

ARTAZN LLC  
TERMS AND CONDITIONS OF SALE

Seller agrees to sell Products to Buyer according to the following Terms and Conditions (“Terms”).

1. General. The term “Seller” means Artazn LLC, or its duly authorized representative. The term “Buyer” means the person or entity purchasing Products hereunder. The term “Products” means the materials and related products designated on the face hereof to be provided hereunder to Buyer by Seller.
2. Acceptance. Placement of an order by Buyer or acceptance by Buyer of any Products provided hereunder shall constitute acceptance by buyer of these Terms. All PURCHASE ORDERS ARE ACCEPTED BY SELLER SUBJECT TO THESE TERMS. CONDITIONS STATED BY BUYER IN ANY OTHER COMMUNICATION PRIOR OR SUBSEQUENT HERETO SHALL NOT BE BINDING ON SELLER IF IN CONFLICT WITH OR IN ADDITION TO ANY OF THE PROVISIONS OF THESE TERMS UNLESS EXPRESSLY AGREED TO IN WRITING BY SELLER. Any representations made by sales representatives, employees or agents of Seller inconsistent with these Terms shall not be binding on Seller, and Buyer shall not rely thereon.
3. Price; Taxes. All prices are quoted in U.S. dollars subject to change at time of order placement. Orders calling for delivery after thirty (30) days will be billed according to the price in effect at the time of shipment unless otherwise agreed to in writing by Seller. Prices for sales within the U.S.A. are quoted F.O.B. Seller’s facility unless otherwise stated; international sales are quoted FCA (Incoterms 2000) Seller’s facility, unless otherwise stated. Seller reserves the right to pass on surcharges and other adjustments related to changes in the price of raw materials, labor, transportation costs, and packaging and to make corrections in price quotations due to typographical, engineering, or other errors, or resulting from incomplete or inaccurate information supplied by Buyer. Stated prices do not include taxes of any nature. Any sales, use or excise tax or similar governmental charge applicable to Products sold hereunder shall be paid by Buyer and the failure by Buyer to do so shall be a breach of this contract.
4. Shipment; Risk of Loss. All Products are sold F.O.B. Seller’s facility for domestic sales and FCA (Incoterms 2000) Seller’s facility for international sales, unless otherwise stated. The method and route of shipment are at Seller’s discretion unless Buyer timely supplies explicit instructions otherwise. Seller shall tender delivery of all goods to a carrier for transportation to Buyer’s place of business but all costs of handling, transportation, and shipment shall be borne by Buyer. Any and all claims for loss, damage, or delay in handling, transportation, or shipment must be made by Buyer against the carrier. In the event Seller advances shipping or related costs (which it assumes no obligation to do), Buyer shall reimburse Seller for such advances in full at the time of payment for the Products. All risk of loss shall pass to Buyer when the Products are made available to the carrier at Seller’s facility, even though Seller may have made nonconforming tender or Buyer attempts to revoke acceptance of the Products or Buyer repudiates this contract after the Products have been identified hereto.
5. Delivery; Delays. Delivery dates are determined from the later of receipt of written purchase order or receipt of material, if Buyer is to furnish material. All stated delivery dates are approximate. Seller shall endeavor, as far as practicable, to make scheduled deliveries, but if for any cause Seller shall fail to make such deliveries or shall fail to make them within the time stated in the purchase order, or shall cancel any order, Seller shall not be liable for any loss or damage, whether direct, indirect, incidental, consequential, special, or otherwise, resulting from any such failure or delay in delivery or from cancellation of any such order or for loss of use or loss of profits. Penalty clauses for failure to meet shipment dates are not acceptable without Seller’s prior express written consent. If Seller determines that Buyer’s credit has become unsatisfactory to it at any time, Seller shall have the right to decline to make further deliveries hereunder except for cash until such time as said credit has become reestablished to Seller’s satisfaction.
6. Inspection and Acceptance of Products. Buyer shall have fifteen (15) business days after receipt of the Products (the “Rejection Period”) to inspect and either accept or reject them. Failure to inspect and/or reject the Products within the Rejection Period shall constitute a waiver of Buyer’s right of inspection and an irrevocable acceptance of the Products and Buyer shall be bound to accept and pay for the Products in accordance with these Terms. To reject any nonconforming Products, Buyer must immediately (and, in any event, within the Rejection Period) notify Seller in writing that Buyer considers the Products nonconforming. Such notification shall identify each and every alleged nonconformity and describe that portion of the shipment being rejected. Failure of Buyer to give such notice within the Rejection Period shall constitute an unqualified acceptance of the Products by Buyer and a waiver of any and all claims by Buyer for nonconforming Product or

