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TERMS AND CONDITIONS OF SALE FOR CASCO PRODUCTS

1 Scope of Application, Contract Partners, Exclusive Application

1.1 Any offers and products supplied by Casco shall be governed exclusively. By the following Terms and Conditions. Whenever the first contract is concluded between Casco and customer it shall be agreed that these Terms and Conditions of Sale shall apply to all subsequent business – including any business agreed verbally, in particular but without limitation by telephone. Any terms and conditions of purchase or other conditions of the customer are not accepted. They shall not form part of the agreement unless Casco expressly agrees to them in writing in the order confirmation. This shall apply even if Casco supplies the customer unconditionally although Casco is aware of the customer's conflicting or deviating conditions.

1.2 These Terms and Conditions of Sale shall apply *mutatis mutandis* to any development contract accepted by Casco to the extent that no deviating agreement has been reached.

1.3 Any side or special agreements reached prior to the conclusion of a contract shall only form part of the agreement in the event that they are included in the written order confirmation. No verbal side agreements are valid. Any subsequent changes or derogations are required to be in writing.

2 Offer, Conclusion of Contract

2.1 Any offers made by Casco are not binding. Any details given in offers, data sheets and other product information do not constitute warranted characteristics, unless a warranty has been expressly agreed in writing.

2.2 A contract is concluded when Casco confirms the order or delivers the goods.

2.3 The customer shall be bound by any order placed for a period of three weeks. In the event that the order confirmation differs from the order placed, the customer must object in writing without delay but in any event within a period of 7 working days after the date of the order confirmation. Otherwise the contract shall be deemed to have been concluded upon the terms and conditions stipulated in the order confirmation.

3. Prices, Payment Conditions

3.1 Payment terms are net 30 days from the date of invoice.

3.2 Prices do not include the costs of crating, carriage and insurance, any import or export duties (customs) or value added tax in the statutory amount on the date the invoice is issued "ex works", (Inco terms 1990). Any costs for sorting, special transportation or repackaging as well as handling and administrative costs shall be assumed by Casco only if this has been previously agreed in writing.

3.3 Casco reserves the right to change its prices due to any interim increase in costs, in particular but without limitation due to any unforeseen increase in raw materials, any exchange rate fluctuation, currency regulations, any change in customer's duties and similar factors, which are not within Casco's control. Any changes in the exchange rate shall not entitle the customer to cancel the contract.

4. Late Payment

4.1 In the event that it transpires after a contract has been concluded that the customer's financial situation is so bad that the customer will probably not be in a position to meet material contractual obligations, or in the event that the customer is more than 4 weeks in arrears with a payment or in the event that the customer permits a bill of exchange or check which has been accepted by Casco to be protested, Casco may, without prejudice to its other rights:

4.2 demand that any and all outstanding invoices become immediately payable;

4.3 withhold any and all supplies or services under any contracts which have not yet been performed and cancel any contracts in the event that the customer is not willing to perform its obligations concurrently, despite being requested to do so, or is not willing to provide security:

4.4 assert any and all of its rights under the reservation of title (Clause 9).

4.5 Casco is entitled to demand interest on arrears at a rate of 8% above the base Interest rate applicable at any given time as damages due to delay in performance. This shall be without prejudice to any other rights of Casco to claim damages.

5. Forecast of Supply Requirements, Delivery and Delivery Time, Self-Delivery

5.1 The customer must provide Casco with a rolling forecast of supply requirements for periods of 6 month each. On the basis of said forecasts Casco shall be entitled to manufacture products for a period of 6 weeks in advance and to order material for a further period of 12 weeks thereafter. Unless the customer cancels the quantities stipulated in a forecast of supply requirements prior to commencement of the aforementioned periods, the customer shall be under an obligation to accept the goods manufactured by Casco in accordance with said forecasts and shall be under a duty to reimburse Casco for any costs incurred thereby.

5.2 There shall be no fault in delivery – even in the event that the delivery dates are binding – unless the customer has issued a reminder. The delivery date shall be deemed to have been observed provided that, by the time it expires, the goods ordered have left the works/warehouse or notification has been given that the goods are ready for dispatch.

