

## General Terms and Condition of Sale

### 1. Applicable Law and Jurisdiction

These general terms and conditions apply to all proposals and quotations submitted by Trelleborg Sealing Solutions Canada Inc., an Ontario corporation (“Seller”), to all purchase orders received by Seller, and to all goods and services sold by Seller, except as otherwise specifically provided in a document signed by Seller. This sale and any sale resulting herefrom consists only of these terms and conditions and those in other documents referenced herein or attached hereto or in a document subsequently signed by Seller and referencing this transaction (all of which constitute the “Agreement”). The Agreement shall be governed, interpreted, construed and enforced under the laws of the Province of Ontario and federal laws of Canada applicable therein including the *Personal Property Security Act* (Ontario) in force on the initial date of the Agreement (or, if perfection or the effect of perfection or non-perfection or the priority of any lien created hereunder is governed by the personal (movable) property security legislation or other applicable legislation with respect to personal (movable) property security as in effect in a jurisdiction other than Ontario, such other applicable legislation as in effect from time to time in such other jurisdiction) (“PPSA”), except as provided herein. The United Nations Convention on Contracts for the International Sale of Goods and any local implementing legislation shall not apply. Any services to be provided hereunder, whether or not they are otherwise ancillary to and part of a sale of goods (as separate units), shall be considered ancillary to a sale of goods and the PPSA shall apply to all goods and services to be provided hereunder (“Goods”). THE COURTS OF THE PROVINCE OF ONTARIO SHALL HAVE EXCLUSIVE JURISDICTION OVER THE PARTIES AND THE CLAIMS ARISING UNDER OR RELATED TO THE AGREEMENT. The parties stipulate to the convenience of Ontario courts as to all litigation. The invalidity of any particular provision of the Agreement does not affect any other provision of it, but the Agreement is to be construed as if the invalid provision has been omitted.

### 2. Formation, Integration and Modification

A. The Agreement supersedes all previous quotations and agreements pertaining to the Goods. Delivery to Seller of Buyer’s acceptance of Seller’s quotation (according to its terms), Seller’s actions in reliance on Buyer’s oral acceptance of a written or oral quotation, or Buyer’s receipt of the Goods, will constitute a binding contract under the terms of the Agreement. The Agreement is subject to Seller’s revocation or cancellation without liability until approved by Seller at its home office. Notice of such approval may be furnished to Buyer by an acknowledgment, shipment, or other form of express approval.

B. An order submitted by Buyer orally or in a purchase order or other writing (whether or not it contains terms or conditions modifying, adding to, repugnant to, or inconsistent with these Terms and Conditions), may be accepted, approved or filled by Seller, but any resulting contract and the liabilities or obligations of Seller shall be determined solely by the Agreement, and (unless Seller otherwise advises Buyer in writing) notice is hereby given that Seller objects to any such terms or conditions in Buyer’s purchase order or other writing. Seller shall not be deemed to have enlarged or modified its liabilities or obligations under the Agreement by filling such order or by failing to further object to Buyer’s terms or conditions.

C. The Agreement is a final, complete and exclusive statement of the parties’ agreement. No modifications, limitations, waivers or discharge of the Agreement or any of its terms shall bind Seller unless in writing and signed by Seller’s authorized representative. Seller may correct unilaterally any mathematical and typographical errors in the Agreement. A course of performance, course of dealing, or customs in the trade shall not constitute a modification or waiver by Seller of any right by Seller.

D. The Agreement is only for the benefit of the parties, except all disclaimers and limitations applicable to Seller shall also be for the benefit of Seller’s agents, employees, contractors, and suppliers. If any provisions are determined to apply to third parties, all other provisions shall also apply.

### 3. Prices, Payment, Security Interest and Risk of Loss

A. Prices contained in Seller’s published price lists, including, but not limited to, catalogs, brochures and websites, are subject to change without notice. Prices contained in individual written quotations or proposals are firm only for a period of thirty (30) days from the date of the quotation. Prices do not include, and Buyer will pay all taxes, duties or fees of any kind which may be levied or imposed on either party by federal, provincial, territorial, municipal, or other governmental authorities in connection with the sale or delivery of Goods by Seller.

B. Buyer may request changes or additions to the Goods consistent with Seller’s specifications and criteria.

In the event such changes or additions are accepted by Seller, Seller may revise the price, applicable fees, and dates of delivery and/or performance dates.

