

TERMS OF SALE

1. DEFINITIONS

“Seller” means Astroseal Products Manufacturing Corporation (“Astroseal”) and “Buyer” means the person, company or entity purchasing Goods from the Seller. “Goods” refer to any Astroseal products and services offered by the Seller and purchased by the Buyer. An “Offer” constitutes any quote, proposal or offer to sell Goods by the Seller to the Buyer. An “Order” constitutes any agreement, purchase order or similar contractual instrument issued by the Buyer to the Seller to purchase Goods. Seller and Buyer may be referred to herein as a “Party” or jointly as the “Parties”.

2. ACCEPTANCE

All Seller Goods are furnished only on the terms and conditions of sale stated herein (these “Terms”) and on the face of the applicable Seller Offer to the exclusion of any Buyer terms and conditions in any specific Order. Seller’s acceptance of Buyer’s Order and any changes thereto is expressly conditioned upon the Buyer’s consent and acceptance of these Terms. Seller shall not be bound by any terms or conditions that differ from these Terms. Failure by the Seller to take exceptions to any terms or conditions and/or any other communication from the Buyer shall not constitute a waiver of any of the terms and conditions listed herein. Reference in Seller’s Offer, confirmation form or any other document to Buyer’s Order shall in no way constitute an acceptance of any of Buyer’s terms or conditions of purchase. Additionally, no act by Seller, including, without limitation, accepting an Order, acknowledging an Order, commencing performance and/or performance, shall legally bind Seller to Buyer’s terms and conditions of purchase, in total or part. No failure by Seller to object to Buyer’s terms and conditions shall constitute a waiver by Seller of these Terms. No modification to these Terms will be binding on Seller unless agreed to in writing and signed by an authorized representative of Seller.

3. PRICING

All pricing is stated in US dollars and valid for a period of thirty (30) days from the date of the Seller’s offer unless noted otherwise. Pricing applies specifically to Seller’s Goods. Any applicable taxes for sales, use, excise, import duty or other as imposed by any government authority will be added to the invoice and paid by Buyer, unless the Buyer provides the Seller with applicable tax exemption documentation. Seller reserves the right to modify prices at any time to adjust for any raw material price fluctuations.

4. PAYMENT

Payment terms and credit are subject to review and approval by the Seller. Standard payments terms are net thirty (30) days from the date of the Seller’s invoice, all payments to be made without setoff or counterclaim. Each shipment shall be treated as a separate and independent transaction and subject to proper payment by the Buyer. Seller reserves the right to change the terms without notice should Buyer fail to complete the terms of payment for a prior invoice submitted by the Seller. All amounts due to Seller but not paid by Buyer on the due date bear interest payable by Buyer to Seller at the lesser of one and one-half percent (1.5%) per month or the maximum interest rate from time to time permitted under applicable law. Buyer will also be liable to Seller for any expenses incidental to collection of past due amounts. BUYER HEREBY GRANTS TO SELLER A SECURITY INTEREST IN THE GOODS UNTIL FULL PAYMENT IS RECEIVED. BUYER AUTHORIZES SELLER TO FILE A UCC-1 FINANCING STATEMENT IN SUCH JURISDICTIONS AS SELLER DEEMS APPROPRIATE TO PERFECT SUCH SECURITY INTEREST IN THE GOODS. Buyer shall cooperate fully with Seller to execute such documents and accomplish such filings and/or recordings as Seller may deem necessary for protection of its interests in the Goods furnished to Buyer. If any lot or parcel is not accepted and/or paid for in accordance herewith or any stated periodic minimum quantity shall not be ordered out, then Seller may without prejudice to other lawful remedy, defer shipments until settlement is made, terminate the contract or treat such failure as substantially impairing the value of the whole contract at issue and hence as a breach thereof. Seller may waive any default without waiving any prior or subsequent default. If in the opinion of Seller, the financial responsibility of Buyer shall at any time become impaired, Seller may decline to make further shipments except on advance receipt of cash or satisfactory security.



