

1. **GENERAL.** These terms and conditions (the "Terms") shall exclusively govern the sale and purchase of all products and/or services ("Goods") sold or provided by companies which are part of the A. Schulman group of companies ("Seller") and supersede and replace any other terms or conditions stipulated or referred to by a buyer of Goods ("Buyer") in any document. Buyer agrees that the issuance of orders by Buyer shall act as full acceptance of the Terms. Buyer and Seller may also be referred to individually as a "Party" and collectively as the "Parties."
2. **OFFERS AND ACCEPTANCE AND TERMS OF ORDER.** All offers and quotes from Seller are non-binding until Seller's final order confirmation. Any proposal for additional or different terms or any attempt by Buyer to vary any of the Terms, whether in Buyer's quotation form, purchase order, correspondence or otherwise, shall be deemed material and is hereby objected to and rejected by Seller.
3. **DELIVERIES, RISK**
  - 3.1 Title to the Goods, and the associated risk, shall pass from Seller to Buyer at the shipping point.
  - 3.2 Buyer hereby agrees that the quantity and quality of Goods as recorded on the shipping/delivery documents is conclusive evidence of the quantity received by Buyer on delivery unless Buyer can provide conclusive evidence proving the contrary. Seller is entitled to make partial deliveries, unless the Parties expressly agree otherwise.
  - 3.3 Any dates specified by Seller for delivery of the Goods are an estimate and time for delivery shall not be of the essence unless otherwise agreed in writing and Seller shall, to the extent permitted by law, not be liable for any delay in delivery.
  - 3.4 Parties agree that Seller may deliver to Buyer a quantity of Goods of up to 10% more or less than the quantity ordered. In such event, Buyer shall not be entitled to make a claim or reject the Goods or any portion of the Goods by reason of the surplus or shortfall and Buyer shall, subject to providing timely notice required under section 8, pay or be credited (as the case may be) for such Goods at the agreed price based on the actually delivered quantity.
4. **NON-ANALYSIS.** Buyer agrees that it shall not, without Seller's prior written consent, take any steps to analyze, or have a third party analyze, reverse engineer, translate or decompile any Goods, samples or material provided by Seller, including, and without limitation, the formulation of any compound, additive, masterbatch or concentrate.
5. **RESERVED.**
6. **PRICE AND TAXES.** Unless otherwise agreed, all prices include standard packaging and exclusive of VAT, sales, use and excise taxes, and any other similar charges, duties, costs and taxes, Buyer shall be responsible for all such charges, duties, costs and taxes.
7. **PAYMENTS.**
  - 7.1 Unless otherwise agreed, all invoices are payable in the currency stated on the invoice within thirty (30) days after the date of invoice to the account indicated on the invoice.
  - 7.2 Buyer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Seller, whether relating to Seller's breach or otherwise.
  - 7.3 If Seller, acting reasonably, determines that the financial position of Buyer has become impaired or otherwise unsatisfactory to Seller, Seller may require advance payment or the posting of security by Buyer, and Seller may withhold shipments until Buyer makes such payments or posts such security.
  - 7.4 Seller shall be entitled to first credit payments against Buyer's old debts. Buyer shall pay interest without prior written notice or demand on all late payments at the lesser of the rate of 1 % per month or the highest rate permissible under applicable law, calculated daily and compounded monthly.
  - 7.5 In the event Buyer is in default of any payments whatsoever due to Seller, Seller shall be entitled to: (i) hold the shipment of any Goods ordered by Buyer until Buyer makes such payments; and/or (ii) require from Buyer immediate payment of any additional Goods ordered by Buyer prior to their shipment and /or (iii) rescind the sale agreement.
  - 7.6 In addition to all other remedies available Buyer shall reimburse Seller for all reasonable costs incurred in collecting any overdue debt, including, without limitation, reasonable attorneys' fees, legal and non-legal costs.
8. **INSPECTION AND REJECTION OF NONCONFORMING GOODS.** Buyer shall inspect the Goods immediately upon delivery and shall, latest within sixty (60) days from the date of delivery in respect of any default or shortage which would be apparent from a reasonable inspection on delivery, or ten (10) days from the date on which any hidden defect was or ought to have been apparent, give written notice to Seller of any claim with respect to the Goods. Failure of Buyer to give such written notice within such sixty (60) day period shall constitute an irrevocable acceptance of the Goods by Buyer. Upon making any such claim Buyer shall not further use the Goods and shall retain the Goods for inspection by Seller or its representative.
