

STANDARD CONDITION OF SALE

1. LIMITED WARRANTY

CRI-TECH, Inc., hereafter referred to as “SELLER”, produces and sells a full line of fluoroelastomer, silicone, and other products and materials. All such products delivered to the Buyer are warranted to comply with physical and chemical specification data sheets. Seller does not warrant the workmanship with which its products are applied by others and obligates itself to the Buyer only to replace at its option, refund the purchase price of any such product found to be defective. The liability of Seller whether based on its warranties, contracts or otherwise, from any cause whatsoever, shall in no case exceed the purchase price of the Seller’s product and in no event shall Seller be liable for incidental, consequential or punitive damages. THE FOREGOING SHALL CONSTITUTE THE SOLE AND EXCLUSIVE REMEDY OF THE BUYER AND THE SOLE AND EXCLUSIVE LIABILITY OF THE SELLER.

2. PATENTS

- (a) Seller warrants that any material furnished hereunder shall be delivered free of any rightful claim of any third party for infringement of any valid United States patent. If notified promptly in writing and given authority, information and assistance, Seller shall defend, or may settle, as its expense, any suit or proceeding against Buyer so far as it is based on a claimed patent infringement which would result in a breach of this warranty. Seller shall pay all damages and costs awarded therein against Buyer due to such breach. In case any materials in such suit is held to constitute such an infringement and the intended use of said material is enjoined, Seller shall, at its expense and option, either, (1) procure for Buyer the right to continue using said material or (2) replace same with noninfringing material, or (3) modify same so it becomes noninfringing, or (4) remove the material and refund the purchase price and any transportation costs separately paid by Buyer. If Buyer compromises or settles any such without the express written consent of Seller, Seller shall be released from the obligations of this paragraph and from any liability to Buyer under any statute of other rule of law. THE FOREGOING STATES THE ENTIRE LIABILITY OF SELLER FOR PATENT INFRINGEMENT BY ANY MATERIAL SOLD HEREUNDER.
- (b) The preceding paragraph shall not apply to any material produced according to Buyer’s specification or manufactured to Buyer’s design, or to the use of any material furnished hereunder in conjunction with any other product in a combination not furnished by Seller, as part of this transaction. As to any such material, or use in such combination, Seller assumes no liability whatsoever for patent infringement and Buyer shall hold Seller harmless and indemnify Seller against any liability, cost, expense, or loss resulting from such patent infringement, brought against Buyer, its vendees, lessees, licensees, or assignees.

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3. THE WARRANTIES STATED IN 1 AND 2 ABOVE ARE EXCLUSIVE

AND IN LIEU OF ALL OTHER WARRANTIES, WRITTEN OR ORAL, STATUTORY, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS, OR OTHERWISE ARE ACCORDINGLY EXPRESSLY EXCLUDED AND DISCLAIMED.

4. DELIVERY

- (a) Unless otherwise agreed to in writing, title to material passes to Buyer upon delivery to the carrier F.O.B. point of shipment. Risk of loss or damage passes to Buyer upon delivery to the carrier. It is Buyer's responsibility to file claims with the carrier.
- (b) Seller shall not be liable for delay in delivery or failure to manufacture due to causes beyond its reasonable control, or due to acts of God, acts of Buyer, acts of civil or military authority, governmental priorities, strikes, floods, epidemics, war, riot delays in transportation, rail car shortages, or inability to obtain the necessary labor, materials or manufacturing facilities. In the event of such delay, the period of performance by Seller shall be extended for a period equal to the time lost by reason of delay. During any period of shortage due to any of the stated or similar causes, Seller may prorate its supply of material among its internal demand and customer in whatever manner it chooses.
- (c) Seller reserves the privilege of shipping overages or underages of weight and/or quantity and such quantity shall be considered a complete fulfillment of this order.

5. CLAIMS AND LIABILITY

- (a) To preserve any claim it may have, Buyer shall promptly inspect all material delivered hereunder and notify Seller within thirty (30) days of shipment of any non-conforming material.
- (b) The results of test designed to demonstrate that material is non-conforming shall be valid only if (1) test conditions are mutually agreed upon by Buyer and Seller and (2) Seller is given reasonable advance notice of, and is authorized to be present at any such tests.
- (c) In no event shall Seller have any liability for claims by Buyer if suit is not within one year of accrual of claim.
- (d) In the event of a valid claim with respect to material provided hereunder, Seller's sole obligation to Buyer is limited to (at Seller's option) (1) replacement of such material F.O.B. its plant or such other point as it may designate, or (2) refunding the purchase price of the material.

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6. CANCELLATION CHARGES

- (a) Buyer may cancel its shipment or order provided Buyer gives written notice to Seller of the cancellation. If an order or shipment hereunder is cancelled by Buyer, payments shall be made by Buyer based on the purchase price and the percentage of completion of the material as determined by Seller.

