



**TRELLEBORG SEALING SOLUTIONS ALBANY, INC.**  
**STANDARD TERMS AND CONDITIONS OF SALE**

1. DEFINITIONS

- A. Seller: Trelleborg Sealing Solutions Albany, Inc., (hereinafter referred to as TSS Albany or Seller).
- B. Buyer: considered the customer of TSS Albany who is requesting or contracting for a product or service.
- C. Products: "Product(s)" mean products of Seller's manufacture, including those products which are made utilizing, in accordance with or embodying Buyer's Confidential Information or information derived there from.
- D. Services: "Service(s)" means service incidental to the installation of products and/or technical assistance related to those products thereafter on an as needed basis. "Service" does not mean service on a routine, scheduled or ongoing basis. Any service arrangement for service on a routine, scheduled basis shall be covered by a separate agreement.

2. ACCEPTANCE OF ORDERS

- A. All orders placed with Seller for Products are subject to acceptance by Seller at its principal place of business.
- B. Buyer purchases the Products and/or Services only on Seller's terms and conditions herein which shall control. When received by Seller, Buyer's Purchase orders shall be written acceptance of this Agreement. Unless accepted in writing by an authorized employee of Seller, any Buyer terms and conditions contained in acknowledgments, purchase orders, acceptances, confirmations or other documents inconsistent with, different from, or additional to the terms and conditions herein, will be null and void.

3. PRICES / PAYMENT

- A. Payment is to be made in U.S. funds, unless otherwise specified, net thirty (30) days. Prices invoiced will be those in effect at the time of shipment. All prices apply FCA point of manufacture. Seller supplying the Product (defined as the goods or equipment supplied) under this Agreement (defined as all the commercial, legal or technical documents issued by Seller to govern the design, manufacture and/or supply of its Product such as these conditions, together with such documents as are expressly accepted in writing by the Seller), reserves the right to place a service charge on past due accounts at the highest rate permitted by law. Seller shall invoice Buyer the full order price and for any additional expenses incurred by Seller when delivery is suspended pursuant to Buyer's actions, omissions or written instructions. If quoted, inland freight charges from Seller's factory to port of shipment, port handling charges, and ocean freight charges are estimates at quotation time. Actual charges will be invoiced.

4. WARRANTY

- A. Seller warrants Products and/or Services for a period of 90 days from shipment to the extent Seller, at its option, repairs or replaces, FCA point of manufacture, any such Products if by reason of faulty material or workmanship they prove defective under normal use and service and when properly installed; provided, however, that Seller does not warrant packing materials, resold composite materials, equipment operating at unusual temperatures or pressures, improper lubrication, misapplication, lighting, or improper voltage supply, etc.. Seller will extend to the Buyer any applicable warranties provided by a supplier (vendor) of Seller. Deterioration by chemical action and wear caused by the presence of abrasive materials, do not constitute defects. Except as otherwise provided herein, the foregoing is in lieu of all other warranties, express or implied, including those of merchantability or fitness for any purpose.
- B. This warranty shall not apply to Product subject to misuse, neglect or accident. Seller shall not assume responsibility for rebuilding, repairing special plating, coating, welding, or heat treating performed outside Seller's plant by or at the request of the Buyer. Product not of Seller's manufacture, special plating, coatings, or heat treatment applied to Seller's Product is not warranted in any way by Seller.

5. SUBSTITUTIONS AND MODIFICATIONS

- A. Seller reserves the right to make substitutions to and/or modifications of the specifications of Products, provided that such substitutions or modifications will not materially adversely affect overall Product performance. Unless otherwise agreed, Seller reserves the right to ship, and bill for, 10% more or less Products than Customer requires as set forth in Customer's purchase order referenced herein.

