

## CONDITIONS OF SALE

### 1. INTERPRETATION

In these Conditions, save where the context requires otherwise:

1.1 "Buyer" means the person with whom the Company is contracting"; the Company" means Eurotranciatura USA LLC; "the Goods" means the goods and/or services sold or to be sold by the Company to Buyer;

1.2 headings are for ease of reference only and shall not affect construction;

1.3 words importing one gender shall be treated as importing any gender, words importing individuals shall be treated as importing corporations and vice versa, words importing the singular shall be treated as importing the plural and vice versa, and words importing whole shall be treated as including a reference to any part thereof.

### 2. CONDITIONS

2.1 These Conditions shall apply to all quotations and estimates given and contracts made or to be made by the Company for the sale of the Goods. The giving by Buyer of any delivery instructions or the acceptance by Buyer of delivery of the Goods shall constitute unqualified acceptance by Buyer of these Conditions. Any conditions submitted, proposed or stipulated by Buyer in whatever form and at whatever time, whether written or oral, are expressly waived and excluded.

2.2 All quotations given and orders received for goods or services are subject to the terms and conditions herein. No change to these Conditions shall be accepted and binding unless agreed in writing by the Company.

2.3 The Company's acceptance of orders is subject to satisfactory references, if required.

2.4 No contract to which these Conditions apply shall be a sale by sample.

### 3. QUOTATIONS.

3.1 Unless previously withdrawn all offers are valid for a maximum period of 30 days. Verbal offers are given for guidance only and are not binding. All offers are subject to the receipt and acceptance of final drawings, specifications and if deemed necessary by the company, samples.

### 4. Additional processes or services.

4.1 The prices quoted in the offer or acknowledgment include only such work as detailed in the offer. Additional processes or services must be paid for accordingly and are subject to the terms and conditions herein.

4.2 Unless otherwise agreed in writing the quality and finish of work shall be such as will provide a reasonable service in compliance with the generally recognized standards in the trade for the class of work , type , quality and finish of the product concerned.

## **5. PRICES**

5.1 Prices are exclusive of taxes which, where applicable, will be separately charged at the appropriate rate.

5.2 The Company reserves the right by notice given at any time before delivery to vary the price of the Goods if, after the date of the contract, there is an increase in the cost of the Goods to the Company by reason of an increase in the cost of materials, labour, overhead expenses or transport, exchange rate fluctuations, increases in import levies or other taxes, war, hostilities or warlike operations.

## **6. PAYMENT**

6.1 Unless otherwise agreed in writing by the Company or otherwise specified in these Conditions payment shall be made in full within 30 days from the date of the invoice. Time for payment is of the essence of the contract.

6.2 If any sums owing by the Buyer to the Company become overdue (whether such sums are due under the contract or otherwise howsoever), the Company may (without prejudice to any other right or remedy available to it) suspend all further deliveries until payment in full thereof has been made or cancel the contract as regards any Goods which remain to be delivered thereunder.

6.3 The Company may at its discretion charge interest at 2 per cent per month on any sum not paid on the due date. Such interest shall run from day to day and accrue after as well as before any judgment and shall from time to time be compounded monthly on the amount overdue until payment thereof.

6.4 Buyer shall not be entitled to withhold payment in whole or in part on the ground that it has a claim, counterclaim or set-off against the Company.

## **7. DELIVERY**

7.1 While the Company will make every effort to deliver at the time indicated, the time for delivery shall not be of the essence and delivery dates are intended as estimates only. The Company shall not be

liable for any loss or damage whether arising directly or indirectly from delay in delivery howsoever such delay may arise.

7.2 The Company shall be deemed to have delivered the Goods either when the Goods are delivered to the place specified by Buyer or when the Goods are ready for collection at the Company's premises.

The Company shall notify Buyer of the dispatch of the Goods or, as the case may be, that the Goods are ready for collection. In the case that the delivery conditions are ex works the company may assist the buyer in the organisation of transport.

In such cases the delivery conditions are still deemed to be ex works.

7.3 Where the Goods are to be delivered outside the USA, the incoterm specified on the Company's

acknowledgement of order form shall prevail over Condition 5.2 but otherwise shall apply except insofar as is inconsistent with any provision of these Conditions. Incoterms shall be defined by reference to Incoterms 2010 Edition.

7.4 After delivery the Goods shall be at Buyer's sole risk in respect of all loss or damage arising from any cause whatsoever.