5.3 In the event that an agreed delivery date is not complied with due to force majeure, industrial action, fire, machine failure, unforeseeable obstacles or other circumstances for which Casco is not responsible, the delivery time shall be extended by the duration of said events. This shall apply mutatis mutandis in the event that Casco is in default with delivery at the time when any such event occurs.

5.4 In the event of a delay within the meaning of Clause 5.3 of more than 3 months both Casco and the customer shall be entitled to cancel the contract. In the event that the delivery date is not complied with for reasons other than those stipulated in Clause 5.3 only the customer shall be entitled to cancel the contract.

5.5 It shall be a prerequisite for any cancellation by the customer that the customer has in writing granted Casco a reasonable grace period for performance (of at least 3 weeks) together with notice that the customer will refuse to accept performance after expiry of the grace period. In the event of any delay with a partial delivery the customer shall be entitled to cancel the entire contract only in the event that the partial performance is of no interest to the customer.

5.6 Any claims for consequential or incidental damages because of delay or impossibility, even any delay or impossibility which has occurred up to cancellation of the contract, are excluded pursuant to the provisions in Clauses 10 and 11.

5.7 Casco shall not be in delay in performance in the event that a sub-supplier, with whom a contract was concluded for covering goods, fails to perform or fails to perform on time.

6 Passing of Risk and Acceptance

6.1 The delivery is made ex-factory/warehouse at the risk and for the account of the customer ("ex works", Incoterms 1990).

6.2 The risk shall pass to the customer upon acceptance of the goods, otherwise upon delivery of the goods to the carrier even in the event that partial delivery is made or Casco has assumed additional services, e.g. the transport costs or carriage.

6.3 The customer is under an obligation to accept the goods upon delivery, but in any event within eight days after receipt of notification that the goods are available at the agreed place of acceptance.

6.4 In the event that the customer is late with accepting the goods or the delivery is delayed due to other circumstances for which the customer is responsible, the risk shall pass to the customer at said point in time

and, in addition, the purchase price shall in such event become payable. The customer shall bear the costs of storing the goods at Casco or any third party. This shall be without prejudice to the right to any further right to claim damages from the customer.

7. Warranty

7.1 In the event of any warranty case the customer shall be entitled to the rights described below. In addition the parties can in individual cases agree product-related technical factors required for the acknowledgment of a claim. Deviations in quality which are usual in the trade as well as tolerances in color, quantity and weight do not constitute a defect unless express warranty has been given.

7.2 Any demands for reverse payment by the customer shall be accepted by Casco only after prior consultation with and the written agreement of Casco. It shall be a prerequisite for raising any warranty claim that the customer provides Casco with the goods being complained about within one week after the defect has arisen. In the event that this deadline is not complied with Casco reserves the right to reject the demands for reverse payment by the customer. In the event that there is a defect in the purchased goods for which Casco is responsible Casco shall, at its option, be entitled to provide a replacement or to repair the goods.

7.3 In the event that Casco is not prepared or is not in a position to provide a replacement or to repair the goods or in the event that any such action is unreasonably delayed for reasons for which Casco is responsible or in the event that any such actions fails for any other reason, the customer shall, at his option, be entitled to demand rescission (reversal of the contract) or an appropriate reduction in the purchase price (reduction).

7.4 By separate agreement Casco can accept and assume tool maintenance. Tool repair costs shall not be borne by Casco.

7.5 The warranty period shall end 12 months after the registration date but in any event no later than 18 months after delivery by Casco. Any agreements in derogation from this are required to be in writing.

7.6 Once a series has been phased out Casco guarantees that spare parts will continue to be supplied by individual agreement for a maximum of 10 years. The fixed prices for standard parts will not be apply to these spare parts.

7.7 Warranty claims against Casco shall be accepted only up to the value of the goods.

7.8 Within the scope of the provision in Clause 8, Casco disclaims any further liability towards the customer on the grounds of any defects in the delivery or in the performance.

