1. Definitions
In these T&Cs, the following terms shall have the following meanings:

"Confidential Information" in connection with either party, any and all information that relates to its business affairs, strategic, tactical and financial plans, products, developments, trade secrets, know how, customers and personnel which is disclosed (in any form) to the other party and which is marked "Confidential" or which may reasonably be regarded as being confidential.

"Contract" the agreement between the Seller and Sigmatex for the supply by the former and the purchase by the latter of the Goods set out in the relevant Order or Quotation and comprising these T&Cs.

"Contractual Package" the Contract and its components, including the various documents forming the Contract, including these T&Cs and any Orders, Quotations, offers, Order acknowledgements, Specifications, Goods Information Documentation and any documents referred to therein.

"Delivery Address" the address for delivery or otherwise provision of the Goods by the Seller in accordance with the Order or if not stated such premises of Sigmatex as Sigmatex shall notify to the Seller.

"Delivery Date" the date specified in the relevant Order as the date for delivery of the Goods or where no such date is specified in the Order, such date as Sigmatex notifies the Seller.

"Goods" all goods, products, works, services and/or such other things supplied under the Contract.

"IPRs" any and all registered or unregistered intellectual property rights or similar rights anywhere in the world, including – without limitation - patents, design rights, copyright, database rights, topography rights, trade marks or service marks, know how, rights to inventions and ideas, together with any right to apply for any such intellectual property rights and the benefit of any applications for the same.

"Order" the written order placed with the Seller by Sigmatex.

"Goods Information Documentation" the documentation to be provided by the Seller in respect of the Goods, detailing all relevant information including - without limitation - storage requirements and shelf life details.

"Price" the price payable by Sigmatex to the Seller for the supply of the Goods, pursuant to the Order (or as otherwise agreed in writing between the parties).

"Quotation" a quotation for the supply of Goods made by Seller to Sigmatex;

"Sigmatex" Sigmatex High Technology Fabrics Inc., 6001 Egret Court, Benicia, CA 94510
Sigmatex Carbon Textile Solutions, 1 Sigmatex Way, Cameron, SC 29030
“Specification” any technical or other description, design or drawings relating to the Goods which is specified or otherwise referred to in the Order or any technical description referred to in a Quotation.

“Seller” the person, firm or company designated as the seller on the Order.

“T&Cs” these terms and conditions of purchase of Sigmatex.

“Working Day” any day in which a business can operate (other than a Saturday or Sunday, or bank or public holiday in the United States).

1.1 In these T&Cs, unless otherwise stated, references to:
   a. a statute or any provision of a statute shall be construed as a reference to that statute or provision as amended, re-enacted or extended at the relevant time;
   b. the “parties” are references to Sigmatex and the Seller;
   c. the singular shall include the plural and vice versa.

The headings in these conditions are for convenience only and shall not affect the construction of these conditions.

2. The Contract

2.1 The Contract shall be based on these T&Cs and all terms and conditions put forward by the Seller are hereby excluded from the Contract.

2.2 Each Order for Goods from Sigmatex to the Seller shall be construed as an offer by Sigmatex to purchase Goods subject to these T&Cs. No Order shall be accepted until the Seller (wholly or partly) accepts the Order either by giving Sigmatex notice of such acceptance, or by fulfilling the Order.

2.3 Where any provision in these T&Cs is in conflict with the Order or any aspect of the Specification, the Order shall prevail over these T&Cs and the Specification shall prevail over the Order and these T&Cs.

2.4 For the avoidance of any doubt, each Order shall represent a separate Contract.

3. Supply of Goods

3.1 The Seller agrees to sell, deliver and provide to Sigmatex and Sigmatex agrees to purchase the Goods pursuant to the Contract and these T&Cs.

3.2 Sigmatex may at any time change any or all of the quantity of the Goods, the Specification, the Delivery Address or the Delivery Date. The Seller shall not without Sigmatex’s prior written consent exceed the quantities stated on the Order nor modify the Specification. Over-shipments of Goods may be returned by Sigmatex, at Sigmatex’s sole discretion. If required by Sigmatex, the Seller shall promptly arrange for the collection of any over-shipments from Sigmatex’s premises at the Seller’s expense and any over-shipments shall be at the risk of the Seller with effect from the date on which it is notified by Sigmatex of the over-shipment.

