

GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

CAPTRON North America LP, 611 W Hartsdale Ave., White Plains, NY 10607

These General Terms and Conditions of Sale and Delivery (herein, "Terms and Conditions") are applicable to all customers (collectively, the "Customers" and each, individually, a "Customer") of CAPTRON North America LP, a Delaware limited partnership (hereinafter referred as "CAPNA").

1. Terms and Conditions of Sale:

- 1.1. CAPNA shall sell and deliver to the Customer and the Customer shall purchase and accept from CAPNA the products (herein, the "Products") described on or in any confirmed order, agreement or quotation, or any combination thereof (the "Order"), pursuant to the terms and conditions of the Order and those specified below, which taken together shall constitute the entire agreement between CAPNA and the Customer regarding the Products (herein, this "Agreement").
- 1.2. Unless otherwise agreed in writing or otherwise stated on the quotations, all quotations for Products are valid for ninety (90) days from the date of issue. Subsequent modifications in quantity or quality, if such are requested by the Customer, generally will cause a modification of the quoted price. Customer shall bear all costs associated with the modification of the Order.
- 1.3. Any additional or different terms or conditions contained in the Customer's Order or in any other form issued by the Customer shall be deemed objected to by CAPNA and shall be of no effect. No general terms and conditions of the Customer shall at any time form a part of the content of any contract or agreement between the Customer and CAPNA, even if they are not further expressly rejected by CAPNA.
- 1.4. No Order is binding upon CAPNA until the earlier of acceptance of the Order in writing or the delivery of the Products to the Customer. Notwithstanding any prior acceptance of an Order by CAPNA, CAPNA shall have no obligation if the Customer is in breach of any of its obligations hereunder, or any other agreement between the Customer and CAPNA, at the time CAPNA's performance was due.
- 1.5. All verbal agreements concerning the terms of any Order, including agreements made by telephone, shall have no force and effect unless and until acknowledged by CAPNA in writing.
- 1.6. Orders placed with and accepted by CAPNA may not be canceled except upon CAPNA's written consent prior to shipment and the Customer's acceptance of CAPNA's cancellation charges which shall protect CAPNA against all costs and losses. CAPNA reserves the right to cancel any Order hereunder in CAPNA's sole discretion without liability to CAPNA (except for refund of monies already paid).

2. Prices:

- 2.1. All price quotations are EXW (per Incoterms 2010) from CAPNA's facility at CAPTRON North America LP, 611 W Hartsdale Rd., White Plains, NY 10607 and do not include costs for packaging, postage or other freight charges, insurance or taxes, if any.
- 2.2. Prices in catalogues and brochures are not binding unless confirmed in writing by CAPNA in order confirmation.
- 2.3. The price of the Products shall be CAPNA's current prices in effect from time to time or by special price quotes made to customer in writing.

- 2.4. CAPNA may, without notice to the Customer, increase the price of Products by the amount of any new or increased tax or duty (excluding franchise, net income and excess profits taxes) which CAPNA may be required to pay on the manufacture, sale, transportation, delivery, export, import or use of the Products or the materials required for their manufacture or which affects the costs of such materials.

3. Terms of Payment:

- 3.1. Unless otherwise agreed to in writing by CAPNA, invoices issued by CAPNA are due and payable by the Customer within twenty (20) days from the invoice date. The Customer shall make payments by check or wire transfer to the account indicated on the invoice without a cash discount or offset and CAPNA shall not be required to incur any expense to receive timely payment in full as required by this Agreement. Payments by check shall be subject to collection and shall be received by CAPNA within said twenty (20) day period. In the event of returned checks, CAPNA shall be entitled to charge a \$25 processing fee.
- 3.2. CAPNA may without notice change or withdraw extensions of credit at any time. If CAPNA ceases to extend credit terms before shipment, the Customer's sole remedy shall be cancellation of its order. If the Customer does not receive notice before shipment, its sole remedy shall be rejection of the Products immediately upon delivery.
- 3.3. If the Customer fails to make payment on or before the date required, the Customer shall pay interest to CAPNA at the rate of one point five (1.5%) percent per month or such lesser amount permitted by law. The specification or charging of interest shall not be deemed an agreement to extend credit.
- 3.4. If the Customer fails to observe these Terms and Conditions or the terms of any other agreements between CAPNA and the Customer, or if the Customer becomes insolvent, all balances then due and owing to CAPNA shall become due immediately, notwithstanding any agreed upon payment periods. Any Orders that have been confirmed by CAPNA but not yet filled shall in such cases become cancelable at the sole discretion of CAPNA.
- 3.5. In the event the Customer has not paid the invoices due before delivery, CAPNA shall not be obligated to deliver the Products until CAPNA has received full payment, including late fees pursuant to Section 3.3. above.
- 3.6. The Customer does not enjoy a right of set-off under any circumstances.