5. DELIVERY

All shipments are INCOTERMS EXW Seller's plant, 85 Airport Industrial Park Road, Chester CT. 06412. Regardless of the manner of shipment, title to Goods and associated risk of loss and damage will transfer to the Buyer upon Seller presenting Goods to the carrier. Prepaid shipping, insurance and other rated delivery costs shall be paid for by the Buyer. Buyer agrees to reimburse Seller for actual costs associated with delivery of goods accordingly. Choice of transportation, carrier, shipping method and route shall be at Seller's election unless specified by Buyer in writing. Any claims resulting from Goods lost or damaged in transit, or claims of shortages received or of shipment tampering must be filed by Buyer exclusively with the carrier. Seller shall package the goods in accordance with applicable industry standards.

6. DELAYS AND FORCE MAJEURE

Seller will utilize commercially reasonable efforts to fulfill order in accordance with the estimated delivery/shipment date; however, all delivery dates are approximate and Seller shall not be responsible for any delays in filling an order nor liable for any damages, losses, re-procurement costs, or penalties related to delivery delays Seller shall not be liable for any delay in delivery or other performance hereunder which is due to unforeseen circumstances, or to causes beyond its control, including, without limitation, strike, lockout, riot, war or threat of war, terrorist act or threat, fire, any order from any government or its military, any epidemic and/or pandemic as recognized by the federal and/or state and local governments, any other widespread illness or public health emergency, quarantine restrictions, act of God, accident, failure or breakdown of components necessary to order completion; supplier, subcontractor or Buyer caused delays; inability to obtain or substantial rises in the prices of labor, materials or manufacturing facilities; curtailment of or failure to obtain sufficient supplies; technical difficulties; labor disputes or shortages; compliance with any governmental law, regulation, or order, including but not limited to U.S. Export Administration Regulations; and any other occurrences generally affecting the shipping, manufacturing, financial or similarly situated industries. Provided any such delay is neither material nor indefinite, performance shall be deemed suspended during and extended for such time as it is so delayed, and thereafter the other party shall accept performance hereunder. Delay in performance shall not be considered material or indefinite unless it exceeds or is reasonably estimated to exceed six (6) months. In the interest of conservation of scarce materials, and efficient use of high value parts and components, Seller may substitute parts which meet the same quality standards and are covered by the same warranty.

7. EXPORT CONTROL & ANTI-CORRUPTION

For all Goods, services and information supplied by the Seller to the Buyer for resale, export, or re-export, Buyer agrees not to directly or indirectly export any Goods without first obtaining the required U.S. Government export licenses. Buyer agrees to comply with all applicable export laws and regulations, and export licensing requirements, including, without limitation, the U.S. Export Administration Regulations ("EAR") maintained by the U.S. Department of Commerce, trade and economic sanctions maintained by the U.S. Treasury Department's Office of Foreign Assets Control, and the U.S. International Traffic in Arms Regulations ("ITAR") maintained by the U.S. Department of State. Specifically, Buyer agrees that it will not -- directly or indirectly -- sell, export, re-export, transfer, divert or otherwise dispose of any products, software or technology (including products derived from or based on such technology) received from Seller to any destination, entity or person prohibited by the laws or regulations of the United States or any other country, including countries that the United States embargoes goods and those on the U.S. Treasury Department's list of Specifically Designated Nationals or the U.S. Commerce Department's Table of Denial Orders, without obtaining prior authorization from the competent government authorities as required by those laws and regulations. In addition, Buyer assumes responsibility in complying with any and all local laws in Buyer's country, which may impact the right to import, export, or use the purchased products. In connection with the purchase of products from Seller, Buyer agrees not, and agrees not to permit any of its subsidiaries or affiliates or any of its or their respective directors, officers, managers, employees, independent contractors, representatives or agents, to promise, authorize or make any payment to, or otherwise contribute any item of value to, directly or indirectly, to any third party, including any non-U.S. official, in each case, in violation of the Foreign Corrupt Practices Act of 1977 (the "FCPA") or any other applicable antibribery or anti-corruption law. In the event Buyer fails to adhere to the requirements in this Paragraph 7 or otherwise violates applicable laws, Seller shall have the right to unilaterally terminate these Terms and take other appropriate action in response to such breach or violation.



