

## TERMS AND CONDITIONS OF SALE

03.2025

### NOTICE:

THE SALE OF ANY PRODUCTS ("PRODUCTS") IS SUBJECT TO AND CONDITIONED UPON ACCEPTANCE OF THE TERMS CONTAINED IN THIS DOCUMENT. ANY ADDITIONAL OR DIFFERENT TERMS PROPOSED BY PURCHASER ARE OBJECTED TO BY AND WILL NOT BE BINDING UPON SELLER UNLESS SPECIFICALLY ASSENTED TO IN WRITING BY SELLER. UNLESS EXPLICITLY OBJECTED TO BY PURCHASER IN A WRITING RECEIVED BY SELLER WITHIN FIVE (5) DAYS, THESE TERMS AND CONDITIONS OF SALE SHALL APPLY WHETHER OR NOT THEY APPLIED TO A PRIOR PURCHASE BY PURCHASER. EACH OF THE TERMS BELOW SHALL APPLY UNLESS OTHERWISE AGREED BY THE PARTIES IN WRITING.

#### 1. Acceptance.

All orders are subject to final acceptance by Seller and no orders are binding upon Seller until so accepted.

#### 2. Deliveries.

All deliveries are FCA (Free Carrier) FPM Warehouse / Factory (Incoterms 2020). All deliveries shall be via common carrier or some other reasonable means chosen by Seller. Delivery is conditional on the timely receipt by Seller of documents necessary for the completion of the order, any down payment, and Purchaser maintaining credit satisfactory to Seller. Partial deliveries are permissible. Due to manufacturing or planning-related reasons, Seller reserves the right to deliver up to 10% more or less than the agreed quantity of Products, and the Purchaser agrees to accept such minor variations in quantity. Seller will not be liable for any delay in performance, or in the delivery or shipment of Products, or for any damages suffered by Purchaser by reason of such delay. Seller may suspend or delay performance or delivery at any time pending receipt of assurances, including full or partial prepayment or payment of any outstanding amounts owed, adequate to Seller in its discretion, of Purchaser's ability to pay. Failure to provide such assurances shall entitle Seller to cancel the applicable Order Confirmation without further liability or obligation to Purchaser.

#### 3. Prices.

All prices and quantities are quoted FCA (Free Carrier) FPM Warehouse / Factory (Incoterms 2020). Prices quoted are subject to change by Seller at any time prior to Seller's acceptance of an order upon notice to Purchaser. Prices quoted do not include sales, use, excise, privilege, tariffs, or any similar taxes or charges levied by any government, or freight, transportation or storage charges, and Purchaser shall pay any such applicable taxes and charges, in addition to the prices for products whether quoted or accepted. Unless otherwise agreed and signed in writing, all sales are payable in U.S. Dollars. Seller reserves the right to increase any price in the event of increased costs beyond Seller's reasonable control (e.g. force majeure events) and also including without limitation, increases related to: (a) energy, labor, and raw material costs; (b) modifications to specifications or Product acceptance criteria requested by Purchaser; (c) price

of goods manufactured by others and incorporated into Seller's products and/or re-sold by Seller, and/or (d) any extra costs resulting from changes in the law, statutes, regulations, tariffs, and/or other regulatory compliance matters impacting the cost of goods manufactured or pricing.

#### 4. Terms of Payment.

The purchase price and applicable taxes and charges shall be due in full by Purchaser on tender of delivery of the Products. Purchaser hereby makes a continuing representation and warranty at the time of each order and delivery hereunder that it is solvent, that it pays its obligations as they come due, and that it is able to pay the purchase price for the Products. Standard Terms for creditworthy customers are net 30 days. Invoices not paid by their due date will be subject to interest charges, which shall accrue and be added to the unpaid balance at the rate of one and one-half percent (1½%) per month on any overdue unpaid balance, or the maximum rate permitted by law, whichever is less. Purchaser shall reimburse Seller for the costs of collection, including, without limitation, reasonable attorneys' fees, of any overdue amount owed by Purchaser to Seller, and such collection costs shall also be subject to the interest charges. Purchaser may not hold back or set-off any amounts owed to Seller for any reason.

#### 5. Returned Products and Claims.

Within ten (10) days after Purchaser's receipt of Products sold, Purchaser must give detailed written notice to Seller of any claim by Purchaser based upon the condition, quantity, or identity of the Products received or of any visible nonconformity with Seller's applicable specifications. Purchaser's failure to do so shall constitute irrevocable acceptance of the Products delivered. Products sold shall not be returned without Seller's prior written consent and transportation charges for return shall not be paid by Seller unless authorized in advance.

#### 6. Cancellation/Changes.

Purchaser may not cancel or change an order once placed with Seller except with the prior written consent of Seller and upon terms that will indemnify Seller against any loss.

