

**CHROME DEPOSIT CORPORATION  
TERMS AND CONDITIONS OF SALE**

**CONTRACT AND ACCEPTANCE:** All purchase orders are accepted by Chrome Deposit Corporation ("Seller") subject to these Terms and Conditions of Sale (the "Terms and Conditions of Sale"). Buyer acknowledges and agrees that: (i) any goods or services sold by Seller are subject to these Terms and Conditions of Sale in all respects; (ii) any additional, different or conflicting terms proposed by Buyer are hereby rejected unless expressly accepted in writing by Seller; (iii) in the event that Buyer's offer is expressly conditional upon Seller's adherence to Buyer's terms and conditions, then these Terms and Conditions of Sale shall operate as a counteroffer, expressly conditioned upon the Buyer's acceptance of these Terms and Conditions of Sale; (iv) Buyer's written acceptance or the acceptance of any goods provided hereunder shall constitute Buyer's acceptance of these Terms and Conditions of Sale and relinquishment and waiver of any right to limit acceptance or object to these Terms and Conditions of Sale under the Uniform Commercial Code; and (v) any representations made by sales representatives, employees or agents of Seller inconsistent with these Terms and Conditions of Sale shall not be binding on Seller, and Buyer shall not rely thereon.

**SHIPPING; RISK OF LOSS:** Unless otherwise agreed by both parties in writing, any agreement for the sale of goods involving Seller is "FOB Seller's facility/source plant." The method and route of shipment are at Seller's discretion unless Buyer timely supplies explicit instructions otherwise. Unless otherwise agreed in writing, all delivery dates are estimates by which Seller shall use its best efforts to deliver all goods within the time specified, however, in no case shall the Seller be liable for any expense, loss or damage whatsoever suffered by Buyer as a result of the Seller's failure to deliver goods by the specified date. Title to the goods passes to Buyer when the goods are made available to the carrier at Seller's facility/source plant, even though Seller may have made nonconforming tender or Buyer attempts to revoke acceptance of the goods or Buyer repudiates this agreement after the goods have been identified hereto.

**PRICE; BILLING:** Unless otherwise agreed in writing, all prices are in U.S. dollars. Seller reserves the right to pass on surcharges and other adjustments related to changes in the prices of raw materials, and to make corrections in price quotations due to typographical, engineering or other errors, or resulting from incomplete or inaccurate information supplied by Buyer. Any tax or governmental charge imposed upon the sale or transfer of the goods hereunder shall be paid by Buyer and the failure by Buyer to do so shall be a breach of these Terms and Conditions of Sale. 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 agreement or otherwise. Full payment without setoff shall be due net 30 days from receipt of goods or the date of invoice, whichever is earlier. After 30 days the account is overdue and will be charged a service charge of 1% per month, which is equal to 12% per annum. 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.

**LIMITED WARRANTY:** The Seller warrants only that the goods meet the specifications agreed to by Buyer and Seller. EXCEPT AS OTHERWISE SPECIFICALLY SET FORTH HEREIN, THE SELLER ASSUMES NO RESPONSIBILITY FOR SELLER'S SHOP DRAWINGS OR FOR THE BUYER'S DESIGNS, DRAWINGS, PLANS, AND SPECIFICATIONS. THIS LIMITED WARRANTY IS MADE IN LIEU OF ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

**NONCONFORMING GOODS; REMEDIES:** Buyer shall have 1 business day after receipt of the goods, which includes but is not limited to, the arrival of the goods to the point of destination or the taking into custody of the goods by Buyer, by physical means or otherwise (the "Rejection Period"), to inspect and either accept or reject them. To reject any nonconforming goods, Buyer must immediately (and in any event, within the Rejection Period) notify Seller in writing that Buyer considers the goods nonconforming. Such notification shall identify each and every alleged nonconformity and describe that portion of the shipment being rejected. Failure to inspect and/or

reject the goods within the Rejection Period shall constitute a waiver of Buyer's right of inspection and an unqualified and irrevocable acceptance of the goods and a waiver of any and all claims by Buyer for nonconforming goods or delivery and Buyer shall be bound to accept and pay for the goods in accordance with these Terms and Conditions of Sale. The Buyer shall give the Seller a full and reasonable opportunity to investigate all claims that goods are nonconforming. The Seller's obligation for valid claims is limited to replacement of the nonconforming goods at the original destination, or giving the Buyer credit for the amount of nonconforming goods, whichever the Seller chooses. Replacement of goods or a credit for the nonconforming goods is the sole and exclusive remedy for contract, warranty, negligence, tort or strict liability claims, for any loss, liability, damage or expense. THE SELLER IS NOT RESPONSIBLE FOR ANY OTHER DIRECT, SPECIAL, CONSEQUENTIAL, OR INCIDENTAL DAMAGES CAUSED BY THE NONCONFORMING GOODS.