The Buyer agrees to indemnify, defend and hold Seller and any of Seller's suppliers harmless from and against any and all liabilities, losses, claims, complaints, damages and expenses (including, but not limited to, reasonable attorney fees, court costs, costs of investigation and defense, and any other related expenses) suffered, sustained, incurred, arising from Buyer's failure to comply with this section.

8. INSPECTION AND TESTING

All Goods provided by the Seller are subject to the Seller's standard inspection process. Any additional test requirements and/or inspection requirements will be performed at the Buyer's expense. Should Seller and Buyer agree to Buyer's inspection at Seller's facility, Buyer's inspection may not interfere unreasonably with Seller's operations and Buyer's approval or rejection of Goods is required prior to shipment of Goods. Buyer will perform reasonable inspection of Goods within seven (7) days of receipt at Buyer's facility and will give Seller prompt notice of any non-conformance or defect. Buyer's failure to notify Seller of any non-conformance or defect within seven (7) days shall constitute a waiver of such non-conformance or defect and Goods to have been deemed acceptable by the Buyer. Notwithstanding the above, any use of Goods by Buyer, its agents, employees, contractors or licensees, for any purpose after its receipt, shall constitute acceptance of the Goods by Buyer.

9. RETURN MATERIAL AUTHORIZATION

Buyer will notify Seller of all nonconforming Goods for return, in accordance with Paragraph 8 of these Terms. Buyer will allow reasonable opportunity for Seller to evaluate nature of nonconformance. Buyer may not return Goods to Seller without prior written authorization (RMA number). Buyer will return nonconforming Goods per the Seller's instructions and failure to adhere to Seller's instructions may result in refusal of Buyer's return shipment. Credit for returned Goods is not automatic and subject to Seller's review and approval.

10. TERMINATION

Buyer may not terminate an order without written consent of the Seller. Any attempt to do so without Seller's written consent shall be void. Should Seller approve the termination, Seller will provide Buyer with reasonable termination charges and said charges will be due and payable by the Buyer to the Seller within thirty (30) days of submittal of termination charges.

11. CHANGE ORDERS

All change orders submitted by the Buyer must be in writing and may be subject to a price and/or delivery impact. Seller will advise Buyer in writing of any price and/or delivery impact and Seller's acceptance of any change is subject to Buyer's consent in writing to any price and/or delivery adjustments.

12. WARRANTY

Buyer agrees to inspect all Goods promptly after receipt, and waives any claim for defective Goods, for defective manufacture or workmanship, for shortage in count, or for any other cause not made within fourteen (14) days after receipt of delivery. As to defects which are not discoverable by inspection within fourteen (14) days, Seller warrants for a period of twenty-four (24) months from the date of shipment that the Goods supplied hereunder conform to any relevant specification and are free from defects in materials and workmanship, provided that the Goods are stored in a temperature and humidity controlled environment and remain in Seller's original packaging. Under no circumstance will Seller be held responsible for damages that occur in the following situations: damage incurred during shipment, normal wear and tear, misuse, abuse, inadequate storage conditions, use in applications other than lightning strike protection (LSP), installation, use or storage that is inconsistent with Seller's instructions, and/or repair, maintenance, overhaul, or similar services done subsequent to delivery by any other person or entity than Seller. EXEMPTION CLAUSE: DISCLAIMER OF WARRANTY, CONDITIONS, REPRESENTATIONS: THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER EXPRESS AND IMPLIED WARRANTIES (EXCEPT OF TITLE) INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NO AGREEMENT VARYING, ALTERING OR EXTENDING SELLER'S LIABILITY HEREUNDER WILL BE BINDING ON SELLER UNLESS IN WRITING AND SIGNED BY THE BUYER'S AND SELLER'S DULY AUTHORIZED REPRESENTATIVE.



Seller's obligation and Buyer's exclusive remedy hereunder will be limited to the replacement of, or the reimbursement for, nonconforming Goods, at Seller's option, and will be conditioned upon Seller's receiving written notice of any alleged nonconformity within ten (10) days after identifying such nonconformity and within the warranty period, and return of such goods to Seller. Seller will have a reasonable period of time to evaluate the returned Goods for the specific nonconformance, and either replace or reimburse the Buyer for the nonconforming Goods.

