Purchase Order Terms & Conditions

The following terms and conditions provide Riverhawk Company suppliers with the guidelines and legal stipulations of our purchase order contract and are the Terms and Conditions for all Riverhawk purchase orders. This Purchase Order ("Order") is Riverhawk Company's ("Purchaser") offer to purchase from Seller the goods and/or services which are described on the face of the Order.

1. ACCEPTANCE AND TERMS AND CONDITIONS: Seller accepts this Order and any amendments by signing the acceptance copy and returning it to Purchaser promptly. Even without such written acknowledgment, Seller's full or partial performance under this Order will constitute acceptance of these terms and conditions. By acceptance of this Order, Seller agrees to be bound by, and to comply with all the terms and conditions of this Order, which includes any supplements to it, and all specifications and other documents referred to in this Order. These terms and conditions apply to everything listed in this Order and constitute Purchaser's offer to Seller, which Purchaser may revoke at any time before Seller accepts it. This Order is not an acceptance by Purchaser of any offer to sell, any quotation, or any proposal. Reference in this Order to any such offer to sell, quotation, or proposal will not constitute a modification of any of these terms and conditions. Terms and conditions different from or in addition to these terms and conditions, whether contained in any acknowledgment of this Order, or with delivery of any goods or services under this Order, or otherwise, will not be binding on Purchaser, whether or not they would materially alter this Order, and Purchaser hereby rejects them. These terms and conditions may be modified only by a written document signed by duly authorized representatives of Purchaser and Seller.

2. DEFAULT: Time is of the essence of this Order. Purchaser may by written notice of default to Seller (a) terminate all or any part of this Order in any one of the following circumstances: (i) if Seller fails to perform within the time specified herein or any extensions agreed to by Purchaser in writing; or (ii) if Seller fails to perform any of the other provisions of this Order, or so fails to make progress as to endanger performance of this Order in accordance with its terms, and in the circumstances set out in clause (ii) does not cure such failure within a period of ten (10) days (or such longer period as Purchaser may authorize in writing) after receipt of notice from Purchaser specifying such failure; and (b) procure, on such terms as it will deem appropriate, goods or services similar to those so terminated. Seller will continue performance of this Order to the extent not terminated and will be liable to Purchaser for any excess costs for such similar goods or services. As an alternate remedy, and in lieu of termination for default, Purchaser, at its sole discretion, may elect to extend the delivery schedule and/or waive other deficiencies in Seller's performance, in which case an equitable reduction in the Order price will be negotiated. If Seller for any reason anticipates difficulty in complying with the required delivery date, or in meeting any of the other requirements of this Order, Seller will promptly notify Purchaser in writing. If Seller does not comply with Purchaser's delivery schedule, Purchaser may require delivery by fastest way and charges resulting from the premium transportation must be fully prepaid and absorbed by Seller. The rights and remedies of Purchaser provided in this Section 2 will not be exclusive and are in addition to any other rights and remedies provided by the Uniform Commercial Code, by law, at equity or under this Order.

3. PRICE: This Order must not be filled at a price higher than shown on the face of the Order. If no price is set forth on the front of the Order, the goods or services will be billed at the price last quoted or at the prevailing market price, whichever is lower, and, in any event, goods and services ordered under this Order will not be billed at a higher price than last quoted or charged without Purchaser's specific written authorization. Purchaser will be entitled at all times to set off any amount owed at any time by Seller or any of its affiliates to Purchaser or any of its affiliates against any amount payable at any time by Purchaser in connection with this Order. No extra charges of any kind will be allowed unless specifically agreed to in writing by the Purchaser. All applicable taxes arising out of transactions contemplated by the Order will be borne by Seller except as otherwise specified by the parties in writing. Seller warrants to Purchaser that the prices for the goods or services sold to Purchaser under this Order are not less favorable than those currently extended to any other customer for the same or similar goods and/or services in equal or less quantities. If Seller reduces its prices for such goods and/or services during the term of this Order, Seller shall correspondingly reduce the prices of goods and/or services sold thereafter to Purchaser under this Order.

4. INVOICES AND PAYMENT: Invoices shall be rendered in duplicate and shall contain the Purchase Order Number, item number, description of goods or services, quantities, unit prices, and total purchase price. All taxes shall be stated separately. Payment shall be made on the terms of net 60 days. Cash discount periods shall be computed from either the date of actual delivery of the goods or the date an acceptable invoice is received, whichever is later. All claims for money due or to become due from Purchaser shall be subject to deduction by Purchaser for any setoff or counterclaim arising out of this or any other of Purchaser's Orders with Seller.

