

## TERMS AND CONDITIONS

1. **Definitions.** The "**Purchase Order**," as used in these Terms and Conditions, means the purchase order, work order, scope of services, scope of work, specification, email correspondence, or other communication to which these Terms and Conditions are attached or referenced and requiring or requesting that Supplier provide goods or services to Buyer, and incorporates all provisions and descriptions set forth on such Purchase Order and the provisions of these Terms and Conditions.

### 2. **Purchase.**

a. **Goods.** As to any goods purchased hereunder, Supplier agrees to sell, and Buyer agrees to buy, such goods as are described in the Purchase Order (the "**Materials**") upon the terms and conditions stated in these Terms and Conditions and those set forth on the face of the Purchase Order. If applicable, Supplier shall provide Buyer on or before the time of delivery with all export documentation including, without limitation, any applicable export license or certificate of origin.

b. **Services.** As to any services acquired hereunder, Supplier agrees to perform such services as are described in the Purchase Order (the "**Services**") upon the terms and conditions stated in these Terms and Conditions and those set forth on the face of the Purchase Order. Such Services (if any) may or may not be provided pursuant to a proposal of services ("**Proposal**") submitted to Buyer by Supplier. Buyer has no obligation to submit Purchase Orders to Supplier or to receive Services described in any Proposal or Purchase Order, and will have no obligation to pay for any Services which are provided outside the scope of any Purchase Order or Proposal which has been signed by the parties. Any fees set forth in a Purchase Order, Proposal, or other supply agreement which has been accepted by Supplier are firm and not subject to change, unless agreed in writing by Buyer. Additionally, Buyer may change any of the terms in a Purchase Order for Services by a written change order. Such change will be carried out by Supplier without additional cost to Buyer, unless agreed in writing in advance by Buyer. Any forecasted volumes provided by Buyer are estimates only and do not constitute volume-based purchase commitments of Buyer. Buyer shall conduct a reasonable inspection of the Goods/Services delivered hereunder after Buyer's actual receipt of the Goods/Services. Buyer may reject all or part of the Goods/ Services by written notice within 30 days after Buyer's receipt (and will have no payment obligation with respect to) any Goods/Services that do not comply with these Terms and Conditions.

c. **Acceptance.** The earlier of (a) Supplier's written acceptance of the Purchase Order, (b) the commencement of performance, or (c) the shipment of any Material hereunder shall constitute acceptance of the Purchase Order by Supplier.

### 3. **Warranties.**

a. **Warranties of Materials.** Supplier warrants that any Materials purchased hereunder will conform strictly with the specifications contained in, attached to, or otherwise included with the Purchase Order or otherwise delivered to Supplier, and will be in the quantities, quality, and description stated in the Purchase Order. Supplier is liable for any failure of Materials purchased hereunder to conform to the requirements of the Purchase Order. Supplier also warrants that any Materials purchased hereunder (i) are free from any liens, restrictions on sale or transfer, (ii) are not subject to any agreement requiring any Materials purchased hereunder to be sold to any third party, (iii) are free from defects in workmanship and material, (iv) are merchantable and fit for the purpose intended; (v) are not adulterated, misbranded or unsafe, and (vi) are not contaminated with the goods or products of other customers of Supplier.

b. **Warranties of Services.** The Services will: (i) be performed by qualified workers using commercially reasonable skill and care; and (ii) be of a quality conforming to generally accepted industry standards. Supplier guarantees all Services (materials and workmanship) for one year from the date of completion of the Services. Any Work Product (as defined in Section 9) resulting from the Services (I) is the property of Buyer, not subject to any lien or restriction on sale or transfer, and Supplier has full right and authority to produce the Work Product for Buyer; (II) is of the highest quality; (III) is fit for the purpose intended; (IV) is free from adulteration or foreign substances; (V) strictly conforms with any Proposal or specifications therefor; (VI) is free of defects in materials and workmanship; (VII) conforms to any sample work product previously approved by Buyer; and (VIII) is not contaminated or commingled with the work product produced for other clients of Supplier. In the event that the parties fail to adopt a clear description of the Services, the Supplier will also be deemed to warrant that the Services will meet applicable industry standards.