**FORCE MAJEURE:** Notwithstanding any provision hereof to the contrary, Seller shall not be liable for any loss, damages or expense, including but not limited to, loss of use or profits, loss of business, expenses or costs arising from business interruption, attorneys' fees or any consequential, contingent, incidental or special damages caused or alleged to be caused from failure or delay in the performance of any obligations hereunder, whether such failure or delay is incurred, suffered, or caused by Seller, Seller's affiliate, subsidiary, subcontractor or independent manufacturer or carrier, if such failure or delay is, in whole or in part, beyond the reasonable control of the Seller, including but not limited to, shortage of material or power, major operational breakdown, severe weather, strikes, labor difficulties, riot, civil unrest, war, fire, governmental decrees or orders, or acts of God. Seller may either delay shipment of the goods until shipment is feasible or may cancel the sale altogether, in either case without incurring liability for breach of any agreement. Risk of expense caused by this clause will be borne by the Buyer.

**INSOLVENCY OF BUYER:** By placing an order with Seller or by accepting goods delivered by Seller, Buyer represents that it is not insolvent. In the event that Buyer becomes insolvent before delivery of the goods, Buyer shall immediately notify Seller. A failure to so notify Seller shall be construed as a reaffirmation by Buyer of Buyer's solvency at the time of delivery. Seller shall have the right to stop delivery of the goods, whether delivery is by carrier or any other means, and to stop delivery or terminate wholly or partly every purchase order and/or supply agreement between Seller and Buyer if any of the following events occur: (i) Buyer is insolvent; (ii) the filing of a voluntary petition in bankruptcy by Buyer; (iii) the filing of any involuntary petition in bankruptcy against Buyer; (iv) the appointment of a receiver or trustee for Buyer; or (v) the execution of an assignment for the benefit of creditors by Buyer, provided that such petition, appointment or assignment is not vacated or nullified within 30 days of such event. Buyer shall reimburse Seller for all costs incurred by Seller in connection with any of the foregoing, including, but not limited to, all attorney's or other professional fees.

**TERMINATION:** Seller shall have the right to stop delivery of the goods, whether delivery is by carrier or any other means, and to stop delivery or terminate wholly or partly every purchase order and/or supply agreement between Seller and Buyer, without liability to Buyer, if Buyer: (i) repudiates or breaches any of the terms of these Terms and Conditions of Sale or any other purchase order or supply agreement between Seller and Buyer; (ii) fails to make a payment due before delivery arising from these Terms and Conditions of Sale or any other purchase order or supply agreement between Seller and Buyer; (iii) fails to provide any letter of credit, bill of exchange or any other security required; (iv) rejects, returns or fails to take delivery of any goods tendered by Seller other than in accordance with the provisions herein; or (v) if for any other reason Seller has a right to withhold or reclaim the goods regardless of whether they are to be shipped directly to the Buyer or to some third party as may be designated by the Buyer. In addition to any other rights of Seller to terminate the purchase order, Seller may, at its option, immediately terminate all or any part of the purchase order, at any time and for any reason, by giving 30 days written notice to Buyer. Upon termination, Seller shall have no further obligation under the purchase order or these Terms and Conditions of Sale but in no event shall termination discharge Buyer of its obligation to pay in a timely fashion or of any other obligation owing under the purchase order or these Terms and Conditions of Sale or any other supply agreement between Seller and Buyer. Notwithstanding any other provision to the contrary, Seller reserves

the right to ship goods to Buyer under reservation.

**CANCELLATION OF ORDER:** Any order placed with and accepted by Seller may be canceled by Buyer only upon written approval of Seller and upon terms that indemnify Seller against loss.