#### 7. Limited Warranty.

With respect to Products sold as first-grade products to Purchaser, Seller warrants that at the time of delivery Products sold to Purchaser will conform to Seller's applicable specifications. This limited warranty shall expire upon the earlier of: (i) Purchaser's incorporation of the Products into other products, or (ii) one (1) year after delivery of the Product by Seller to Purchaser. As Purchaser's exclusive remedy, Seller will, in its sole discretion and within a reasonable time, either repair, replace, or refund the purchase price for any Product found by Seller to have been nonconforming at the time of delivery, (i) if Purchaser promptly (however not later than ten (10) days after Purchaser's discovery of the nonconformity) sets forth in writing to Seller information

describing the nonconforming Product, including the type of Product, invoice number, shipment date, and a full description of any nonconformity and (ii) if Seller requests, such nonconforming Product is returned and received by Seller within the one (1) year warranty period. In the event Seller sells other than first-grade Products to Purchaser then such sales are "AS IS" AND WHERE IS AND ARE SOLD WITH NO WARRANTY WHATSOEVER. Samples, descriptions, representations, and other information concerning Products contained in Seller catalogs, advertisements, or other promotional materials or statements or representations made by Seller's employees or sales representatives are for general informational purposes only and are not binding upon Seller. No employee or sales representative of Seller shall have any authority whatsoever to establish, expand or otherwise modify Seller's warranty. This limited warranty does not cover normal maintenance or items consumed during normal operation, nor normal wear and tear, misuse, abuse, unauthorized repair or alteration, lack of proper maintenance, storage or damage caused by natural causes such as fire, storm, or flood. Seller shall not be liable for transportation, labor or other charges for adjustments, repairs, replacements of parts, installation, or other work which may be done upon or in connection with the Products sold. This warranty shall not be deemed to have failed of its essential purpose so long as Seller is willing and able to repair, replace or refund the purchase price on any defective Products in the manner specified. No allowance will be made for repairs made by Purchaser. Except as herein provided, Seller shall not be liable to Purchaser in any manner with respect to the Products. NO OTHER EXPRESS AND NO IMPLIED WARRANTIES OF ANY TYPE, WHETHER OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR OTHERWISE, OTHER THAN THOSE EXPRESSLY SET FORTH ABOVE (WHICH ARE MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES) SHALL APPLY TO THE PRODUCTS. This limited warranty is non-transferable. It extends to Purchaser only, and not to any resale customer of Purchaser or end-consumer. In the event of resale by Purchaser, Purchaser is solely responsible for any and all warranty and other claims resulting from any representations or warranties made by Purchaser to its customers and any end-consumers. Purchaser shall not refer to Seller in any manner in connection with its resale of the Products.

#### **8. Limitation of Liability; Exclusion of Damages.**

IN NO EVENT SHALL SELLER BE LIABLE (A) IN EXCESS OF THE PURCHASE PRICE OF THE NONCONFORMING PRODUCT, OR (B) FOR INCIDENTAL, SPECIAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS, WHETHER ARISING FROM THE SALE OF PRODUCTS, ANY DEFECT IN THE PRODUCTS, ANY USE OF OR INABILITY TO USE THE PRODUCTS, OR OTHERWISE.

#### **9. Selection; Application; Indemnification.**

Purchaser is solely responsible for proper selection, application, installation and use of Products, as well as the incorporation of Products into other equipment or products. Purchaser shall indemnify and hold Seller harmless from and against any and all damages, liabilities, claims, or expenses (including reasonable attorneys' fees) arising out of or

relating to (i) improper selection, application, installation, use or incorporation of Products; or (ii) infringement of any patent, trademark, copyright or other third party interest arising out of Seller's compliance with any of Purchaser's designs, specifications, or instructions. If Seller requests, Purchaser shall defend Seller, at its expense, in any such suit brought against Seller.