delivery and Buyer shall be bound to pay for the Products in accordance with these Terms. Before returning any Products to Seller, Buyer must obtain written authorization from Seller.

7. Payment. Payment in full for all Products sold hereunder shall be in U.S. dollars, unless otherwise agreed to in writing by Seller, and is due from Buyer to Seller net thirty (30) days from date of invoice. All accounts which remain unpaid for more than thirty (30) days after the due date shall bear a late payment charge at the rate of 1½% per month (18% per annum), or the maximum legal rate, whichever is less, assessed against the unpaid balance from the due date until date of payment. This late payment charge shall accrue and be added to the unpaid balance and shall be subject to further late payment charges. Buyer shall reimburse Seller for any costs incurred in collecting past due sums or any other amounts owed by Buyer for any reason whatsoever, including but not limited to court costs and attorneys' fees. Failure by Buyer to pay any invoice when due automatically makes all subsequent invoices immediately due and payable irrespective of otherwise applicable terms, and Seller may withhold all subsequent deliveries until the full account of Buyer is settled. Acceptance by Seller of less than full payment shall not constitute a waiver of any of its' rights.
8. Buyer's Solvency; Security Interest. By placing an order with Seller or by accepting Products delivered by Seller, Buyer represents that it is not "insolvent" as that term is defined under applicable state and federal laws. In the event that Buyer becomes insolvent before delivery of the Products, Buyer shall immediately notify Seller. Failure to so notify Seller shall be construed as reaffirmation by Buyer of Buyer's solvency at the time of delivery. Seller may stop delivery of the Products by a carrier if Buyer becomes insolvent, repudiates, or fails to make payment due before delivery or if for any other reason. Seller has a right to withhold or reclaim the goods under this contract or applicable law. Seller shall have such right to stop delivery of the Products regardless of whether they are to be shipped directly to Buyer or to some third party as may be designated by Buyer. Notwithstanding any other provision to the contrary, Seller reserves the right to ship Products to Buyer under reservation. To secure payment of the purchase price for Products sold hereunder, Buyer hereby grants to Seller a purchase money security interest in all such Products and proceeds thereof and authorizes Seller to sign and file any financing statements and take such other action as may be necessary or desirable to perfect such security interest.
9. Cancellation and Change Order Policy. Any order placed with and accepted by Seller may be cancelled or modified by Buyer only with the written consent of Seller. Buyer shall pay to Seller a reasonable cancellation charge or change charge based upon expenses already incurred and any additional expenses/commitments incurred by Seller. Changes and modifications to original orders will result in appropriate extensions of delivery dates. Seller may cancel all or any part of this order and discontinue its performance hereunder without liability to Buyer in the event (a) Buyer materially breaches this contract, becomes insolvent, files or is the subject of a bankruptcy, or is the subject of receivership, liquidation, dissolution, or similar proceeding or (b) a significant portion of Buyer's assets necessary for the conduct of its business becomes subject to attachment, embargo, or expropriation. Upon such cancellation by Seller, Buyer shall reimburse Seller for all expenses or costs incurred to the date of cancellation, and shall pay a reasonable cancellation charge.
10. Patents. Seller warrants that the Products (other than Products designed or manufactured by others) do not infringe any valid U.S. patent; provided however, Seller does not warrant that the use of such Products or Products produced according to Buyer's specifications will not infringe a valid U.S. patent or a patent registered in any other country. Seller agrees to defend any suit or proceeding brought against Buyer, if notified promptly in writing and given full authority, information, and assistance for such defense, so far as (a) such action is based on a claim for breach of the warranty in the preceding sentence, and (b) the alleged infringement involves only the Products and not as a part of any combination of other devices or parts. Seller shall be entitled to settle or otherwise dispose of any such action as it sees fit.
11. Limited Warranty. Seller warrants that the Products delivered to Buyer hereunder shall conform to the specifications of this contract; if any; otherwise, they shall conform to Seller's standard specifications. Seller's limited warranty shall not be enlarged or affected by and no liability or obligation shall arise from; (a) Buyer's modification, refabrication, remanufacture, or conversion of Seller's Product into any project of or use by Buyer; or (b) Seller's rendering of technical or other advice, or of service in connection with its Products. THIS LIMITED WARRANTY IS EXPRESSLY MADE IN LEIU OF ANY AND ALL OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WHICH ARE HEREBY DISCLAIMED. This warranty is afforded by Seller only to Buyer. If Buyer elects to afford any warranty to its customers, Seller shall have no liability whatsoever in connection therewith. Employees, agents, distributors, retailers, and sales representatives are not authorized