4. Delivery Terms:

- 4.1. Unless otherwise provided on the face hereof, all Products furnished hereunder will be shipped EXW (per Incoterms 2010) and title in, risk of loss, and the right of possession to such Products shall pass to the Customer at CAPNA's facility at CAPTRON North America LP, 611 W Hartsdale Rd., White Plains, NY 10607, and CAPNA is not responsible for damage or loss in transit, regardless of whether or not the Customer may have the right to reject or revoke acceptance of said Products. CAPNA can arrange for in-transit insurance at the Customer's expense, but will not do so without the Customer's written instructions. Unless otherwise stated in Agreement documents, all Products will be shipped freight prepaid and billed. Charges for shipping may not reflect net transportation cost paid by CAPNA. CAPNA shall be responsible for all import requirements of any country into which it seeks to import the Products. Notwithstanding Section 4.5, CAPNA shall be entitled to make partial deliveries or deliveries prior to and after the agreed upon delivery date, provided that CAPNA notifies the Customer of the same.

- 4.2. The Customer shall pay all freight, transportation, shipping, insurance and handling charges, duties, and taxes, including any applicable VAT, sales, personal property, *ad valorem*, and other taxes, duties, levies or charges imposed by any governmental authority, irrespective of whether applicable law makes such items the responsibility of the Customer or CAPNA, but excluding any taxes payable by CAPNA with respect to its net income.
- 4.3. The Products shall be packaged as stated in CAPNA's order confirmation. The Customer shall be exclusively responsible for, and shall provide CAPNA with, any information necessary to comply with special labeling requirements applicable at the Customer's place of business. CAPNA is not bound to organize export clearance.
- 4.4. Subject to CAPNA's available facilities at the shipping point, CAPNA shall determine the type of transportation and shall notify the Customer thereof at the time the Customer places each Order. CAPNA or its agent may select any commercial air, ship, motor or rail carrier or any combination thereof for the transportation of the Products. CAPNA will make deliveries of the Products in the quantities ordered as near as reasonably possible to the Customer's requested delivery dates. In the event, the delivery of the Products varies by +/- ten percent (10%), Customer's Order shall be deemed completed.
- 4.5. CAPNA shall use its reasonable efforts to deliver the Products to the Customer by the agreed upon date. However, time shall not be of the essence. Except in cases of CAPNA's willful misconduct or gross negligence, CAPNA shall not be liable to Customer for delays in delivery or damage to Products while in transit, irrespective of whether CAPNA or the Customer determined the mode of transportation.
- 4.6. In cases of deliveries of Products manufactured to the Customer's specification ("Special Orders") and unless otherwise agreed to in writing, all tools, drawings, samples, models, plans, blueprints or other devices and/or documents used and/or developed by CAPNA (the "Tools") in order to fulfill any Order or Special Order are the property of CAPNA, even if the cost of development and/or manufacturing of such tools, models, plans, blueprints or other devices and/or documents was wholly or partially borne by the Customer.