6. LIMITATION OF REMEDY AND LIABILITY:



- A. Seller's liability, including that for breach of contract, negligence, strict liability in tort, or otherwise, for its Products and/or Services and Buyer's exclusive remedy shall be limited to (a) the repair or replacement (but not installation) of parts found defective by Seller, FCA Seller's factory if returned to the factory for inspection, transportation charges paid, or (b) if, in Seller's opinion, repair or replacement will not remedy a claimed Products and/or Services deficiency, or if Seller's Products and/or Services do not comply with the description or specification set forth herein, to repayment of any amounts paid on the purchase price, cancellation of the order and acceptance of the Product FCA point of manufacture. However, if the Product has been in use for a period of thirty (30) days, Seller reserves the right to make a reasonable depreciation charge. Any Product replaced or repaired by Seller shall be warranted for an additional 90 day from replacement date or repair completion date. Notwithstanding the above and any other provision herein to the contrary, Seller's aggregate liability under this Agreement is limited to reperformance at its own cost or (at Seller's option) meeting the cost of another party's reperformance, all subject to the financial maximum of the contract value, irrespective of any negligence on the part of Seller.
7. **DISCLAIMER / CONSEQUENTIAL DAMAGES:**
  - A. Seller expressly disclaims any obligation or liability for freight, transportation, equipment or labor performed in connection with the removal or installation of repaired or replaced parts for any other expense, injury, loss, or damage to persons (including death) or to property or things of whatsoever kind or nature, whether direct, incidental, or consequential, including but not limited to those arising from loss of profits, production, increased cost of operation, reservoir loss, environmental damage or spoilage of material arising in connection with the sale or use of, or inability to use, seller's equipment or products and/or services for any purpose, except as herein provided.
8. **FORCE MAJEURE:**
  - A. Seller shall not be liable to Buyer for any loss or damage suffered by the Buyer, directly or indirectly, as a result of Seller's failure to deliver or delay in delivering Products and/or Services or failure to perform, or delay in performing, any other term or condition hereunder, where such failure or delay is caused by circumstances beyond Seller's control, including but not limited to, fires, computer or telecommunications systems failures, floods, natural disasters, strikes, lockouts, war, riot, civil disturbances, embargo, government regulations or restrictions of any and all kinds, expropriation of plant by federal or state authority, interruptions of or delay in transportation, material shortages, power failures, inability to obtain materials and supplies, accidents, explosions, acts of God, or other causes of like character and the time for delivery shall be extended during the continuance of such thereafter.
9. **TAXES:**
  - A. Buyer shall pay, reimburse Seller, or provide a Tax Exemption Certificate for, all federal, state, county or municipality, compensating, intangible, sales, use, gross income or like taxes applicable to this contract, now or hereafter in effect, except for taxes payable upon Sellers net income.
10. **RETURNS:**
  - A. No material will be accepted for credit when returned without Seller's prior written permission.
11. **MANUFACTURING PROCESS:**
  - A. Purchase of the Products and/or Services does not entitle Buyer to employ the same with any patented or trade secret process, owned by Seller or others, except where the Buyer is expressly authorized. Buyer specifically agrees that any discoveries or inventions arising out of or in connection with the performance of this Agreement, including but not limited to, any and all patent rights and other intellectual property rights related thereto, shall be and shall remain the sole property of Seller.
12. **PATENT INFRINGEMENT:**
  - A. Except in the case of articles, materials and designs furnished or specified by the Buyer, Seller, at its own expense shall defend any suit brought against the Buyer on the grounds that use of the Products and/or Services for the intended purpose or purposes, as furnished by the Seller, infringes a patent in effect on the purchase date, and shall pay the amount of any judgment that may be awarded against the Buyer in such suit, provided that the Buyer has made all payments due under this Agreement and shall (a) promptly delivered to Seller all infringement notices and other papers received by or served upon Buyer, (b) permit Seller to take charge of defense of such suit and compromise same, if Seller deems advisable, and (c) reasonably assist in the conduct of such defense. Buyer further agrees to defend and indemnify Seller against any claims or liabilities for, or by reason of, any alleged patent infringement arising from the manufacture or sale of all or any part of the Products and/or Services which is manufactured in accordance with the specifications furnished by Buyer. If Buyer is enjoined by a court of



competent jurisdiction, and no appeal can be taken, from selling or using the Products and/or Services for the intended purpose or purposes on the ground that such sale or use of the Products and/or Services infringes a patent or it is established, to Seller's satisfaction after investigation, that sale or use of the Products and/or Services infringes any such patent, Seller, at its option, may either (a) procure a license for Buyer to sell and/or use the Products and/or Services, (b) modify the Products and/or Services to make it non-infringing without seriously impairing its performance, (c) replace the Products and/or Services with Products and/or Services substantially equal but non-infringing, or (d) accept Products and/or Services return with a refund to Buyer of the purchase price less fifteen percent (15%) annual depreciation from shipment date. The foregoing sets forth Seller's entire liability to Buyer for patent infringement based on the possession, use or sale of the Products and/or Services by Buyer. The aforementioned Seller obligations do not extend to and are not applicable in the case of patent infringement claims based on method or a process.