**SECURITY INTEREST:** To secure payment of the purchase price for goods sold hereunder, Buyer hereby grants to Seller a purchase money security interest in all such goods and in those jurisdictions where enforceable, Buyer authorizes Seller to sign and file any financing statements on behalf of Buyer and in jurisdictions where such authorization is unenforceable, Buyer agrees to sign any financing statements and in all instances agrees to take any action as may be necessary or desirable to perfect such security interest.

**INDEMNIFICATION:** Buyer shall 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 attorneys' 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; (i) any asserted deficiencies or defects in the goods caused by any alteration or modification thereof by Buyer with or without Seller's consent, or improper handling or storage by Buyer; (ii) the breach of any term or condition stated herein; (iii) Buyer's failure to label the goods or Buyer's improper labeling of the goods regardless of whether the labeling was done with or without the advice of Seller; or (iv) any act or 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 or not such Claim is caused or alleged to be caused in part by the joint, several or comparative negligence, breach of agreement, breach of warranty, or other breach of duty of or by Indemnitee or as a result of Indemnitee's strict or other product liability. The foregoing indemnification shall not be construed to eliminate or in any way reduce any other indemnification or right which Indemnitee has by law.

**REMEDIES:** The rights and remedies reserved to Seller in these Terms and Conditions shall be cumulative with, and additional to, all other or further remedies provided at law or in equity. Any action by or on behalf of Buyer or its successors or assigns for breach of the purchase order or these Terms and Conditions of Sale ("Breach") must be commenced within one year after the cause of action has accrued or such action shall be forever barred.

**NO ADVERTISING:** Buyer shall not in any manner, without first obtaining the prior written consent of Seller, advertise or publish the fact that Seller has provided, or contracted to provide, Buyer the goods or services covered by the purchase order, or use any trademarks or trade names of Seller in Buyer's advertising or promotional materials.

**NO IMPLIED WAIVER:** The failure of either party to enforce at any time any of the provisions of these Terms and Conditions of Sale, irrespective of any previous action or proceedings taken by it, shall in no way be considered: (i) to waive such provisions; (ii) to affect the validity of these Terms and Conditions of Sale; or (iii) to preclude or prejudice the parties from exercising the same or any other rights it may have hereunder.

**ASSIGNMENT:** Buyer may not assign or delegate its rights or obligations under the purchase order and/or these Terms and Conditions of Sale without Seller's prior written consent. A change of control by Buyer where it sells or exchanges a sufficient amount of its stock that effects a change in the control of Buyer shall be deemed an assignment hereunder and shall also be prohibited without Seller's prior written consent. Buyer may subcontract its obligations only with the prior written consent of Seller provided that such subcontractor abides by these same Terms and Conditions of Sale. Any purported or attempted assignment, delegation or subcontracting without Seller's prior written consent shall have no effect and shall entitle Seller to terminate the purchase order or these Terms and Conditions of Sale without penalty upon notice to Buyer.

**RELATIONSHIP OF PARTIES:** Seller and Buyer are independent contracting parties and

nothing in the purchase order or these Terms and Conditions of Sale shall make either party the agent or legal representative of the other for any purpose whatsoever, nor does it grant either party any authority to assume or to create any obligation on behalf of or in the name of the other.

**GOVERNING LAW; JURISDICTION:** In the event of any dispute hereunder, the laws of the state or province in which the facility of Seller that is providing the good or service is located shall govern the validity, performance, enforcement and any other aspect of these Terms and Conditions of Sale notwithstanding any other jurisdiction's choice of law rules to the contrary. The parties hereto expressly agree that any and all actions concerning any dispute arising under these Terms and Conditions of Sale shall be filed and maintained only in a court of competent jurisdiction sitting in the state or province in which the facility of Seller that is providing the good or service is located.

**SEVERABILITY:** Should any paragraph, sentence, term or other provision of these Terms and Conditions of Sale 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: (i) terminate this agreement if not fully performed by it; or (ii) consider this agreement severable as to such provision, and such provision shall thereafter be deemed severed and inoperative. In such latter event, the remainder of this agreement shall be in full force and effect as if such severed provision were never a 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 goods sold or to be sold hereunder.

**ENTIRE AGREEMENT; MODIFICATION:** These Terms and Conditions of Sale, together with the purchase order, constitutes the entire agreement between Seller and Buyer with respect to the matter contained herein and supersedes all prior oral and written representations and agreements. This agreement may only be amended by an agreement in writing signed by Seller and Buyer.

Revised: 1/6/2009