5. PACKAGING: All goods must be packaged in the manner as specified by Purchaser and shipped in the manner and by the route and carrier designated by Purchaser. If Purchaser does not specify the manner in which the goods must be packaged, Seller shall package the goods so as to avoid any damage in transit. If Purchaser does not specify the manner of shipment, route or carrier, Seller shall ship the goods at the lowest possible transportation rates, consistent with Seller's obligation to meet the delivery schedule set forth in this Order.

6. INSPECTION: All goods and services will be subject to inspection and test by Purchaser and its customer at all times and places, including the period of manufacture and in any event prior to final acceptance. Final acceptance or rejection of the goods or services will be made as promptly as practical after delivery except as otherwise provided in this Order, but failure to inspect and accept or reject goods or services or failure to detect defects by inspection, will neither relieve Seller from responsibility for such goods or services as are not in accordance with this Order nor impose liabilities on Purchaser for them. Purchaser's payment for the goods shall not constitute its acceptance of the goods. Goods rejected and goods supplied in excess of quantities ordered may be returned to the Seller at its expense. Payment, if any, made for any good rejected hereunder shall be promptly refunded by Seller. Seller will provide and maintain an inspection and process control system acceptable to Purchaser and its customer covering the goods and services ordered. Records of all inspection work by Seller will be kept complete and available to Purchaser and its customer during the performance of this Order and for seven (7) years after Seller's completion of this Order. If any of the goods or services are found at any time to be defective in material or workmanship, or otherwise not in conformity with the requirements of this Order, including any applicable drawings and specifications, then Purchaser, in addition to such other rights and remedies it may have by contract or by law or equity, at its sole discretion may reject and return such goods at Seller's expense, require Seller to inspect the goods and remove nonconforming goods and/or require Seller to replace nonconforming goods or services with conforming goods or services. If Seller fails to make the necessary inspection, removal and replacement in a time and manner satisfactory to Purchaser, Purchaser may at its option inspect and sort the goods; Seller will pay any related costs.

7. WARRANTIES: Seller represents and warrants that (a) all goods and services are free of any claim of any nature by any third person and that Seller will convey clear title to Purchaser, (b) all services are performed in a manner acceptable in the industry and in accordance with generally accepted standards, are free from all defects, are fit for the particular purposes for which they are acquired and are provided in strict accordance with the specifications or other requirements (including performance specifications) approved or adopted by Purchaser, and (c) all goods sold will be of merchantable quality, free from all defects in design, workmanship and materials, and fit for the particular purposes for which they are purchased and that the goods and services are provided in strict accordance with the specifications, samples, drawings, designs or other requirements (including performance specifications) approved or adopted by Purchaser. Purchaser's inspection, test, acceptance or use of the goods shall not affect Seller's obligations under these warranties. Seller shall replace or correct, at Purchaser's option and at Seller's cost, defects of any goods not conforming to these warranties. If Seller fails to correct defects in or replace nonconforming goods within ten (10) days from the date the Purchaser notifies Seller of the defect or defects, Purchaser may, upon ten (10) days prior written notice to Seller, either (i) make such corrections or replace such goods and charge Seller for all costs incurred by Purchaser, or (ii) revoke its acceptance of the goods in which event Seller shall be obligated to refund the purchase price and make all necessary arrangements, at Seller's costs, for the return of the goods to Seller. All warranties of Seller herein or which are implied by law shall survive any inspection, delivery, acceptance or payment by Purchaser. Any attempt by Seller to limit, disclaim, or restrict these warranties or any remedies of Purchaser, by acknowledgment or otherwise, in accepting or performing this Order, will be null, void, and ineffective without Purchaser's written consent.