to make warranties; oral or written statements by them do not constitute warranties and shall not be relied upon.

12. Limitation of Remedy and Damages. Seller's entire liability and Buyer's sole and exclusive remedy for any and all losses and damages for any cause of action arising out of this contract, whether based on contract, negligence, or otherwise with respect to the Products shall be limited, at Seller's option, to replacement of the nonconforming or defective Products or credit to Buyer in an amount not to exceed the purchase price of such Products less scrap value. Buyer must make all claims for defective Products, breach of the limited warranty herein, or for any breach of this contract, in writing within sixty (60) days of receipt of the Products. Failure to make such claims within sixty (60) days of receipt will be deemed a waiver of those claims. Buyer shall give the Seller a full and reasonable opportunity to investigate all claims and reasonable opportunity to correct the problem. IN NO EVENT SHALL SELLER BE AT LAW OR IN EQUITY LIABLE FOR ANY LOSS, LIABILITY, DAMAGE OR EXPENSE IN AN AMOUNT IN EXCESS OF THE PURCHASE PRICE OF THE PRODUCT LESS SCRAP VALUE OR PART ON WHICH SUCH LIABILITY IS BASED OR FOR LOSS OF USE OR PROFITS, LOSS OF BUSINESS, EXPENSES OR COSTS ARISING FROM OR ALLEGED TO ARISE FROM BUSINESS INTERRUPTION, ATTORNEY'S FEES OR CONSEQUENTIAL, INCIDENTAL, INDIRECT OR SPECIAL DAMAGES CAUSED OR ALLEGED TO BE CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE, TORT, STRICT LIABILITY, BREACH OF CONTRACT, BREACH OF WARRANTY OR OTHER BREACH OF DUTY OF OR BY SELLER.
13. Indemnification by Buyer. Buyer expressly agrees to defend, indemnify and hold harmless Seller and its affiliated or related companies, and their successors, assigns, directors, officers, employees, representatives and agents (each an "Indemnitee") from and against any and all claims, losses, liability, damages and expenses including but not limited to attorney's fees and costs of defense (collectively, "Claims" and individually, "Claim") arising from, related to, or in any way connected with or alleged to arise from or out of (a) any asserted deficiencies or defects in the Products caused by any alteration or modification thereof by Buyer with or without Seller's consent, or improper handling or storage by Buyer, (b) the breach of any term or condition stated herein, (c) Buyer's failure to label the Products or Buyer's improper labeling of the Products regardless of whether the labeling was done with or without the advice of Seller, or (d) any act of omission of Buyer; including without limiting the generality of the foregoing, any Claims for or resulting from any injury to person (including death) or damage to property (including loss of use thereof and consequential damages therefrom) or for economic loss; and irrespective of whether such Claim is caused, or alleged to be caused, in whole or in part by the negligence, breach of contract or warranty, or any other breach of duty by Seller, or whether such Claim is asserted under a strict or other product liability theory or any other legal theory, or whether it is alleged that Seller or agents of Seller, in any way contributed to the alleged wrongdoing, or is liable due to a nondelegable duty, incurred or sustained by Indemnitees or any of them as a result of injury to persons or damage to or loss of property. THIS INDEMNITY SHALL BE BROADLY CONSTRUED, SHALL APPLY TO THE FULLEST EXTENT ALLOWED BY LAW, AND SHALL APPLY REGARDLESS OF WHETHER IT IS ALLEGED THAT THE INDEMNITEES WERE SOLELY NEGLIGENT, THAT BUYER WAS SOLELY NEGLIGENT, THAT THE INDEMNITEES AND THE BUYER WERE JOINTLY NEGLIGENT, OR OTHERWISE; provided, however Buyer may not be obligated to indemnify Indemnitees for sole negligence or willful misconduct where such indemnification is contrary to law. The foregoing indemnification shall not be construed to eliminate or in any way reduce any other indemnification or right which any Indemnitee has by law.
14. Setoff. Neither Buyer nor any assignee of Buyer shall have a right to claim compensation or to set off against any amounts which become payable to Seller under this contract or otherwise.
15. Waiver. Failure of Seller to enforce at any time of the provisions of these Terms, irrespective of any previous action or proceedings taken by it, shall in no way be considered (a) to waive such provisions, (b) to affect the validity of these Terms, or (c) to preclude or prejudice Seller from exercising the same or any other rights it may have hereunder.
16. Limitations of Actions. Any action by or on behalf of Buyer or its successors or assignees for breach of these Terms must be commenced within one (1) year after the cause of action has accrued.
17. Force Majeure. Notwithstanding any provision hereof to the contrary, Seller shall not be liable in any respect for failure or delay in the performance of any obligations hereunder if such failure or delay is due wholly or in part to (a) a shortage of material, transportation, or utility services for whatever reason, (b) any labor or production shortage or difficulty of Seller or of any source supplying materials or components to Seller, including without limitation any strike, lockout or similar disturbance, (c) any governmental action, inaction,