If shipments are delayed by Buyer, payments shall become due on the date when Seller is prepared to make shipment. In the event of any such delay, title shall be passed to Buyer and Seller will hold material at Buyer's risk and expense.

7. PAYMENT / SHIPPING

- (a) Each shipment by Seller is a separate and independent transaction, and payment for each shipment shall be made accordingly. All payments are to be made in full and are not subject to set-off, recoupment, abatement, counterclaim or any other equitable adjustment.
- (b) Estimated shipping dates are approximate and may be changed at Seller's sole discretion.

8. SALES AND RELATED TAXES

Seller's prices do not include sales, use, excise or similar taxes. Consequently, in addition to the price already established, the amount of any present future or subsequently imposed sales, use, excise or other similar taxes applicable to the sale or use of material shipped hereunder by Seller or by Buyer, shall be paid by Buyer. Alternatively, Buyer shall provide Seller with a valid tax-exemption certificate.

9. FINANCIAL INSECURITY

If, at any time, Buyer's financial condition does not, in Seller's judgment, justify continuance of shipments of material under the terms of payment originally specified, Seller may require full or partial payment in advance or shall be entitled to cancel any order then outstanding, without being subjected to any cancellation charges or other liability.

10. RESERVATION OF PURCHASE MONEY SECURITY INTEREST

Seller reserves a purchase money security interest in all material shipped hereunder and its interest and rights shall continue until all payments for material have been received by Seller. Buyer agrees to do all acts necessary to perfect and maintain such rights and interest of Seller.

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11. EXPORT CONTROLLED

This commodity, if designated “Export Controlled” on the face hereof, is regulated material and requires a validated export license for shipment outside the United States. Compliance with U.S. export regulations is the responsibility of the exporter.

12. HAZARDOUS MATERIALS

Buyer shall familiarize and keep self-informed of hazards and precautionary procedures with respect to the handling, transportation or use of the material or products made in whole or in part from the material, or the containers in which such material or products are shipped, and Buyer shall give adequate instructions for use and warnings of such hazards and precautionary procedures to all persons who Buyer can reasonably foresee may be exposed to such hazards, including but not limited to Buyer’s employees, agents, contractors and customers.

13. ACCEPTANCE AND GENERAL CONDITIONS

- (a) These conditions constitute an offer of sale and Buyer’s execution of this document or the acceptance of any delivery of product pursuant hereto will constitute Buyer’s express acceptance of this offer.
- I. This offer is expressly conditioned upon Buyer’s acceptance of the herein and Buyer agrees to be bound by, and to comply with all such conditions, including any supplements thereto.
- II. Nothing contained herein shall be deemed to constitute an acceptance of Seller of any offer to buy, any purchase order, or any proposal by Buyer. ANY ATTEMPTED ACKNOWLEDGMENT OF THIS OFFER OF SALE BY A PURCHASE ORDER OR OTHER DOCUMENT CONTAINING TERMS AND CONDITIONS INCONSISTENT WITH OR IN ADDITION TO THE CONDITIONS CONTAINED HEREIN IS NOT BINDING UPON SELLER AND SELLER HEREBY EXPRESSLY OBJECTS THERETO.
 - (b) Delegation or assignment by Buyer of any or all of its obligations or rights hereunder without Seller’s prior written consent shall be void.
 - (c) All rights conferred upon Seller hereunder are in addition to Seller’s rights at law and in equity.
 - (d) Any material delivered by Seller hereunder will be produced in compliance with the Fair Labor Standards Act of 1938, as amended in applicable. Seller will comply with applicable Federal, State and local laws and regulations as of the date of this document, which relate to (1) non-segregated facilities and equal employment opportunity (including the seven paragraphs appearing in S202 of Executive Order 11246, as amended), (2) worker’s compensation, and (3) the production in Seller’s manufacturing facility of material furnished hereunder. Price and, if necessary, delivery will be equitably adjusted to compensate Sellers for the cost of compliance with any other laws or regulations.

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- (e) Validity, performance, and all matters relating to the interpretation and effect of this document and any referenced attachment thereto shall be governed by the law of the Commonwealth of Massachusetts. Unenforceability, invalidity or illegality of any provision of this document shall not render unenforceable, invalid or illegal any other provision herein.

- (f) This document, all referenced attachments and the terms on the face of this document hereof contain the entire agreement between Buyer and Seller. Any representation, promise, condition or understanding, course of performance, course of dealing or trade usage not contained herein or in said contract, attachments or terms shall be relevant in interpreting this agreement document unless reduced to writing and signed by Seller's authorized representative. No waiver, alteration or modification hereof or of any such contract or attachments or said terms shall be valid unless made in writing and signed by authorized representatives of both parties.

ALL OF THE ABOVE SHALL CONSTITUTE THE SOLE AND EXCLUSIVE REMEDIES OF THE BUYER AND THE SOLE AND EXCLUSIVE LIABILITIES OF THE SELLER.