



Clayens US Holdings
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TERMS AND CONDITIONS OF SALE

SELLER'S TERMS AND CONDITIONS CONTROL

Buyer's orders are subject to these terms and conditions ("Terms"). Seller objects to any terms stated on Buyer's form which are different from or modify these terms and conditions, and such terms shall have no effect unless specifically agreed in writing signed by an authorized officer of Clayens US Holdings, or one of its affiliates (collectively, the "Seller" or "Company"). Fulfillment of Buyer's order does not constitute acceptance of any of Buyer's terms and conditions and does not serve to modify or amend these Terms. Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the goods covered hereby, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms.

PRICES

All prices are exclusive of shipping costs and do not include any applicable federal, state or local sales tax, excise tax or other charges unless specifically indicated otherwise.

PAYMENTS

Each shipment shall be considered a separate and independent transaction and payment shall be made accordingly. If the financial condition or credit of the Buyer at any time shall in the judgment of the Company not warrant shipment of the goods ordered, the Company may at its option require full payment prior to shipment and terminate any order outstanding without liability to Buyer. Buyer shall not withhold payment of any amounts due and payable by reason of set-off of any claim or dispute with Seller, whether relating to Seller's breach, bankruptcy or otherwise.

PAYMENT TERMS

Unless otherwise agreed in writing, Buyer shall pay all invoiced amounts due to Seller within 30 days from the date of Seller's invoice. Buyer shall make all payments to Seller in U.S. dollars per the payment instructions set forth on the invoice.

Buyer shall pay interest on all late payments at the lesser of the rate of 1.5% per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Buyer shall reimburse Seller for all costs incurred in collecting any late payments, including, without

limitation, attorney fees. In addition to all other remedies available under these Terms or at law (which Seller does not waive by the exercise of any rights hereunder), Seller shall be entitled to suspend the delivery of any goods if Buyer fails to pay any amounts when due hereunder and such failure continues for ten (10) days following written notice thereof.

INSPECTION AND RETURNS

Buyer shall inspect the goods and products within 5 days of receipt (“Inspection Period”). Buyer will be deemed to have accepted the goods unless it notifies Seller in writing of any Nonconforming goods during the Inspection Period and furnishes such written evidence or other documentation as required by Seller. “Nonconforming Goods” means only the following: (i) product shipped is different than identified in Buyer’s purchase order; or (ii) product’s label or packaging incorrectly identifies its contents.

If Buyer timely notifies Seller of any Nonconforming Goods, Seller shall, in its sole discretion, (i) replace such Nonconforming Goods with conforming goods, or (ii) credit or refund the Price for such Nonconforming Goods, together with any reasonable shipping and handling expenses incurred by Buyer in connection therewith. Buyer shall ship, at its expense and risk of loss, the Nonconforming Goods to Seller’s location of manufacture. Seller exercises its option to replace Nonconforming Goods, Seller shall, after receiving Buyer’s shipment of Nonconforming Goods, ship to Buyer, at Buyer’s expense and risk of loss, the replaced goods.

Buyer acknowledges and agrees that the remedies set forth in this section are Buyer’s exclusive remedies for the delivery of Nonconforming Goods. Except as provided herein, all sales of goods to Buyer are made on a one-way basis and Buyer has no right to return goods purchased under this Agreement to Seller. No goods shall be returned to Company without the written consent of the Company and only by following Company’s instructions.

WARRANTY

Company warrants the goods sold against defects in workmanship for a period of 90 days from date of shipment. The Company’s liability under this warranty shall be limited to, at its option, replacement or repair of such product F.O.B. at Company’s plant or refunding the purchase price of any such product found to be defective (at the pro rata contract rate), provided that written notice of such defect is received by the Company from the Buyer within the above mentioned 90 day period. Seller is given an opportunity after receiving the notice to examine such goods and verify Buyer’s claim that the goods are defective. If requested by Seller, Buyer shall return the goods to Seller’s place of business at Seller’s cost for the examination to take place there.

The liability of the Company is exclusively limited to the replacement of defective goods or refunding of the purchase price as provided herein and under no circumstances shall the Company be liable for losses or damages of any kind, including but not limited to personal injuries or property damage resulting from the handling or use of any such goods. The Seller shall not be liable for a breach of the warranty set forth herein if Buyer: (i) makes any further use of such goods after giving such notice; (ii) the defect arises because Buyer failed to use such goods for their intended purpose, or failed to follow Seller’s oral or written instructions as to the storage,

installation, commissioning, use or maintenance of the goods; or (iii) Buyer alters or repairs such goods without the prior written consent of Seller.

EXCEPT FOR THE WARRANTY SET FORTH HEREIN, SELLER MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; OR (c) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.