8. INDEMNIFICATION: Seller shall indemnify and hold Purchaser and its affiliates harmless and, upon request, shall defend each of them from and against any or all claims, demands, litigation or proceedings of whatever kind, whether based upon negligence, breach of express or implied warranty, strict liability or any other theory, and from and against all direct, indirect, special, exemplary, incidental or consequential damages of every kind whatsoever, arising out of, by reason of, or in any way connected with the goods and/or services, the design, manner of preparation, manufacture, construction, completion, or delivery or non-delivery of any goods and/or services by Seller, any breach by Seller of any of its obligations hereunder, or any other act, omission or negligence of Seller or any of Seller's employees, workers, servants, agents, subcontractors or suppliers. Seller shall, upon request, pay or reimburse Purchaser or any other party entitled to indemnification hereunder for all costs and expenses, including attorneys' fees, as incurred by Purchaser or such other party in connection with any such claim, demand, litigation, proceeding, loss or damage. PURCHASER'S AGGREGATE LIABILITY ARISING FROM OR RELATING TO THIS ORDER IS LIMITED TO THE AMOUNT PAID BY PURCHASER FOR THE GOODS AND/OR SERVICES. TO THE MAXIMUM EXTENT ALLOWABLE UNDER APPLICABLE LAW, PURCHASER SHALL NOT BE LIABLE UNDER THIS ORDER FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT OR PUNITIVE DAMAGES INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR REVENUES EVEN IF PURCHASER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9. PURCHASER'S PROPERTY: Tangible or intangible property of any nature furnished to Seller by Purchaser or specifically paid for in whole or in part by Purchaser, and any replacements or attachments, are the property of Purchaser and, unless otherwise agreed in writing by Purchaser, will be used only by Seller solely to render services or provide goods to Purchaser. Seller will not substitute any property or take any action inconsistent with Purchaser's ownership of such property. While in Seller's custody or control such property will be held at Seller's risk, will be kept insured by Seller at its expense for its replacement cost with loss payable to Purchaser and will be subject to removal at Purchaser's written request, in which event Seller will prepare such property for shipment and redelivery to Purchaser in the same condition as originally received by Seller, reasonable wear and tear excepted, all at Seller's expense.

10. CHANGES: At all times Purchaser will have the right to make changes to this Order, including changes to drawings, designs, configurations, specifications, quantities, methods of shipment or packing and delivery schedules or locations of delivery. If any such changes cause an increase or decrease in the cost of or the time required for the performance of any work under this Order, an equitable adjustment will be made in the contract price or delivery schedule, or both, and this Order will be modified in writing accordingly. Nothing in this Section, including any disagreement with Purchaser as to any claimed adjustment, will excuse Seller from proceeding with this Order as changed. Any claim by the Seller for adjustment under this Section 10 must be in a detailed writing and delivered to Purchaser within five (5) days after the date Seller receives notification of change. Any change will be authorized only by a duly executed amendment to this Order. Information, such as technical information or guidance provided to Seller by representatives of Purchaser, will not be construed as a change within the meaning of this Section. If Seller considers that the conduct of any of Purchaser's employees has constituted a change under this Order, Seller will immediately notify Purchaser's Purchasing Department in writing as to the nature of the change and any proposed adjustment, which will then be subject to this Section 10.

11. COMPLIANCE WITH LAWS: Seller represents and warrants that it is in compliance with and all goods and/or services supplied hereunder have been produced or provided in compliance with the applicable provisions of all federal, state, or local laws or ordinances and all related lawful orders, rules and regulations. Seller will also comply with any provisions, representations or agreements, or contractual clauses required to be included or incorporated by reference or operation of law in any Order. Without limiting the foregoing: (a) Seller will comply with the Equal Opportunity Clause set forth in 41 CFR Chapter 60 1.4, the Affirmative Action Clause regarding Disabled Veterans and Veterans of the Vietnam Era, 41 CFR Chapter 60 250.4, the Affirmative Action Clause regarding Handicapped Workers 41 CFR Chapter 60 741.4 and any other provisions or contractual clauses required by the OFCCP, 41 CFR Chapter 60, as well as any Executive Orders as now or later issued, amended or codified. (b) Seller confirms that it is in compliance with the requirements for non-segregated facilities set forth in 41 CFR Chapter 60 18. (c) Seller represents that the goods to be furnished were or will be produced in compliance with the requirements of the Fair Labor Standards Act of 1938, as amended, including Section 9. (d) Seller shall furnish Purchaser, no later than the date the goods are delivered, with a Material Safety Data Sheet for any goods which are covered by the Occupational Safety and Health Act Hazard Communications Standard as contained in 29 C.F.R. § 1910.1200. Seller shall indemnify Purchaser from any damages, liabilities, claims, losses, penalties and expenses (including attorneys' fees) paid or incurred by Purchaser as a result of any breach by Seller of these warranties. Seller shall be required to obtain and pay for any license, permit, inspection or listing by any public body or certification organization required in connection with the manufacture, performance, completion or delivery of any good and/or service.

12. CONFIDENTIAL OR PROPRIETARY INFORMATION: Notwithstanding any document marking to the contrary, any knowledge or information which the Seller will have disclosed or may later disclose to the Purchaser, and which in any way relates to the goods or services covered by this Order will not, unless otherwise specifically agreed to in writing by Purchaser, be deemed to be confidential or proprietary information, and will be acquired by Purchaser, free from any restrictions. Seller will keep confidential any technical, process, economic, or other information derived from drawings, specifications and other data furnished by Purchaser in connection with this Order (in whatever form or format) and will not divulge, export, or use, directly or indirectly, such information for the benefit of any other party without obtaining Purchaser's prior written consent. Except as required for the efficient performance of this Order, Seller will not use such information or make copies or permit copies to be made of such drawings, specifications, or other data without the prior written consent of Purchaser. If any reproduction is made with prior consent, this notice will be provided. Upon completion or termination of this Order, Seller will promptly return to Purchaser all materials incorporating any such information and any copies, except for one record copy. Seller agrees that no acknowledgment or other information concerning this Order and the goods or services provided will be made public by Seller without the prior written agreement of Purchaser.