3.3 Where Sigmatex provides the Seller with a Specification for the Goods the Seller shall:
   a) ensure that the Goods comply with the Specification; and
   b) prior to the Delivery Date provide Sigmatex with the Goods Information Documentation in relation to the Goods.

3.4 The Goods shall in all respects:
   a) conform as to quality, quantity, design and description with the particulars of the Contractual Package, including the Specification;
   b) be of satisfactory quality and free from defects;
   c) be fit for all purposes for which such Goods are commonly supplied and where if, expressly or by implication, the purposes for which Sigmatex required the Goods have been made known to Seller, fit for those purposes;
   d) correspond to any approved samples, patterns or prototypes;
   e) be adequately packed, secured and labelled at the Seller’s expense to protect against all risks of damage or deterioration;
f) comply with all relevant requirements of any statutes, statutory instruments, regulations, orders or licences applicable in the United States at the Delivery Date

g) conform to all descriptions applied thereto by the Seller or otherwise appearing in supporting literature supplied in respect of the Goods.

h) comply with all of Sigmatex’s Quality Requirements laid out in section 4 of this document

3.5 The Seller shall comply with all of its legal obligations in relation to health and safety in relation to the Goods and provide Sigmatex with such information and assistance concerning the Goods as Sigmatex may reasonably require. This obligation shall be a continuing obligation surviving completion or earlier termination of the Contract.

3.6 The Seller shall on or before delivery of the Goods, supply in connection with the Goods, such documents and information as shall be stated in the Contractual Package together with such other information as Sigmatex may require including, without limitation, certificates of conformity, handling and care instructions

4. Quality Requirements

4.1 Quality Management System
The Seller shall maintain a quality management system which is compliant with the requirements of ISO 9001 or equivalent. At a minimum, the quality system must address:

1. Receiving and final inspection
2. Calibration of measuring and monitoring equipment (except distributors) (Any calibration standards used shall be traceable to relevant national standards (NIST, UKAS, NPL, etc.))

3. Corrective action

4.2 Certification of Conformance Required
The Seller shall provide a Certificate of Conformance (C of C) to the purchase order requirements in accordance with the applicable material specification for each lot/batch received. Certifications shall include reference to the specification and revision as noted on the purchase order.

All certification must be signed by an authorised Seller’s representative.

4.3 Certification of Calibration
The Seller shall provide certificates of calibration upon request. Calibration standards used shall be traceable to relevant national standards (i.e. NIST, UKAS, NPL etc.)

4.4 Material Certifications Required
The Seller shall test the Goods for conformity with the Contract prior to delivery. Sigmatex shall be entitled to attend and observe the testing of the Goods subject to giving the Seller reasonable notice of the same. The Seller shall also permit Sigmatex on request to conduct tests on the Goods prior to delivery. Such tests and the testing methods, conditions and performance tolerances under which Sigmatex will carry out such testing shall be agreed by the parties acting reasonably. Under no circumstances shall the Seller supply Goods which fail to comply with the Specification or Goods Information Documentation.

The Seller shall provide certification and test reports of chemical, physical or analytical test results, as applicable, in accordance with the applicable specification for each lot/batch.

4.5 Product Identification
Packages shall identify contents with part number, lot number and hazardous warnings as applicable.

4.6 Manufacturer Identification
The Seller shall identify the manufacturer if different from the Seller.

4.7 Traceability of Materials
Full traceability to all material components shall be maintained.

4.8 Corrective Action
In the event of Sigmatex initiation of corrective action requests due to non-conforming material, the Seller shall, in a timely manner, advise of action taken to correct and prevent recurrence of the reported discrepancies.

4.9 Request for Deviation/Waiver
The Seller shall notify Sigmatex when non-conforming material is identified, and request disposition for non-conforming item(s) prior to shipment. Items determined as unacceptable by Sigmatex shall be permanently identified by the Seller to preclude use of shipment to Sigmatex.