#### **10. Patent Infringement.**

Seller will defend or settle, at its sole expense, any third party claim, demand or suit against Purchaser alleging that the use of any Product designed and made by Seller, infringes a U.S. patent, copyright, trade secret or other intellectual property right ("IP Claim(s)"); provided: (a) the alleged infringement does not arise from Seller's compliance with specifications or designs furnished by Purchaser; (b) Seller receives prompt written notice of such IP Claim and exclusive control over its defense and/or settlement; and (c) Purchaser provides Seller with all information available to Purchaser for the defense and cooperates with Seller in the defense, and does not take a position adverse to Seller. Further, Seller will have no liability under this Section 10 if and to the extent that an IP Claim is based on: (1) a Product modification made by Purchaser or a third party, or made by Seller at Purchaser's request; (2) use or interconnection by Purchaser of the Product in combination with other products not made or sourced by Seller; or 3) Products made to design or specifications not provided by Seller. Except for third party IP Claims above, and subject to the limitations set out in Section 8 above, Seller's exclusive obligation to Purchaser as to Products declared to infringe, and Seller's right as to Products which Seller believes are likely to infringe, is the acquisition of a license, or the replacement of Products with non-infringing goods, or the modification of the Products so that they are non-infringing. If Seller determines that none of the foregoing alternatives are reasonably available, Seller will issue a refund equal to the purchase price for the affected Products if within one year of delivery or the Purchaser's net book value of the affected Product at the time of the refund. Regarding Purchaser's products made by or utilizing the designs of Purchaser, or products combined or interconnected with Products furnished under this order, Purchaser will defend and settle at its sole expense, any third-party claim, demand or suit against Seller alleging any of such products infringes a patent, copyright, trade secret or other intellectual property right, provided: (i) the alleged infringement does not arise from Purchaser's compliance with specifications or designs furnished by Seller; (ii) Purchaser receives prompt written notice of such claim, demand or suit and exclusive control over its defense and/or settlement; and (iii) Seller provides Purchaser with all information available to Seller for the defense and cooperates with Purchaser in the defense, and does not take a position adverse to Purchaser. THIS SECTION 10 STATES THE ENTIRE LIABILITY OF SELLER AND PURCHASER'S LIMITED REMEDIES AS TO IP CLAIMS.

#### **11. Ownership of Proprietary Materials, Tooling.**

Seller will have and retain all intellectual property rights in all Products, tooling and associated materials, furnished by Seller in connection with or pursuant to this order, including, without limitation, patents, utility models, design rights (and any pending applications), trademarks, copyrights, technical, business, economic or know-how information, trade secrets, confidential proprietary information, inventions, data,

formulae, material compositions, drawings, specifications, prototypes, manufacturing processes, product pricing and any right related thereto (whether or not patentable) that is not generally available to the public ("Proprietary Materials"). No Proprietary Materials created by Seller in connection with or pursuant to this order shall be considered "works made for hire" as that term is used in connection with the U.S. Copyright Act.

## **12. Security Agreement.**

Purchaser hereby grants to Seller a continuing purchase money security interest in all Products sold and/or delivered to it and to the proceeds thereof (collectively, the "Collateral") to secure the full payment of the purchase price of the Products and all other obligations of Purchaser to Seller under this order, whether now owing or hereafter arising (the "Obligations"). This purchase money security interest covers future advances and shall attach to Collateral which constitutes after-acquired Collateral. Each item of Collateral shall remain subject to Seller's purchase money security interest until the purchase price of such item is paid and satisfied in full, including any delinquency charges. After an invoice is paid and satisfied in full, the Collateral evidenced by that invoice shall be automatically released from Seller's purchase money security interest. Unless Purchaser otherwise designates in writing at the time of a particular payment, all payments shall be applied to the outstanding invoice having the oldest date first. If two or more outstanding invoices have identical invoice dates, payments shall be applied to the outstanding invoice having the lowest total amount; provided, however, if two or more outstanding invoices have the same total amount, Seller shall designate the order in which those invoices shall be paid. Purchaser hereby authorizes Seller at any time and from time to time to file financing statements, amendments and continuations describing the Collateral in any filing office in any Uniform Commercial Code jurisdiction and to do all acts reasonably necessary for the establishment, perfection, preservation, and enforcement of its security interest. Purchaser shall maintain adequate insurance against casualty, loss, fire or theft of the Products for so long as the security interest is in effect.

## **13. Force Majeure.**

Seller shall not be liable for delays or deemed in default for failure to deliver or otherwise perform due, directly or indirectly, to causes beyond Seller's reasonable control, including but not limited to failure of third parties to provide adequate and conforming raw materials, failure to perform by other suppliers to Seller, acts of God or nature, acts of any governmental authority, wars, strikes or other labor disputes, fires, and natural calamities.

## **14. Limitations.**

Any action by Purchaser under or relating to this order or the Products sold must be commenced within one (1) year after such cause of action has accrued.

## **15. Choice of Law.**

This Agreement and any dispute or claim relating to it shall in all respects be governed by and construed according to the laws of the State of Georgia, excluding its conflict of laws

principles. In the event Purchaser and Seller are located in countries which are parties to the 1980 United Nations Convention on the International Sale of Goods ("UNCISG"), the parties hereby agree that the purchase and sale of Products and any dispute or controversy relating thereto shall not be governed by the provisions of the UNCISG.