c. **Additional Warranties.** (i) Supplier's actions in all aspects of its business, including its performance under the Purchase Order, will be in full compliance with applicable law, including, without limitation (A) the Occupational Safety and Health Act of 1970 and the regulations implementing it, and (B) the US Foreign Corrupt Practices Act and any similar law applicable to any jurisdiction where Supplier operates; (ii) Supplier's sale of the Materials or provision of the Services, as applicable, to Buyer and Buyer's use of the Materials or receipt of the Services and use of any Work Product, as applicable, and implementation thereof into any products of Buyer does not, and will not, violate or infringe the intellectual property rights of any third party; (iii) Supplier complies, and will remain in compliance, with all laws applicable to Supplier addressing human trafficking or slavery, including without limitation, the laws of any jurisdiction in which any Materials purchased hereunder are manufactured and any jurisdiction where Supplier otherwise does business, and will comply with all industry standards for ethical business operations.

d. **Conflict Minerals.** Supplier recognizes, consistent with the public policy underlying the Conflict Minerals provision (Section 1502) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "**Act**"), the significant legal and non-legal risks associated with sourcing tin, tantalum, tungsten and gold (the "**Conflict Minerals**") from the Democratic Republic of the Congo and adjoining countries ("**DRC Countries**"). Accordingly, Supplier commits to assist Buyer in its compliance with Section 1502 of Dodd-Frank and its implementing regulations. In particular, Supplier commits to have in place a supply chain policy and processes to undertake (1) a reasonable inquiry into the country of origin of Conflict Minerals incorporated into products it provides Buyer; (2) due diligence of its supply chain, as necessary, to determine if Conflict Minerals sourced from the DRC Countries directly or indirectly support unlawful conflict there, and (3) risk assessment and mitigation actions necessary to implement the country of origin inquiry and due diligence procedures. Supplier agrees to timely respond to information requests from Buyer regarding the uses and sources of Conflict Minerals in its products including information about Conflict Minerals that are recycled or scrap. Supplier shall take all other measures as are necessary to comply with the Act and its implementing regulations, as they may be amended over time.

4. **Title; Risk of Loss.** Full title to any Materials purchased hereunder (and any Work Product) and risk of loss thereto will pass to Buyer upon Buyer's receipt thereof at Buyer's designated facility, without regard to the portion of the purchase price therefor that has or has not been paid by Buyer. Supplier will deliver any Materials purchased hereunder and any Work Product to Buyer on the date specified in the Purchase Order (or if no date is specified, on the date mutually agreed by the parties to the Purchase Order), and will confirm with Buyer a delivery time with reasonable advanced notice. Supplier will ship Materials in accordance with Buyer's written shipping specifications, including but not limited to packaging standards, pallet dimensions and bar code label standards, using the shipper named by Buyer, if applicable. Supplier will be responsible for any additional freight charges incurred due to any failure by Supplier to comply with the shipment instructions of Buyer or with the Purchase Order.

5. **Inspection.** Buyer and Buyer's representative shall be permitted to inspect any Materials purchased hereunder and any Work Product at all times before and after delivery, including without limitation at all times during and after production, provided, however, that any delay or any failure to perform such inspection shall not limit Buyer's rights to reject defective Materials or Work Product, as applicable, pursuant to the Purchase Order. Buyer may notify Supplier of any claims for defective Materials or Work Product delivered hereunder in writing within 60 days after Buyer takes notice of such defect detailing the nature and extent of the claim, and Supplier shall, without cost to Buyer and without limiting any other rights or remedies that may be available to Buyer, at Buyer's option: (i) repair any such defects; (ii) furnish replacement Materials or Work Product, respectively; or (iii) refund to Buyer the amount of Buyer's purchase price of such defective Materials or Work Product. Supplier may examine the defective Materials or Work Product, or cause them to be examined, within 15 business days after notice of such defect is delivered to Supplier.

