

**EDDIE BAUER PURCHASEORDER TERMS AND CONDITIONS
(EDDIE BAUER LLC, A PSEB COMPANY)**

DEFINITIONS: This Order is between **Eddie Bauer LLC** (or its affiliate identified on the face of the purchase order) ("Company") and the vendor identified on the face of the purchase order ("Vendor") and is governed by these Terms and Conditions. "Order" means these Purchase Order Terms and Conditions (these "Terms and Conditions"), together with the purchase order to which they are physically or electronically attached ("PO"), Company's then current vendor compliance manual (the "VCM"), any other documents, exhibits, specifications, or instructions provided by Company.

ACCEPTANCE: BY ACCEPTING THE PO FOR ANY GOODS ("GOODS"), VENDOR HEREBY AGREES TO THIS ORDER (INCLUDING THE TERMS AND CONDITIONS). This Order may not be modified except in writing signed by Company. Terms or conditions in any acknowledgment, bid, estimate, invoice, or other communication of Vendor which are inconsistent with this Order are rejected. No course of dealing, usage of trade, or course of performance shall supplement, amend, or explain any term, condition, or instruction in this Order. Company shall have the right at any time prior to delivery of Goods to modify the PO. If any such change causes an increase or decrease in the cost, an equitable adjustment shall be made in writing by the parties.

DELIVERY/INSPECTION/REJECTION/RISK OF LOSS: Vendor shall deliver the Goods, together with all documents required under this Order, in accordance with the quantities and specifications provided in the Order. Company may cancel all or any part of the Order if the Goods are not delivered in accordance with the Order. Goods received after the date specified will be held subject to the Company's right to reject or direct disposal of all, or any part thereof. Acceptance of Goods after the date specified for delivery shall not be construed as a waiver of Company's right to recover for late delivery. Cure of a nonconforming tender may be made only with the express written consent of Company. Company shall have a reasonable time to inspect the Goods at the final destination, and all Goods will be subject to acceptance by Company. Inspections will not relieve Vendor of its obligation to provide Goods that comply in all respects with the Order. Company will not be required to accept or pay for defective or damaged Goods, overruns, or underruns. In addition, all transportation costs resulting from deviation from shipping and delivery instructions, or any other costs incurred by the Company because of Vendor's noncompliance with the this Order, shall be charged to Vendor. Unless otherwise specified in the Order, the risk of loss or damage to Goods is at Vendor's risk until delivery of the Goods as specified in the PO. Title shall pass to Company upon delivery as and where specified in the Order.

PACKAGING AND SHIPPING. (a) Vendor is responsible for the costs of packaging, drayage, packing, shipping and billing (all of which are included within the invoiced costs for the Goods). All Goods will be packaged, packed, and shipped and routed in accordance with the Order (including without limitation, the VCM). **(b)** Goods shall be packed and secured in such a manner as to reach the destination in good condition under normal conditions of transport. Vendor shall comply with all applicable laws, regulations, carrier tariffs and classification related to packing and shipping. Vendor shall comply with all applicable customs regulations and data requirements for exporting and importing the Goods and, unless otherwise agreed to in writing, shall provide to Company's forwarder, consolidator or carrier, as applicable, not less than two (2) days prior to the date specified in the PO, all data and documentation required for compliance. **(c)** Goods shipped by freight classification shall be packed and marked to obtain the lowest rate possible and in conformity with applicable laws, regulations, carrier tariffs and classification, except where otherwise specified in writing by Company. Increased charges or penalties caused by Vendor's failure to comply with this section shall be paid by Vendor.

QUALITY ASSURANCE AND INSPECTION. Vendor shall maintain adequate quality assurance ("QA") programs to ensure that the Goods comply with all applicable laws and regulations related to consumer safety and meet all Company quality specifications. Vendor shall maintain and make available upon Company's request all records necessary to verify compliance with applicable safety compliance laws and regulations. Records shall be maintained for six (6) years from the date of the end of production of the Goods. Initial Vendor QA audits of Goods under each PO shall be at Vendor's cost, and Vendor promptly shall furnish the results of these programs and any testing of the Goods to Company in accordance with the Order. Neither factory inspection nor payment for the Goods terminates, revokes, limits or modifies Vendor's representations and warranties, including those relating to quality, conformity and compliance.

