SEALEZE

TERMS AND CONDITIONS OF PURCHASE


(a) Generally. The terms and conditions of this document, including the provisions on the face of any purchase order in which it is referenced or to which it is attached (the “Contract”), govern the terms of sale and service of the Products offered by Seller and accepted by Buyer. In the event of any conflict between the terms and conditions of this Contract and the terms and conditions contained in any purchase order or other writing or document accepted by Seller (the “Buyer’s Terms”), the terms and conditions of this Contract shall, unless otherwise specified herein, control. Any修改s made to this Contract by Buyer’s purchase order, confirmation, or other written request for quotes must be in writing and signed by Seller’s authorized representative to be binding on Seller. Any purchase order or other writing or document submitted by Buyer to Seller shall be interpreted as an offer only when accompanied by or accompanied by an express and unambiguous acceptance by Seller to the offer. Buyer’s acceptance of a price or terms other than those reflected in this Contract prior to such termination, or Seller’s failure to object to these terms and conditions within ten days of receipt of this Contract (or any component to be delivered) or Buyer’s performance of work in substantial accordance with these terms and conditions, shall be deemed to have constituted an acceptance of these terms and conditions. Buyer’s failure to object to these terms and conditions within ten days of receipt of this Contract (or any component to be delivered) or Buyer’s performance of work in substantial accordance with these terms and conditions, shall be deemed to have constituted an acceptance of these terms and conditions.

(b) Acceptance. Seller shall be deemed to have made an unqualified acceptance of this Contract on the earliest of the following to occur: (a) Buyer's receipt of a copy of this Contract (or any document in which this is referenced or to which it is attached) signed by Seller. (b) Seller’s acknowledgment of these terms and conditions and any purchase order submitted by Buyer from time to time, (c) Seller’s commencement of manufacture or delivery of the Products, (d) Seller’s acceptance of any payment from Buyer, or (e) Seller’s failure to object to these terms and conditions within ten days of receipt of this Contract (or any component to be delivered) or Buyer’s performance of work in substantial accordance with these terms and conditions. Any change to these terms and conditions must be in writing and signed by Seller to be binding on Seller. Buyer’s failure to accept these terms and conditions shall be deemed to have constituted an acceptance of these terms and conditions.

2. Governing Law.

This Contract shall be governed by and construed according to the internal laws of the State of Wisconsin, U.S.A., including, without limitation, the Uniform Commercial Code as adopted in the State of Wisconsin, U.S.A. This Contract and purchases hereunder shall not be governed by the United Nations Convention for the International Sale of Goods. Any dispute arising from or related to the terms of this Contract or the relationship of the parties shall be brought in a Court situated in the State of Wisconsin, U.S.A. Both parties hereby irrevocably submit themselves to the jurisdiction of said Court.

3. Severability; Waiver

(a) Severability. The invalidity or unenforceability of any terms or condition of this Contract shall not affect the validity or enforceability of any other terms or conditions of this Contract. The failure of either party to insist, in any one or more instances, upon performance of any term, condition or covenant of this Contract shall not be construed as a waiver or relinquishment of any right granted hereunder or of the future performance of such term, condition or covenant.

(b) Termination for Cause

If Seller is adjudged bankrupt, is insolvent or makes a general assignment for the benefit of its creditors, violates any of the laws or obligations identified in section 9.1, or if Seller does not correct any other failure of Seller to comply with this Contract within ten days after Buyer notifies Seller in writing of such failure, Buyer may terminate this Contract by written notice to Seller. In the event of such termination, Buyer may complete the performance of this Contract by such means as Buyer selects, and Seller shall be responsible for any additional costs incurred by Buyer in so doing.

(c) Modification and Amendment

Notwithstanding section 1 above, Buyer may modify this Contract at any time, for the convenience of Buyer or in its sole discretion, by written supplement to this Contract. Seller shall be deemed to have assented to any such modification if Buyer shall have made written notice of same to Seller within thirty days of the date such notice is delivered to Seller. Seller shall be deemed to have assented to any such modification if Buyer shall have made written notice of the same to Seller within thirty days of the date such notice is delivered to Seller. Seller shall be deemed to have assented to any such modification if Buyer shall have made written notice of the same to Seller within thirty days of the date such notice is delivered to Seller.