6. **Buyer's Payments.** Buyer shall pay Supplier the price set forth in the Purchase Order within the payment period set forth therein. In the event the Purchase Order does not state a payment term, invoices submitted to, and accepted by, Buyer will be payable within 45 days from the date Buyer receives the invoice. Buyer reserves the right to pay invoices solely by ACH or other electronic transfer, the actual manner of payment to be selected by Buyer in its sole discretion. Supplier will provide Buyer the information required by Buyer to process such payments in the manner selected by Buyer, including without limitation the banking information and tax ID of Supplier. Any invoices disputed by Buyer will not be payable until such dispute has been fully resolved, and will be paid within 45 days thereafter. Nothing in this section shall be construed to restrict Buyer from asserting a claim for damages under the Purchase Order. Any adjustment to the price shall only be valid upon prior written acceptance of Buyer.

7. **Indemnification.** SUPPLIER SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS BUYER, ITS SHAREHOLDER(S), SUBSIDIARIES, AND AFFILIATES, AND EACH OF THEIR SHAREHOLDERS, DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS, AND EACH OF THEIR AGENTS AND REPRESENTATIVES (EACH AN "INDEMNITEE," AND COLLECTIVELY "INDEMNITEES") FROM AND AGAINST ALL COSTS, CLAIMS, DEMANDS, LOSSES, LIABILITIES, LEGAL PROCEEDINGS (INCLUDING COURT COSTS, LITIGATION EXPENSES, AND REASONABLE ATTORNEYS' FEES), AND ANY OTHER EXPENSES OF ANY KIND OR NATURE RESULTING FROM DAMAGES, LOSSES OR EXPENSES CAUSED TO, OR SUSTAINED OR INCURRED BY, INDEMNITEES OR ANY THIRD PARTY DUE TO (A) ANY BREACH OF THE PURCHASE ORDER BY SUPPLIER (INCLUDING WITHOUT LIMITATION, A FAILURE OF SUPPLIER OR THE MATERIALS, SERVICES, WORK PRODUCT, AND/OR OTHER ITEMS WHICH ARE THE SUBJECT OF THE PURCHASE ORDER TO COMPLY WITH THE WARRANTIES SET FORTH IN SECTION 3), (B) ANY VIOLATION OF APPLICABLE LAW BY SUPPLIER OR SUPPLIER'S EMPLOYEES, AGENTS, PRINCIPALS, OFFICERS, DIRECTORS, PARTNERS, SHAREHOLDERS, SUBSIDIARIES, AFFILIATES, OR CONTRACTORS, (C) THE NEGLIGENCE, GROSS NEGLIGENCE OR INTENTIONAL OR WILLFUL MISCONDUCT OF SUPPLIER OR SUPPLIER'S EMPLOYEES, AGENTS, PARTNERS, AFFILIATES, OR CONTRACTORS, (D) ALLEGATIONS THAT ANY MATERIALS, SERVICES, OR WORK PRODUCT INFRINGES THE INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY; OR (E) THE FAILURE OF SUPPLIER OR ITS EMPLOYEES, AGENTS, MANAGERS, PRINCIPALS, OFFICERS, DIRECTORS, PARTNERS, SHAREHOLDERS, SUBSIDIARIES, AFFILIATES OR CONTRACTORS TO PERFORM SUPPLIER'S DUTIES OR OBLIGATIONS UNDER THIS PURCHASE ORDER. BUYER HAS NO OBLIGATION TO INDEMNIFY, DEFEND, OR HOLD HARMLESS SELLER OR ANY OTHER PERSON OR ENTITY HEREUNDER FOR ANY DAMAGES, CLAIMS, LOSSES, LIABILITIES, OR COSTS.

8. **Insurance.** Supplier agrees to obtain and maintain in force during the duration of its performance under the Purchase Order the following insurance policies:

a. a commercial general liability insurance policy issued on ISO occurrence form CG 00 01 04 13 (or a substitute form providing equivalent coverage), including product liability coverage and contractual liability coverage insuring against the liabilities assumed under the Purchase Order, in minimum amounts of \$1,000,000.00 per occurrence for bodily injury and property damage and \$2,000,000.00 general aggregate, and which shall also cover liability arising from premises, operations, products-completed operations, personal and advertising injury, and liability assumed under an insured contract;

b. an auto liability policy with a combined single limit of at least \$1,000,000.00, which covers liability arising out of any automobile, including owned, hired, and non-owned automobiles. If Supplier hauls hazardous material, it must also provide to Buyer copies of the MCS-90 and CA9948 endorsements;