VENDOR'S REPRESENTATIONS AND WARRANTIES. Vendor represents and warrants to the following, and all such representations, warranties and guaranties shall survive the receipt, inspection, and acceptance and payment by Company for the Goods: **(a)** All Goods delivered under the PO (i) conform to the specifications provided by the Company; (ii) are equal in quality to production samples submitted to and approved by Company or its buying agent. Approval of a non-conforming sample, unless in writing, shall not constitute a modification of a specification; **(b)** all Goods delivered under the PO are (i) free from defects in design, material, construction and workmanship; (ii) are fit for the particular purpose for which such Goods are ordinarily used; and (iii) present no unreasonable risk of injury or illness to the retail consumer when used for the intended purpose. Vendor agrees that the retail consumer has the right to rely on these warranties and enforce the same as against the Vendor; **(c)** the Goods comply with all applicable federal, state, provincial, or local laws, statutes, rules, regulations, ordinances, and orders; **(d)** no violation of any applicable law, statute, rule, regulation, ordinance, or order will result from the processing, manufacture, labeling, sale, invoicing, export or shipment of the Goods or components thereof; **(e)** Vendor has received, read and will comply with the requirements in the VCM and other websites, manuals or documents provided by Company that are intended to govern Vendor's sale of Goods to Company; **(f)** the Goods manufactured will be produced in Vendor's facilities, unless Company has previously authorized the subcontracting of manufacture in writing, and that the country of origin provided to Company is the true country of origin; **(g)** Vendor shall operate its business in accordance with the minimum security standards set forth by Company and the U.S. Customs and Border Protection Customs Trade Partnership Against Terrorism ("C-TPAT") program and/or Canada Border Services Agency Customs and Revenue Agency Partnership in Protection ("PIP") program, as applicable; **(h)** Vendor shall provide Company or any governmental agency with any guaranty of compliance with laws, rules and regulations applicable to Vendor's manufacture of the Goods in such form as Company or such agency may designate, request or require; and **(i)** no Goods were produced or services performed using child, forced, indentured or convict labor or otherwise in violation of the Company's code of conduct. The Vendor agrees that the foregoing is supplemental to all representations and guaranties implied or imposed by law. The Vendor agrees that Company shall have all other warranties and guaranties implied or imposed by law.

INDEMNIFICATION: (a) Each party shall promptly provide notice to the other party of any potential claim concerning the Goods. **(b)** Vendor agrees to indemnify, defend (at Company's option), with counsel reasonably acceptable to Company, protect and hold harmless Company and its parent, owners, affiliates, subsidiaries, directors, officers, managers, employees, and agents (together "Indemnified Parties") from and against all allegations, demands, claims, actions, liens, losses, costs (including attorney's fees), expenses and liabilities whatsoever (all of the foregoing referred to as "Costs"), alleged to result from the Goods or Vendor's performance or failure to perform hereunder, and arising out of actual or alleged: (i) death of or injury to any person or damage to any property; (ii) damage or loss resulting or claimed to result from any latent or patent defect, improper design, manufacture or incorporation of materials in the Goods; (iii) violation of any applicable federal, state, provincial, or local laws, statutes, rules, regulations, ordinances and governmental administrative orders; (iv) failure to comply with any applicable voluntary or mandatory product safety standards; (v) a claim that Vendor's performance under this Order, or the sale, delivery, storage, handling or use of the Goods, infringes on the patent, trademark, copyright, trade secret, contractual or any other proprietary right of a third party; or (vi) breach of this Order. **(c)** Vendor's indemnity shall survive the expiration, performance or termination of the Order. Vendor hereby acknowledges that Company is purchasing the Goods for resale and such indemnity survives retail sale.

