

Sonderhoff (Suzhou) Sealing Systems Co., Ltd. GENERAL TERMS AND CONDITIONS OF SALE

Dated January 1st 2020

1. Definitions and Interpretations

In the interpretation of this Agreement (as hereinafter defined) the words and expressions set out below must have the meaning attributed to them below unless the context requires otherwise:

“the/this Agreement” refers to the present General Terms and Conditions of Sale including any and all appendixes, as well as any or all duly signed addenda or amendments to the present General Terms and Conditions of Sale which may be conducted by SELLER (as hereinafter defined), at its sole discretion, at any given time following the execution of the present General Terms and Conditions of Sale.

“**SELLER**” means “**Sonderhoff (Suzhou) Sealing Systems Co. Ltd.**”, a company incorporated under the laws of PRC, having its registered office at 75 Jiangpu Road, Suzhou Industrial Park, 215126 Suzhou, PRC, which expression, unless excluded by or repugnant to the context or meaning hereof, shall mean and include this company, its Board of Directors, representatives, administrators, successors, nominees and assigns. SELLER shall hereinafter be referred to as a “Party”.

“**BUYER**” means the client /customer who buys the Products and/or Services from SELLER for the purpose of manufacturing or using the Products/Services for its own professional purposes, or, as the case may be, for the purpose of reselling the Products on the designated territory, which expression, unless excluded by or repugnant to the context or meaning hereof, shall mean and include the BUYER itself, its Board of Directors, representatives, administrators, successors, nominees and assigns. BUYER shall hereinafter be referred to as a “Party”. SELLER and BUYER shall hereinafter be referred to collectively as the “Parties”.

“**Products**” means products supplied by SELLER under the terms of a specific Sale Contract (as hereinafter defined), and to be purchased by BUYER from SELLER in its own name and for its own account.

“**Services**” refers to services provided by SELLER, either separately from sale of Products or together with sale of Products, under the terms of a specific Sale Contract (as hereinafter defined), and to be purchased by BUYER from SELLER in its own name and for its own account.

“**Sale Contract**” or “**the Contract**” is a collective name for agreements reached between the Parties with respect to the sale and purchase of the Products and/or Services as they are agreed in the Order Confirmation and other documents referred to in it (including but not limited to, Purchase Order, this Agreement and other contracts between the Parties with respect to the same subject matter). The Contract shall become effective upon the Order Confirmation’s becoming effective as defined in the present Agreement.

“**Sale Invoice**” means an invoice issued by SELLER to BUYER at the time of delivery but prior to issuing of a formal Chinese fapiao, indicating the product names, price, quantity, delivery clause, and payment conditions. Value-added tax imposed on the sale of Products shall be in addition to Invoiced Price and shall be included together with Invoiced Price in the price indicated in the Sale Invoice.

“**Offer**” means a written document issued by SELLER to BUYER indicating the Product name & description, packing, unit price per kg, purchase order quantity, delivery term and time, and payment conditions. The present Agreement will be sent together with the Offer to BUYER for reference.

“**Purchase Order**” means a written document issued by BUYER to SELLER, further to receipt of the Offer from SELLER and based on the Offer, detailing the ordered Product names, required quantity, applicable price, requested delivery date and any other special requirements.

“**Order Confirmation**” means a written document signed and chopped by SELLER to BUYER for SELLER’s confirmation on the terms and conditions of the Purchase Order placed by BUYER, and then BUYER shall fully and irrevocably accept all terms and conditions of the Order Confirmation, either by returning a duly signed/chopped copy of the Order Confirmation to SELLER within two (2) days from receipt of the same from SELLER or by failing to contradict expressly and in writing the Order Confirmation within the same period. The Order Confirmation shall only become effective and binding upon the Parties after it has been duly signed /chopped by SELLER and fully accepted by BUYER.

“**Delivery Date**” is the date of loading of the Products in the warehouse of SELLER.