4. Delivery

(a) Generally. Unless otherwise specified on the face of this Contract, Seller shall deliver the Products F.O.B. the facility named by Buyer. Seller shall pack, mark and ship Products in accordance with Buyer’s specifications from time to time, including, without limitation, any packaging or shipping requirements, to the address and/or carrier as specified by Buyer. Seller shall, at its own expense, deliver the Products to Buyer at the address specified herein. Buyer shall be responsible for all shipping, insurance and other charges incurred by Buyer in delivering the Products to Buyer. Buyer is responsible for the payment of all costs and expenses incurred in connection with the delivery of the Products. If a price is not stated on the face of this order, the Products shall be billed at the price last quoted or the prevailing market price, whichever is lower. This order must not be filled at a higher price than last quoted or charged without Buyer’s prior written authorization. The Product shall be delivered to Buyer F.O.B. the facility named by Buyer. Seller shall pack, mark and ship the Products in accordance with Buyer’s specifications or, if no specifications are provided by Buyer, shall pack, mark and ship according to Seller’s usual and customary practice. The risk of loss shall pass to Buyer upon delivery. Buyer may at any time thereafter inspect the Products, and Buyer reserves the right to correct clerical or similar errors relating to any terms of this Contract. Seller shall be deemed to have made an unqualified acceptance of all drawn drawings, specifications, samples or other documents satisfactory to Buyer. Upon Buyer’s verification and approval of such additional costs, Seller and Buyer shall agree upon an adjustment in the Contract price based upon such costs.

5. Prices; Payment

(a) Prices. If a price is not stated on the face of this order, the Products shall be billed at the price last quoted or the prevailing market price, whichever is lower. This order must not be filled at a higher price than last quoted or charged without Buyer’s prior written authorization. Prices shall not be increased during the period of time to which this Contract shall apply. Buyer shall have the right to reject Products or modify it so that it becomes substantially equal in quality to that of any similar goods or products, and/or substantially similar goods and/or services to any other customer during the term of this order, then Seller shall immediately offer Buyer the same price as offered to such other customer.

(b) Payment. Buyer’s account with Seller shall be paid within 90 days after receipt of invoice or shipment, whichever is received later, except where cash discounts apply or other terms are agreed to in writing. Payment via credit card or electronic funds transfer is subject to Buyer’s receipt of the Delivery Documents. Buyer reserves the right to setoff of any amounts due Seller on this Contract against any amount due Buyer from Seller on any transaction. Buyer’s acceptance of or failure to object to these terms and conditions or any other provisions of this Contract shall not constitute a waiver of Buyer’s rights and obligations hereunder nor (b) constitute a waiver of Buyer’s rights and claims hereunder.

6. Termination

(a) Right of Buyer. All Products are subject to Buyer’s inspection during manufacture and/or delivery. Buyer shall have the right to reject Products within 45 business days from the date of delivery of any such Products do not meet the quality standards furnished or adopted by Buyer. If Buyer rejects any Products that are delivered within 20 working days of the date of receipt, at Seller’s option, Buyer will return such Products or provide Buyer with full credit therefor. Alternatively, Buyer may replace the Products and invoice Seller for the additional costs Buyer inures. Any Products rejected by Buyer shall be held at Seller’s risk and subject to Buyer’s option, returned at Seller’s expense. Seller shall bear all shipping costs, the risk of in-transit loss and damage for replacement Products.

(b) Seller’s Warranties

Seller expressly warrants to Buyer, Buyer’s customer and to the ultimate user that (a) the Products (including Products sold to Buyer but manufactured by others) and all material, packaging and work covered by this Contract will (i) conform to the drawings, specifications, samples or other documents furnished or adopted by Buyer, (ii) conform to Buyer’s obligations and warranties provided by Seller, (iii) meet or exceed the quality standards furnished or adopted by Buyer, (iv) be merchantable, of good material and workmanship and fit and sufficient for the purposes intended and (v) be new, free from defects in material and workmanship; (b) the use and/or sale, alone or in combination, of the Products will not infringe or violate any United States or foreign letters patent, or any right in or to any patented invention or idea, or a trademark, copyright or other intellectual property right, (c) the Products and their production, storage, pricing, delivery and sale hereunder are in compliance with federal, state and local laws applicable thereto, including, without limitation, all packaging and labeling laws, (d) without limiting the generality of section 6(c), the Products, and all of their ingredients, elements and components, fully and completely comply with and be in compliance with all applicable laws, rules, regulations, and/or rules, whether international, national, state or local, including, without limitation, the Montreal Protocol, REACH (of the European Union), ROHS (of the European Union) and Title VI of the Clean Air Act, 42 U.S.C. 7601 et seq., in any material respects. Seller’s acceptance of any payment from Buyer, whether such acceptance is express or implied, shall be deemed to have constituted an assent by Seller to the terms and conditions herein.