REMEDIES: (a) At Company's sole discretion and in its sole election, in the event of Vendor's failure to perform any provision of this Order, Company may: (i) Reject in whole or part, demand replacement of or return for full reimbursement, refund and/or credit, any Goods, including non-conforming Goods. To the extent that any conforming Goods remaining in any Order rejected for nonconforming Goods are insufficient, as determined by Company in the exercise of its sole discretion, to offer

for retail sale, Company may reject the conforming Goods as part of the rejection of the nonconforming Goods. Vendor's payment of any reimbursement, refund or credit of monies shall be made promptly, and include, as applicable, the following monies paid in respect to the rejected Goods: purchase price, transportation costs, demurrage, inspection, handling, repacking, commissions, insurance, duties, fees, taxes and any other costs incurred by Company for rejected Goods. At Company's election, Company may: (1) hold any rejected Goods at Vendor's request and at Vendor's expense and risk of loss and damage at Company's warehouse or such other location as Company may elect. Company shall not be obligated to hold any rejected Goods for more than 15 days from the date of notice of rejection to Vendor. Unless Vendor commences and diligently pursues the return and retrieval of rejected Goods, at Vendor's risk and expense, within 15-days from the date of notice of rejection, Company may resell or dispose of Goods in any other manner, and at Vendor's cost; (2) destroy such Goods (if Company believes such pose a hazard as a result of defect or contamination); (3) resell rejected Goods on any terms and conditions it elects, and apply any funds received to amounts owed to it by Vendor; or (4) return, at Vendor's request and at Vendor's expense and risk of loss and damage, the Goods to Vendor. (ii) Repair or direct the repair of non-conforming Goods, and Vendor shall be liable for all repair costs, including costs of transportation to and from Company's point of inventory storage. (iii) Charge to Vendor all direct and indirect costs and expenses for Goods returned by Company's retail consumers because of defects in the Goods. (iv) Cancel, suspend or terminate for nonperformance (in whole or in part), the applicable Order, or any other Order outstanding with Company, if Vendor has breached any of its obligations, representations or warranties hereunder. (v) Deduct or setoff against amounts owed to Vendor under any Order all refunds, credits, return costs, chargebacks, penalties and other monetary obligations owed by Vendor to Company. Any installment payment or advance made by Company to Vendor in respect to any Order while any of Vendor's monetary obligations are outstanding shall be deemed to be an overpayment and shall be subject to recoupment and/or setoff by Company. Without limiting the foregoing, Company shall have the right, at all times, to deduct any Vendor's monetary obligations from any amounts owed to Vendor by Company, and to pay only the net sum due, if any. (b) In the event all or any portion of any Goods are recalled voluntarily or by order or at the direction of any government entity, Vendor shall cooperate fully with the Company and the government entity to expeditiously complete such recall, shall be liable for a full refund or credit for the Goods, including but not limited to all costs incurred by Company in the original purchase or recall of the Goods, including costs of transportation, demurrage, inspection, handling, repacking, commissions, insurance and taxes, as well as all actual and consequential damages to the Company, including damage to Company's reputation and/or brand. This provision shall survive the completion or termination of the Order. (c) No failure to exercise and no delay in exercising, on the part of the Company, any right, remedy, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law or elsewhere in this Order. Under this provision, Company does not waive any right to recover damages from Vendor or to purchase elsewhere and hold Vendor responsible to cover any additional costs incurred in doing so. (d) Vendor's recovery shall be limited to actual damages and losses that Vendor is able to prove were directly and proximately caused by Company's breach hereof. Vendor expressly waives and disclaims any right to recover indirect, incidental, consequential or punitive damages of any kind. The rights and remedies in this Order are cumulative and not exclusive of any other right or remedy that might be available at law or in equity.