## **16. Choice of Forum, Venue, and Consent to Jurisdiction.**

Any suit, action or proceeding with respect to this order or the sale of Products hereunder, or any judgment entered by any court in respect thereof, may be so brought or so entered in the state courts of Georgia or in the United States District Court for the Middle District of Georgia. Purchaser and Seller hereby submit to the jurisdiction of such courts for the purpose of any such suit, action or proceeding, and Purchaser and Seller hereby irrevocably waive any objections to venue for any such suit, action or proceeding being brought in such courts.

## **17. Assignment.**

Purchaser may not assign its rights or obligations hereunder without the prior written consent of Seller and any purported assignment without such consent shall be of no effect.

## **18. Confidentiality.**

If the parties have entered into a Confidentiality or Non-Disclosure Agreement ("NDA"), the terms and conditions of the NDA shall apply and control for confidentiality obligations between the parties. In connection with this order, Purchaser may have access to Seller's confidential information, including, without limitation inventions, developments, know how, specifications, business plans, results of testing, systems, financial information, product information, methods of operation, manufacturing processes, customer information, supplier information and compilations of data ("Seller's Confidential Information"). Purchaser shall use Seller's Confidential Information only for the purposes contemplated under this order and shall not disclose it to third parties. Purchaser shall maintain the confidentiality of Seller's Confidential Information in the same manner, but in no event less than the manner, in which it protects its own confidential information. Purchaser is permitted to disclose Seller's Confidential Information to its employees and authorized subcontractors on a need to know basis only, provided that such employees and authorized subcontractors have written confidentiality obligations to Purchaser no less stringent than the confidentiality obligations under this Section. Upon termination of this order, Purchaser shall return Seller's Confidential Information and shall not use Seller's Confidential Information for its own, or any third party's benefit. Purchaser's confidentiality obligations shall survive termination of this order for so long as Seller's Confidential Information remains confidential. Seller shall be entitled to injunctive relief, including, but not limited to, emergency, preliminary, temporary and permanent injunctions, from any court of competent jurisdiction as may be necessary to enjoin any violation of the foregoing covenants, without the necessity of proving immediate irreparable harm or an inadequate remedy at law.

## **19. Compliance with Law.**

The parties will comply with all applicable federal, state, local

and foreign laws, orders, rules, regulations and ordinances, including export controls and import compliance, anti-boycott measures, Foreign Corrupt Practices Act ("FCPA"), embargoes, sanctions, shipment to prohibited destinations or end-user, and for a prohibited end-use. If Purchaser exports, re-exports, diverts, transfers or imports Products, or technology or software related to the Products, Purchaser assumes responsibility for complying with applicable laws and regulations and for obtaining required export and import authorizations of any applicable jurisdiction or country. Notwithstanding the foregoing, unless otherwise agreed in this Contract, Seller shall not be responsible for regulatory and other legal compliance: (a) outside the U.S., including, without limitation, the European regulation for the Registration, Evaluation, Authorization and Restriction of Chemicals ("REACH"), (b) as to the products made by Purchaser which incorporate the Products, (c) as to any use of Products by Purchaser or Purchaser's customers other than as covered by the Limited Warranty set out herein above.

## **20. German Supply Chain Act.**

To the extent directly applicable to Seller or generally implemented within the Freudenberg group of companies as part of related compliance measures and policies, Seller will reasonably comply with the obligations resulting from the German Act on Corporate Due Diligence in Supply Chains (the "German Supply Chain Act"). However, Purchaser undertakes to independently implement all legally required measures required to comply with all laws applicable to it (including, but not limited to Purchaser's own risk assessment, organizational measures, documentation and reporting) as well as other codes of which it is notified by Seller in accordance with the German Supply Chain Act). This includes, in particular, taking appropriate measures to prevent or mitigate risks to human rights or the environment, or end the violation of duties thereto, including without limitation prohibitions on child and enslaved labor, employment and wage discrimination, and bans on the manufacture, handling, use, or export of certain products and compounds, including without limitation mercury and hazardous wastes. Purchaser shall establish, or hereby affirms it already has established, due diligence procedures sufficient to safeguard human rights and protection of the environment in Purchaser's global supply chain, and shall defend and indemnify Seller and any party to whom Seller owes defense or indemnity from and against any claims arising from Purchaser's violation of the German Supply Chain Act, or any third party for whom Purchaser is or becomes responsible. Claims related to a breach of the German Supply Chain Act or related requirements do not constitute a breach of warranty related to Products, goods, or services sold by Seller and will in no event allow Purchaser to hold back, delay, or set off payments owed to Seller under any purchase orders or contracts, by law or equity. German Supply Chain Act related document request and/or audits will be subject to prior written consent by Seller and limited to what is legally required and may exclude confidential and proprietary information, business, and/or trade secrets.