“**Invoiced Price**” is SELLER’s price agreed in the Sale Contract between the Parties, excluding duty, tariffs, taxes, freight costs or similar charges, which shall be solely borne by BUYER, unless otherwise agreed in writing between the Parties.

“**PRC**” or “**China**” in the present Agreement refers to the People’s Republic of China, exclusive of Hong Kong Special Administrative Region, Macau Special Administrative Region, and Taiwan.

“**SELLER’s Trademarks**” means those trademarks, trade names, service marks, slogans, designs, distinctive advertising, labels, logos, and other trade-identifying symbols, including all Chinese translations or transliterations of the same, as are or have been developed and used by SELLER or any of its Affiliates in the PRC or anywhere in the world, whether or not registered or subject to registration.

“**Intellectual Property Rights**” means any of patents, Trademarks, copyrights, trade secrets, documentation and any other intellectual and/or proprietary property and information pertaining to or included with the Products, whether in original form or any derivative works owned by SELLER or SELLER’s Affiliates, or by its suppliers, whether or not registered in the PRC or elsewhere.

“**Affiliates**” shall mean, with respect to a party, any individual, corporation or other business entity that, either directly or indirectly, controls such party, is controlled by such party, or is under common control with such party. For the avoidance of doubt, “control” means possession of the power to direct, or cause the direction of the management and policies of a corporation or other entity whether through the ownership of voting securities, by contract or otherwise.

2. **SCOPE**

The present Agreement shall apply to all business relations of SELLER with BUYER. All transactions between SELLER and BUYER are exclusively and strictly subject to the present Agreement, whether expressly referring to it in a specific case or not. References by any BUYER to its conditions of purchase shall be null and void and are hereby expressly rejected. This Agreement also applies if SELLER does not explicitly oppose any conditions of purchase provided by BUYER or provides Products and/or Services unconditionally while being aware of deviating, opposing or supplementing conditions of purchase provided by BUYER. None of any past practice, industry standards, course of dealing or usage of trade shall constitute a modification of any term or condition contained herein, nor shall same add any term not contained herein. Any modification to this Agreement requires the express written approval of SELLER.

3. **OFFER AND ACCEPTANCE**

- 3.1 Offers to sell Products and/or Services by SELLER are non-binding with respect to price, quantity, delivery time and subject to modification solely by SELLER. Purchase Orders not containing a deadline for confirmation shall bind the BUYER for at least three (3) days.
- 3.2 Purchase Orders from BUYER shall only become binding upon the Parties after an Order Confirmation has been signed and duly chopped by SELLER and fully accepted by BUYER. After its confirmation, any and all changes or cancellations made to a Purchase Order shall be subject to approval of SELLER and moreover an additional fee or compensation shall be paid by BUYER for any approved change or cancellation.
- 3.3 Any deviations in the Order Confirmation or the documents referred to in it, from any prior declarations by the Parties shall be considered as irrevocably accepted if BUYER does not contradict the deviation in question expressly and in writing, within a reasonable period of time, latest within two (2) days from the receipt of the Order Confirmation. After the Order Confirmation is signed and chopped by BUYER or is not contradicted expressly and in writing by BUYER within two (2) days from the receipt of the same, all terms and conditions of the Order Confirmation and of the documents referred to in it shall be deemed as fully and irrevocably accepted by BUYER. In any case the BUYER shall have no right to contradict the applicability and validity of the present Agreement.

4. **SAMPLES AND CATALOGUES**

Any figures, measurements, statements, descriptions, illustrations, photographs, drawings, or any other matters contained in SELLER’s brochures, catalogs, price lists, or advertising literature, or any samples provided to BUYER by SELLER are not guaranteed to be accurate and are intended merely to represent a general description or depiction of the Products and shall not form part of any contract or agreement between SELLER and BUYER, unless expressly specified and incorporated into any written contract or agreement duly signed by and between the Parties.