7.5 The Company may deliver the Goods by installments and may invoice Buyer for each such installment.

7.6 The Company shall be deemed to have complied with the contract if it shall deliver either five per cent more or less of the Goods than the quantity specified in the order (save that the price will be adjusted pro rata to reflect the exact quantity delivered).

7.7 If delivery is delayed through Buyer's default or if Buyer declines or delays in accepting delivery or in giving delivery instructions, then and in any such case the Company may (without prejudice to any other right or remedy available to it) charge as part of the price of the Goods a storage fee and financing charge of 5 per cent of the price of the Goods for each month of delay and other costs incurred by the Company.

## 8. SHORTAGES

Without prejudice to Condition 5.5, the Company shall be under no liability in respect of short delivery unless within three days of delivery Buyer gives written notice to the Company of the shortage and the Company is given the opportunity of inspecting the Goods and verifying the claim.

## **9. PACKING**

The cartons, containers and other packing materials in which the goods are packed remain the property of the Company. Within six weeks of the date of delivery of either the Goods or any part thereof the Buyer shall return to the Company, at the Buyer's expense, the containers within which the goods have been packed, in substantially the same condition as when delivered. In the event of failure to return the said containers within the specified period the Company reserves the right to make a charge on the Buyer sufficient to cover the cost of these packing materials, which charge is to be paid within seven days of the date of the invoice relating to the said charge.

## **10. CLAIMS**

10.1 To the extent permitted by law, all conditions, warranties, or obligations whether express or implied by statute, common law or otherwise are excluded and the provisions of these Conditions shall apply in lieu thereof.

10.2 The Company shall not be liable for loss of or damage to the Goods in transit unless (in the case of loss of the whole consignment) within twenty-one days of the date notified by the Company to Buyer as being the date on which the Goods were dispatched from the Company's works or (in the case of damage or partial loss of the consignment) within 3 days of the transit being at an end Buyer gives written notice to the Company and to the Company's carrier that it has not received the Goods or that the Goods are damaged PROVIDED THAT if Buyer proves that it was not reasonably possible for Buyer to give such notice within the applicable time limit and such notice was given within a reasonable time, then the Company shall not have the benefit of exclusion of liability afforded by this Condition.

10.3 The Company shall not be liable for defective Goods unless:

- a) Buyer gives written notice to the Company as soon as possible and in any case within one month of delivery specifying with reasonable detail any matter whereof it is alleged that the Goods are defective;
- b) Buyer permits the representative of the Company to inspect the Goods which are alleged to be defective at Buyer's premises; and
- c) The Goods which are alleged to be defective are returned (if requested by the Company) carriage paid at Buyer's risk to the Company's works.

8.4 The Company's liability under conditions 8.2 and 8.3 in relation to lost, damaged or defective goods shall be limited, at the Company's option, to repairing or replacing the same or crediting a corresponding proportion of the price paid by Buyer and the Company shall not be under any other liability thereunder whatsoever.

8.5 No claim will be met by The Company under Condition 8.3 if, in the opinion of the Company:

- a) The defect is not due solely to defective materials or workmanship;
- b) the Goods have been misused or subjected to neglect, carelessness or abnormal conditions or involved in any accident or attempt at modification or rectification or dealt with contrary to any directions issued by the Company or the defect arises from wear and tear; or the goods have been incorporated into the buyers product or;
- c) The terms of payment set out in Condition 4.1 have not been complied with.

8.6 The Buyer shall not return the Goods to the Company without the Company's prior agreement.

8.7 The warranty contained in this condition is specifically limited to Buyer and no warranty is made to any other person, whether subsequent buyer or user, or to any bailee, licensee, assignee, employee, agent or otherwise.

8.8 None of the limits or exclusions on the Company's liability in these Conditions shall be affected by any certificate of conformity or release note given by the Company in relation to the Goods.

## **9. INFRINGEMENTS**

9.1 The Company gives no warranty and makes no representation that any sale or use by Buyer of the Goods will be free from infringement of any patent or other intellectual property right owned or controlled by any third party.

9.2 Buyer shall fully and promptly indemnify the Company against all damages, costs, claims, demands, losses, liabilities and expenses of whatsoever nature which may be suffered or incurred by the Company as a result (direct or indirect) of any alleged or proved infringement of patents, copyright, registered design or other rights in the nature of intellectual property in respect of the manufacture or delivery of any goods, or the doing of any work, in accordance with Buyer's instructions.