delay or restraint, (d) any war, insurrection, terrorist act or acts, or similar occurrence, or (e) any explosion, fire, storm, flood or other act of God, or any other cause, whether or not of the kind specifically enumerated above or otherwise beyond Seller's reasonable control or occurring without Seller's fault or negligence.

18. Export Compliance. Buyer shall comply with all applicable export control laws, and shall not export, re-export or divert the Products to any restricted or embargoed person, entity or country. Buyer represents that it is not on the U.S. Denial Order Table or Specialty Designated Nationals List and that it will not sell or transfer the Products to any such party and that it will promptly notify Seller if it is placed on any such lists.
19. Assignment. Buyer may not assign, transfer or sell all or any of its rights or delegate all or any of its obligations hereunder without the prior written consent of Seller. Subject to these restrictions, these Terms shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.
20. Severability, Termination, Effect on Price. Should any paragraph, sentence, term or other provision of this contract be invalid or unenforceable under the law of the place where it is to be performed or be declared invalid or unenforceable by a court or other competent authority having jurisdiction over the matter, Seller may elect to either (a) terminate this contract if not fully performed by it, or (b) consider this contract severable as to such provision and such provision shall thereafter be deemed severed and inoperative. In such latter event, the remainder of this contract shall be in full force and effect as if such severed provision were never part of the same. In addition, if such severance shall have an adverse financial impact on Seller, Seller shall have further right to an appropriate upward adjustment in the price of Products sold or to be sold hereunder.
21. Choice of Law and Forum; Jurisdiction. The parties hereto expressly agree that these Terms shall be a contract made and entered into in the State of Tennessee and shall be governed by the laws of the State of Tennessee, notwithstanding any state's choice of law rules to the contrary. Any dispute arising under or related to this contract shall be brought only in a state or federal court of competent jurisdiction sitting in the State of Tennessee. The parties hereto agree to waive trial by jury in all proceedings. BUYER CONSENTS IRREVOCABLY TO THE JURISDICTION OF THE TENNESSEE COURTS OVER ITS PERSON IN THE EVENT THAT SELLER ELECTS TO INSTITUTE LITIGATION AGAINST BUYER IN TENNESSEE PERTAINING TO ANY TRANSACTIONS BETWEEN OR BUSINESS RELATIONSHIP OF THE PARTIES. Service of process may be made upon Buyer as provided by Tennessee law, or shall be considered effective if served by certified mail, return receipt requested, or express courier.