5. **PRICES**

- 5.1 SELLER’S price valid on the effective date of the Order Confirmation shall be the Invoiced Price. The Invoiced Price does not include duty, tariffs, taxes, freight costs or similar charges, which shall be borne by BUYER, unless otherwise agreed in writing. In particular, the value-added tax, which is solely for BUYER’s account, shall be in addition to the Invoiced Price and shall be included together with the Invoiced Price in the price indicated in the Sale Invoice.
- 5.2 Should there be a significant increase in SELLER’S prices in the period between the effective date of the Order Confirmation and delivery, then the prices valid on the date of delivery shall be applied. In the case of such a significant increase in prices, BUYER may terminate the Sale Contract without further obligation within fifteen (15) days after the announcement of such significant price increase.

5.3 If applicable, the final determination of weight in connection with the calculation of the price shall be performed by the SELLER.

6. PAYMENT

- 6.1 SELLER'S Sale Invoices are due and payable within thirty (30) days after the issuance date of such Sale Invoices without any deductions, hold back or offset, and payments shall be made in RMB. All agreements between the parties concerning cash discounts must be in a writing signed by SELLER. Payment shall be considered complete when SELLER receives from BUYER the full amount indicated in the Sale Invoice in readily available funds. A formal Chinese fapiao will be issued by SELLER to BUYER immediately after full payment by BUYER.
- 6.2 SELLER reserves the right to use payments for the settlement of the oldest due Sale Invoice items plus any accrued default interest and costs and such payments shall be applied in the following order: costs, interest and outstanding balance.
- 6.3 The non-payment of the price on the Sale Invoice due date shall be a default under this Agreement.
- 6.4 If in the sole judgment of SELLER, it becomes evident that BUYER's financial ability to perform under this Agreement is diminished, then SELLER shall have the right, among any other right or remedy, to (i) suspend any delivery and/or Services, and (ii) fix a reasonable time limit for BUYER to perform full or partial advance payment. If BUYER expressly declines this or the time limit expires without required payment, SELLER shall have the right to terminate the Sale Contract and claim damages.
- 6.5 In the event of a payment default by BUYER, SELLER shall be entitled to receive interest on the defaulted payment at a rate equal to seven percent (7%) per annum of the defaulted amount as of the first day following the payment due date or a penalty fee of RMB 1,000 (one thousand Renminbi) for such defaulted payment, whichever is higher. If such payment default lasts more than seven (7) days, SELLER will issue to BUYER a reminding of payment once a week as of the eighth (8th) day and will charge BUYER reminding service fee of RMB 100 (one hundred Renminbi) per reminding. If BUYER expressly declines the defaulted payment or the time limit required by SELLER in its last reminding of payment expires without required payment, SELLER may terminate the Sale Contract and claim damages.
- 6.6 BUYER may only offset claims which are undisputed or have been finally determined by a court of law or arbitral panel acting with proper jurisdiction.

7. DELIVERY

- 7.1 Delivery shall be in accordance with the terms and conditions of the delivery clause of the applicable Order Confirmation.
- 7.2 SELLER's price for all Products is EXW (ex works) SELLER's principal place of business or the location of shipment (excluding packing and loading), whichever is applicable, unless otherwise agreed upon in writing. This term shall be construed in accordance with 2020 ICC Incoterms.
- 7.3 Unless otherwise specified in writing, packing shall be SELLER'S standard packing. The cost of SELLER's standard packing for the Products is included in the Invoiced Price.
- 7.4 SELLER shall endeavor to punctually deliver the Products, provided, however, all specified Delivery Dates refer to the completion of manufacture and availability for shipment and merely represent SELLER'S best estimates. SELLER reserves the right to modify the delivery dates with notice to BUYER and SELLER and BUYER shall then consult in good faith on any reasonable measures satisfactory to both parties which might be taken. Claims for compensation for change in delivery dates cannot be entertained, and no compensation shall be provided by SELLER, unless the delivery exceeds twenty-one (21) days without any reasonable justification. BUYER also acknowledges that SELLER'S performance herein is subject to correct and punctual supply of SELLER by its suppliers.
- 7.5 BUYER warrants there will be no diversion of any shipment that is (a) contrary to any applicable law, (b) for resale and/or transfer to any third party, unless approved in writing by SELLER, or (c) for shipment or use outside of the PR. China (exclusive of Hong Kong, Taiwan and Macao), unless approved in writing by SELLER, and if so approved, BUYER warrants it will comply with all applicable laws, restrictions and regulations of the PR. China.

