the defect,
- (b) replace the defective Product (s); or
- (b) correct the defective Product(s).

Exclusive Rights and Remedies. THE RIGHTS AND REMEDIES OF THE PARTIES SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE. THE PARTIES WAIVE ANY CLAIM FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES.

9. **RECORD RETENTION; AUDITS AND INSPECTIONS:**

Parties agree to maintain accurate and adequate books and records related to the Products for the following period of time: (i) for any applicable statute of limitations; (ii) for any compulsory extension or tolling of any applicable statute of limitations; and (iii) for any reasonable voluntary extension by Umbra of any statute of limitations under circumstances in which the governmental entity could otherwise compel an extension; provided however, that in no case will such period be less than seven (7) years.

10. **ENTIRE AGREEMENT:** THIS AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES AND, EXCEPT TO THE EXTENT THE TERMS HEREOF PROVIDE FOR SEPARATE AGREEMENTS BETWEEN THE PARTIES,



SUPERSEDES ALL PRIOR AGREEMENTS WHETHER WRITTEN OR VERBAL PROPOSALS OR UNDERSTANDINGS, WHETHER WRITTEN OR ORAL. No amendment or waiver of any provision of this Agreement, nor consent to any departure by the Purchaser or Seller therefrom, shall be effective unless the same shall be in writing and signed by authorized Vendors of both.

11. MISCELLANEOUS:

Notices. Any notice required to be given under this Agreement by any party to the other shall be in writing and delivered personally or sent postage prepaid by registered or certified mail, return receipt requested.

Enforcement. The failure of either party at any time to enforce the terms of this Agreement shall not be construed as a waiver of the right or its enforcement. In the event of any dispute or suit, including appeals, the prevailing party shall be entitled to all costs and reasonable attorneys' fees.

Assignment. The rights and obligations of either party in this Agreement shall not be pledged, assigned, or subcontracted without the prior written consent of the other party.

Choice of Law. This Agreement shall be construed under the laws of the State of Washington. Venue for any action brought under this Agreement shall be in the appropriate State or Federal court in Snohomish County, Washington.

Dated: _____, 2014.

Umbra Cuscinetti, Inc.

Customer/Buyer: _____

By: _____
Title: _____
Address: _____

By: _____
Title: _____
Address: _____

EIN: _____
Telephone: _____
Fax: _____

EIN: _____
Telephone: _____
Fax: _____