13. LIMITATION OF LIABILITY

IN NO EVENT SHALL SELLER BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, SUCH AS, BUT NOT LIMITED TO, LOST BUSINESS REVENUE, LOST PROFITS OR COSTS OF DOWNTIME RESULTING FROM SELLER'S PRODUCTS, HOWEVER CAUSED, WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHER LEGAL THEORY OR ANY DAMAGES ARISING OUT OF THE PERFORMANCE UNDER THESE TERMS, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH INCIDENTAL OR CONSEQUENTIAL DAMAGES. SELLER'S TOTAL LIABILITY IN DAMAGES OR OTHERWISE, WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHER LEGAL THEORY, SHALL NOT EXCEED THE PAYMENT, IF ANY, RECEIVED BY SELLER FOR THE UNIT OF GOODS FURNISHED OR TO BE FURNISHED, AS THE CASE MAY BE, RESULTING IN THE LOSS OR DAMAGE CLAIMED AND BUYER'S RIGHT TO MONETARY DAMAGES IN THAT AMOUNT SHALL BE IN LIEU OF ALL OTHER REMEDIES WHICH BUYER MAY HAVE AGAINST SELLER. ANY CAUSE OF ACTION FOR BREACH OF THESE TERMS (OTHER THAN NONPAYMENT OF THE PURCHASE PRICE) MUST BE COMMENCED WITHIN ONE YEAR AFTER SUCH CAUSE OF ACTION ACCRUES.

14. INDEMNITY

BUYER AGREES TO INDEMNIFY AND HOLD HARMLESS SELLER INCLUDING SELLER'S EMPLOYEES, MEMBERS, AFFILIATES AND AGENTS FROM ANY AND ALL CLAIMS, DEMANDS, LOSSES, DAMAGES, PENALTIES, LAWSUITS, AND COSTS AND FEES, INCLUDING REASONABLE ATTORNEY FEES ARISING OUT OF, OR RELATING TO THE GOODS, AND/OR SERVICES SUPPLIED HEREUNDER INCLUDING, WITHOUT LIMITATION, ANY GOODS OR SERVICES PROVIDED BY BUYER USING THE GOODS, EXCEPT TO THE EXTENT THE GOODS FAIL TO CONFORM WITH SELLER'S WARRANTY HEREUNDER.

15. INFRINGEMENT

For Goods and/or services developed solely by the Seller, Seller agrees to indemnify and hold harmless Buyer from and against any and all actions, suits, claims, demands or prosecutions that may be made, brought or instituted against the Buyer for any alleged infringement for any patent, trademark, or copyright provided the Buyer promptly notifies the Seller in writing of any alleged infringement. In any event, Seller's liability for infringements excludes collateral, incidental and consequential damage and will be limited to the price of Goods associated with the infringement.

16. TOOLING AND/OR DATA

Unless specifically agreed in writing by Seller and Buyer, Seller is, and shall remain, the sole and exclusive owner of all right, title and interest in all equipment, tools, molds, dies, jigs, fixtures, mandrels, templates, patterns, forms, specifications, designs, technical data, drawings and other data or information, including all intellectual property rights related thereto, including all patents, copyrights, trademarks, and trade secrets used for the production of Goods for the Buyer will be and remain Seller's property.

17. PROPRIETARY INFORMATION.

Seller and Buyer shall each, during the course of their relationship and thereafter, take all steps reasonably necessary to hold in trust and confidence the others' Proprietary and Confidential Information. "Proprietary and Confidential Information" includes, but is not limited to, technical and business information relating to each party's inventions or products, services, research and development, production, manufacturing processes, costs, profit or margin information, employee skills and salaries, finances, customers, marketing and production and future business plans. These obligations also extend to any third party proprietary and confidential information disclosed during the course of the relationship.



18. WAIVER

Seller's failure to require performance of any provision shall not affect the Seller's right to require performance at any time, nor shall a waiver of any breach or default of these Terms establish a waiver of any subsequent breach or default or a waiver of the provision itself.