TRADEMARK LICENSE; PROTECTION OF TRADEMARKS. Where applicable, Company hereby grants the Vendor a royalty free, revocable, nontransferable license to use those of Company's trademarks, trade names and logos ("Company Marks") specified by Company solely for the purpose of manufacturing the Goods, preparing the packaging, and fulfilling the Order. Vendor shall not use the Company Marks for any other purpose. Vendor shall not file any registration for, nor assert or claim patent, trademark, service mark or tradename rights or copyright protection on a Company Mark, nor file any domain name containing a Company Mark. To the extent the Vendor acquires any rights with respect to a Company Mark, such rights shall revert to Company, without any further act of the parties hereunder, and Vendor shall execute such additional documents as Company may request to effectuate such reversion. Where Company provides the design of the Goods to Vendor, Vendor agrees that Company owns all designs, copy, ideas, inventions, improvements, technical information, plans, patterns, molds, washes, stain or dye processes or treatments, paper or electronic patterns or other construction or model details, art works including colors, shapes and textures, processes, materials and data ("Proprietary Materials") relating to all Goods designed by Company, and to the extent the Vendor has provided services in the creation of such Proprietary Materials, all such services are provided as work-made-for-hire and the Proprietary Materials (including all patent rights, copyrights, trade secrets and other intellectual property rights embodied therein) shall be the sole property of Company. Vendor warrants that all works designed by Vendor, unless otherwise noticed by the Vendor to Company in writing, shall be original. Vendor agrees to execute all assignments or other documents and do all things necessary to enable Company to prosecute, perfect and enforce such right, title and, interest in all Proprietary Materials. Vendor shall not file for registration of, nor assert or claim patent, trademark, service mark or tradename rights or copyright protection in connection with the Proprietary Materials. Upon termination or expiration of this Order for any reason, all Proprietary Materials and data in Vendor's possession shall be immediately delivered to Company. Unless otherwise agreed in writing, all Proprietary Materials used in the production of Goods purchased under this Order shall (i) be used only in filling Company's Order; (ii) remain and be conspicuously identified as Company's property; (iii) be segregated from the property of Vendor and others; (iv) be held at Vendor's risk and insured at its expense in a replacement cost amount with loss payable to Company (evidence of insurance to be furnished upon request); (v) be subject to inspection and removal by Company at any time; and (vi) be maintained in good condition and not be modified without Company's prior written consent. The foregoing provision does not apply where Company is purchasing Goods designed and sold by Vendor on a non-exclusive basis to other retailers, which may include Company. Vendor and/or its agent(s) shall not, under any circumstances sell or otherwise transfer any Goods where the designs of which were provided by Company, or that bear Company Marks or any other marks supplied by a third party (together, "Company's Indicia"), except to third parties identified by Company for receipt of such Goods. If Vendor receives Company's prior written consent, Vendor may dispose of merchandise after all of Company's Indicia have been completely removed or obliterated from each and every article. Vendor and all its agents shall not, under any circumstances, represent or imply in any way that such Goods were originally designed by, manufactured for or otherwise intended for or associated with Company. Vendor further agrees that it will assist Company to the extent reasonably necessary to protect the Company Marks. Vendor promptly shall notify Company in writing of any infringement of Company Marks of which it becomes aware.

PRICE; TAXES; PAYMENT. Vendor shall pay and assume any and all taxes, fees, imposts, or stamps required by law by virtue of sale of Goods to Company. The Goods cost shown in the Order shall be the total price for the Goods. If any excise tax or other tax is included in, or added to, the prices paid to Vendor for the Goods, and if any portion of the tax is later refunded to the Vendor, Vendor shall immediately pay the amount of the refund to Company. Payment shall be in accordance with the terms stated in the Order and shall, unless otherwise provided, be in United States currency. Any discount terms shall be computed from the date Company receives the Goods. Payment due dates shall be considered extended without loss of discount until Vendor's invoice is received. Company may withhold payments until after inspection of the Goods and receipt of all documents required by Company. Payment of this Order is subject to deduction of any penalties and claims of offset by Company against Vendor, arising from this or any other transactions. If Company disputes the accuracy of an invoice Company will, no later than thirty (30) days following the date of receipt of such invoice, notify Vendor in writing. Company may withhold payment of the disputed amount and such payment will not be considered past due during Vendor's investigation. Vendor will use commercially reasonable effort to resolve such billing dispute within thirty (30) days following Company's notice thereof. Any offsetting claim of Company against Vendor may be deducted by Company from any payments due and owing to Vendor. If no such payments are due and owing, Company will invoice Vendor for the amount of the claim.

