

Product Resources Corporation

Terms and Conditions of Purchase

1. Governing Terms:

- a. These Terms and Conditions of Purchase (“Terms”) shall apply to the purchase by Product Resources Corporation of the products and/or services (“Products”) described in the Purchase Order, Quotation, Sales Order, Acknowledgement, or other contract documentation to which these Terms are attached, incorporated by reference, and made an integral part (the “Contract Documents”) Except as expressly agreed by authorized representatives of both parties in writing, not other terms and conditions, including any terms and conditions attached to Seller’s quotation, acknowledgement, or other contract documentation shall apply to Product Resources’ purchase of the Products. Seller’s shipment of any Product of performance of any purchase order or contract shall constitute acceptance of these Terms. As used herein, “Contract” refers to the applicable order pursuant to which the Seller is selling the Products to PRODUCT RESOURCES.

2. Invoices:

- a. Seller shall invoice at the prices agreed upon in the Contract Document. Seller’s price shall include and Seller shall be responsible for all applicable taxes and duties. Seller’s invoice shall identify the country of origin of each product sold to PRODUCT RESOURCES. Payment shall be due fifty-five (55) days from Product Resources’ acceptance of Products or receipt of a proper invoice, whichever is later. Discounts shall apply to payments mailed within the stated period, starting from the later of receipt of a proper invoice or delivery at destination.

3. Packaging and Shipment:

- a. Seller shall comply with Product Resources’ shipping instructions and suitably wrap, box, and/or crate all products to protect against the hazards of shipment, storage, and exposure at its own expense. All packages containing hazardous materials or dangerous goods shall confirm to all applicable regulations. Seller shall provide hazardous material data sheets promptly upon request. All packages must be labeled with any applicable purchase order number and include itemized packing slips. Unless otherwise agreed in the Contract Documents, title and risk of loss for Products shall pass at PRODUCT RESOURCES receiving.

4. Property furnished by PRODUCT RESOURCES:

- a. All items furnished or paid for by PRODUCT RESOURCES shall remain Product Resources’ property, shall not be disclosed to third parties or used for any purpose other than performing PRODUCT RESOURCES

purchase orders, and shall be returned to PRODUCT RESOURCES immediately upon request. Seller shall bear risk of loss and shall insure such items for their full replacement value. Seller shall mark all PRODUCT RESOURCES owned tooling and equipment with the name "Product Resources Corporation", along with drawing or tool number if applicable.

5. Warranties: Seller expressly warrants:

- a. that the material will conform to the specifications, drawings, samples or other description specified by Purchaser, or if none so specified, to Seller's standard specifications for such material, will be new unless specified to the contrary on the face hereof, will be free from defects in material and workmanship, will be free from all liens and encumbrances, and will conform to any affirmation of fact made on the container and label;
- b. that the material will be adequately contained, marked, and labeled in compliance with all applicable laws and regulations, and that instructions and information, including but not limited to Material Safety Data Sheets, required by law or necessary for the safe and proper use of the material will be provided to Purchase as follows:
Product Resources Corporation: Attn- Purchasing Dept.
1456 Brooklyn Boulevard
Bay Shore, NY 11706
USA
- c. that it has good and marketable title to the material
- d. that the use or sale of the material purchased hereunder will not infringe any valid patent claims covering the material itself, but does not warrant against infringement by reason of the use there of in combination with other materials or in the practice of any process; and
- e. that it will indemnify, defend, and hold Purchaser, its directors, officers and employees free and harmless from any loss, damage, injury (including death), fine, penalty or expense resulting from Seller's failure to furnish material or perform services that conform with any warranty contained herein.

6. Taxes:

- a. On all invoices, Seller shall bill separately, for all applicable manufacturers', excise, sales or use taxes, except that in the event the purchase is designated "Non-Taxable" state, country or municipal sales and use taxes shall not be billed and Purchaser will furnish Seller, upon request, with appropriate exemption certificate or direct pay permit authorizing purchase without payment of such sales and use taxes.

7. Cash Discount Terms:

- a. Cash discount terms are to be indicated on the invoice. Discount period is to be calculated from date invoice is received by Purchaser or date

material is received, whichever is later. Payment of your invoice to avail ourselves of the cash discount before material has been inspected at our plant does not release your account from adjustment for any shortage or rejection for any reason.