8. SHIPPING

- 8.1 SELLER reserves the right to choose the shipping route and the mode of transport. Additional costs resulting from special shipping requests by BUYER shall be for BUYER'S account. In addition, BUYER shall be responsible for the payment of increases in freight rates, possible additional costs for diversion, storage costs etc. which occur after the Sales Invoice has been issued, insofar as freight-paid delivery has not previously been agreed upon by the parties.
- 8.2 Title to the Products shall pass to BUYER upon delivery to carrier.

- 8.3 BUYER shall assert claims arising from damages in transit directly against the carrier and shall have no recourse against SELLER for such damages. Under the term of EXW (ex works) the choice of carrier and insurances shall be at BUYER'S discretion and expense. Unless otherwise agreed in writing, BUYER shall be responsible for the observation of legal and official regulations relating to the transportation, storage and use of the Products.
- 8.4 If the Products are not shipped within seven (7) days after notification to the BUYER that they are ready for shipping, for any reason beyond SELLER's reasonable control, including the BUYER's failure to give shipping instructions, SELLER may store the Products at the BUYER's sole risk and expenses in a warehouse or storage facility or upon SELLER's premises and the BUYER shall pay all handling, transportation and storage costs as of the eighth (8th) day after notification to BUYER. If BUYER fails to ship the Products for more than fourteen (14) days, SELLER has the right, among other rights and remedies available hereunder or at law, to terminate the Sale Contract upon a written notice to BUYER and claim damages.

9. FORCE MAJEURE

- 9.1 Neither party shall be held responsible for any loss, damage, delay or lack of delivery arising from fire; strikes, lockouts, injunction, governmental intervention or any other act or force beyond the affected party's reasonable control.
- 9.2 If, as a result of any of the disruptions listed in Section 9.1 above, the delivery or acceptance of the Product is delayed by more than ninety (90) days, either party may upon notice cancel the applicable Sales Contract and terminate any further obligation to the other party. No party shall be responsible for any costs, expenses, damages, losses and liabilities whatsoever suffered or incurred by the other party as a consequence of or in connection with the sales contract being terminated.
- 9.3 SELLER reserves the right to allocate and fairly apportion Product(s) among its internal and external customers during force majeure events in any manner SELLER, in its sole discretion, deems appropriate.
- 9.4 SELLER shall have no obligation to acquire by purchase or otherwise any Product(s) that SELLER is unable to supply to BUYER due to force majeure events.