13. TERMINATION: Purchaser may terminate all or any part of this Order for convenience at any time by written notice to Seller. Upon such termination, Purchaser's liability will be limited to reasonable termination charges mutually agreed by Seller and Purchaser, provided that Seller must specify any proposed charges in writing within fifteen (15) days after termination. This Order shall terminate automatically, without notice, if Seller becomes insolvent or the subject of any proceeding under the laws relating to bankruptcy or the relief of debtors.

14. INTELLECTUAL PROPERTY: On being notified, Seller will promptly investigate and defend, as its expense, any suit or proceeding in which Purchaser or any other Indemnitee are made defendants or claimed potential defendants for any alleged infringement, contributory infringement, inducement of infringement, or unauthorized or unlawful use of any patent, copyright, trademark, trade secret, mask work, proprietary data, or other information, or claim of right, title or interest by another party in any good or service (or related documentation), in any case resulting from the sale, use, lease or other disposition of any good or service under this Order (“Infringement”). Seller will pay and discharge all judgments or decrees rendered in any such suit or proceeding against any Indemnitee. Seller may settle any such suit or proceeding on terms and conditions of Seller’s selection, provided they are not in conflict with the terms of this Order and Seller pays all settlement amounts. If Seller fails to promptly investigate, defend or settle, then Purchaser will, following notification to Seller, have the right from that time on to have sole control of the defense of such suit or proceeding and all negotiations for its settlement or compromise, and Seller will pay, as they become due, all costs, expenses, and reasonable attorneys’ and experts’ fees incurred by Purchaser in undertaking such actions and any judgments or decrees which may be rendered against or any settlements or compromises that may be entered into by Purchaser or any other Indemnitee relating to a claim indemnified against under this Order. Seller indemnifies and agrees to hold harmless Purchaser and all of the indemnified parties from all costs, expenses, liabilities, damages and attorneys’ and experts’ fees arising from any alleged or actual Infringement and will pay all judgments and other amounts payable or any settlement or compromise arising from all suits or proceedings involving Infringement. In addition, Seller will, at its own expense and at Purchaser’s option, either procure for Purchaser the right to continue using the allegedly infringing item, replace it with a no infringing equivalent or remove it and refund the purchase price and the transportation and installation costs thereof.

15. GOVERNMENT CONTRACTS: If this Order bears a government contract number on the face of this Order, Seller shall comply with all pertinent provisions of said government contract and pertinent executive orders and directives to the extent that they apply to the subject matter of this Order and all such pertinent contract provisions, orders and directives are hereby incorporated by reference into this Order. A copy of the government contract's terms and conditions will be given to Seller upon request.

16. CONFLICT MINERALS: Seller acknowledges there is a regulatory focus on use of minerals sourced from areas identified as conflict regions, including the Democratic Republic of the Congo (“DRC”) and Central Africa. Metals that have been identified of interest from these regions include gold (Au), tantalum (Ta), tungsten (W) and tin (Sn), and are termed (“Conflict Minerals”) pursuant to Section 1502 of the United States, Dodd-Frank Wall Street Reform and Customer Protection Act (codified at 15 U.S.C. § 78m(p) (the “Act”) and Securities Exchange Commission’s regulations implanting the Act (codified at 17 C.F.R. Parts 240 and 249b) (the “Rule”). Seller represents and warrants that no Conflict Minerals that originated in the DRC or an adjoining country are present in any goods. For purposes of making such representation and warranty, Seller will use protocols, standards, and procedures that meet or exceed the reasonable country of origin inquiry described in the Rule and the relevant best practices developed by industry. Seller shall indemnify, defend, and hold Purchaser, its subsidiaries and their respective officers, directors, employees, agents, successors, harmless from and against any and all claims, damages, losses (including loss of profits) liability costs and expenses (including attorneys’ fees) which arise out of any good’s actual or alleged Conflict Minerals content. Seller shall further assist Purchaser with any requests for information, certifications, or other such similar documents as Purchaser may reasonably request to ensure the goods and Seller’s compliance with this Section 17 and shall notify Purchaser promptly upon discovering or having reason to believe that any goods fail to comply with the representation and warranty in this Section 17.