## **10. CONFIDENTIAL INFORMATION.**

10.1 All specifications, drawings, technical descriptions and details of processes (herein called information) submitted with the offer or transmitted to you in any form pursuant to the contract are supplied in confidence. Buyer shall keep this information confidential and shall not disclose the same to any third party without the prior written consent of the company and shall use the same only for the purposes of the contract. Nothing in this clause shall prevent the company from undertaking or offering to undertake for third parties any work of services similar to or designed to achieve the same results as the work or services provided under this contract.

## **11. TOOLS**

11.1 Where tools (which expression includes molds and dies) are made for Buyer's order, whether at the request of Buyer or not, and whether Buyer pays the whole or any part of the cost thereof, the tools and all intellectual property rights (including specifically copyright) in the tools and the drawings relating thereto, shall be and remain the property of the Company. As such the buyer undertakes not to copy or make use of the same for the benefit of any third party without the written consent of the company.

11.2 In the event of the Company deciding that tools should be scrapped, the Company will notify the Buyer of this decision. The tools will be scrapped unless; within one month of notification by the Company the Buyer contests the decision in writing and gives reasonable grounds for retention of the tool. The Company's decision in this respect shall be final.

11.3 Where tools are supplied by Buyer, Buyer authorizes the Company to make such modifications to such tools as the Company in its absolute discretion considers necessary or desirable in connection with the manufacture of the Goods and Buyer shall have no claim against the Company in respect of such modifications.

## **12. ANNEALING AND DIE CASTING OF BUYERS LAMINATIONS.**

12.1 Annealing and die casting is carried out at the Company's discretion, at its rates from time to time in force and at such time as is economical for the Company to carry out such work.

12.2 Whilst the Company will make every effort to avoid damage to material (including blanks and finished laminations) annealed or die casted by the Company, such work is only undertaken by the Company on the basis that the Company accepts no liability whatsoever to Buyer whether in contract, tort or otherwise, in respect of any loss or damage (including consequential loss) arising

as a result (direct or indirect) of any defect in the annealing or die casting process carried out by the Company to such material or as to the fitness of the material following completion of the process of annealing or varnishing for any particular purpose (whether or not disclosed to the Company), other than to issue a credit for the cost of such annealing and die casting, and any undertaking, condition or warranty in this respect, whether express or implied by common law, statute or otherwise is hereby excluded.

12.3 Where the Buyer supplies laminations for annealing and die casting the Buyer shall be responsible at its own risk and expense for delivering to and collecting from the Company such material.

### **13. RETENTION OF TITLE**

13.1 Notwithstanding delivery the property in the Goods will remain in the Company and subject to the following provisions of this Condition Buyer will hold the Goods as bailee for the Company until payment in full of the price for the Goods and all other sums due from Buyer to the Company on any account whatsoever

(In this Condition referred to as "Payment").

13.2 If Buyer (before Payment) sells the Goods to any third party it shall, as between Buyer and such third party, sell as principal but, as between Buyer and the Company, Buyer shall sell as the fiduciary agent of the Company.

13.3 Buyer shall hold such part of the proceeds of any such sale as equates to the aggregate amount due from Buyer to the Company on any account whatsoever separate and for the Company's account pending Payment or shall if the Company so requires authorize and direct such third party to pay to the Company a like part of the sum due to Buyer in respect of the Goods so sold and assign to the Company such part of the debt owed to Buyer by such third party.

13.4 Buyer shall keep the Goods in good condition and separate and clearly identified as the property of the

Company until Payment.

13.5 After delivery and until Payment Buyer shall keep the Goods fully insured and if the Goods are lost, damaged or destroyed shall hold the proceeds of insurance for and to the order of the Company pending payment.

13.6 Pending Payment, the Goods shall remain the exclusive property of the Company notwithstanding that they may whilst in Buyer's possession or under its control be incorporated into another product and all the Company's rights and Buyer's obligations in respect of the Goods shall extend to Goods so incorporated provided that the Company's title and rights shall not extend to any items supplied by Buyer or a third party. 12.7 Following any of the events referred to in Condition 14, the Company may without notice recover possession of Goods the property of the Company, and Buyer grants to the Company irrevocable license to enter for that purpose any premises then occupied by Buyer and (where necessary) to dismantle any products into which the Goods may have been incorporated.