4.10 Replacement or Reworked Items
Replacement or reworked items re-submitted by the Seller following Sigmatex rejection, and regardless of rejection reason, shall be segregated and shown as separate items on the Sellers shipping documents and certifications. The Seller’s documentation shall reference applicable Sigmatex non-conforming material and/or corrective action request numbers.

4.11 Date Sensitive Materials
At the point of delivery, all carbon fibre supplies must have a minimum of 18 months shelf life remaining (unless by written prior agreement with Sigmatex). All other date-sensitive materials must have a shelf-life of greater than 75% remaining.

4.12 Notification of Changes to Qualified Sources, Materials, Methods and Facilities
The materials’ product specifications, the method, or location of manufacture, may not be amended without prior consultation with Sigmatex. Such consultation shall take place at least 12 months before implementation of any intended change.
The Seller shall inform Sigmatex, in advance of shipment, if any raw materials, their sources, the manufacturing process, or the manufacturing facilities location, for the material purchased have changed from those originally qualified by either an internal or external source.
In the event of a change or product withdrawal, Sigmatex shall be given the option to purchase sufficient stock to allow continuous use, whilst the change is being validated or alternative products are being tested and approved.

4.13 Record Retention
The Seller’s production and quality/inspection records shall be retained for a period no less than 10 years after fulfilment of the purchase order, at which time Seller shall request disposition instructions from Sigmatex and shall transfer or dispose of such records as Sigmatex requests. Quality records may be hard copy, electronic version, or other media. All quality records must be legible and stored in a suitable environment to prevent damage, deterioration, or loss.

4.14 Flow-Down of Requirements
The Seller shall, as appropriate, flow down to its sub-tier Sellers all applicable requirements in the purchasing documents, including key characteristics where required, and any specific customer requirements.

4.15 Right of Entry
Following reasonable notice, Sigmatex employees, its customers, regulatory authorities, or any authorised representatives of Sigmatex (being such person that has been authorised by Sigmatex for such purpose and of whom the Seller has been notified in writing by Sigmatex), reserve the right to access the applicable areas of the Seller’s facility, or facilities, and applicable records, for the purpose of monitoring the progress of work by the Seller or its approved sub-contractors under the Contract. The right of entry also extends to allowing any persons identified above to conduct Quality System Audits. For such purposes the Seller shall, and shall ensure that its approved sub-contractors shall, afford to Sigmatex’s representatives reasonable facilities and assistance when requested by Sigmatex.

4.16 Obligations
The Seller shall not be released of any of its obligations under the Contract (and nothing shall prejudice any rights or remedies of Sigmatex) notwithstanding any inspection or failure to inspect or discover any defect or non-compliance with the Order by Sigmatex.

4.17 Prevention of Counterfeit Parts
The Seller shall plan, implement and control processes, appropriate to the organisation and the product, for the prevention of counterfeit, or suspect counterfeit part use, and their inclusion in product(s) delivered to Sigmatex. Such processes should include:
- training of appropriate personnel in counterfeit part awareness
- part obsolescence monitoring
controls for acquiring externally provided product from original or authorised manufacturers, authorised distributors, or other approved sources
- assuring traceability of parts to their original manufacturer
- methodologies for detection of counterfeit parts
- monitoring of counterfeit parts reporting from external sources
- quarantine and reporting of suspected, or detected counterfeit parts.

4.18 Sigmatex Designated / Approved External Providers
The Seller will only use Sigmatex designated, or approved external supplier sources.

4.19 Employee Awareness
The Seller must ensure that their employees are aware of their contribution to product or service conformity, their contribution to product safety, and the importance of ethical behaviour.

4.20 Foreign Object Damage/Debris Prevention
Deliverable Items shall be free of Foreign Object Debris (FOD). The Seller shall document and investigate all FOD incidents assuring elimination of the root cause. Sigmatex shall have the right to perform inspections and/or audits as a method of verification that the Sellers FOD control procedures are functional, documented and effective in line with the requirements of section 4.15.

5. Delivery of Goods

5.1 The Seller shall provide Sigmatex with such information relating to the progress of work pursuant to the relevant Order in such a manner and at such time as Sigmatex may reasonably require.