13. RISK OF LOSS AND TITLE:

- A. Buyer assumes risk of loss or destruction of, or damages to, the Product and/or Services after delivery to Buyer or carrier, whichever first occurs. Title to the Products and/or Services supplied hereunder, and to any additions, replacements, substitutions and accessories thereto, shall remain in Seller as a purchase money security interest (including the right of repossession) until Buyer pays the full purchase price, plus accrued interest, if any, and fully performs all of the terms and conditions hereof. Buyer agrees to execute all financing statements or other documents and take actions necessary or desirable by Seller to perfect its security interest.

14. USE OF IMAGES

- A. Seller reserves the right to use for marketing purposes nonidentifying information related to parts and/or equipment sold, including photos or video of such. Seller will take all reasonable care to ensure that use of this information does not violate any specific non-disclosure or confidentiality agreements in place.

15. INDEMNIFICATION:

- A. It is understood that Seller has relied upon data furnished by Buyer with respect to the safety aspects of the Products and/or Services supplied hereunder and/or representations by or on behalf of Buyer that such Products and/or Services will not be applied or used by Buyer or its customers in such a way as to detract materially from their safety in use, including, without limitation, in the manufacture of a product of which Seller's Products and/or Services will be a component and that it is Buyer's responsibility to assure that such Products and/or Services, when installed and put in use, will be in compliance with safety requirements fixed by applicable law and will be otherwise legally adequate to safeguard against injuries to persons or property. Buyer hereby agrees to indemnify, hold harmless and defend seller, and its directors, officers, employees, and agents against any and all loss, cost, damages, claims, liabilities or expenses, including but not limited to, reasonable attorney's fees, arising out or resulting from any injury to any person, damage to any property, or any pollution or contamination, caused by the inadequacy for the buyer's intended use of the safety features, devices or characteristics of the products and/or services, except claims solely for repair or replacement of defective parts covered by the warranty set forth above. Buyer represents that it has liability insurance coverage, in sufficient and adequate amounts, to support its indemnification obligations assumed under this Agreement.

16. GENERAL:

- A. (a) Representations, warranties, promises, or guarantees not contained herein and/or any modifications to this Agreement shall have no force and effect unless in writing signed by Seller and Buyer, (b) if any part or provision is deemed to be contrary to, prohibited by, held unenforceable, invalid or in conflict with the laws or regulations of any jurisdiction, such provision shall be deemed inapplicable and omitted to the extent contrary, prohibited or invalid, but the validity of the remaining parts or provisions shall not be affected and shall be given effect so far as possible.

17. ARBITRATION

- A. If any controversy or claim arising out of or relating to this agreement or the breach thereof is not resolved within 30 days after it arises, the disputed matter shall be settled by arbitration in the City of Schenectady, New York, in accordance with the rules, then obtaining, of the American Arbitration Association. Judgment upon the award may be entered in any court of competent jurisdiction in the State of New York.
- B. All transactions governed by these terms and conditions shall be governed by the substantive laws of the State of New York, without regard to the conflict of laws rules, and all parties consent to the jurisdiction of the courts of the State of New York to adjudicate any disputes amongst them. If a Customer is located in a country which is a party to the Convention on the International Sale of Goods, the applicability of that Convention is hereby excluded.



18. ADDITIONAL CHARGES:

- A. If repair parts, substitutions or additional Products and/or Services are purchased by Buyer, these terms and conditions shall apply as if originally purchased hereunder. Seller reserves the right to discontinue the manufacture of or change or modify any Product design or construction. Seller's Product, designs, dimensions and weights as shown in Seller's catalogs are subject to variation.

19. TERMINATION BY SELLER:

- A. Upon written notice to Buyer, Seller may terminate all or any part of the Agreement or suspend performance under the Agreement, without any liability to Buyer, (a) if Buyer (i) repudiates, breaches, or threatens to breach any of the terms of the Agreement, (ii) fails to accept or threatens not to accept Products and/or Services in accordance with the Agreement, or (iii) fails to make timely payment, or (b) upon the occurrence or threat of insolvency or bankruptcy of Buyer. Upon termination of the Agreement by Seller: (A) Seller shall be relieved of any further obligation to Buyer; (B) Buyer shall be liable to Seller for the immediate payment of amounts then billed to date by Seller to Buyer; (C) Buyer shall purchase and pay Seller immediately for all unique raw materials, work in process and finished goods under the Agreement; (D) Buyer shall reimburse Seller for any unreimbursed and unamortized research and development costs, capital equipment, and supplies that are unique to the Product(s) and/or Services; and (E) Buyer shall reimburse Seller for all preparation and other expenses incurred by Seller or its subcontractors in connection with the Agreement and for all other losses or costs arising from termination.