8. Freight:

- a. If freight is allowed, all freight charges must be prepaid. If freight is prepaid and to be added to invoice, copy of freight bill must be attached to the invoice. Use routing specified, otherwise extra expense will be charged to Seller. If routing is not specified, ship by cheapest way.

9. Government Contracts:

- a. As the material may be used by Purchaser in the performance of government contracts or subcontracts, Seller certifies compliance with Executive Order No. 11246, as amended Executive Order No. 11625, the Rehabilitation Act of 1973, the Vietnam Era Veterans Readjustment Act of 1974, the Equal Employment Opportunity Act of 1972 and the various rules, regulations and guidelines implementing these Executive Orders and Acts.

10. Force Majeure:

- a. In the event of war, flood, strike, labor trouble, accident, riot, act of government authority, acts of God or contingencies beyond the control of either party hereto interfering with the production, transportation or consumption of the material covered hereby, or with the supply of any raw material used in connection therewith, neither party shall be liable to the other and this purchase order shall remain unaffected except that the Buyer at its option may elect either to have the quantities so affected eliminated without liability or to extend the period for delivery of the quantities so affected by a period equal to the period any such cause and the effects thereof persist.

11. Assignment:

- a. This purchase order is not assignable or transferable by Purchaser or Seller in whole or in part except with the prior written consent of the other party hereto and any assignment or transfer without such prior consent shall be void.

12. Nonwaiver:

- a. Failure by either party to require performance by the other party of any obligation shall in no way affect any right thereafter to enforce any obligation; nor shall waiver by either party of any breach be held to be a waiver of any later breach.

13. Entire Agreement:

- a. Except when issued to carry out a written contract between the parties, this purchase order constitutes the entire agreement of sale and purchase of the material and is expressly limited to and made conditional upon the acceptance of all the terms and conditions. Any additional or different terms or conditions contained in any prior quotation or that may be contained in any acknowledgment of this purchase order shall be deemed objected to by Purchaser without further notice of objection and shall be of no effect nor under any circumstances binding upon Purchaser. Seller shall be deemed to have assented to all terms and conditions hereof if any of the material is shipped to Purchaser.

14. Price:

- a. This order must not be filled at higher price than last quoted or changed without notification and authority.

15. Extra Charges:

- a. No charges of any kind, including charges for boxing, packing, loading, bracing or cartage will be allowed unless specifically agreed to by Purchaser in writing.

16. Delivery Schedule:

- a. Unless otherwise agreed in writing, Seller shall not make material commitments or production arrangements in excess of the amount or in advance of the time necessary to meet Purchaser's delivery schedule. It is Seller's responsibility to comply with this schedule, but not to anticipate Purchaser's requirements. Goods shipped to Purchaser in advance of schedule may be returned to Seller at Seller's expense.

17. Inspection:

- a. "All material and/or workmanship furnished in performance of this purchase order shall be subject to inspection and testing by Product Resources Corporation their customers and/or regulating agencies at their discretion. The inspections and testing shall take place during manufacturing when practical, jointly with the supplier."
- b. PRODUCT RESOURCES may reject nonconforming Products or require Seller to correct the defects without charge.
- c. Payment for Product shall not constitute acceptance.

18. Delays in delivery:

- a. Time is of the essence, but the Seller will not be liable for damages for delay in delivery due to causes beyond its reasonable control and without its reasonable control and without its fault or negligence. If Seller, however for any reason does not comply with Purchaser's delivery schedule, Purchaser in addition to remedies provided by law, at its option may either approve a revised schedule or may terminate the order without liability to Seller on account thereof. If Purchaser approves a revised

delivery schedule and directs Seller to ship by a method other than that indicated on the face of this order, Seller agrees to pay any additional transportation charges incurred as a result of such direction.

19. Cancellation:

- a. The Purchaser may cancel this order at any time upon written notice and payment of reasonable and proper cancellation charges which include a profit only on work performed to date of receipt of the notice of cancellation.

20. OSHA Compliance:

- a. Seller warrants that the product sold to the Purchaser shall comply with current OSHA standards. In the event that product does not confirm to OSHA standards, the Purchaser may return the product for correction or replacement at the Seller's expense. In the event the seller fails to make the appropriate correction within a reasonable time, correction made by the Purchaser will be at the Seller's expense.