9. **LIMITED WARRANTY.**
  - 9.1 Seller warrants to Buyer good and free title to the Goods and that the Goods supplied will conform to the agreed written or published specifications at the time Goods are shipped. Goods will be conveyed to the Buyer with good title, free from any lawful lien or encumbrance. Seller will notify Buyer in advance if the Goods specifications change. With regard to services, provided that the materials furnished by Buyer or third parties meet the specifications for such materials and are not contaminated or damaged, Seller warrants that such materials will be processed to any specifications expressly agreed to in writing by Seller at the time of shipment.
  - 9.2 Seller has based any recommendations to Buyer for the use or application of the Goods as well as any services provided by Seller upon information supplied by Buyer, but Seller gives no warranty with respect to results Buyer might obtain based on such recommendations or services and any use or application for the Goods. Except to the extent attributable to the Goods sold hereunder failing to meet the express warranties set forth in section 9.1, Buyer will indemnify, defend and hold Seller harmless from all costs, expenses, damages, judgments or other loss, including costs of investigation, litigation and reasonable attorney's fees, arising out of Buyer's selection, use, sale, applications or further processing of the Goods.
  - 9.3 ANY CLAIM THAT BUYER MAY HAVE UNDER THIS WARRANTY PROVISION IS WAIVED UNLESS BUYER NOTIFIES SELLER IN WRITING WITHIN SIXTY (60) DAYS AFTER BUYER LEARNS, OR SHOULD REASONABLY HAVE LEARNED, OF THE CLAIM.
  - 9.4 Buyer acknowledges that it has sole control and responsibility to ensure that the Goods and any method of use or application of the Goods are suitable for Buyer's purposes. Any assistance provided by Seller to the Buyer relative to the Goods, including without limitation, formulation, manufacturing and testing for the use or application of the Goods for Buyer's purposes, is made WITHOUT ANY EXPRESS OR IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
10. **LIMITATION OF LIABILITY.**
  - 10.1 Except for the warranty set forth in section 9.1, Seller disclaims any warranty whatsoever express or implied with respect to the Goods, including any warranty of merchantability, fitness for a particular purpose by reason of any use Buyer makes of the Goods whether used alone or in combination with any other substance or in any process. All representations and warranties provided by non-mandatory applicable laws are expressly excluded and contractually waived by Buyer.
  - 10.2 Seller's aggregate liability to Buyer for claims and damages, whether under breach of contract, tort or any other cause whatsoever, shall in no event exceed the total of the purchase price for the Goods which gave rise to Buyer's claim.
  - 10.3 Any justified claim with respect to the Goods is limited to replacing, reworking or repairing defective or non-compliant Goods or, at the option of Seller, crediting Buyer, in full or in part, for the amount of the invoice for the Goods concerned.
  - 10.4 In no event will Seller have liability to Buyer arising out of or relating to any breach of these Terms or the Goods, for any incidental, consequential, exemplary or special damages, either direct or indirect, including but not limited to, loss of profits or revenue, diminution in value, machine stoppage, recall or rework.
  - 10.5 Buyer acknowledges and agrees that the remedies set forth in section 10 are Buyer's exclusive remedies.
  - 10.6 Nothing in these Terms will limit either Party's liability for acting grossly negligent or to the extent such liability cannot be limited by applicable law.
  - 10.7 AS MORE FULLY SET FORTH IN OTHER PROVISIONS OF THESE TERMS, SELLER AND BUYER HAVE REACHED EXPRESS AGREEMENT WITH RESPECT TO THE LIMITATION OF THE LIABILITY OF SELLER IN CONNECTION WITH THESE TERMS, AND THE SELLER AND BUYER EXPRESSLY RECOGNIZE THAT (i) THE PRICE FOR WHICH SELLER HAS AGREED TO PERFORM ITS OBLIGATIONS HEREUNDER AND IN RESPONSE TO BUYER'S PURCHASE ORDER HAS BEEN PREDICATED ON THE FOREGOING LIMITATION OF LIABILITY, AND (ii) SELLER, IN DETERMINING TO PROCEED WITH ITS WORK PURSUANT TO THESE TERMS, HAS EXPRESSLY RELIED ON SUCH LIMITATION OF LIABILITY AND WOULD NOT HAVE AGREED TO SELL TO BUYER BUT FOR SUCH LIMITATION OF LIABILITY.