10. LIMITED WARRANTIES

- 10.1 SELLER warrants that the Products, if applicable, shall be free from defects in material and workmanship for a period of **[six (6) months]** from the date of delivery. SELLER's obligations under the aforesaid warranty shall be discounting, repairing or replacing the Products, which if properly used and maintained, prove defective in material or workmanship. Such discount, repair or replacement shall be SELLER's sole obligation and BUYER's sole remedy hereunder and shall be conditioned upon (a) BUYER'S inspection of the Products within five (5) days of receipt by BUYER, (b) SELLER's receipt of written notice of any alleged defect within five (5) days after its discovery, and (c) at SELLER'S option, return of such defective Products. From the time of detection of the defects, any sale, treatment or processing of the Products is forbidden without SELLER's prior express written consent, otherwise all claims of the alleged defects shall be voided. Any Product repaired or replaced pursuant to this warranty will be warranted for the remainder of the original warranty period. Upon SELLER's request, BUYER shall promptly provide samples and other evidence of, and shall allow SELLER'S representative's access to the alleged defective Products. Claiming an alleged defect does not relieve BUYER of any of its payment obligation to SELLER. BUYER must not return any alleged defective Products without SELLER'S prior written consent. BUYER agrees to reimburse SELLER for all costs and expenses associated with any return of Products unauthorized by SELLER. Receipt or inspection of returned Products by SELLER shall not be deemed an admission of any alleged defect. Buyer shall cooperate with SELLER in the verification and removal of defects to the extent such cooperation can be reasonably expected from BUYER and shall especially provide information. If after verification the SELLER does not accept the defects alleged, the BUYER shall indemnify the SELLER for all costs connected with the verification.
- 10.2 SELLER'S obligations under Section 10.1 above shall not apply to any part of the Products sold hereunder, which (a) are consumed by normal wear and tear, (b) have a normal life time inherently shorter than the herein stated warranty period. In such case, the specific warranty period for the relevant Product, as it is eventually specified or restricted in technical/safety datasheet or machine manual and/or on the packaging of the relevant Product, shall apply, or (c) have been damaged due to negligent or faulty use, alteration, maintenance, storage or handling in contravention of the Products' specifications, technical data sheet, manuals, material safety data sheet or other instructions, or otherwise by BUYER.
- 10.3 Any suggestions by SELLER or SELLER'S agents regarding use, application or suitability of Products shall not be construed as an express warranty unless confirmed to be such in writing by SELLER.
- 10.4 BUYER assumes all risk for misuse of the Products.
- 10.5 THE WARRANTY EXPRESSED HEREIN SHALL BE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, ORAL OR WRITTEN, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, APPLICATION OR USE, NONINFRINGEMENT AND TITLE, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE WHICH ARE EXPRESSLY DISCLAIMED, AND IS IN LIEU OF ANY AND ALL OTHER OBLIGATIONS OR LIABILITY ON SELLER'S PART.

11. NON-CONFORMANCE OF QUANTITY

- 11.1 BUYER shall inspect the Products within five (5) days of receipt by BUYER and give notice in writing to SELLER in case of any non- conformance of quantity, otherwise the Products will be regarded as irrevocably accepted and BUYER shall not be entitled to any claim for non- conformance of quantity.
- 11.2 BUYER shall cooperate with SELLER in the verification of the alleged non-conformance of quantity and shall especially provide evidence thereof. Claiming an alleged non-conformance of quantity does not relieve BUYER of any of its payment obligation to SELLER.
- 11.3 In the event of a justified claim concerning non-conformance of quantity, SELLER will, as its sole liability and as BUYER's exclusive remedy, provide compensation only in the form of the Products of non- conformed quantity under the claim confirmed by SELLER. However, if after verification SELLER does not accept the non-conformance of quantity alleged, BUYER shall indemnify SELLER for all costs connected with the verification.

12. LIMITATION OF LIABILITY

NOTWITHSTANDING ANY PROVISION IN THIS TERMS AND CONDITIONS OF SALE OR ELSEWHERE TO THE CONTRARY: (a) SELLER'S MAXIMUM LIABILITY HEREUNDER AT ANY TIME FOR ANY CAUSE WHATSOEVER SHALL NOT EXCEED THE PRICE PAID FOR THE PRODUCTS OR SERVICES AT ISSUE, (b) SELLER SHALL NOT BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL LOSS OR DAMAGE OF ANY KIND OR NATURE, ARISING AT ANY TIME, FROM ANY CAUSE WHATSOEVER, INCLUDING LOSS OF REVENUE OR PROFIT.