21. For work on Purchaser's or it's Customer's premises:

- a. If Seller's work under the order involves operations by Seller on the premises of Purchaser or one of its Customers, Seller shall take all necessary precautions to prevent the occurrence of any injury to person or property during the progress of such work. Except to the extent that any such injury is due solely and directly to Purchaser's or Customer's negligence, as the case may be. Seller shall indemnify Purchaser against all loss which may result in anyway from any act or omission of the Seller, its agents, employees, or subcontractors. Seller shall maintain such Public Liability, Property Damage and Employee's Liability and Compensation insurance as will protect Purchaser from said risks and from any claims under any applicable Workmen's Compensation and occupational Disease Acts.

22. Disclosure of Knowledge of Information:

- a. Any knowledge of information which the seller shall have disclosed or may hereafter disclose to the Purchaser in connection with a request for a quotation or the purchase of goods or the services covered by this order, shall not, unless otherwise specifically agreed upon in writing by the Purchase, be deemed to be confidential or proprietary information and shall be acquired, free from any restrictions, other than a claim for patent infringement as part of the consideration for this order.

23. Patent Indemnity:

- a. Seller shall indemnify, defend, and hold PRODUCT RESOURCES and subsequent owners of the Products harmless against any and all actions, claims, liabilities, costs, damages, and expenses (including reasonable attorneys fees), with respect to actual or alleged infringement of any

intellectual property rights arising out of, resulting from , or caused by the manufacture, sale, delivery, storage, use, or handling of Products furnished under this contract, except to the extent that such Products are manufactured by the Seller in compliance with Product Resources' custom and detailed designs. Seller shall provide PRODUCT RESOURCES with prompt written notice of any infringement claim.

24. Indemnification:

- a. Seller shall indemnify, defend, and hold harmless PRODUCT RESOURCES, its officers, directors, agents, and employees from and against any and all actions, claims liabilities, costs, damages, and expenses (including reasonable attorney's fees) for physical damage to or loss of tangible property, for injury or death for any person, and for any recall or retrofit, in each case to the extent arising out of, resulting from, or caused by:
 - i. Acts or omissions of Seller, its employees, agents, and subcontractors, or
 - ii. Any defect in design, workmanship, or materials carried out or employed by Seller or its employees, agents, or subcontractors, or
 - iii. Entering upon premises occupied by or under the control of PRODUCT RESOURCES, any of its customers, or supplier in the course of performing this order except to the extent that any such damage to or loss of property and injury or death of any person is solely caused by the negligent acts or omissions or willful misconduct or PRODUCT RESOURCES, its employees, agents, or subcontractors. Seller will obtain and maintain
 - 1. comprehensive general liability insurance (including personal injury, property damage, and products liability coverage)
 - 2. employer's liability coverage
 - 3. automobile liability insurance
 - 4. professional liability insurance and
 - 5. umbrella liability insurance; each with combined single limits of not less than \$1 million as well as contractual liability coverage sufficient to cover obligations set forth herein and workers' compensation insurance in amounts required by law. All insurance coverages shall be maintained without interruption from the effective date of the effective date of this contract until three (3) years after its expiration or termination. Upon request, Seller will furnish certificates of insurance evidencing such coverage in form and with insurer reasonably satisfactory to PRODUCT RESOURCES.

25. Limitation of Liability:

- a. The rights and remedies of PRODUCT RESOURCES provided in this contract and by law are cumulative. In no event shall PRODUCT RESOURCES be liable for anticipated profits, or for incidental or consequential damages. PRODUCT RESOURCES shall not be liable for penalties or for any amount of damages or otherwise in excess of the price allocable to the units or work giving rise to the claim.

26. Termination:

- a. If seller ceases to conduct its operations in the normal course of business including inability to meet its obligations as they mature or if any proceeding under the bankruptcy or insolvency laws is brought by or against the Seller, or a receiver for Seller, Purchaser may terminate the order without liability except for deliveries previously made or for goods covered by the order then completed and subsequently delivered in accordance with the items of the order.