8. Liability

8.1 Casco shall be responsible in the event that Casco, its statutory representatives, employees or agents have acted intentionally or grossly negligently or in the event that the claim for damages is due to a breach of a warranted characteristic. Casco shall be responsible in the same way in the event that Casco, one of its statutory representatives, employees or agents carelessly breaches an obligation which is of material importance for achieving the purpose of the contract. Any other claims against Casco for damages, irrespective of the legal cause of action, in particular any claim based on late performance, a breach of consulting or contractual ancillary obligations, pre-contractual obligations, a positive breach of contract, an infringement of any third party intellectual property rights or tort, shall be precluded.

8.2 Casco's liability shall be unlimited if the event causing damage was caused intentionally or grossly negligently by Casco, its statutory representatives or agents. In all other cases, the claim for damages shall be limited to the foreseeable damage. The payment of consequential and incidental damages such as lost profit shall in any event be precluded.

8.3 All claims against Casco for damages shall be time-barred unless made within 6 months after delivery. This shall not apply to claims in tort, which shall be governed by the applicable state of limitations.

8.4 To the extent that Casco's liability is excluded, such exclusion shall also apply to the personal liability of Casco's employees, representatives and agents.

9. Reservation of Title

9.1 Casco reserves title to goods delivered by the customer until such goods have been paid for in full. This reservation of title extends to any and all receivables which have already accrued at the time when the contract is concluded; it also extends to any and all receivables under subsequent transaction (reserved goods).

9.2 The customer is not entitled to pledge the reserved goods or transfer them as security. The customer is under an obligation to reserve title to the goods in the event that the customer resells the reserved goods.

9.3 In the event that the reserved goods are indivisibly combined (processed or mixed) with any article which does not belong to Casco, Casco shall acquire co-ownership of the new article in the proportion which the value of the reserved goods has to the other articles with which they are combined at the time they are combined. In the event that the goods are combined in such a manner that the new article is considered to be the main article, it shall be deemed to be agreed that the customer will transfer proportionate co-ownership to Casco. The customer shall keep the sole ownership or co-ownership thus created safe for Casco.

9.4 The customer shall be entitled to resell the reserved goods in the ordinary course of business. The customer now already cedes to Casco any and all claims to which the customer is entitled or rights to remuneration (e.g. under tort or any insurance claim) due to the resale or any other cause of action concerning the reserved goods in the amount of the invoice value of the reserved goods. This cession shall apply irrespective of whether the reserved goods were sold without or after having been processed/mixed. The customer shall be entitled to collect the ceded receivables in the customer's own name.

9.5 Casco may revoke the customer's authorization to resell the goods and authorization to collect the receivables in the event that one of the cases described in Clause 4.1 applies to the customer or in the event that a petition to commence insolvency proceedings is filed in respect of the customer's assets. In such event the customer shall be under a duty to tell Casco the names of the third-party debtors and their respective debts and to provide Casco with all of the documents necessary to collect debts.

9.6 In the event that any third party has access to the reserved goods the customer must point out Casco's title rights and must inform Casco in writing forthwith enclosing any bailiff's record of attachment. In the event that the customer fails to inform Casco accordingly, the customer shall be liable for any damage caused to Casco thereby.

9.7 In the event that the realizable value of the collateral, to which Casco is entitled by reason of the reservation of title, exceeds the total debt owed to Casco by the customer by more than 20%, Casco shall be under obligation, upon the request of the customer, to release collateral to which Casco is entitled under this agreement, at its option, up to the aforementioned value threshold.

9.8 In the event that Casco requires the reserved goods to be surrendered, such requirement shall not be deemed to constitute rescission of the supply contract. Once the reserved goods have been surrendered Casco shall be entitled to realize said goods without prior notice. The costs of realization shall be borne by the customer. The realization proceeds subject to a deduction of 15% of the realization proceeds as flat rate costs of realization shall be credited against the customer's liabilities. The second sentence of Clause 4.5 shall apply *mutatis mutandis*.