13. PROPRIETARY INFORMATION / CONFIDENTIALITY

All specifications, technical data sheets, manuals, security and safety data sheets and other information furnished by SELLER to BUYER, including, but not limited to, pricing, volumes or the financial terms of this Agreement and the existence of this Agreement, are proprietary to SELLER and confidential. Even if a Product or Service is based on the Buyer's specification or the Buyer contributes to it in any other manner, the rights of use shall be attributed fully and exclusively to the SELLER. Such information has been developed at substantial expense and contains trade secrets that are the exclusive property of SELLER. BUYER may not reproduce or distribute such information except to BUYER'S employees, directors, administrators, or generally representatives strictly on a need- to- know basis in order to perform their duties and any such person shall be required to ensure the same confidentiality of all such information. All such information supplied by SELLER shall be received in confidence except for information that (a) was generally available to the BUYER from public or published sources, provided publication did not take place in violation of this Agreement or through fault or omission of the BUYER, (b) was lawfully obtained from a source under no obligation of confidentiality, directly or indirectly, to either the BUYER or the SELLER, or (c) was disclosed to the general public with the written approval of the SELLER.

14. SUSPENSION AND TERMINATION

- 14.1 If BUYER shall omit delivery instructions or shall fail to accept Delivery, as required by the Sale Contract, or shall fail to make any payment when it becomes due or shall commit any other breach of the Sale Contract, or if BUYER shall enter into any composition or arrangement with its creditors or if any distress or execution is levied upon any goods or property of BUYER, or if BUYER shall commit any act of bankruptcy or, if a corporation, a receiver shall be appointed of the whole or any part of its undertaking or assets or if Buyer shall pass a resolution for winding up or if a court shall make an order to that effect or if BUYER shall have a receiving order made against it, then at SELLER's sole option SELLER may suspend or cancel any further deliveries and/or Services and/or treat the Sale Contract as terminated upon a written notice to BUYER.
- 14.2 Unless otherwise provided for under this Agreement or the Sale Contract, if BUYER is in default or breach to perform any material obligations under this Agreement or the Sale Contract after having been notified of such default or breach and has not cured the default or breach within a period of thirty (30) days of a receipt of written request from SELLER to remedy such breach or default, SELLER shall have the right to terminate the Sale Contract upon written notice to BUYER. BUYER shall also be liable to compensate for any loss or damage arising there from.
- 14.3 Any termination of the Sale Contract between SELLER and BUYER shall be without prejudice to SELLER's right to any unpaid price for Products and/or Services provided or cost of work done under the Sale Contract and to damages for any and all losses or damages suffered in consequence of such termination.

15. GOVERNING LAW; ARBITRATION

- 15.1 THIS AGREEMENT SHALL BE CONSTRUED, INTERPRETED AND CONTROLLED BY THE LAWS OF THE PRC, AND ALL CLAIMS ARISING OUT OF OR RELATED TO THE PARTIES' RELATIONSHIP CREATED BY THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, SHALL BE GOVERNED AND DECIDED PURSUANT TO THE LAWS OF THE PRC, WITHOUT REGARD TO ITS CONFLICT OF LAWS PROVISIONS.
- 15.2 All disputes arising under this Agreement shall be settled by final and binding arbitration made by the Shanghai International Arbitration Center in accordance with its arbitration rules then in effect. The arbitration will be conducted in English and Chinese. The parties may agree on the selection of a single arbitrator, but in the event that they cannot agree, each party shall select an

arbitrator and the two selected arbitrators shall select a third arbitrator. The award by the arbitrator(s) shall be final and binding upon the parties.