5.2 All Goods shall be delivered to the Delivery Address on the Delivery Date strictly in accordance with the Contract unless otherwise agreed by Sigmatex. Where the Seller is to provide any services in respect of the Goods following delivery, those services shall be completed on the Delivery Date. Time for delivery of the Goods and the completion of any associated services is of the essence of the Contract. Sigmatex may from time to time be permitted to defer the Delivery Date without any liability for storage or other charges from the Seller. In such case no invoice shall be submitted by the Seller until delivery has taken place.

5.3 If at any time the Seller has reason to believe that the deliveries of the Goods may not be made at the times specified in the Order, the Seller shall immediately notify Sigmatex setting out the cause for the anticipated delay. Any oral communication shall be immediately confirmed in writing. If delivery is delayed, the Seller shall at its own cost send the Goods at such time to such place and in such manner as instructed by Sigmatex, and the Seller shall, if so requested by Sigmatex and without prejudice to the other rights and remedies of Sigmatex, reimburse Sigmatex on demand for all losses and damages reasonably incurred as a result of such delay. For the avoidance of any doubt, in the event of any shortage of the Goods in the market, the Seller shall prioritise all Orders placed by Sigmatex and shall use all reasonable endeavours to fulfil such Orders in accordance with the Contractual Package.

5.4 If the Seller fails to deliver in accordance with clause 5.2 then, without prejudice to Sigmatex’s rights for breach of the Contract, Sigmatex may:
   a) reject the Goods delivered and terminate the Contract as a whole. In this event, without prejudice to Sigmatex’s other remedies, the Seller shall promptly and at the cost of the Seller collect any Goods which have been delivered;
   b) accept delivery of those Goods which have been delivered, and terminate the Contract in respect of the undelivered Goods; or
   c) accept those Goods which have been delivered and specify a further Delivery Date by which the remainder of the Goods must be delivered in respect of which the provisions of this clause 5 shall continue to apply.

5.5 Risk of loss or damage to the Goods shall pass to Sigmatex on the later of physical delivery of the Goods to Sigmatex (after unloading of the Goods at the Delivery Address) or completion by the Seller of any services which the Seller is to provide in respect of the Goods following delivery.

5.6 Title to the Goods shall pass to Sigmatex as soon as the Goods have been appropriated to the Contract and title to any materials procured or manufactured by the Seller towards performance of the Contract shall pass to Sigmatex when they are procured or manufactured.
6. Acceptance

6.1 Sigmatex shall not be deemed to have accepted any part of the Goods until after Sigmatex has actually inspected the Goods and ascertained that they are in accordance with the Contract or, if later and the Goods have not been inspected, a reasonable time (at least 30 Working Days) has elapsed since the Goods have been put into use. Any legal provision deeming when acceptance of the Goods is to have taken place is hereby excluded.

6.2 Until Sigmatex has accepted the Goods, if any Goods are found not to be in conformity with the Contract, Sigmatex shall be entitled to:
   a) reject the Goods delivered, treat the Contract as repudiated by the Seller and terminate the Contract as a whole;
   b) reject the Goods delivered, require the Seller to deliver replacement Goods conforming with the Contract by a further Delivery Date specified by Sigmatex and/or treat the Contract as repudiated by the Seller in respect of any remaining undelivered Goods; or
   c) accept those Goods which have been delivered, require the Seller to repair, rectify or pay the reasonable cost of repairing or rectifying the Goods and/or treat the Contract as repudiated by the Seller in respect of any remaining undelivered Goods.

6.3 Any acceptance by Sigmatex of Goods not in conformity with the Contract shall be without prejudice to any rights or remedies Sigmatex may have against the Seller, including the warranties under clause 9, and Sigmatex shall not be considered as the result of a deemed or express acceptance of the Goods to have agreed that the Goods supplied were supplied in accordance with the requirements of the Contract.

6.4 Sigmatex’s right to reject any Goods shall not be affected by the resale of any Goods to any third party.

6.5 Where any Goods are rejected by Sigmatex under the Contract the Goods shall be at the risk of the Seller and the Seller shall pay Sigmatex’s costs of handling.

6.6 In addition to its rights under clause 6.5 above, Sigmatex shall be entitled to return the Goods to the Seller and the Seller shall at the option of Sigmatex either collect the Goods or reimburse or pay Sigmatex the cost of returning the Goods to the Seller.