5. Termination:

- 5.1. In addition to any other remedies that CAPNA may have, CAPNA may terminate this Agreement with immediate effect upon written notice to the Customer, if the Customer: (i) fails to pay any amount when due under this Agreement and that failure continues (30) days after the Customer's receipt of written notice of nonpayment; (ii) has not otherwise performed or complied with any terms under this Agreement, in whole or in part; (iii) becomes insolvent, (vi) calls a meeting of its creditors, or (v) makes any assignment for the benefit of creditors, or if (vi) a bankruptcy, insolvency, reorganization, receivership or reorganization proceeding shall be commenced by or against the Customer.
- 5.2. In each such occasion, CAPNA may, at its sole discretion, opt to (1) cancel this and any other Agreement with the Customer (without waiving any of CAPNA's rights to pursue any remedy against the Customer); (2) claim return of any Products in the possession of the Customer, the title of which has not passed to the Customer, and enter the Customer's premises (or the premises of any associated company or agent where such Products are located), without liability for trespass or any alleged damage, to retake possession of such Products; (3) defer any shipment hereunder; (4) declare forthwith due and payable all outstanding invoices of the Customer under this or any Agreement; and/or (5) sell all or part of the undelivered Products, without notice at public and/or on private sale, while the Customer shall be responsible for all costs and expenses of such sale and be liable to CAPNA for any shortfall in the discharge of the amounts due to CAPNA.

5.3. The Customer's obligations under Sections 7, 8, 9, 11, 12, 13, 15, 16, 18 will survive any termination of this Order.

6. Security Interest:

6.1. As security for the timely payment and performance of all Customer's indebtedness to CAPNA, the Customer hereby grants to CAPNA a first -priority security interest in the Products following delivery thereof to the Customer ("Collateral"). Such Interest shall remain in force until payment in full of the entire purchase price for the Products and any other amounts due to CAPNA by the Customer.

6.2. If so requested by CAPNA, the Customer shall deliver to CAPNA, in form and substance satisfactory to CAPNA, and duly executed as required by CAPNA, financing statements and other security interest perfection documentation in form and substance satisfactory to CAPNA, duly filed under the UCC in all jurisdictions as may be necessary, or in CAPNA's opinion, desirable, to perfect CAPNA's security interest and lien in the Collateral, in order to establish, perfect, preserve and protect CAPNA's security interest as a legal, valid and enforceable security interest and lien, and all property or documents of title, in cases in which possession is required for the perfection of CAPNA's security interest.

7. Manufacturer's Warranty and Disclaimers for Products:

7.1. CAPNA does not manufacture or control any of the Products offered. However, the Products offered are covered by the manufacturer's warranty (the "Product Warranty") as detailed in the Product's description and included with the Product. The terms and conditions of the Product Warranty apply directly between CAPNA and Customer. To obtain warranty service for defective Products, please follow the instructions included in the Product Warranty.

7.2. CAPNA MAKES NO WARRANTY WITH RESPECT TO ALL PRODUCTS OFFERED ARE PROVIDED "AS IS" WITHOUT ANY WARRANTY WHATSOEVER, INCLUDING, WITHOUT LIMITATION, FOR PRODUCTS ANY (A) WARRANTY OF MERCHANTABILITY; (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; OR (C) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE.

7.3. SOME JURISDICTIONS LIMIT OR DO NOT ALLOW THE DISCLAIMER OF IMPLIED OR OTHER WARRANTIES SO THE ABOVE DISCLAIMER MAY NOT APPLY.

8. Limitation of Liability:

8.1. IN NO EVENT SHALL CAPNA BE LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, SAVINGS, REVENUE, GOODWILL OR USE, INCURRED BY CUSTOMER OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT, TORT, STRICT LIABILITY, OR IMPOSED BY STATUTE, OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8.2. NOTWITHSTANDING THE TERMS AND CONDITIONS SET FORTH IN SECTIONS 7.1., CAPNA'S LIABILITY- WHETHER BASED UPON CONTRACT, TORT, EQUITY, NEGLIGENCE OR ANY OTHER LEGAL CONCEPT- SHALL IN NO EVENT EXCEED THE PURCHASE PRICE OF CUSTOMER'S ORDER, AS DESCRIBED ON THE ORDER FORM. IT IS AGREED AND ACKNOWLEDGED THAT THE PROVISIONS OF THIS AGREEMENT ALLOCATE THE RISKS BETWEEN CAPNA AND CUSTOMER, THAT CAPNA'S PRICING REFLECTS THIS ALLOCATION OF RISK, AND BUT FOR THIS ALLOCATION AND LIMITATION OF LIABILITY, CAPNA WOULD NOT HAVE ENTERED INTO THIS AGREEMENT.