(c) Seller’s Obligations

Seller agrees to maintain it in confidence. On Buyer’s request, Seller shall provide Buyer with the same price as offered to such other customer.


If Buyer breaches any of its warranties, Seller shall be liable for all and indemnify Buyer and the Buyer Parties from and against all Damages (as defined below) incurred by them, including, without limitation, the purchase price of the Products, delivery costs, replacement and cover costs, lost profits, consequential and incidental damages. Seller acknowledges that, if Seller’s breach causes Buyer to deliver products to its customers either late or below Buyer’s standards, Buyer will incur lost profits and other damages for which Seller is liable. Without limiting the foregoing, Seller shall promptly and at its sole cost and expense, correct defects in the Products and remove same with a substantially equal but not infringing Product, or modify it so that it becomes substantially equal but not infringing.

8. Buy-out Rights

Buyer’s Information

If any Products supplied under this Contract are made according to Buyer’s manufacturing information and specifications or drawings, Seller shall sell such Products to Buyer in accordance with Buyer’s orders. Seller agrees that Buyer shall at all times retain title to such manufacturing information and Seller agrees to maintain it in confidence. Upon Buyer’s request, Seller shall return to Buyer all such manufacturing information without retaining any copies or embodiments thereof.

Buyer Property

Unless otherwise agreed in writing. Seller at its cost shall supply all materials, components, tools, equipment, designs, or other properties furnished by Buyer or paid for by Buyer, and any design drawings relating to or used in the manufacture of such properties, shall remain Buyer’s property. Any Buyer property shall be used solely in the manufacture of Product hereunder and must be returned to Buyer immediately upon termination of this Contract, or as directed by Buyer’s instructions without charge. Seller agrees, as a condition of this Contract, that it will: (i) properly mark/label, identify and segregate any and all Buyer property in such fashion as to clearly identify such items as being the property of Buyer, (ii) prevent the coining/using of said Buyer property with other material in Seller’s
possession except in accordance with applicable Buyer specifications or Buyer’s written approval and (iii) assume responsibility for all taxes and risk of loss or damage with respect to said Buyer property at all times until such property is returned to Buyer.

c) Intellectual Property. Whenever requested by Buyer to do so, Seller will place on the Products, in the manner specified by Buyer, such trademarks or other identifying marks as Buyer may specify. Seller warrants and agrees that Buyer’s identifying marks shall be used only on Products supplied to Buyer and in the manner and subject to the restrictions imposed by Buyer. All of Buyer’s Intellectual Property Rights (as defined below) are and shall remain Buyer’s sole property, and Seller agrees not to take or permit any action contradicting Buyer’s rights thereto. “Intellectual Property Rights” include, without limitation, any copyright, patent, registered or unregistered design, logo, trademark, trade dress, trade name or other designation, translation of trade name into another language, and any similar rights or applications for rights in any of the foregoing in any part of the world owned or used by Buyer or any of its affiliates, and any goodwill relating thereto. Buyer’s rights shall be enforceable by injunctive relief and/or a jury trial of specific performance. Seller does not acquire any rights, title or interest in any of the trademarks or trade names of Buyer by virtue of this Contract, and Seller shall not use or in any way refer to Buyer’s trademarks or trade names without Buyer’s prior written permission. Nothing herein shall limit the statutory or common law of torts or trade secrets where it provides Buyer with broader rights.