20. BUYER REPUDIATION:

- A. Buyer may not terminate this Agreement without Seller's prior written consent and in such event or if Buyer otherwise repudiates this Agreement, Buyer shall be liable to Seller for all of its costs and other commitments incurred to the repudiation date, plus its incidental damages and the profit Seller would have made from full performance of this Agreement.

21. CHANGES

- A. Customer may, at any time, by written Change Order signed by its authorized purchasing representative, request Seller to make changes within the general scope of this contract in any one or more of the following: (i) drawings, designs, or specifications; (ii) method of shipment or packing; (iii) place of inspection, delivery or acceptance; (iv) description of services to be performed; (v) composite material to be processed; (vi) time of performance of services (i.e. hours of the day, days of the week, etc.); (vii) place of performance of services; or (viii) delivery schedule of goods to be delivered or services to be performed, etc.. Any and all customer change orders must be acknowledged, in writing, by Seller before any of the outlined conditions apply.
- B. If any such written Change Order causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under contract, whether or not changed by the requested Change Order, the contract price, the delivery schedule, or both, may be equitably adjusted, and the parties will modify the contract in writing.
- C. Unless otherwise agreed in writing, Seller must assert its right to an adjustment under this clause within 60 days from the date of receipt of the written Change Order. However, Customer may consider any claim regardless of when asserted. If Seller's proposal includes the cost of property made obsolete or excess by change, Customer will have the right to prescribe the manner of disposition of the property.
- D. Notwithstanding any dispute under this Article, Seller will proceed with performance of the contract as changed.

22. GOVERNING LAW:

- A. This Agreement is construed to be between merchants and governed under the laws, and exclusive jurisdiction, of the state in which the Seller is located, without regard to its conflicts of laws rules. The prevailing party in litigation, including any appeal or review, will be entitled to recover reasonable attorney fees and costs.

23. ASSIGNMENT:

- A. Seller reserves the right to approve and accept Buyer's assignee of this Agreement prior to assignment. Failure to obtain consent entitles Seller to cancel the Agreement upon written notice. Buyer agrees that Seller has the right to assign this Agreement to any of its affiliates and subcontract any work provided herein.

24. DELIVERY AND ACCEPTANCE:

- A. Deliveries are scheduled after order receipt and clarification of required technical information, including Buyer approval of drawings when required. Shipping dates are estimates, made to the best of Seller's ability based on conditions prevailing at the time of quotation, and are not guaranteed. Delivery to a carrier shall constitute delivery to Buyer. Buyer must immediately inspect or provide for immediate inspections upon delivery. All



claims for alleged defects are waived and Buyer shall be deemed to have accepted the goods, unless Seller is notified in writing of the claim within thirty (30) days after receipt of the goods. The scheduled delivery date shall be that date acknowledged to Customer by Seller. Seller shall use its best efforts to meet the scheduled delivery date but shall not be responsible for any delays in delivery beyond its control. Seller shall be released from any delivery time obligations if: (a) information, including but not limited to, data, drawings, schemes, or diagrams, necessary for Products and/or Services design, manufacture, supply or delivery is not timely received from Buyer, is incomplete, or contains inaccuracies, (b) Buyer fails to perform any of its obligations under this Agreement, (c) unanticipated or different Product tests, controls or inspections must be conducted, and (d) Buyer requests variations.

B. Shipment INCOTERMS will be FCA TSS Albany. Seller will ship by the method requested by the customer.

25. GOODS FOR EXPORT:

A. Sales of products may be subject to U.S. export control laws, and shipment is conditional upon full compliance therewith and, if required, the obtaining of an export license. If products cannot be shipped due to failure to obtain an export license or other necessary determination for compliance, Customer remains obligated to pay Seller the contract price for the products. Seller presumes goods shipped to a US location are destined for ultimate delivery in the U.S. Buyer shall disclose the true and ultimate destination of the goods. If goods are exported without its knowledge, Seller shall not be liable for any repercussions from lack of this knowledge.

26. SUPPLY:

A. This Agreement is not a supply contract for the ongoing sale of Products, but a discrete sale for a quantity of Products and/or Services as defined by this document. Any supply arrangement shall be covered by a separate agreement.

27. PROPRIETARY INFORMATION:

A. The parties shall keep and maintain confidential all Proprietary Information (defined as all business and technical information made available, directly or indirectly, to the other party). The parties agree to defend, indemnify and hold each other harmless from all claims arising from a breach of this confidentiality obligation, which shall survive termination of this Agreement.

28. DRAWINGS / SPECIFICATIONS:

A. Buyer shall be responsible for the accuracy of any designs, drawings, and specifications it provides and shall hold Seller harmless from any and all costs or expenses Seller incurred due to errors or mistakes.