C. Unless otherwise specifically agreed in writing by Seller, the total price is due and payable to Seller, without setoff or other deductions or charges, net thirty (30) days of Seller's invoice. All amounts not paid to Seller when due shall incur a carrying charge of 1.5% per month (18% per annum) to the extent allowed by applicable law and otherwise at the highest written contract rate allowed by applicable law. The accrual of payment of any interest as provided above will not constitute a waiver by Seller of any rights and remedies in connection with a default by Buyer. Buyer will pay all court costs, legal fees, and other costs incurred by Seller in collecting past due amounts, including interest.

D. As security for payment of all accounts due to Seller, Buyer grants to Seller a security interest in all Goods sold by Seller to Buyer, and Seller will have all rights of a secured party under the PPSA with respect to such Goods. Buyer agrees and appoints Seller as its attorney-in-fact to do, at Seller's option, all acts and things Seller may require to perfect the above security interest in any one or more jurisdictions, and Buyer agrees to pay all applicable filing fees. If Buyer is domiciled in the Province of Quebec, the sale shall constitute an instalment sale and Seller shall reserve ownership of the Goods until full payment of the purchase price.

E. This Agreement is for a shipment contract and the Goods shall be delivered EXW Seller's plant. Whether or not Seller prepays shipping charges, risk of loss passes to Buyer upon tender of the Goods to a carrier. Seller's breach of the Agreement shall not affect the passing of the risk of loss to Buyer notwithstanding any provision of law to the contrary.

#### **4. Delivery**

Shipping dates are estimates based on Seller's present engineering and manufacturing capacity and scheduling, and may be revised by Seller upon receipt or scheduling of Buyer's order. All shipping dates are approximate and shall be computed from the date of entry of the order on Seller's books. All shipping dates are further subject to Seller's prompt receipt from Buyer of a written purchase order or acceptance, letter of credit, down payment, and other conditions as specified in the Agreement, and of all drawings, information and approvals necessary to provide the Goods and to grant any credit proposed in the Agreement.

#### **5. Delay of Shipment or Performance Excused for Various Reasons**

A. If shipment of any item or other performance by Seller is delayed at the request of or due to the fault of Buyer, Seller may at its option hold the item at the place of manufacture at the risk and expense of Buyer from the time it is ready for shipment. In the event of any such delay in shipment, full and final payment for an item shall be due and payable thirty (30) days after Buyer is notified that the item is ready for shipment. If Seller is unwilling to accommodate Buyer by holding such item, Buyer shall accept shipment immediately.

B. Seller shall not be in default because of its delay or failure to deliver or perform resulting, in whole or in part, from: (i) any embargoes, seizures, acts of God, insurrections, war, or the adoption or enactment of any law, ordinance, regulation, ruling or order, (ii) the lack of usual means or transportation, fires, floods, explosions, strikes or any other accidents, contingencies, or events, at Seller's or its supplier's plant or elsewhere, or (iii) any other events, whether foreseeable or unforeseeable, that are beyond Seller's reasonable control, which interfere with, or render substantially more burdensome, Seller's production, delivery, or performance.

#### **6. Inspection, Testing and Rejection**

A. If the Agreement expressly provides for Buyer's inspection and/or acceptance of the Goods, Seller's standard test procedures conducted by Seller's representative shall be the criteria for inspection and/or acceptance, unless other procedures have been specified in the Agreement.

B. All drawings, specifications, technical documentation, samples, prototypes and Goods shall be deemed approved and/or accepted by Buyer if Buyer does not provide a written objection and/or rejection within thirty (30) days of receipt or other reasonable time established by Seller. Any objection and/or rejection by Buyer must be in writing and state with specificity all defects and non-conformities upon which Buyer will rely to support its rejection. ALL DEFECTS AND NON-CONFORMITIES WHICH ARE NOT SO SPECIFIED ARE WAIVED. Claims for damage due to shipping must be made directly to the carrier.

#### **7. Cancellation or Termination**

In the event of cancellation of the Agreement by Buyer, or in the event of default under the Agreement by Buyer which is not cured within thirty (30) days after notice by Seller, Buyer will pay to Seller on demand all direct and indirect costs (including without limitation all applicable restocking or cancellation charges) incurred directly or indirectly by Seller in connection with the Agreement, all as reasonably determined by Seller, plus any profit to be negotiated with Buyer. In no event, however, will any amount payable by Buyer under the Agreement exceed the total price payable by Buyer for Goods.