(a) Economic Sanctions & Export Controls. Seller is not (i) a Person on the list of Specially Designated Nationals and Blocked Persons maintained by the U.S. Treasury Department’s Office of Foreign Assets Control (“OFAC”) or any other denied party lists maintained by the U.S. Government, the European Union (“EU”) or other jurisdictions where Buyer operates; (ii) a Person organized or resident in a country or territory subject to comprehensive OFAC or EU sanctions; (iii) a Person who is otherwise the target of economic sanctions or export control laws such that Buyer cannot deal or otherwise engage in business transactions with Seller; or (iv) owned or controlled by (including by virtue of such Person being a director or owning voting shares or interests), or acts, directly or indirectly, for or on behalf of, any of the foregoing Persons such that the entry into, or performance under, this Contract or any document would be prohibited by U.S., EU, or other law.

(b) Money Laundering. Seller is in compliance with all laws related to terrorism or money laundering including: (i) all applicable requirements of the Currency and Foreign Transactions Reporting Act of 1970 (31 U.S.C. 5311 et seq., (the Bank Secrecy Act), as amended by Title III of the USA Patriot Act; (ii) the Trading with the Enemy Act of 1917; (iii) Executive Order No. 13224 on Terrorist Financing, 66 Fed. Reg. 49,079 (Sept. 24, 2001); or any other U.S., EU, or other laws relating to anti-money laundering.

(c) Anti-Corruption. Seller will comply with the U.S. Foreign Corrupt Practices Act of 1979, the United Kingdom Bribery Act of 2010 and any other similar “anti-bribery” laws and regulations, and in particular (but without limitation) will not, directly or indirectly, in the name of or on behalf of or for the benefit of Buyer or its affiliates, offer, promise or authorize to pay any compensation, or give anything of value to, any officer, employee, agent or any other person,domestic or foreign, and acting on behalf of any government, political party, official or employee of any political party, seller, or any line or branch of business of, or any other Person, including any officer, employee or agent of any political party, seller will require each of its directors, officers, employees, sub-Sellers and agents to comply with the provisions of this paragraph. Seller shall permit, upon the request of and at the sole expense of Buyer, third parties on behalf of Buyer, or any independent auditors acceptable to Buyer, and agree that such auditors shall have full and unrestricted access to all records related to the work performed for, or services or equipment provided to, Buyer, and to report any violation of any of the U.S. Foreign Corrupt Practices Act of 1979, the United Kingdom Bribery Act of 2010 or any other similar “anti-bribery” laws and regulations, with respect to: (a) the effectiveness of existing compliance programs and codes of conduct; (b) the origin and legitimacy of any funds paid to Buyer; (c) its books, records and accounts, or those of any of its subsidiaries, joint ventures or affiliates, related to work performed for, or services or equipment provided to, Buyer; (d) all misappropriations for or on behalf of Buyer; and (e) all funds received from Buyer in connection with work performed for, or services or equipment provided to, Buyer.

d) Conflict Minerals. Seller shall: (i) affirmatively disclose to Buyer any Conflict Minerals used in the production of any Products purchased by Buyer under this Contract; (ii) submit to Buyer any reports relating to Conflict Minerals filed by Seller with the U.S. Securities and Exchange Commission pursuant to Section 1502 of the Dodd-Frank Wall Street and Consumer Protection Act of 2010 (“Dodd-Frank”); and (iii) provide Buyer with a description of materials taken by Seller to assure the appropriate sourcing and chain of custody for such materials. For the purpose of this Contract, the term “Conflict Minerals” shall have the meaning ascribed to it under Dodd-Frank and shall include, without limitation, columbite-tantalite (coltan), cassiterite (tin), gold, wolframite (tungsten), or their derivatives, or any other mineral or its derivatives determined by the U.S. Secretary of State to be financing conflict in the Democratic Republic of the Congo.

e) Anti-Slavery & Human Trafficking. Seller shall not: (i) use forced, bonded, indentured labor, child labor, or involuntary prison labor in manufacturing any Products purchased by Buyer; (ii) import or cause such Products to be imported into the Customs Territory of the United States in violation of 19 U.S.C. § 1307 or other applicable laws; (iii) engage in any form of human slavery or trafficking including, without limitation, transporting, harboring, recruiting or transferring or receiving vulnerable persons by means of threat, force, coercion, abduction, or fraud for the purpose of exploitation. Seller shall provide Buyer with a copy of the approved measures taken by Seller to prevent the use of coerced labor, slavery, and human trafficking in its Products and supply chain, including any information necessary for Buyer to meet supply due diligence and disclosure requirements imposed under the California Transparency in Supply Chains Act (Calif. Civil Code § 1714.43), the United Kingdom Modern Slavery Act of 2015, and other applicable Anti-Slavery and Human Trafficking laws.