6.7 The Seller upon receiving notice to that effect from Sigmatex shall repair or replace free of charge Goods damaged or lost in transit and due delivery of the Goods shall not be deemed to have taken place until replacement or repaired Goods have been delivered by the Seller to Sigmatex.

7. Price

7.1 Sigmatex shall pay the Seller the Price in respect of the Goods. The Price is exclusive of added sales tax.

7.2 The Price shall not be subject to any variation or adjustment unless Sigmatex’s authorised representative agrees thereto in advance in writing.

7.3 Unless otherwise agreed by Sigmatex, the Price includes carriage, insurance, freight, customs clearance and delivery of the Goods to the Delivery Address. The Price shall also include, unless the Order otherwise stipulates, the cost of packing, boxing, crating or any other packaging for the Goods and unloading of the Goods at the Delivery Address.

8. Payment

8.1 Invoices shall be sent to Sigmatex at any time after delivery of the Goods and shall be sent to Sigmatex’s office at the address given in clause 1.

8.2 The Seller shall ensure that one invoice shall be delivered for each Order and that all invoices specify the Order number and full details of the supply including description, quantity and unit price of Goods delivered.

8.3 Unless the provisions of clause 8.4 apply and subject to the invoice provided by the Seller being correct and being received in accordance with clause 8.1, and unless different credit terms have been agreed, Sigmatex shall pay the invoice within 45 days of the date of the invoice.
8.4 Where Sigmatex has agreed to pay all or a proportion of the Price prior to receiving the Goods the Seller shall hold such sums:

a) on trust for Sigmatex; and

b) separately at all times from all other sums of the Seller or any third party in such a way that they remain readily identifiable as Sigmatex’s funds.

8.5 Once the Goods have been fully delivered in accordance with the Contract, the Seller shall be permitted to issue a final invoice to Sigmatex which will represent the balance of the Price less any payment(s) made in accordance with clause 8.4.

8.6 The Seller will only be entitled to ownership of the sums paid by Sigmatex as an advance payment once the Goods have been delivered in full to Sigmatex and Sigmatex has accepted the Goods in accordance with these T&Cs.

8.7 In the event that the Goods are not fully delivered in accordance with the terms of the Contract, Sigmatex shall be entitled at its absolute discretion to the immediate return of the sums paid under clause 8.4.

8.8 Where the Price or any part of it is disputed by Sigmatex in good faith, Sigmatex will provide the Seller with a statement of the amount in dispute. The Seller and Sigmatex shall seek to resolve the dispute as soon as reasonably practicable and in good faith, in accordance with the escalation procedure set out in these T&Cs. Sigmatex shall not be obliged to pay any sums due to the Seller until any dispute in relation to any invoices is resolved.

8.9 Sigmatex shall be entitled to set off against any amount of the Price which it owes to the Seller, any amount owed to Sigmatex by the Seller under the Contract or under the terms of any other dealing between Sigmatex and the Seller.

8.10 Payment by Sigmatex of any amount in or towards the Price and/or of any other amount payable by it under the Contract shall not constitute Sigmatex’s admission as to the Seller’s performance of its obligations, an acceptance of the Goods or as a waiver of Sigmatex’s rights under the Contract, under statute or at law and shall be without prejudice to any right to dispute that such amount was payable.

9. Warranties and Remedies

9.1 The Seller hereby warrants to Sigmatex that the Goods will comply with the requirements of the Contract. Without prejudice to the foregoing, the Seller warrants that in the performance of its obligations under the Contract it will comply with all laws, rules, regulations, decrees and other ordinances issued by any supra-governmental, governmental, state or other authority relating to the subject matter of the Contract.

9.2 The Seller warrants that in relation to any licence of IPRs in clause 14 or otherwise, it has the right to grant that licence and that the exercise of that licence in accordance with the Contract will not infringe any IPRs of any third party.