10. Limitation of Damages

10.1 UNDER NO CIRCUMSTANCES WILL EITHER SELLER OR BUYER BE LIABLE TO THE OTHER FOR SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER.

11. Cancellation

11.1 Requests for cancellation of any order by the Buyer must be in writing and if accepted by Seller, be subject to payments by Buyer on the following basis:

11.2 Any item which upon receipt of a written notice of cancellation are within thirty calendar days of completion are to be completed and paid for by the Buyer in full under regular terms and conditions of billing. On all items for which materials have been purchased but on which no actual production is started payment will be made on the basis of actual cost of materials purchased plus 15% on the total of such costs and expenses. On all items already entered for production and which are not within thirty calendar days of completion, payment will be made on the basis of actual cost of labor (including without limitation engineering services), materials and suppliers applied to the production of such items plus overhead expenses allocated in accordance with generally accepted accounting practice as applied by Seller, plus 15% on the total of such costs and expenses; provided the total shall not exceed 90% of the contract price. In the event of cancellation of incomplete equipment, Seller's figures shall be accepted as final and conclusive and Buyer's request for disposition of the material cancelled shall be given to the Seller within thirty calendar days from date of notice to Buyer of the cost of cancellation. Buyer's failure to request final disposition of cancelled material within said thirty days shall be conclusive evidence of Buyer's agreement that Seller may dispose of the cancelled material as it sees fit without obligation of any nature by Seller to Buyer.

12. Assignment and Non-Waiver

12.1 This contract is not assignable or transferable by Buyer whether voluntary or by operation of law, in whole or in part without the prior consent of Seller.

12.2 Seller's failure to insist upon strict performance of any provision hereof shall not be deemed to be a waiver of Seller's rights or remedies or a waiver by Seller of any subsequent default by buyer in the performance of or compliance with any of the terms hereof.

13. Separate Contract

Each delivery shall stand and may be recovered for as a separate and independent contract. If Buyer fails to fulfill the terms of order, purchase, or payment under this or any other contract with Seller, Seller without prejudice to other lawful remedies may at its option defer further shipments hereunder until such default is made good, treat such default as a breach of this entire contract or terminate this contract.

14. Entire Contract and Construction

14.1 The agreement between Buyer and Seller in respect of the goods identified on the attached Purchase Quotation hereof consists in its entirety of the terms and conditions appearing on the attached Purchase Quotation in lieu of all others and supersedes all previous communications, representations or agreements either oral or written, between the parties hereto with respect to the subject matter hereof. No modification shall be effected by the acknowledgment or acceptance of Buyers purchase order forms or other documents containing terms and conditions different from or in addition to those contained herein.

14.2 Acceptance or use by buyer of any goods delivered hereunder shall be an acceptance of these as the only terms and conditions applying to the purchase and sale of said goods unless other terms and conditions are agreed to in writing by both parties specifically referring to this Agreement.

15. Dispute Resolution

The parties hereby agree to dispute resolution procedures for purposes of this Supply Agreement as follows:

15.1 with respect to any dispute, controversy or claim between the parties arising out of, or in connection with or otherwise relating in any way to this Supply Agreement or the breach, termination or validity hereof or the rights and obligations of the parties hereunder, a party shall first give notice as provided in Section 15 hereof to the other party of the nature of the dispute, its dispute, controversy or claim. The parties shall promptly endeavor to attempt to amicably resolve the dispute;