8.3. IN JURISDICTIONS THAT LIMIT THE SCOPE OR PRECLUDE LIMITATIONS OR EXCLUSION OF REMEDIES OR DAMAGES, OR OF LIABILITY, SUCH AS LIABILITY FOR GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OR THAT DO NOT ALLOW IMPLIED WARRANTIES TO BE EXCLUDED, THE LIMITATION OR EXCLUSION OF WARRANTIES, REMEDIES, DAMAGES OR LIABILITY SET FORTH ABOVE ARE INTENDED TO APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. CUSTOMER MAY ALSO HAVE OTHER RIGHTS THAT VARY BY STATE, PROVINCE, COUNTRY OR OTHER JURISDICTION.

9. Indemnity:

9.1. The Customer agrees to defend, indemnify and hold CAPNA (and its agents, representatives, employees, officers, related companies, successors and assigns, and customers) harmless from all claims, demands, actions, damages, and liabilities (including attorney's fees and consequential and incidental damages) arising out of any injury (including death) to any person or damage to any property in any way connected with any act or omission of the Customer, its agents, employees, or subcontractors.

10. Force Majeure:

10.1. CAPNA shall not be liable to the Customer or any other person for any failure or delay in the performance of any obligation under this Agreement due to events beyond its reasonable control, including, but not limited to, fire, storm, flood, earthquake, explosion, accident, acts of the public enemy, wars, riots and public disorder, sabotage, strikes, lockouts, labor disputes, labor shortages, work slowdown, stoppages or delays, shortages or failures or delays of energy, materials, supplies or equipment, transportation embargoes or delays, acts of God, breakdown in machinery or equipment, and, except as otherwise set forth in this Agreement, acts or regulations or priorities of the federal, state or local governments.

10.2. When the event operating to excuse performance by CAPNA shall cease, this Agreement shall continue in full force until all deliveries have been completed.

11. Intellectual Property:

11.1. The Customer acknowledges CAPNA and its affiliates are the owners of the brands, trademarks, designs, patents, copyrights and other intellectual property relating to CAPNA's Products, and that no right or license is conveyed by CAPNA to the Customer to manufacture, have manufactured, modify, import or copy such products. The Customer agrees that it will reference brands of CAPNA or its affiliates only in connection with the use or sale of Products delivered to the Customer hereunder, and not in connection with the sale of any other product, except as separately authorized by CAPNA in writing.

12. Patent Indemnity:

12.1. If a Product delivered by CAPNA to the Customer becomes or, in CAPNA's opinion, may become the subject of any claim, suit or proceeding for infringement of any patent, CAPNA may at its option and expense (i) obtain for the Customer the right to use, lease or sell the Product, (ii) replace the Product, (iii) modify the Product, or (iv) remove the Product and refund the purchase price paid by the Customer

less a reasonable amount for use, damage or obsolescence. CAPNA will not be liable for any infringement arising from any modification of a Product, from any combination of a Product with any other product(s), or from the use of a Product in practicing a process or unintended applications. CAPNA's total liability to the Customer will not, under any circumstances exceed the purchase price paid for the allegedly infringing Product. The Customer agrees, at its expense, to protect and defend CAPNA against any claim of patent infringement arising from compliance with the Customer's designs, specifications or instructions and to hold CAPNA harmless from damages, costs and expenses attributable to any such claim.

13. Confidentiality:

13.1. The Customer agrees that all drawings, prints and other technical material which CAPNA may provide to the Customer, whether prepared by CAPNA or by third parties under Agreement to CAPNA, contain data which embody trade secrets and confidential know-how of commercial value to CAPNA or third parties under Agreement to CAPNA. The Customer agrees (a) to keep such information confidential; (b) that it will not disclose such information to any other person, corporate division or entity; (c) will not use such information except in connection with the Products supplied hereunder; and (d) will not sell, lease, loan or permit any other person, corporate division or entity to use such information for any purpose, without CAPNA's prior written consent. Nothing herein shall restrict the use of information generally available to the public.