9.3 Without prejudice to the other rights of Sigmatex for breach by the Seller, where any of the Goods supplied to Sigmatex are found within eighteen months of the Delivery Date (or, where a Goods has a shelf-life of less than eighteen months, within that shelf-life) not to be in accordance with the Contract Sigmatex shall be entitled at its sole option to:

a) reject all of the Goods, terminate the Contract as a whole, and require the Seller to refund the Price;

a) accept delivery of those Goods which have been delivered in compliance with the Contract, and terminate the Contract in respect of the Goods which do not comply with the Contract and require the Seller to refund that part of the Price paid for the non-compliant Goods; or

b) require the Seller at the Seller’s cost to repair or replace the Goods with Goods conforming to the requirements of the Contract, carry out repairs and rectification work itself to the Goods, and pay the costs of any such repairs, replacements or rectification work and/or to terminate the Contract in relation to any undelivered Goods. If it is necessary to open up or dismantle any other works or assemblies to permit such repair or replacement then the Seller shall bear the cost of such opening up, dismantling or reassembly and the making good after repairs, replacements and testing of such Goods have been completed to Sigmatex’s reasonable satisfaction.

9.4 Where either party is or ought reasonably to be aware that the Goods are defective in such a way that any reasonable manufacturer or Seller would conclude that they should be subject to a recall or that customers should be notified of the defect, the relevant party shall promptly notify the other of that fact. The Seller shall promptly investigate the alleged defect thoroughly and report to Sigmatex on its finding. The Seller shall pay on an indemnity basis Sigmatex’s costs, expenses
and losses resulting from any product recall (whether undertaken by Sigmatex or any customer of Sigmatex) including the cost of issuing notices to customers of any defect and the cost of collecting any Goods.

10. Cancellation

10.1 Sigmatex shall be entitled, subject to clause 10.2 below, by notice at any time, to cancel the Contract in whole or in part, without any liability for any loss or damage whatsoever except as provided in clause 10.2. Upon such cancellation Sigmatex shall cease to be bound to pay that part of the Price which relates to the Goods which have not been delivered.

10.2 Upon any cancellation under clause 10.1, Sigmatex shall cease to be bound to pay that part of the Price which relates to the Goods which have not been delivered or supplied, but will pay for expenses and work in progress incurred wholly and exclusively for the purposes of the Contract to the extent to which the same would otherwise be an unavoidable loss to the Seller due to Sigmatex’s cancellation. The Seller shall submit its claim within one month of the date of cancellation by Sigmatex for such expenses and work in progress.

10.3 If Sigmatex has made an advance payment of all or any part of the Price to the Seller, the Seller shall within one month of the cancellation of the Contract submit its claim, in accordance with clause 10.2. If any further sum is due to the Seller, as determined in accordance with clause 10.2, Sigmatex shall make payment in accordance with the provisions of clause 8. If any sum is due to Sigmatex, Sigmatex shall be entitled to the immediate return of such sums.

10.4 The Seller shall take all reasonable steps to mitigate or avoid its loss and Sigmatex shall not be liable for claims submitted more than one month after termination.
11. Termination

11.1 Without prejudice to any other rights or remedies which either party may have, and unless otherwise stated elsewhere in this Contract, Sigmatex may terminate the Contract immediately and without liability on giving notice to the Seller if:

a) the Seller commits a material breach of the terms of the Contract;

b) the Seller commits a breach of any of the terms of the Contract (however minor) and fails to remedy that breach within 28 days of being notified in writing of the breach and a request that the breach be remedied;

c) the Seller enters into any composition or arrangement for the benefit of its creditors;

d) the Seller, being an individual, becomes bankrupt or has a receiving order or administration order made against him;

e) the Seller becomes insolvent or appears to be unable to pay a debt or have no reasonable prospect of paying debt or being a company, appears unable to pay its debts;

f) the Seller is a company or other corporate body, the presentation of a petition or the giving of any notice of a resolution for the winding up of the Seller (other than for a members’ voluntary winding up of a solvent company for the purpose of a bona fide reconstruction);

g) the Seller is a company or other corporate body, the appointment of an administrative receiver or administrator in respect of the whole or any part of the Seller’s undertaking or assets; or

h) the Seller shall suffer any analogous proceedings.

11.2 Such termination or suspension shall be without prejudice to Sigmatex’s other rights or remedies under the Contract, whether accrued before or accruing after such notice.