## **8. General Express Warranties**

A. Seller warrants to Buyer only, that Goods (or portions thereof manufactured by Seller) shall be free from defects in materials and workmanship which are identified to Seller in writing within the thirty (30) days warranty period following shipment of the Goods to Buyer, subject to the disclaimers and limitations of the Agreement. Absence of such written claims during this period will constitute a waiver of all claims with respect to the Goods.

B. Seller retains the right to change the dimensions, composition, design, performance, color and appearance of the Goods without liability if, in its judgment, the change is non-material.

C. Seller's warranties shall apply only if the Goods: (i) have been installed, maintained, and used in conformity with instructions and recommendations furnished by Seller from time to time, if any; (ii) have not been subjected to misuse, movement of the structure, physical abuse, installation error, negligence or accident; and, (iii) have not been altered or repaired by persons other than Seller in a manner, which, in the judgment of Seller, adversely affects the condition of the Goods. It is Buyer's responsibility to determine suitability of the Goods for Buyer's use and Buyer assumes all risk and liability associated therewith.

## **9. Disclaimer and Limitation of Express Warranties and Representations**

There are no express warranties, representations or conditions other than those contained in the Agreement. Whether or not the Goods are to be used exclusively by Buyer, there shall be no third party beneficiaries to the express warranties contained herein. Seller does not represent or warrant that it or the Goods are in compliance with any entity, organization or industry standards, guidelines, or procedures unless specifically contained in the Agreement.

## **10. Remedy and Limitation of Seller's Liability**

A. Defective or non-conforming Goods or parts thereof discovered during the thirty (30) day warranty period shall be repaired or replaced by Seller without any additional charge and shipped to Buyer, EXW Seller's plant, for reinstallation by Buyer at its cost, subject to the terms hereof. The warranty obligation of Seller is limited to the repair or replacement at Seller's plant of any part of the Goods which Buyer shall, within the warranty period, return to Seller, with transportation charges prepaid by Buyer, and which Seller determines to be not in conformity with the express warranties contained herein. If Seller elects, Seller may, upon return of such Goods and making a determination of non-conformity or defect, keep the Goods and refund the purchase price. Buyer's remedies shall be limited exclusively to those provided in this section. Buyer waives any causes of action or theories of liability including, but not limited to, those arising under contract, tort, strict liability, product liability, statutes, or otherwise.. The replacement or repair of Goods by Seller does not give rise to any new warranty except the warranty period provided for herein shall be extended by the length of any period from the date the defective or non-conforming Goods are received by Seller until the date repaired or replacement Goods are delivered to Buyer.

B. Buyer must contact Seller requesting warranty coverage plus a return authorization number and other instructions for the return of Goods to Seller or other instructions. If requested by Seller, Buyer shall issue a new purchase order or amendment to Seller for replacement Goods, subject to Seller issuing a credit memo if Buyer's claim for warranty coverage is approved. Buyer must comply with Seller's return instructions (including return of the Goods) within thirty (30) days or the claim shall be deemed conclusively to have been abandoned. Buyer is responsible for properly tagging, identifying, and packing returned Goods. Goods returned without compliance with the above procedures shall be returned to Buyer at Buyer's cost.

## **11. Disclaimer of Implied Warranties and Conditions**

SELLER DISCLAIMS ALL IMPLIED WARRANTIES, CONDITIONS AND REPRESENTATIONS (OTHER THAN GOOD TITLE) INCLUDING BUT NOT LIMITED TO THOSE OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, AND NON-INFRINGEMENT. Seller does not represent or warrant the Goods will comply with the requirements of any safety or environmental code or regulation of any federal, provincial, municipality or other jurisdiction beyond the specific express warranties in this Agreement.

Without limiting the generality of the foregoing, any and all warranties, conditions or representations, expressed or implied, pursuant to the *Sale of Goods Act* (Ontario) or similar legislation do not apply hereto and are hereby expressly waived by Buyer.

## **12. Buyer Supplied Data**

To the extent that Seller has been provided by, or on behalf of, Buyer any specifications, description of operating conditions or other data and information in connection with the selection or design of the Goods, and the actual operating conditions or other circumstances differ from those provided by Buyer and relied upon by Seller, any warranties or other provisions contained herein which are affected by such conditions shall be null and void.