- c. an umbrella or excess liability policy that provides follow form coverage to all liability policies, including General Liability, Auto Liability, and Employers Liability, having a limit of at least \$5,000,000.00 per occurrence;
- d. worker's compensation insurance in the minimum statutory amount in the state or states where Supplier conducts its business;
- e. employer's liability insurance, including bodily injury coverage, with limits of at least \$1,000,000.00 for each accident;
- f. errors and omissions liability insurance applicable to Supplier's profession, if Supplier is providing Services that include professional services hereunder, to include coverage for liability arising from any actual or alleged breach of duty, negligent act, error or omission in the conduct of Supplier's performance of the Services with limits of \$5,000,000 for each wrongful act and \$5,000,000 in the aggregate;
- g. contractors or pollution legal liability insurance covering any exposure to hazardous materials (as those terms are defined by federal, state, or local law) caused or created by Supplier, any Services, or any Materials, with limits of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate;
- h. riggers liability insurance to insure against physical loss or damage to property or equipment if Services (if any) involve moving, lifting, lowering, rigging or hoisting of property or equipment. The amount of insurance carried hereunder must meet or exceed the value of the largest property load; and
- i. property insurance covering Buyer's movable property while in Supplier's possession, and including property delivered and/or installed by Supplier. Such property insurance must be written on a replacement cost value basis and will remain in force until the property is received in Buyer's possession and accepted by Buyer.

All insurance coverages required by this Section 8 shall (i) be placed with an insurance company having an A.M. Best Rating of A IX or better, (ii) be issued by insurance carriers licensed to engage in the business of insurance in the state or states in which Supplier conducts its business and in which the goods or services to be provided or performed hereunder will be provided or performed, as applicable, and (iii) provide that such Policies may not be canceled or terminated without prior written notice to Buyer. Supplier shall name Buyer as an Additional Insured via forms CG2010 (Operations), CG2015 (Products) and CG2037 (Completed Operations), as applicable, under the liability policies required by Subsections (a)-(c), (g), and (h) of this Section 8 in support of its indemnity obligations in Section 8 of these Terms and Conditions and for the purpose of protecting Buyer from expenses and liabilities which arise out of, or are alleged to arise out of, or be related to, the goods, products, services, and/or Materials which are the subject of the Purchase Order. Subject to the limitations under which Buyer is named as an Additional Insured as specified herein, the liability insurance policies procured by Supplier as required by this Section 7 will be primary to, and not contribute with, or be in excess of, any primary and excess insurance that Buyer may carry for the respective types of losses covered under such policy(ies), to the extent that Buyer or Supplier is alleged or determined to be responsible for such losses. Supplier shall provide evidence of the insurance coverages required by this Section by delivering to Buyer certificates of insurance for each above-referenced policy, contemporaneous with Supplier's acceptance of the Purchase Order. Supplier shall also, contemporaneously with its acceptance of the Purchase Order, provide policy endorsements for the policies identified in this Section 8, naming Buyer as an Additional Insured under each such policy as required above. All of Supplier's required insurance policies shall be endorsed to provide that the insurer will have no right of subrogation against Buyer, its affiliates and their respective employees and agents (collectively, the "**Buyer Parties**") whereby Supplier's insurers agree not to seek recovery for or against the Buyer Parties for any loss, damage, expenses or other sums paid by the insurers under the required insurance policies even if the need for any such payments was caused by the actual or alleged fault of the Buyer Parties or anyone for whom any of the Buyer Parties may be responsible. No policy limits, no policy deductible, nor any self-insured retention shall in any way serve to limit Supplier's liability to Buyer for legal liabilities resulting from obligations, duties, and services to be performed or failed to be performed as set forth in the Purchase Order. Supplier will provide Buyer thirty (30) days' advanced written notice before termination or cancellation of any insurance policies required by this Section 8 takes effect. Failure to maintain the types and levels of insurance required by this Section 8 is a material breach of the Purchase Order. Without limitation to Buyer's rights at law or under the Purchase Order, Buyer may withhold payment or otherwise suspend its performance of the Purchase Order until Supplier is in full compliance with this Section 8. If at any time Buyer is notified or otherwise determines that Supplier is not in full compliance with this Section 8, Buyer may (but is not required to), on behalf of Supplier, purchase insurance with the level of coverage required hereunder and Supplier will be responsible to reimburse Buyer, upon demand, for all of Buyer's expenses incurred therefor, including, without limitation, the insurance premiums and any brokerage fees paid by Buyer.