12.8 The Company shall be entitled to maintain an action for the price of the Goods, notwithstanding that the property in them has not passed to Buyer.

#### **14. LIABILITY**

14.1 All drawings, descriptions, illustrations, representations, specifications, performance data, dimensions, weight and other particulars furnished or made orally by the Company or in catalogues, trade-literature, price lists or other documents issued by the Company are given for general information purposes only and Buyer acknowledges that it is not entering into the contract in reliance upon any such drawing, description, illustration, representation, specification, performance data, dimension, weight or other particular.

14.2 Except to the extent specifically provided for in these Conditions, the Company shall not be liable whether in contract, tort or otherwise for any loss, damage or injury however caused or arising from any defect in, failure in, or unsuitability for any purpose of the Goods.

14.3 The Company shall not in any event be liable for any indirect or consequential loss whatever and however caused.

#### **15. TERMINATION**

The Company may (without prejudice to any other right or remedy available to it) terminate the contract, cancel any outstanding delivery, and stop any Goods in transit in any of the following events:

- a) if Buyer fails to pay by the due date therefor any sum due under the contract or any other contract between Buyer and the Company or commits any other breach of the contract or any other such contract;



b) if any distress or execution shall be levied upon Buyer's property or assets or if Buyer shall make or offer to make any arrangement or composition with creditors or commits any act of bankruptcy or if any petition or receiving order in bankruptcy shall be presented or made against Buyer or (if a limited liability company as deemed by the region of its incorporation) any resolution or petition to wind up Buyer shall be passed or presented, or if a receiver of any part of Buyer's undertaking, property or assets shall be appointed or if an administrator or administrative receiver shall be appointed of Buyer or if Buyer takes or suffers any similar action in consequence of debt.

#### **15. WAIVER**

No failure or delay by the Company in exercising any right hereunder shall operate as a waiver thereof or extend to or affect any other or subsequent event or impair any rights or remedies consequent thereon or in any way modify or diminish the rights of the Company under these Conditions.

#### **16. ASSIGNMENT**

Buyer shall not assign or transfer or purport to assign or transfer any contract to which these Conditions apply or the benefit thereof to any other person.

#### **17. SEVERANCE**

If any Condition shall become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable in any way, such invalidity or unenforceability shall in no way impair or affect any other Condition all of which shall remain in full force and effect.

#### **18. RESTRICTION**

Buyer shall not during any contract to which these Conditions apply and for one year thereafter solicit or endeavor to entice away or employ any employee of the Company with whom Buyer has dealt during and in connection with such contract or do any act whereby any such employee is encouraged to terminate his employment with the Company, whether or not such person would by reason of terminating his employment with the Company commit a breach of his contract.

#### **19. NOTICES**

Any notice to be given under these Conditions may be delivered, or be sent by courier or post addressed to the party to be served at the address for such party last known to the party giving the notice or may be transmitted by fax to the fax number of the party to be served last known to the party giving notice. Notices served by post

shall be deemed served 48 hours after posting and notices served by fax shall be deemed served 24 hours after the recipient's fax machine shall have acknowledged receipt.

## 20. FORCE MAJEURE

Notwithstanding any other provision hereof, should the manufacture, supply or dispatch of the whole or any part of the Goods be interrupted, prevented or hindered by any cause whatsoever beyond the Company's control, the Company may either cancel the contract or postpone or suspend any delivery under the contract until (in the Company's judgment) such cause has ceased to operate. The Company shall be under no liability whatsoever in respect of such cancellation, postponement or suspension. Without limiting the generality of the cause referred to above the same includes war, acts of terrorism, fire, adverse climatic conditions, accident, breakdown of plant or machinery, strikes, combinations of workmen and lockouts (whether affecting the Company's works or those of supplying contractors or carriers); non-delivery or delay in delivery of any materials, or any other circumstances (of whatsoever nature and not limited to the foregoing) which directly or indirectly interrupts, prevents or hinders the due performance of the contract.

## 21. ELECTRO-MAGNETIC GUARANTEES

Guarantees refer only to the standard Epstein square test and when testing is conducted in accordance with the relevant BS6404 document.

## 22. GOVERNING LAW

These Conditions shall be governed by and construed in accordance with USA law and Buyer submits to the non-exclusive jurisdiction of The State of Tennessee courts.