14. Export Control:

14.1. This Agreement is made subject to any restrictions concerning the export of products or technical information from the United States or other countries that may be imposed on the parties from time to time. Each party agrees that it will not export, directly or indirectly, any technical information acquired from the other party under this Agreement or any Products using such technical information to a location or in a manner that at the time of export requires an export license or other governmental approval, without first obtaining the written consent to do so from the appropriate agency or other governmental entity in accordance with applicable law.

15. Dispute Resolution:

15.1. Any controversy or claim arising out of or relating to this Agreement, or the negotiation or breach thereof, shall be exclusively settled by arbitration in accordance with the International Arbitration Rules of the American Arbitration Association ("AAA"). The award shall be final and binding. Judgment upon the award rendered by the arbitrator or the arbitrators may be entered in any court having jurisdiction thereof. The arbitration shall be held in New York, New York, shall be conducted in the English language, and shall be conducted (i) if the amount in dispute is less than \$250,000, before a single arbitrator mutually agreeable to CAPNA and the Customer, or if no agreement can be reached, then selected by the AAA, or (ii) if the amount in dispute is \$250,000 or more, before three (3) arbitrators. The arbitrator(s) shall make detailed findings of fact and law in writing in support of his, her or their decision, and shall award reimbursement of attorney's fees and other costs of arbitration to the prevailing party, in such manner as the arbitrator shall deem appropriate. In addition, the losing party shall reimburse the prevailing party for reasonable attorneys' fees and disbursements, the costs of the arbitration (including but not limited to the fees and expenses of the arbitrator and expert witnesses)

and the costs incurred by the prevailing party in successfully seeking any preliminary equitable relief or judicially enforcing any arbitration award.

16. Governing Law:

- 16.1. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without giving effect to principles of conflict of laws thereof or the UN Convention on Agreements for the International Sale of Products of 1980.

17. Severability:

- 17.1. If any provision contained in this Agreement is held to be invalid, illegal or unenforceable, such invalid, illegal or unenforceable provision shall be severed from the remainder of this Agreement, and the remainder of this Agreement shall be enforced. In addition, the invalid, illegal or unenforceable provision shall be deemed to be automatically modified, and, as so modified, to be included in this Agreement, such modification being made to the minimum extent necessary to render the provision valid, legal and enforceable. Notwithstanding the foregoing, however, if the severed or modified provision concerns all or a portion of the essential consideration to be delivered under this Agreement by one party to the other, the remaining provisions of this Agreement shall also be modified to the extent necessary to equitably adjust the parties' respective rights and obligations hereunder.

18. Miscellaneous:

- 18.1. In the event of a violation or threatened violation of CAPNA's proprietary rights, CAPNA shall have the right, in addition to such other remedies as may be available pursuant to law or this Agreement, to temporary or permanent injunctive relief enjoining such act or threatened act. The parties acknowledge and agree that legal remedies for such violations or threatened violations are inadequate and that CAPNA would suffer irreparable harm.
- 18.2. Each party will comply with all applicable laws, regulations, and ordinances, and the Customer will comply with the export and import laws and regulations in effect as of the date of shipment of the Products of any country involved in the transactions contemplated by the Agreement.
- 18.3. The parties hereto are independent contractors and nothing in this Agreement will be construed as creating a joint venture, employment or agency relationship between the parties. The Customer shall not be entitled to assign the rights and obligations of the Customer set forth in this Agreement without the prior written consent of CAPNA.
- 18.4. The failure by either party to enforce at any time or for any period any one or more of the Terms and Conditions herein shall not be a waiver of them or of the right at any time subsequently to enforce all Terms and Conditions of this Agreement.
- 18.5. This Agreement, including any Schedules attached hereto, contains the entire agreement of the parties with respect to the subject matter of this Agreement, and supersedes all prior agreements between them, whether oral or written, of any nature whatsoever with respect to the subject matter hereof. This Agreement is binding upon the parties hereto, their successors and permitted assigns. It can only be amended in writing which (i) specifically refers to the provision of this Agreement to be amended and (ii) is signed by both parties.