Any goods manufactured by a third party (“Third Party Goods”) may constitute, contain, be contained in, incorporated into, attached to or packaged together with, the goods. Third Party Goods are not covered by the warranty herein. For the avoidance of doubt, **SELLER MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD PARTY PRODUCT, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (c) WARRANTY OF TITLE; OR (d) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.**

THE REMEDIES SET FORTH HEREIN SHALL BE THE BUYER’S SOLE AND EXCLUSIVE REMEDY AND SELLER’S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH HEREIN.

TOOLING

Tools purchased by Buyer shall be considered the sole property of Buyer. Buyer agrees for its benefit to keep the tools insured at all times against loss or damage. Once production which utilizes these tools has been terminated, Buyer shall have thirty days in which to remove the tools from Company’s facility. If these tools are not removed the Company reserves the right to dispose of the tool in any manner it deems necessary and/or to charge Buyer reasonable cost of storage. Nonpayment of any balances owed Seller will result in the Buyer granting to the Seller a lien on all tooling held at Seller’s locations until such balances are paid in full.

LIMITATION OF LIABILITY

IN NO EVENT SHALL SELLER BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT OR LOSS OF DATA OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND

NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

IN NO EVENT SHALL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO SELLER FOR THE GOODS SOLD HEREUNDER.

The limitation of liability set forth above shall not apply to (i) liability resulting from Seller's gross negligence or willful misconduct and (ii) death or bodily injury resulting from Seller's acts or omissions.

SHIPMENT

Unless otherwise agreed, all shipments are ExWorks Company's plant. Shipment dates refer only to the best estimates of the Company.

DELIVERY

The Company shall not be liable for delay in delivery or shipment caused by any legislative or executive law, order, or requisition of federal government or any state or municipal government or any department or office thereof. The Company shall also not be liable for any delay in delivery caused by any event or occurrence beyond the reasonable control of the Company including but not limited to the events described in the force majeure section below.

The goods will be delivered within a reasonable time after the receipt and confirmation of acceptance of Buyer's purchase order. Seller shall not be liable for any delays, loss or damage in transit.

Unless otherwise agreed in writing by the parties, Seller shall deliver the goods to using Seller's standard methods for packaging and shipping such goods. Buyer shall be responsible for all loading costs and provide equipment and labor reasonably suited for receipt of the goods.

TITLE, RISK OF LOSS AND GRANT OF SECURITY INTEREST

Title and risk of loss passes to Buyer upon delivery of the goods to the carrier or other agreed delivery point. As collateral security for the payment of the purchase price of the goods, Buyer hereby 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 all the goods sold to Buyer by Seller, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, 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 Uniform Commercial Code. Buyer authorizes all filings by Seller necessary to maintain the perfection of the security interest granted herein.

CANCELLATIONS

The Buyer may cancel upon the written consent of the Company, but the Company is entitled to cancellation charges including but not limited to labor expended, materials obtained or reasonable overhead expenses. Seller may cancel any order upon reasonable written notice to Buyer.

TERMINATION

In addition to any remedies that may be provided under these Terms, Seller may terminate this Agreement with immediate effect upon written notice to Buyer, if Buyer: (i) fails to pay any amount when due under this Agreement; (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, receivership, reorganization or assignment for the benefit of creditors.

ACCEPTANCE

Any order by Buyer placed pursuant to this quotation is subject to acceptance and acknowledgement by Company. By ordering goods from the Company, Buyer will be deemed to have assented to the terms and conditions stated herein.

FORCE MAJEURE

No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations of Buyer to make payments to Seller hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the impacted party's ("Impacted Party") reasonable control, including, without limitation, the following force majeure events ("Force Majeure Event(s)"): (a) acts of God; (b) flood, fire, explosion, earthquake, other disasters or catastrophes, such as pandemics or epidemics; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order, law, or actions; (e) embargoes or blockades in effect on or after the date of this Agreement; (f) national or regional emergency; (g) strikes, labor stoppages or slowdowns, or other industrial disturbances; and (h) shortage of adequate power or transportation facilities; and (i) other similar events beyond the reasonable control of the Impacted Party. The Impacted Party shall give notice within 30 days of the Force Majeure Event to the other party, stating the period of time the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event that the Impacted Party's failure or delay remains uncured for a period of 30 days following written notice given by it under this section, party/the other party may thereafter terminate either any pending order or other agreement upon 30 days' written notice.

ASSIGNMENT

Buyer shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Seller. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Buyer of any of its obligations under this Agreement.

GOVERNING LAW

All matters arising out of or relating to this Agreement is governed by and construed in accordance with the internal laws of the State of South Carolina without giving effect to any choice or conflict of law provision.

SUBMISSION TO JURISDICTION

Any legal suit, action or proceeding arising out of or relating to this Agreement shall be instituted in the Federal courts of the United States of America or the courts of the State of South Carolina each case located in the City of Greenville and County of Greenville, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.