

## Terms and conditions of sale

### 1 Definitions

"Seller" means M. Argueso & Co., Inc., d/b/a Paramelt.

"Buyer" means the buyer named in Seller's quotation or acknowledgment that is purchasing Goods from Seller.

"Goods" mean any products sold by Seller to Buyer.

### 2 Agreement

If Buyer has not otherwise agreed to these Terms and Conditions of Sale ("Terms"), then Buyer's acceptance of delivery of, or payment for, the Goods shall constitute Buyer's agreement to these Terms. SELLER OBJECTS TO AND WILL NOT AGREE TO ANY TERMS THAT ARE ADDITIONAL TO OR DIFFERENT FROM THESE TERMS. Terms that are printed on or contained in a purchase order or other form prepared by Buyer which are additional to, in conflict with or inconsistent with those herein shall be considered inapplicable and shall have no force or effect.

### 3 Prices/Payment

All prices are in U.S. dollars. All prices are subject to adjustment by Seller based upon Seller's cost of raw materials at the time of raw material purchase by Seller. Unless otherwise agreed, payment terms are net 30 days from the date of invoice. Any payment that is not made when it is due shall accrue a finance charge of 1-1/2% per month. Buyer will pay promptly when due all taxes and assessments upon the Goods. Unless specified herein, prices do not include federal, state, local, special or other taxes or duties. If imposed on Seller, such taxes may be invoiced later to Buyer. Any increase in freight and insurance rates shall be borne by Buyer. Seller reserves the right to withhold shipment of any portion of the Goods if Buyer fails to make payment promptly when due for any previous shipment, and the failure to ship any portion of the Goods for this reason shall not release Buyer from its obligation to accept and pay for any remaining portion of the Goods when shipped.

### 4 Delivery; Title and Risk of Loss

Unless Seller agrees otherwise in writing, Seller shall deliver the Goods EXW (Incoterms 2021) Seller's facility except that if Seller's facility and Buyer's facility are both located in the United States, then Seller shall

deliver the Goods F.O.B. (Uniform Commercial Code term) Seller's facility. Seller's shipping weights shall be final. Seller may, in Seller's sole discretion, without liability or penalty, make partial shipments of Goods to Buyer. Seller will not be liable for any damages incurred by Buyer as a result of delay in shipment. Shipping, delivery and performance dates are estimates only, and time is not of the essence for Seller's obligations hereunder. Title and risk of loss pass to Buyer upon Seller's delivery of the Goods for pick-up by a carrier at Seller's facility. As collateral security for the payment of the purchase price of the Goods, Buyer grants to Seller a lien on and security interest in and to all of the right, title, and interest of Buyer in, to, and under the Goods, wherever located, and whether now existing or later arising or acquired from time to time, and in all accessions to and replacements or modifications of the Goods, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under the Michigan Uniform Commercial Code.

### 5 Order Cancellation

Orders, once placed, cannot be cancelled or changed except with Seller's consent. In the event of any cancellation of all or part of any purchase order, Buyer agrees to pay Seller for all reasonable and allocable materials, material management, labor, overhead and general and administrative costs and expenses incurred as a result of any such cancellation, plus a reasonable profit within 10 days from the date of Seller's invoice. Goods identified as non-standard items are not returnable and not cancelable under any circumstances.

### 6 Force Majeure

Seller shall not be liable to Buyer for any delay or failure in performing Seller's obligations under this Agreement to the extent that the delay or failure is caused by an event or circumstance that is beyond the reasonable control of Seller, and that by its nature could not have been foreseen by Seller or, if it could have been foreseen, was unavoidable ("Force Majeure Event"). Force Majeure Events include, but are not limited to, acts of God or the public enemy, government restrictions, floods, fire, earthquakes, explosion, epidemic or pandemic, war, invasion, hostilities, terrorist

acts, riots, strike, embargoes, or industrial disturbances. If Seller is not able to finish and deliver the Goods to Buyer on time because of a Force Majeure Event, then the estimated delivery or performance time shall be extended accordingly, and Seller shall not be liable to Buyer for any damages caused by the delay.