## **13. Tools, Dies and Gauges**

Unless otherwise expressly provided, any tools, dies or gauges which may be developed for use in production of the Goods shall be owned by Seller, even though Buyer may be charged in whole or part for the cost thereof. Tool changes as a result of specification changes will be at Buyer's expense. Replacement and/or major repairs of tools will be at Buyer's expense. Tools which are inactive for a period of three years may be disposed of by Seller in its discretion.

## **14. Indemnification**

Buyer shall indemnify Seller from all third party claims, damages, and expenses (including reasonable legal fees) under theories of tort, product liability, negligence (ordinary or gross), warranty, contract, statute, or otherwise arising out of the use, storage, sale, or other disposition of the Goods and supplies or materials used in connection with the Goods if the action or inaction of Buyer or its employees, customers or agents, or Buyer's design specifications, were a material or proximate cause of injuries or damages giving rise to claims against Seller.

## **15. Consequential, Incidental, and Other Damages**

BUYER AND THIRD PARTIES SHALL NOT BE ENTITLED TO, AND SELLER AND ITS AFFILIATES SHALL NOT BE LIABLE FOR, ANY INDIRECT, CONSEQUENTIAL, PUNITIVE, EXEMPLARY, OR INCIDENTAL DAMAGES OR LOST PROFITS. This limitation shall be enforced regardless of whether Seller has defaulted in its warranty or other obligations. Any legal inability to limit or restrict the right of Buyer or a third party to such damages shall not affect the right of Seller to indemnification hereunder, and under no circumstance shall Seller be liable for more than the purchase price in connection with any claims or liability arising from the Agreement.

## **16. Proprietary Information**

A. Buyer acknowledges that any information disclosed to Seller has not and will not be confidential or a trade secret unless clearly and conspicuously noted on the disclosure, or in some other writing delivered to Seller at or prior to the time of the disclosure. Otherwise, Seller shall be under no obligation to refrain from using in its business any information, manufacturing processes or unpatented disclosures which may pass to it from Buyer in the performance of the Agreement.

B. All proposals, plans and other information furnished by Seller in bidding, negotiating and performing the Agreement, are confidential and the property of Seller and shall not be shown or disclosed to any other bidder, and shall not be shown or disclosed to any third party or used by Buyer except as may be necessary for the selection or use of the Goods.

C. Any invention or other information developed by Seller in the performance of the Agreement shall remain the property of Seller.

## **17. Compliance with Laws**

Buyer shall not engage in any transaction with respect to the Goods which violates any statute or regulation of Canada, any of its provinces or territories, or any other applicable law. Buyer will be responsible for compliance with any and all federal, provincial, territorial or local laws or regulations respecting safety or respecting use of the Goods, and shall indemnify and hold Seller harmless from and against any and all claims of violations of such laws or regulations or other claims of personal injury or property damage directly or indirectly related to the installation, maintenance or operation of the Goods.

## **18. Time for Bringing Action**

Any proceeding by Buyer for breach of the Agreement or any other right against Seller arising from or in connection with the payment cannot be filed nor maintained unless: (i) it is commenced within thirty days after the cause for action has accrued; (ii) Buyer has given timely written notice to Seller of its claim as provided herein; and (iii) Buyer deposits the unpaid portion of the purchase price with the tribunal pending final adjudication. An action shall accrue no later than shipment of the Goods.

## **19. Buyer's Material**

Orders requiring use of Buyer's material are accepted subject to delivery of amount and quality as specified by Seller, EXW Seller's plant. The quality of Buyer's material is the responsibility of Buyer. If material is defective or will not perform to Seller's requirements because of chemical composition, physical properties or dimensions, Seller reserves the right to cancel the order. Any costs incurred by Seller through time of cancellation, including any costs due to rework or replacement of the defective material, are the liability of Buyer.

## **20. Assignment**

Buyer shall not assign its right or delegate its duties hereunder or any interest herein without the prior written consent of Seller, and any such assignment, delegation, without such consent, shall be void.

## **21. French Language**

The parties acknowledge that they have requested that this document and all other documents relating to it, be drawn up in the English language. *Les parties reconnaissent avoir exigé que le présent document et tous les autres documents qui s'y rapportent soient rédigés en anglais.*