**9. Intellectual Property.** Buyer shall own, and Supplier hereby transfers and assigns to Buyer, immediately upon creation, all right, title, and interest in and to any deliverables, designs, results, technical information, drawings, source codes, or other materials created by or for Supplier in connection with the Materials or Services at or in response to Buyer's request (collectively, the "**Work Product**"), not including Supplier's pre-existing confidential information and intellectual property. The Work Product is produced hereunder as works made for hire, and Seller shall take all necessary steps to ensure that such assignment and transfer is effected and fully vested in Buyer, free of any claims, interest or rights of third parties.

**10. Waiver; Time.** Any failure to enforce any right or remedy hereunder shall not constitute a waiver of such right or remedy. Unless expressly provided otherwise in the Purchase Order, time is of the essence with respect to Supplier's obligations.

**11. Independent Contractor.** Supplier is acting as an independent contractor and not as an agent or employee of Buyer, and therefore Supplier will have no authority to bind, assume responsibility for, or obligate (whether expressly or by implication) Buyer or any of its affiliates. Supplier will use its own discretion in performing Services, except as otherwise required under the Purchase Order. Supplier will report as income to the appropriate government agencies all compensation received pursuant to the Purchase Order and will pay all applicable taxes, insurance, bonds or any other subscription of any kind. Individuals who provide any part of the Services are employees of Supplier and will not be deemed employees of Buyer for any reason. Supplier will be responsible for and will promptly pay all federal, state and municipal taxes, chargeable or assessed with respect to its employees, including, but not limited to, social security, unemployment, workers' compensation and federal and state withholding taxes.

**12. Suspension.** Buyer may suspend Supplier's performance of any Services, from time to time in whole or in part, without cause and for Buyer's own convenience. Any such suspension will be given by delivery to Supplier a written "**Notice of Suspension**" specifying which portion of the Services is suspended and when such suspension is to become effective. In no event will such period of suspension last longer than 90 days.

**13. Use of Third Parties.** Only with the prior written approval by Buyer may Supplier subcontract for the fulfillment of any of Supplier's obligations hereunder; provided, however, that if any such obligations are provided by a subcontractor, Supplier will remain fully liable for its obligations under these Terms and Conditions and Buyer will have no obligation under any subcontract or with respect to any subcontractor relationship.

**14. Mill Test Certificate.** If applicable, Supplier shall provide Buyer at delivery with a Mill Test Certificate certifying (i) that any Materials purchased hereunder were produced in accordance with the specifications contained in the Purchase Order or otherwise provided by Buyer, (ii) the chemical and mechanical properties of such Materials, and (iii) the Heat Number of such Materials or other similar production tracing methodology applicable to such Materials.

**15. Modification.** The terms of the Purchase Order may be amended, waived, or terminated only by an instrument in writing signed by both Buyer and Supplier.

**16. Notices.** All notices, consents, waivers, and other communications under the Purchase Order must be in writing and will be deemed to have been duly given when (a) delivered by hand (with written confirmation of receipt), or (b) upon the expiration of the third business day after sending, if sent by a nationally or internationally recognized overnight delivery service (receipt requested), in each case to the address set forth in the first page of the Purchase Order (or to such other address as a party may designate by written notice to the other party).

**17. Termination.** Buyer may terminate the Purchase Order for convenience without penalty upon thirty days' prior written notice. Additionally, Buyer may immediately terminate the Purchase Order without further liability hereunder if any governmental action or procedure, including but not limited to judicial or administrative actions or procedures, may result in the imposition of trade or other restrictions upon, or the modification of duties or tariffs applicable to, the importation from, or exportation into, the United States of any of the Materials or Services purchased by Buyer under the Purchase Order or Work Product delivered hereunder.

**18. Assignment.** This Purchase Order shall not be assigned by Supplier without the prior written consent of Buyer. Buyer may assign its rights, liabilities, and obligations under the Purchase Order with written notice to Supplier.