## **7 Warranty**

Seller warrants that the Goods shall conform to Seller's specifications at the time the Goods are manufactured and packaged by Seller. The Goods shall not be defective to the extent that (a) they are damaged due to the method or length of storage by Buyer; or (b) to the extent they conform to the specifications as changed or waived if Buyer's representative agrees, either orally or in writing, to the change in or waiver of the specifications for any Goods. If Goods do not conform to this warranty, then Buyer's exclusive remedy shall be for Seller to replace the non-conforming Goods by shipment to the place to which the original Goods were shipped by Seller or, at Seller's option, to refund the purchase price for the non-conforming Goods. Authorized returns shall be made by motor freight unless otherwise authorized by Seller. The warranty in this Section 7 is strictly subject to the following conditions: (i) a claim must be received by Seller in writing within ten days after delivery of the applicable Goods; (ii) 25% or more of the original unopened packages from the applicable delivery must be available for inspection by Seller; and (iii) claims may be made only with respect to the portion of the Goods that has not been processed or altered. This paragraph sets forth Buyer's sole and exclusive remedies for any defect in the Goods. The rights and obligation under this warranty may not be assigned or delegated to a third party by Buyer without the prior written permission of Seller. Neither Buyer nor any other person may modify or expand the warranty provided herein, waive any of the limitations, or make any different or additional warranties with respect to the Goods. Any statements to the contrary are hereby rendered null and void unless expressly agreed to in writing by an authorized officer of Seller.

## **8 Limitations**

THE WARRANTY IN SECTION 7 IS IN LIEU OF ALL OTHER WARRANTIES OR OBLIGATIONS, EXPRESS OR IMPLIED. SELLER EXPRESSLY DISCLAIMS ALL

IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND BUYER IS SOLELY RESPONSIBLE FOR DETERMINING THE PROPER APPLICATION AND USE OF THE GOODS.

SELLER SHALL NOT HAVE ANY TORT LIABILITY TO BUYER OR ANY OTHER PERSON WITH RESPECT TO ANY OF THE GOODS AND SHALL NOT BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY, INDIRECT OR PUNITIVE DAMAGES ARISING FROM ANY PRODUCT DEFECT, DELAY, NONDELIVERY, RECALL OR OTHER BREACH. BUYER SHALL NOT HAVE ANY RIGHT OF REJECTION OR OF REVOCATION OF ACCEPTANCE OF THE GOODS.

## **9 Indemnification**

Buyer shall indemnify Seller against loss and save Seller harmless from and against any claims or liabilities or expenses, (including consequential and incidental damages and attorneys' fees) that Seller incurs as a result of (a) any alleged patent infringement arising out of the manufacture or sale of any Goods sold to Buyer which are not part of Seller's standard line of products and which are manufactured and supplied to Buyer's specifications; (b) Buyer's breach of any of Buyer's obligations under these Terms, (c) Buyer's modification of any of the Goods or (d) the incorporation or installation of any of the Goods in a product that is manufactured or assembled by or for Buyer.

## **10 Insecurity And Adequate Assurance**

If Seller ever believes in good faith that it has grounds for insecurity as to Buyer's performance under these Terms, then Buyer shall provide adequate assurance of due performance within 10 days after Seller demands the assurance, which shall be considered to be a reasonable time. Buyer's failure to do so shall be considered to be a repudiation by Buyer of all then-existing contracts (including these Terms) that provide for Buyer to purchase Goods from Seller ("Outstanding Contracts"). "Grounds for insecurity" include, without limitation, (i) Buyer's failure to make a payment to Seller or to perform another obligation under these Terms or any other Outstanding Contract; (ii) Buyer's insolvency; (iii) a deterioration in Buyer's financial condition after these Terms were entered into; and (iv) Buyer's failure to provide financial statements and other financial

information to Seller promptly upon Seller's request. "Adequate assurance of due performance" includes, without limitation, providing a letter of credit or comparable security for all obligations of Buyer that then exist or that will arise in the future under all Outstanding Contracts.

### **11 Permits and Compliance**

Seller is not responsible for obtaining any permit, inspection or license that is required for installation or operation of the Goods. Seller does not make any promise or representation that the Goods will conform to any law, ordinance, regulation, code or standard.