27. Assignment:

- a. Seller may not assign or subcontract any portion of this order without the prior written consent of PRODUCT RESOURCES; except that the seller may enter into subcontracts for purchase for parts and supplies, and subcontracts for commercial products. Provided PRODUCT RESOURCES is promptly given copies of such assignment, Seller may assign claims for moneys due or to become due hereunder. Whether or not assigned, all payments shall be subject to setoff or recoupment of any present or future claims, which PRODUCT RESOURCES may have against Seller.

28. Applicable Law, Marking, Duty Drawback:

- a. This contract shall be construed under and governed by the law of the State of Massachusetts, without regard to any conflicts of law provisions thereof. Seller shall comply with applicable federal, state, and local law and regulation, and orders of government agencies. Seller shall mark each item of foreign goods or its container with the English name of the country of origin as conspicuously and permanently as possible. At Product Resources' request, subject to the applicable manufacturer providing the same to Seller, Seller shall:
 - i. Inform PRODUCT RESOURCES of the existence of any duty drawback rights
 - ii. Provide certificate of country of origin of imported goods sufficient to satisfy the customer authorities of the country of receipt
 - iii. Designate PRODUCT RESOURCES as importer of record of imported and dutiable goods

- iv. Furnish PRODUCT RESOURCES properly executed documents required by U.S. Customs to prove importation and duty payment, and
- v. Transfer customs duty drawback right from Seller to PRODUCT RESOURCES

29. Agreement and Modifications:

- a. This order together with anything expressly incorporated herein by reference shall constitute the entire agreement between the parties and no obligations not herein expressly set forth are binding upon them. No waiver, alteration or modification of any of the provisions hereof shall be binding unless in writing and signed by a duly authorized representative of the Company.

Product Resources Corporation Terms and Conditions of Sale

1. Examination – Suitability Claims:

- a. You should examine each shipment promptly upon arrival. We will recognize no claims for any cause after the goods have been changed in any manner (except for reasonable test quantities). It is your responsibility to determine whether the goods are suitable for your contemplated use, whether or not such use is known to us. You waive all claims of which we are not notified in writing within fifteen days after the arrival of goods at destination.

2. Delivery and Freight:

- a. All goods are shipped F.O.B. point of manufacture or warehouse, freight collect, and title passes upon such delivery. We will normally designate routing and means of transportation, but will attempt to route per your written instructions. All claims for damages or loss in transit must be made by you directly to the carrier.

3. Warranties:

- a. Unless otherwise provided herein, we warrant title and that all goods sold hereunder shall conform to this Quotation. Except as otherwise expressly stated herein. WE MAKE NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ANY OTHER MATTER WITH RESPECT TO GOODS.

4. Technical Advice:

- a. Any technical advice furnished you before or after delivery in regard to the use of said goods is furnished on the basis that it represents our best judgment under the circumstances, but that the goods are used at your sole risk.

5. Liability:

- a. You agree that our liability in respect of any warranties or matters in respect of any goods sold or delayed in shipment or not shipped is limited, at our opinion,
 - i. to repayment, or if not paid, to credit of the purchase price;
 - ii. to replacement, or;
 - iii. to repair, of that part of said goods which is the subject of the cause on which the claim is based and that we shall in no event be liable for special, incidental, indirect, consequential, or punitive damages.

6. Overages and Underage:

- a. Overages and underage of goods ordered shall be in accordance with our current practice.

7. Credit:

- a. Credit is at all times subject to approval and review by our credit department. If we are at any time in doubt as to your financial responsibility we may
 - i. decline to make further deliveries except against cash or satisfactory security;
 - ii. declare all rendered invoices immediately due and payable;
 - iii. discontinue production on all orders received, and;
 - iv. deliver all specially printed or nonstandard goods produced for your existing orders and demand payment therefore immediately following delivery at then current prices. Any unpaid account for invoiced parts or mold, or tooling work, shall constitute a lien on any molds, tools, or piece parts in our possession. In the event a customer's account remains open and unpaid for a period of thirty (30) days, or in the case of purchaser's dissolution or bankruptcy, we reserve the right to use the purchaser's molds or tools to make and sell articles and parts therefrom and such sales shall not be deemed infringement of any patent or trademark thereon, of which the purchaser is owner or licensee.

8. Returns:

- a. No claims will be recognized in regard to goods disposed of or returned without our consent, and no shipping costs on returns will be paid unless previously authorized in writing by us.