**19. Survival.** The parties agree that Sections 3, 4, 5, 7, and 9 will survive the expiration or earlier termination of the Purchase Order.

**20. Severability.** If any provision of the Purchase Order becomes invalid or unenforceable for any reason, the remaining provisions shall remain valid and enforceable.

**21. Disputes.** In the event of a dispute between Buyer and Supplier regarding the interpretation or enforcement of the Purchase Order or the performance by either party of its obligations hereunder, Buyer and Supplier shall endeavor in good faith to resolve the dispute by negotiation. If the parties are unable to resolve any such dispute to their mutual satisfaction through negotiation, then the dispute shall be resolved, at the sole option of Buyer, either (a) by means of binding arbitration conducted in Dallas, Texas USA in accordance with the Rules of Arbitration of the American Arbitration Association, in which case each party agrees (i) that it shall expressly and irrevocably waive its rights to bring suit against the other party in any court of law except for the limited purposes of enforcing an arbitral award obtained in respect of a Dispute and (ii) that the decision of the arbitrators will be final and binding upon both of the parties to the Purchase Order, or (b) by means of litigation which shall be commenced in a court of competent jurisdiction, in which case each party agrees to irrevocably submit to the exclusive jurisdiction of the Dallas County Courts and to the jurisdiction of the United States District Court for the Northern District of Texas in connection with any litigation arising out of or related to the Purchase Order.

**22. Governing Law.** The parties agree that the laws of the State of Texas will govern the Purchase Order, the construction of its terms, and the interpretation of the rights and duties of the parties, without regard to the conflict of law principles. The parties agree that the United Nations Convention on contracts for the International Sale of Goods shall not be applicable. Any reference in the Purchase Order to "Incoterms" will refer to the 2020 Edition of INCOTERMS, published by the International Chamber of Commerce.

**23. Acceptance, Terms and Conditions of Contract.** If the Purchase Order is construed as an acceptance of Supplier's offer, this acceptance is expressly conditioned on Supplier's acceptance of any additional or different terms contained in the Purchase Order. If the Purchase Order is construed as a confirmation of an existing contract, the parties agree that the Purchase Order constitutes the final, complete and exclusive terms and conditions of the contract between the parties. If the parties have otherwise completed a mutually signed, written agreement governing the purchases of the Materials or Services (as applicable) by Buyer from Supplier (a "**Master Agreement**"), the parties agree that the use of these Terms and Conditions with purchase orders for Materials pursuant to such Master Agreement shall be construed only as supplement to the terms of such Master Agreement. Regardless of its construction as an offer, acceptance, confirmation or use to place orders for Materials or Services pursuant to a separate written agreement, these Terms and Conditions incorporate by reference all terms of the Uniform Commercial Code providing any protection for Buyer, including, without limitation, all express and implied warranty protections and all Buyer's remedies under the Uniform Commercial Code.

24. **Supplier Code of Conduct.** Supplier shall, at all times, comply with, and cause all of its subcontractors and suppliers to comply with, the Supplier Code of Conduct (the "Code") which can be found on Buyer's website at <https://www.cmc.com/suppliercoc>, as may be amended from time to time at Buyer's discretion. The standards set forth in the Code are in addition to, and not in lieu of, the provisions of any legal agreement or contract between Supplier and Buyer.

25. **Equal Opportunity Clause.** The Supplier acknowledges that this Purchase Order incorporates by reference the Equal Opportunity Clause required by the regulations under Executive Order 11246, the Vietnam Era Veterans' Readjustment Act, and the Rehabilitation Act, which reads: "This contractor and subcontractor shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans, prohibit discrimination against qualified individuals with disabilities, and prohibit discrimination against individuals based on their race, color, religion, sex, sexual orientation, gender identity, national origin, or for inquiring about, discussing, or disclosing information about compensation. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status."

26. **Entire Agreement.** Subject to any Master Agreement, the Purchase Order contains the entire understanding between the parties with respect to the purchase of Materials or Services (as applicable) by Buyer from Supplier, and supersedes all prior or contemporaneous communications, agreements, and understandings between the parties with respect thereto.