19. ASSIGNMENT

The Buyer may not assign or transfer, directly or indirectly, whole or in part and/or obligations under these Terms without prior written approval of the Seller.

20. ARBITRATION AND GOVERNING LAW

These Terms and the rights and obligations of Buyer and Seller shall be governed by and construed in accordance with the internal laws of the State of Connecticut in the United States of America, without regard to conflicts of laws. Buyer consents to jurisdiction, venue and forum in a State Court located in the County of Middlesex, State of Connecticut, United States of America. Buyer further agrees to and does hereby irrevocably waive the defense of inconvenient forum. TO THE MAXIMUM EXTENT PERMITTED BY LAW, BUYER AND SELLER EACH HEREBY IRREVOCABLY WAIVES TRIAL BY JURY. Any controversy, dispute, claim or complaint of whatever nature arising out of, in connection with, or in relation to the interpretation, performance or breach of these Terms shall be submitted to final and binding arbitration under the commercial rules of arbitration of the American Arbitration Association to be held in the County of Middlesex, State of Connecticut, United States of America. The International Convention on Contracts for the International Sales of Goods shall not apply, such proceedings shall be governed by the laws of the State of Connecticut Arbitration awards and decisions are subject to. Provision 12, Limitation of Liability Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

21. SEVERABILITY

In the event that any provision of these Terms is held unenforceable by a court of competent jurisdiction, the remaining provisions of these Terms shall remain valid and enforceable.

22. SURVIVAL

The following provisions will survive the termination or expiration of these Terms: 4: Payment; 5: Delivery; 6: Delays and Force Majeure; 7: Export Control & Anti-Corruption; Section 8 Inspection and Testing; 10: Termination; 12: Warranty; 13: Limitation of Liability; 14: Indemnity; 20: Arbitration and Governing Law; 21: Severability; and 22: Survival.

23. COMPLETE AGREEMENT

This document constitutes the complete and exclusive understanding of the terms of the Agreement between the Seller and Buyer, notwithstanding any prior course of dealing, custom or usage of trade or course of performance or any additional or different terms proposed by Buyer at any time, and supersedes all previous or additional agreements and arrangements. Neither Seller nor Buyer shall amend or modify these Terms without written agreement of a duly authorized representative for each Party. The remedies of Seller under these Terms are cumulative and shall not exclude any other remedies to which it may be lawfully entitled.

24. ATTORNEYS' FEES AND COLLECTION FEES

If any suit or action to enforce or to interpret any of the terms and conditions herein, or to recover damages as a result of breach of any provision of these Terms, or any effort to complete collection, the prevailing party shall be entitled to recover from the non-prevailing party all costs and expenses including, but not limited to, reasonable attorney fees, court costs, traveling and lodging expenses, costs of investigation and defense, accrued interest, and any other reasonable expenses incurred by the prevailing party in prosecuting or defending such action and any appeal taken there from. In the event any collection effort is initiated to interpret or to enforce any of the terms or conditions of sale between Buyer and Seller, the prevailing party shall be entitled to recover from the non-prevailing party all costs and expenses including, but not limited to, unpaid balance, collection fees, accrued interest on the default dollar amount, reasonable attorney's fees, court costs, traveling and lodging expenses, costs of investigation and any other reasonable expenses incurred by the prevailing party in connection therewith.



25. RELATIONSHIP OF PARTIES

The Parties hereto intend to establish a relationship of manufacturer/supplier and customer and as such are independent contractors with neither Party having authority as an agent or legal representative of the other to create any obligation, express or implied, on behalf of the other.

26. NOTICES.

All notices, receipts or demands of any kind hereunder will be effective (i) when actually delivered (or attempted to be delivered if rejected) by certified mail or overnight courier to the parties' addresses set forth on the Order or any document or agreement delivered in connection with or in furtherance of these Terms, or (ii) upon receipt thereof if sent by facsimile transmission to the parties' telecopier numbers if specified, provided such transmission is promptly confirmed by mail or courier as provided in clause (i) of this Paragraph 26.