INSURANCE: Unless otherwise specified in the Order (including without limitation the VCM), Vendor shall obtain and maintain, at its expense, policies of commercial general liability insurance, including contractual liability, on an occurrence form, including products liability and completed operations liability insurance covering liabilities relating to the Goods, with a Broad Form Vendor's endorsement naming Company as an additional insured party, in those amounts and containing such other provisions satisfactory to Company; but in no event shall such insurance be in amounts less than (A) Commercial General Liability insurance, with limits no less than \$USD 1,000,000 each occurrence, \$USD 2,000,000 in the General Aggregate, and \$USD 2,000,000 Products-Completed Operations Liability Aggregate relating to the Goods; and (B) Umbrella liability insurance, including products liability-completed operations liability relating to the Goods, with limits no less than \$US 5,000,000 each occurrence and \$USD 5,000,000 in the Aggregate.

CONFIDENTIAL INFORMATION: All information furnished by Company and documents prepared by Vendor for Company in connection with this Order are proprietary and confidential to Company ("Confidential Information") and shall not be disclosed to any other person, or used for any other purpose unless Vendor obtains prior written permission from Company. Unless otherwise agreed to in writing, Vendor shall not advertise or publish that Company has purchased Goods from Vendor, nor shall any information relating to the Order be disclosed without Company's written permission. Confidential Information does not include any information (i) which Vendor lawfully knew without restriction on disclosure before Company disclosed it to Seller, (ii) which is now or becomes publicly known through no wrongful act or failure to act of Vendor, (iii) which Vendor developed independently without use of the Confidential Information, as evidenced by appropriate documentation, or (iv) which is hereafter lawfully furnished to Vendor by a third party as a matter of right and without restriction on disclosure.

FORCE MAJEURE: (a) Company reserves the right to cancel, suspend performance of or amend the Order in the event: (i) either party is unable to perform as a result of an Act of God, government restriction, war, strike or any other form of labor unrest, riot, civil commotion or other circumstance beyond the party's control; (ii) a trade benefit integral to the economic value of the Order is withdrawn or suspended or an unfair trade action, including a dumping, subsidies, safeguard action or currency revaluation, that impacts the Goods or Company's economic value therein is initiated by any person or government entity; or (iii) a customs embargo, quota restriction or similar event occurs that may reasonably be expected to adversely affect the timely delivery of the Goods. (b) Neither Company nor its agents shall incur any liability or obligation to Vendor whatsoever in respect to such cancellation, suspension of performance or amendment. (c) If Company's performance is suspended, Vendor shall take all reasonable measures to safeguard and store undeliverable Goods to prevent deterioration, loss or destruction until actually delivery.

CHOICE OF LAW, VENUE AND JURISDICTION: This order shall be governed by the laws of the State of Washington, excluding principles of conflicts of laws. Venue and jurisdiction shall be exclusively in the state or federal courts sitting in King County, Washington, and Vendor hereby irrevocably submits to the jurisdiction of such courts, provided, however, that in the event Company deems it necessary to seek injunctive or other relief that, in Company's sole judgment, can best be awarded in another tribunal or jurisdiction where Vendor may be found, Company shall have the right to seek relief from such tribunal or jurisdiction.

MISCELLANEOUS. (a) The parties agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Order. (b) This Order constitutes the entire understanding between Vendor and Company with respect to the Goods furnished under this Order, and shall supersede all previous negotiations, commitments and writings relating to the Goods, including forecasts and projections provided to Vendor. (c) Time is of the essence of this Order. (d) Any waiver of any provision of this Order shall not be considered a waiver of future compliance with that provision, or with any other terms and conditions. (e) If any provision hereof is deemed unenforceable or invalid, all other provisions not deemed invalid or unenforceable shall remain in full force and effect. (f) No part of this Order may be assigned or subcontracted by Vendor without prior written approval of Company. Such prior approval, however, shall not release or relieve Vendor of any obligations hereunder. Company may assign this Order. (g) All warranties, indemnities and confidentiality rights and obligations will survive the termination or completion of this Order.