9. Printing, Etc.:

- a. All printing, molded logos, artwork, and composition is to be done on your instructions and you will hold us harmless from any liability for any resulting infringement of copyrights and trademarks. While we will use our best efforts to see that painting, artwork, and compositions are in accordance with your instructions, we assume no responsibility for errors therein. All artwork, printing plates, and cylinders remain our property.

10. Tooling:

- a. Goods “purchased” hereunder which are tooling, dies, molds, other equipment or the like (tooling) to be used to produced custom-designed product for you, such tooling are and remain our sole property and will remain in our possession and control. Your purchase price is a contribution toward our design, engineering, manufacturing, and other special costs of such tooling. We will use such tooling exclusively to make goods purchased by you, but we reserve the right to use, modify, sell, or destroy such tooling without notice after the lapse of eighteen (18) consecutive months without the receipt of an acceptable purchase order from you for the standard minimum run of these goods.

11. Prices:

- a. The goods identified on the face hereof may be billed at the price in effect on the date of shipment if such date is more than thirty (30) days after the date of acceptance of your order subject to your right to cancel any quantity to which an increase is applicable within ten (10) days after receipt of such notice.

12. Taxes:

- a. In the absence of proper evidence of exemption supplied to us, you will reimburse us for all taxes, excise or other charges, which may be required to pay to any government (national, foreign, state, or local) upon, or measured by the production, storage, sale, transportation, and/or use of the goods identified on the face hereof.

13. VIS MAJOR:

- a. No liability shall result from any cause (including without limitation: Acts of God, force Majeure, labor trouble, inclement weather, shortage or inability to obtain materials, equipment or transportation, and/or orders of courts), beyond the reasonable control of the party affected. Either of us may eliminate herefrom quantities so affected but the applicable agreement shall remain otherwise in effect. If our supply of goods to be sold hereunder is limited by any such cause, we shall have the right to reduce or cancel in its entirety our commitment under the applicable agreement.

14. Contract:

- a. Our contract in regard to the goods identified on the face hereof consists in its entirety of the terms and conditions appearing on the face and back of this instrument. These Conditions may be modified only with the written authorization of an officer of Product Resources Corporation, and no changes or additions shall be effected by the return to you, signed or unsigned of tear-off or other forms attached to or accompanying your order that you require us to return. No written or oral understandings, representations, or warranties predating the date hereof shall be of any effect, nor shall any written or oral communication from us to you predating the date hereof be deemed an acceptance of your order to impose contractual obligations on us with respect to it/ It is the express agreement of the parties hereto that the interpretation and effect of this Agreement shall be governed by the laws of the State of Massachusetts and shall govern all rights and duties of you and us hereunder.

15. No License Granted:

- a. No license is granted expressed or implied, under any patents by our acceptance of an order, the manufacturer of any tooling for your benefit, or the purchase of goods from us.

16. Cancellation and Changes:

- a. A shipment cannot be canceled or changed within thirty (30) days of the ship date. If the order is for multiple shipments within thirty (30) days of each other, we may elect to run two releases at one time and in this case, you shall be responsible for both. If special accessories are required for your order, you shall be responsible for them at the time of cancellation, even if the cancellation is thirty (30) days prior to the ship date.

17. Hold Harmless:

- a. You shall hold us harmless and indemnify us against any expense or loss resulting from infringement or any violation of any patents, copyrights, trademarks, or any other intellectual property rights, arising from, or out of, compliance with your design specifications or instructions.

18. No Waiver:

- a. Our failure to insist upon strict performance of the terms and conditions herein shall not be deemed a waiver of any rights or remedy that we may have, and shall not be deemed a waiver of any subsequent breach or default of the terms and conditions herein contained. No provision in this agreement shall be deemed to have been waived by us unless such waiver is in writing and signed by an officer of Flambeau.

19. Agreement and Modifications:

- a. This sale together with anything expressly incorporated herein by reference shall constitute the entire agreement between the parties and no

obligations not herein expressly set forth are binding upon them. No waiver, alteration or modification of any of the provisions hereof shall be binding unless in writing and signed by a duly authorized representative of the Company.

20. Agreement and Modifications:

- a. These conditions are subject to change by us without notice and all such changes shall apply to orders bearing a date subsequent to change.