**11. TERMINATION/CANCELLATION.**

11.1 In addition to any remedies that may be provided under these Terms, Seller may terminate any sale agreement with immediate effect upon written notice to Buyer, if Buyer: (i) fails to pay any amount when due and such failure continues for fifteen (15) days after Buyer's receipt of written notice of non-payment; (ii) has not otherwise performed or complied with any of these Terms, in whole or in part; or (iii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, or receivership, reorganization, assignment for the benefit of creditors or similar event.

11.2 Buyer may only cancel or terminate an accepted sale agreement to which these Terms apply upon Seller's prior written consent and shall be liable to Seller for any losses suffered therefrom by Seller, including but not limited to (i) all costs associated with work-in process; (ii) all costs associated with the purchase of unique raw materials; and (iii) charges for packing and storing. In such event, Seller shall have the option, in its sole discretion, to use, sell or dispose of any and all Goods manufactured for the benefit of Buyer without further notice to Buyer unless expressly agreed otherwise in writing.

11.3 If Buyer commits a non-remediable material breach or fails to cure any remediable material breach within fifteen (15) days of being notified in writing of such breach, Seller shall have the option, in its sole discretion, and in addition to any other remedies available to Seller under law, to use, sell or dispose of any and all Goods manufactured for the benefit of Buyer without further notice to Buyer unless expressly agreed otherwise in writing.

**12. FORCE MAJEURE.** Either Party may suspend performance hereunder (except with respect to payment obligations for any of the Goods) in the event of fire, explosion, flood, hurricanes, strikes, lockouts or other industrial disturbances or riots, war, compliance with any acts or omissions of any local or governmental authority, inability or delay in obtaining supplies, labor, power, machine or equipment breakdown, fuel or raw materials, or any other cause or causes of any kind or character reasonably outside the control of the Party failing to perform, whether similar or dissimilar from any of the above mentioned causes. If the event in question continues for a continuous period in excess of twenty (20) days, the affected Party shall be entitled to give notice in writing to the non-performing Party to terminate the sale agreement with respect to Goods undelivered at the time of termination.

**13. HEALTH & SAFETY.** Buyer shall handle the Goods in accordance with the recommendations given by Seller in Safety Data Sheets or Seller's safety literature. If Buyer is not already in the possession of such literature or requires any information or advice in connection with the safe use of the Goods Buyer shall immediately contact Seller. Buyer will disseminate such information so as to give warning of possible hazards to persons whom Buyer can reasonably foresee may receive exposure to such hazards. Buyer shall be responsible for registrations of raw materials in accordance with all applicable laws and shall indemnify Seller for any fine, citations, damages, losses or penalties assessed on Seller for failure to comply with this Section 13.

**14. TOOLING, MOLDS, DIES.** If applicable, unless otherwise agreed to in writing by Seller, all tooling, dies and molds, for which Seller has received payment in full or been transferred to Sellers facility and which are used in the manufacture of finished products shall remain the property of the Buyer. All preventative maintenance and refurbishment costs of the above items are to be paid for by Buyer. Buyer has three (3) years from the date of last production to take possession of Buyer-owned molds/tools/fixtures. After such period has elapsed, Buyer agrees that Seller has the right to destroy any unclaimed molds/tools/dies and fixtures.

**15. GOVERNING LAW AND JURISDICTION.** These Terms, and any corresponding purchase order, contract, or agreement to which these Terms apply, shall be deemed to have been made under, and shall be construed and interpreted in accordance with, the substantive laws of the State of Ohio without regard to the otherwise applicable Ohio choice of law rules or principles. Buyer hereby submits to the jurisdiction of the State of Ohio and federal Courts in the State of Ohio and hereby designates the Secretary of State of the State of Ohio as an authorized agent to accept on behalf of Buyer service of any and all process in the State of Ohio in connection with these Terms and any related purchase order, contract or agreement.