### **12 Components of Another Product**

If any of the Goods constitute parts or components that are to be incorporated or installed in a product that is manufactured or assembled by or for Buyer or for a third party, then Buyer shall (a) obtain, or cause the end-user of the product to obtain, all permits, inspections and licenses required for installation or operation of the product, (b) cause the product to conform to all applicable laws, ordinances, regulations, codes and standards and (c) place on the product all safety devices and warnings, and furnish to its buyer all operating instructions, that are necessary or desirable to prevent any death, personal injury or property damage from being caused by any use or operation of the product.

### **13 Resale**

On any resale of the Goods, Buyer shall contractually limit its buyer's rights and remedies against both Buyer and Seller to the same extent that Sections 7 and 8 above limit Buyer's rights and remedies.

### **14 Independent Contractor**

The relationship between Buyer and Seller is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between Buyer and Seller, and neither Buyer nor Seller shall have authority to contract for or bind the other party in any manner whatsoever.

### **15 Quantities**

Seller may overrun or underrun the agreed-upon

quantities by up to 10%, and Buyer shall pay Seller at the unit price for quantities that Seller delivers within these limits. Any claim by Buyer that Seller failed to deliver the agreed-upon quantity of Goods (subject to any adjustment under the preceding sentence) must be submitted to Seller in writing within 30 days after Buyer receives the Goods. If Buyer fails to do so, then it shall be conclusively presumed that the proper quantity was delivered.

### **16 Blanket Purchasing Agreement**

If the Buyer provides a blanket purchasing agreement under which Buyer will from time to time issue to Seller "releases" with respect to portions of the Goods, then, except to the extent that Seller otherwise expressly agrees in writing, (a) when Buyer issues a release for any of the Goods, Seller shall be permitted to ship all of those Goods within the time period that Seller's quotation specifies or that Seller otherwise agrees to in writing, notwithstanding any contrary provision in the release, (b) any delivery dates specified in any release shall be extended automatically to the extent that Seller is not reasonably able to meet those dates and (c) Buyer shall be obligated to release the entire quantity of Goods provided for in the agreement within one year after the date on which the agreement is formed.

### **17 Intellectual Property and Confidentiality**

All inventions (whether or not patentable), devices, technologies, ideas, improvements, processes, systems, software and other works and matters that Seller creates or develops in the course of Seller's design, development or manufacture of the Goods and all drawings and specifications that Seller provides to Buyer ("Intellectual Property") shall be Seller's sole property, and Buyer assigns, and agrees to assign, to Seller all right, title and interest that Buyer now has or in the future acquires in the Intellectual Property. Buyer shall not disclose or use any of the Intellectual Property or any information about Seller's business, operations or activities, except to the extent necessary for Buyer to use the Goods.

### **18 Cancellation**

If Buyer fails to pay or perform any indebtedness or obligation that Buyer at any time owes to Seller (whether or not it is related to the sale of Goods to which these Terms apply), then Seller may consider

Buyer's failure to be an anticipatory repudiation of any or all outstanding contracts that provide for Seller to sell Goods to Buyer, and Seller may, without liability to Buyer, cancel any or all of those outstanding contracts.

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### **19 Seller's Rights**

Seller has all rights and remedies that applicable law gives to sellers. Seller's rights and remedies are cumulative, and Seller may exercise them from time to time. Seller's waiver of any right on one occasion shall not be a waiver of any future exercise of that right.

### **20 Time for Bringing Action**

Any action that Buyer brings against Seller for breach of this Contract or for any other claim that arises out of or relates to the Goods or their design, manufacture, sale or delivery must be brought within one year after the cause of action accrues.

### **21 Severability**

If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, the invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable that term or provision in any other jurisdiction.

### **22 Governing Law and Language**

This Contract between Seller and Buyer shall be considered to have been made in the State of Michigan, and it shall be governed by and interpreted according to Michigan law, excluding the United Nations Convention on Contracts for the International Sale of Goods. Either party may bring any action that arises out of or relates to this Contract in any federal or state court in Muskegon County, Michigan that has jurisdiction of the subject matter, and Buyer irrevocably consents that any such court shall have personal jurisdiction over Buyer and waives any objection that the court is an inconvenient forum.

### **23 Complete Agreement**

Amendment: The terms on Seller's quotation and acknowledgment and these standard Terms contain the entire agreement between Buyer and Seller. Any change in this Contract must be by a writing signed by an authorized officer of Seller.