15.2 in the event that within twenty (20) Business Days after notice of a dispute, claim or controversy is given a resolution is not reached under this Section 15, the dispute, controversy or claim may, thereafter, at the written request of any party involved therein, be submitted for consideration to an executive officer of Seller or Buyer for resolution (hereinafter, the "Mediators"). On a date selected by the Mediators, which date shall not be later than ten (10) Business Days after the date from which one party has served notice on the other, the Mediators shall meet at such location mutually agreed upon by the Mediators and each party shall have up to two hours to present to the Mediators information relating to the dispute, controversy or claim. Within ten (10) Business Days after such date, the Mediators shall confer and propose a resolution of the dispute, controversy or claim. If the mediators are unable to agree upon such resolution, then such dispute, controversy or claim shall be settled by binding arbitration to be held in accordance with the American Arbitration Association Commercial Dispute Rules in effect on the date of this Agreement (the "Arbitration Rules"). Nothing presented to the designated executive officers, nor the fact of such presentation, shall preclude the full review of such dispute, and of any incidental matters, in such arbitration proceedings. In addition, however, the arbitrators may require the parties to produce documents, exhibits, witnesses or other evidence and the failure of a party to produce such evidence may be considered adversely to the party so failing to produce the evidence. Notwithstanding the foregoing, nothing in this Agreement shall preclude any party from seeking injunctive relief from a court with regard to any breach of this Agreement;

15.3 Each party shall appoint an arbitrator and those two Party appointed arbitrators shall appoint a third arbitrator who shall serve as Chairman. If one party fails to appoint an arbitrator or the two Party appointed arbitrators cannot agree on the selection of a Chairman then the selection of an Arbitrator shall be made by the American Arbitration Association pursuant to the Arbitration Rules specified herein.

15.4 The arbitration shall be held in the English language;

- 15.5 The place of arbitration shall be Bridgeport, Connecticut and the award shall be deemed to be a Connecticut award;
- 15.6 The award shall be made and shall be payable in US Dollars, free of any tax or any other deduction;
- 15.7 The substantive laws of the State of New York, United States of America shall apply exclusive of its conflicts of laws rules and the United Nations Convention on the International Sale of Goods ("CISG") shall not apply;
- 15.8 The arbitrator's award shall be in writing and include a written explanation of the reasoning for its decision shall include interest from the date of any breach or other violation of this Agreement. The arbitrators shall also fix an appropriate rate of interest from the date of the breach or other violation to the date when the award is paid in full. In no event, however, shall that interest rate during such period be lower than the prime commercial lending rate of The Bank of New York at its principal office in New York, New York for ninety (90) day loans responsible and substantial commercial borrowers;
- 15.9 The parties agree that the award of the arbitral tribunal shall be the sole and exclusive remedy between them regarding any and all disputes, controversies, claims and counter claims presented to the tribunal;
- 15.10 The arbitrators shall determine the matters in dispute in accordance with the terms of this Agreement and shall not have the power to award punitive, consequential, indirect or special damages of any kind whatsoever;
- 15.11 The parties hereby agree to be bound by the decision of the arbitrator, which shall be final and unappeasable. All fees and expenses of the arbitrators and of the parties in such arbitration (including fees and expenses of counsel) shall be awarded by the arbitrators in proportion to the extent that a party prevails in such arbitration;
- 15.12 Judgment upon any award (including an award of equitable relief) may be entered in any court having jurisdiction or an application may be made to such court for the judicial acceptance of the award and an order enforcement;
- 15.13 Should any party hereto fail to appear or be represented at the arbitration proceedings after due notice in accordance with the Arbitration Rules, then the arbitrators may nevertheless render a decision in the absence of that party, such a decision shall have the same force and effect as if the absent party had been present;
- 15.14 It is intended that disputes, controversies or claims submitted to arbitration under this Section 15 shall remain confidential, and to that end it is agreed by the parties that neither the facts disclosed in the arbitration, this issues arbitrated, nor the views or opinions of any persons concerning them, shall be disclosed to third Persons at any time, except to the extent necessary to enforce an award or judgment or as required by law or in response to legal process or in connection with such arbitration. The parties hereby exclude any right or application or appeal to any court to the extent that they may validly so agree, and in particular in connection with any question of law arising in the course of reference or out of the award;
- 15.15 All notices, requests, demands and other communications required or permitted by this Agreement shall be in writing (including telex, fax or other similar writing) and shall be deemed to have been duly given or on the date of service of facsimile transmission, if served personally or by facsimile transmission, on the date of delivery or transmission upon confirmation of receipt of such transmission, or sent by Federal Express or other similar overnight carrier, addressed as follows:

Accepted By: _____

Name (printed): _____

Title: _____

Date: _____