16. ADDITIONAL TERMS

- 16.1 This Agreement may not be assigned by either party to any other party without the prior written consent of the other party hereto; provided, however, that (a) SELLER may assign its rights and obligations hereunder to any Affiliate of SELLER by written notice to BUYER, and (b) SELLER may assign its rights and obligations hereunder, by written notice to BUYER, to a third party successor or transferee (whether by merger, consolidation, purchase or otherwise) of either (1) all or substantially all of the assets of SELLER or (2) all or substantially all of the assets of the particular division of SELLER identified on page one of this Agreement. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.
- 16.2 BUYER represents and warrants that (a) it understands the nature and characteristics of the Product(s) and any hazards associated with its use, (b) it will adequately instruct and warn all persons, including all third parties, who may come in contact with, or be in the vicinity of, the Product(s) in the proper safe use and handling of the Product(s), (c) it is not relying upon any representation, statement or other assertion made by SELLER or its representatives or agents, with respect to the suitability of the Product(s) for any purpose and that BUYER has made its own independent inquiry and testing and has formed an independent opinion concerning the suitability of the Product(s) for the end use, conversion or application intended, and (d) it will not assert any claim against SELLER or hold SELLER liable, with respect to any information, testing or design furnished, or failure to be furnished, by SELLER, including, without limitation, technical advice or recommendations. SELLER assumes no obligation or liability for the use by BUYER of any technical assistance rendered incident to this Agreement. Appropriate literature has been assembled which provides information concerning the health and safety precautions that must be observed when handling the Products. Before working with the Products, BUYER agrees to read and become familiar with the available information on the Product hazards, proper use, and handling. Additional information is available from SELLER upon request.
- 16.3 No type of contractual obligation between BUYER and its customer(s) shall be applicable to, or create any liability with respect to SELLER, whether via "pass-through", "flow-down" or otherwise, and BUYER shall not otherwise represent to its customer(s) such purported SELLER liability. BUYER agrees to indemnify and hold SELLER harmless against any losses, claims and damages or liabilities, joint or several, in connection with products manufactured by BUYER using SELLER'S Products sold under this Agreement. BUYER will reimburse SELLER for any legal or other expenses reasonably incurred by SELLER in connection with investigating or defending and such actions and, at SELLER'S request and election, BUYER will assume the defense of any such actions or claims.
- 16.4 SELLER may, but is not obligated to, insure the Products sold hereunder against damage or loss during (a) transportation, and (b) if shipping is delayed by reasons beyond the reasonable control of the SELLER during this delay at the expense of BUYER unless the parties have agreed otherwise. Until final payment is made BUYER shall insure such Products at its expense for the benefit of SELLER against damages and loss including, but not limited to, fire and flood, and shall provide written proof thereof to SELLER.
- 16.5 SELLER assumes no liability as to any patent, copyright or other Intellectual Property Rights infringement by virtue of the use of the Products in combination with other goods or services, or the use of the Products manufactured to Buyer's specifications. BUYER acknowledges that SELLER's all Trademarks and other Intellectual Property Rights are solely vested in SELLER or in SELLER's Affiliates. BUYER shall not have or gain any right, title, interest in or to or from a license in SELLER'S any Trademarks and other Intellectual Properties (if any) without SELLER'S prior written consent.
- 16.6 The rights and obligations under Articles 10, 12, 13, 15 and 16 herein shall survive the termination of the Sales Contract for any reasons.
- 16.7 Should any part of this Agreement be deemed invalid by a court of law or arbitrator, it shall not constitute an invalidation of any other part of this Agreement, which shall otherwise remain in effect.
- 16.8 Failure of SELLER to effect, or any delay by SELLER to effect, any available right or remedy shall not be construed to operate as a waiver of same.
- 16.9 Except as otherwise expressly provided, this Agreement supersedes all prior agreements, understandings or otherwise, whether oral or written, between BUYER and SELLER concerning the subject matter of this Agreement.
- 16.10 SELLER'S acceptance of (a) payment, or (b) specially endorsed checks shall not waive or limit any right or remedy of SELLER.
- 16.11 Nothing contained herein is intended nor shall be construed as creating a partnership, joint venture, agency, distributorship or any other relationship except buyer and seller.
- 16.12 All headings herein are for reference only.
- 16.13 This Agreement has been drawn up in English and Chinese, both of which shall be of equal effect. In case of any discrepancy between two versions, English version shall prevail.