10. Indemnification and Insurance.

(a) Indemnification. Seller hereby releases and agrees to promptly defend, indemnify and hold Buyer and its shareholders, directors, officers, agents, employees, affiliates, customers, successors and assigns (collectively “Buyer Parties”) harmless from and against all liabilities, losses, claims, court costs, incidental and consequential damages, attorneys’ fees and other expenses arising from any loss, damage or injury (including death) to any person or property (“Damages”) in any way relating to the Products or: (a) any alleged defects in the Products; (b) any inadequate disclosures, labels, packaging, warnings or instructions; (c) the alleged violation of any statute, ordinance or other law, order, rule or regulation, including those identified in section 9 above; (d) any alleged unfair competition resulting from similarity of design, trademark, use or appearance of the Products; (e) bodily injuries, deaths or property damage caused by negligent or wrongful act or omission of Seller, or any employee or agent of Seller; (f) any breach of warranty set forth herein or any special warranty; and (g) any recalls involving Products. The provisions of this section 10 shall be effective whether or not such loss, damage or injury was proximately caused by the sole or partial negligent acts or omissions of Buyer or any Buyer Party. Buyer and the Buyer Parties, at their option, may be represented by and actively participate through their own counsel in any such suit or proceeding, and Seller shall pay the costs of such representation and participation.

In NO EVENT SHALL BUYER BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, INDIRECT OR PUNITIVE DAMAGES ARISING IN RELATION TO THESE TERMS AND CONDITIONS OR THE PARTIES’ RELATIONSHIP, AND SELLER AGREES TO INDEMNIFY AND HOLD BUYER HARMLESS THEREFROM.

(b) Insurance. Seller shall, at its own expense, maintain in effect insurance with respect to its performance hereunder and the Products with such coverages and in such amounts as Buyer may require in writing from time to time and, at a minimum, as may be commercially reasonable. All insurance policies shall be issued by insurance companies reasonably acceptable to Buyer. Seller shall cause the issuer of each insurance policy to issue a certificate of insurance naming Buyer as an additional named insured, and containing an agreement by the insured that the policy shall not be terminated or modified without at least 30 days’ prior written notice to Buyer, and Seller shall, at Buyer’s request, deliver each such certificate to Buyer. Seller’s compliance with these insurance requirements shall not relieve Seller from liability under these indemnification provisions. Seller shall indemnify Buyer and the Buyer Parties for any loss suffered due to Seller’s failure to obtain or maintain the insurance required hereunder.

11. Assignment. Neither party shall assign or transfer this Contract or any interest or duty of performance herein without the prior written consent of the other party; provided, however, that Buyer may assign, without Seller’s consent, this Contract and its interest therein to any affiliate of or to any entity succeeding to Buyer’s business. The foregoing terms and conditions shall be binding on and inure to the benefit of the parties and their successors and assigns.

12. Independent Contractor. Seller is and shall remain an independent contractor and neither Seller nor any of its employees or agents shall be considered an employee of Buyer. Neither Seller nor any of its employees or agents are authorized to incur any obligations or make any promises or representations on Buyer’s behalf.

13. Force Majeure. Buyer shall not be responsible for default hereunder where such has been caused by an act of God, war, major disaster, terrorism, third-party criminal acts, insurrection, riot, flood, earthquake, fire, labor disturbance, operation of statutes, laws, rules or rulings of any court or government, the imposition of embargos, economic sanctions, or other restrictive trade measures, or any other cause beyond Buyer’s control.

14. Survival. The provisions of sections 1, 6, 7, 8, 9, 10, 14 and 15, and any other provision the performance or effectiveness of which naturally survives, shall survive expiration or termination of this Contract for any reason.

15. Buyer’s Remedies Cumulative. Buyer’s remedies specified herein are cumulative and not exclusive of any other remedies available to Buyer.