12. Limitation of Liability

12.1 Nothing in this Agreement shall exclude or limit Sigmatex’s liability for:

a) fraud or fraudulent misrepresentation;

b) death or personal injury caused by its negligence; or

c) any other liability to the extent that the same may not be excluded or limited as a matter of law.

12.2 Without prejudice to Clause 12.1, Sigmatex’s maximum liability to the Seller under or in connection with the Contract whether arising in contract, tort (including negligence), breach of statutory duty or otherwise shall in no event exceed the Price payable by Sigmatex under the Contract.

12.3 Without prejudice to Clause 12.1, Sigmatex shall, in no circumstances, be liable to the Seller by reason of breach of contract, tort (including negligence), breach of statutory duty or otherwise for any:

a) special damages;

b) loss of profit (actual or anticipated), loss of income, loss of business, loss of revenue, loss of goodwill, loss of use or other economic loss;

c) any loss arising from any claim against the Seller by any third party; or

d) any consequential or indirect loss, damage or expense of any kind howsoever caused or arising, whether or not such loss or damage was foreseeable or in the contemplation of the parties.

13. Indemnity

The Seller shall fully indemnify and keep Sigmatex and any director, officer, employee, servant, agent or sub-contractor of Sigmatex fully indemnified on demand from and against all actions, claims, demands, costs (including reasonable legal costs and expenses), losses (including without limitation loss of profit, revenue or goodwill), damages, remediation costs and liability and all litigation, arbitration, mediation or adjudication expenses incurred by or awarded against Sigmatex which Sigmatex may suffer or incur as a result of or arising in any way directly or indirectly out of:

a) the supply of the Goods by the Seller;

b) any breach of the Contract by the Seller; or

c) any act, omission or default (whether deliberate, wrongful, negligent or accidental) of the Seller, together with any and all reasonable and proper costs and expenses, including legal costs and expenses, reasonably incurred by Sigmatex in mitigating any loss, damage or liability or in settling or defending any claim, action, proceeding or demand in respect of any such loss, damage or liability, or in complying with any undertakings, orders, judgments or awards in relation thereto.
14. Force Majeure

14.1 Any delay or failure of either party to perform its obligations hereunder shall be excused if and to the extent that it is beyond the reasonable control of the party and without its fault or negligence, providing that written notice of such a delay (including the anticipated duration of such delay) shall be given by the affected party to the other within 1 day.

14.2 During the period of such delay or failure to perform by the Seller Sigmatex at its option may:
   a) purchase Goods from other sources without liability to the Seller; or
   b) require the Seller to provide the Goods from other sources in such quantities and at times requested by Sigmatex and at the price or contract rate stipulated by this Contract.

14.3 If requested by Sigmatex, the Seller shall within 1 day of any such request provide adequate assurances that the delay shall not exceed such period of time as Sigmatex specifies. If the delay lasts for longer than that specified period, or the Seller does not provide adequate assurance that the delay will cease within that period, Sigmatex may immediately cancel the Order or that part of the Order which has not been performed without liability.

15. Confidentiality Obligations

15.1 A party (the “Receiving Party”) which receives, whether directly or indirectly, any Confidential Information belonging to the other party (the “Disclosing Party”) shall:
   a) keep the Confidential Information confidential;
   b) not use, disclose or otherwise make available the Confidential Information to any other person other than with the prior written consent of the Disclosing Party or in accordance with T&Cs 15.2 and 15.3, or 15.4; and
   c) not use, disclose or otherwise make available the Confidential Information for any purpose other than the performance of its obligations under the Contract.

15.2 During the term of the Contract the Receiving Party may use, disclose or otherwise make available the Confidential Information to its employees and approved sub-contractors (the "Recipient") to the extent that it is necessary for the purposes of the Contract.

15.3 The Receiving Party shall use its reasonable endeavours to ensure that each Recipient is made aware of and complies with all the Receiving Party’s obligations of confidentiality under the Contract as if the Recipient were a Party to the Contract.