**16. MISCELLANEOUS.**

16.1 The invalidity or unenforceability for any reason of any part of these Terms shall not prejudice or affect the validity or enforceability of the remainder.

16.2 Buyer shall not assign any contract for the purchase/sale of Goods or any rights hereunder in whole or in part to any third party without the prior written consent of Seller.

16.3 Seller shall be entitled to assign to or carry out this contract in whole or in part through one or more of the business enterprises of the Seller's group of companies, who shall be authorized to act on Seller's behalf, even though Seller continues to be Buyer's sole contracting party.

16.4 Buyer shall comply with all applicable laws, regulations, and other legal requirements regarding the export, import, sale, distribution, marketing, and servicing of the Goods and related technology, including without limitation, tax, anti-corruption and foreign exchange legislation or regulations and export, and anti-boycott restrictions in force at the time of the sale of the Goods.

16.5 Seller retains for itself and its affiliates all intellectual property rights, including without limitation, patents, copyrights, and trade secrets, relating to all of Seller's proprietary Goods formulations and specifications, and Seller's proprietary equipment and technology used by Seller to perform services or produce Goods. With regard to Goods that are manufactured pursuant to the express instructions and/or specifications provided by Buyer ("Buyer Designed Products"), Buyer represents that Seller's manufacture and sale of such Buyer Designed Products, and the use of such Buyer Designed Products, does not infringe upon the intellectual property rights (including patents, trademarks, service marks, or other proprietary rights) of any other person or entity ("third party"), and Buyer agrees to defend, indemnify, and hold harmless Seller from any claims, demands, suits, or other losses resulting from any allegations or liability for infringement asserted by any third party and/or which are asserted against Seller as a result of the foregoing representation being untrue.

**17. CANCELLATION.** Buyer shall not have the right to cancel and terminate any purchase order, contract, or agreement to which these Terms apply without the prior written consent of Seller. There shall be no penalty for such cancellation and termination. If Seller permits Buyer to cancel or terminate, Buyer agrees to pay Seller on demand for (i) all costs associated with work-in process; (ii) the purchase price of completed Goods; (iii) all costs associated with the purchase of unique raw materials; and (iv) charges for packing and storing. Seller may cancel any order or any part of an order without cause at any time and without penalty, and Seller's sole obligation shall be to return any down payment paid by the Buyer.

**18. LIMITATION ON ACTIONS; WAIVER.** Any action by Buyer for an alleged breach of warranty, breach of contract, or tort arising out of or related to these Terms and/or any related purchase order, contract, or agreement to which these Terms apply, shall be commenced no later than one year after the cause of action accrues. The failure of Seller to insist upon strict performance of any purchase order, contract or agreement at any time shall not constitute a waiver of, or estoppel against, Seller's right to require such performance in the future.

**19. MODIFICATION.** These Terms contain the entire agreement between the parties with respect to the subject matter contained herein and may not be modified, except as otherwise expressly agreed to in an amendment signed by the parties modifying these Terms.

**20. US GOVERNMENT CONTRACTS**

20.1 This Article 20 applies only if this contract is for the direct or indirect sale to any agency of the U.S. government and/or is funded in whole or in part by any agency of the U.S. government.

20.2 Buyer agrees that all Goods provided by Seller meet the definition of "commercial item" as those terms are defined in Federal Acquisition Regulation ("FAR") 2.101. To the extent the Buy American Act, Trade Agreements Act, or other domestic preference requirements are applicable to this Contract, the country of origin of Goods is unknown unless otherwise specifically stated by Seller. The version of any applicable FAR clause listed in this Article 20 shall be the one in effect on the effective date of this contract.

20.3 If Buyer is an agency of the U.S. Government, then as permitted by FAR 12.302, Buyer agrees that all paragraphs of FAR 52.212-4 (except those listed in 12.302(b)) are replaced with these Terms. Buyer further agrees the subparagraphs of FAR 52.212-5 apply only to the extent applicable for sale of commercial items and as appropriate for the contract price.

20.4 If Buyer is procuring the Goods as a contractor, or subcontractor at any tier, on behalf of any agency of the U.S. Government, then Buyer agrees that FAR 52.212-5(e) or 52.244-6 (whichever is applicable) applies only to the extent applicable for sale of commercial items and as appropriate for the contract price.