15.4 The confidentiality obligations contained in T&Cs 15.1 to 15.3 shall not apply to any Confidential Information which:
   a) is at the date of the Contract in or at any time after the date of the Contract comes into public knowledge other than through breach of the Contract by the Receiving Party or any Recipient;
   b) can be shown by the Receiving Party to the reasonable satisfaction of the Disclosing Party to have been known by the Receiving Party before disclosure by the Disclosing Party to the Receiving Party;
   c) subsequently comes lawfully into the possession of the Receiving Party from a third party without any obligation of confidentiality; or
   d) is required by law, governmental or regulatory authority, the Takeover Panel or a recognised stock exchange to be disclosed.

15.5 No public announcement, communication or circular (other than to the extent required by law or any recognised investment exchange) concerning the Goods referred to in the Contract or the existence of the Contract between the parties shall be made or despatched by the Seller without the prior written consent of Sigmatex (and Sigmatex shall approve the terms and content of any such announcement prior to it being made by the Seller).

16. Dispute Resolution

The Seller and Sigmatex shall use their reasonable endeavours to negotiate in good faith and settle amicably within a reasonable period of time (of no more than 10 Working Days) any dispute that may arise out of or relates to the Contract. Prior to legal action being taken (urgent injunctive or similar relief excepted), the dispute shall be referred to senior management to seek to resolve within 20 Working Days, after which time the parties shall be free to take legal action if the dispute is not resolved.

17.1 The Contract constitutes the entire agreement between the parties and cancels and supersedes any and all previous agreements (whether oral or written, express or implied) between the parties relating to the subject matter of the Contract, except where expressly provided otherwise in the T&Cs. Except for the express written terms of the Contract, the parties acknowledge and agree that in entering into the Contract they have not relied on or been induced by any warranty, statement or representation of the other or any other person relating to the Contract. Nothing in the Contract shall affect any liability of a party for fraudulent misrepresentation.

17.2 No term of the Contract is intended for the benefit of any third party, and none of these T&Cs shall be enforceable by a third party.

17.3 Each of these T&Cs is to be construed as independent of every other clause so that the invalidity, illegality or unenforceability of any clause shall not affect the other T&Cs, all of which will remain in full force and effect.

17.4 If required by Sigmatex, the Seller shall promptly execute and deliver such documents and perform such acts as may be required for the purpose of giving full effect to the Contract and shall use its reasonable endeavours to procure that any necessary third party shall comply with the provisions of this Clause 17.4.

17.5 No omission or delay on the part of Sigmatex or the Seller in exercising any right, power or privilege under the Contract shall operate as a waiver by it or of any right to exercise it in future or of any other of its rights under the Contract.

17.6 Except as expressly provided in the Contract, the rights and remedies contained in the Contract are cumulative and shall be in addition to every other right or remedy provided by law or otherwise.

17.7 The Contract shall, as to any of its provisions remaining to be performed in whole or in part or capable of having effect following termination or performance, remain in full force and effect despite termination in accordance with these T&Cs.

17.8 The Seller shall not assign or sub-contract all or any portion of the Contract without the prior written consent of Sigmatex. In the event that Sigmatex provides such consent to the Seller, the Seller shall be responsible at all times for work done and any Goods or other materials supplied by any such assignees or sub-contractors.
17.9 Any notice required to be sent under the Contract will be properly served if sent in writing:
   a) by hand in which case such notice shall be deemed to be served at the time of delivery where it is delivered on a Working Day, and at 9am on the first Working Day following the day of delivery if it was not delivered on a Working Day;
   b) by first class or recorded delivery post to the address of the party in question given on the Order (or such other address as the parties may notify to each other from time to time) in which case such notice will be deemed to have been served two Working Days after the date of posting; or
   c) by fax to the party in question, in which case such notice will be deemed to have been served on the next Working Day after receipt of an uninterrupted transmission confirmation.

18. Law and Jurisdiction

The construction and effect of the Contract shall be governed by the State of California law and the Seller and Sigmatex each agree to submit any litigation to the exclusive jurisdiction of the courts located in the State of California. It is agreed that the exclusive forum or venue for any litigation between Seller and Sigmatex shall be the Solano County Superior Court for any State court action and the United States District Court, Eastern District of California located in Sacramento, California for any Federal court action. Should any litigation be commenced or prosecuted between Seller and Sigmatex it is agreed that the prevailing party shall recover its reasonable attorney’s fees incurred in the litigation.