

Nolato GW, Inc. Terms & Conditions of Sale

Nolato GW, Inc. and its affiliated companies (each a "Seller") sell and deliver goods (including by way of example only, tooling, molded products, assemblies and/or finished goods) and/or services (the "Deliverables") only pursuant to the following terms and conditions, which shall constitute the entire agreement between Seller and Buyer. No other terms or conditions shall be of any effect unless agreed to in writing by Seller. Buyer will be deemed to have agreed to these terms and conditions by submission of a request for proposal or purchase order for the Deliverables or if Buyer accepts delivery of any part of the Deliverables. Any additional or different terms or conditions contained in a request for proposal or purchase order of Buyer, or any response by Buyer to these terms and conditions shall be deemed objected to by Seller and shall be of no effect. Unless otherwise agreed by Seller in writing:

1. Prices for Deliverables which are molded products, assemblies and/or finished goods assume continuous production of the quantity ordered and delivery at one time. Prices do not include freight costs, taxes, duties or other like charges. Prices specified are based upon prints, specifications, electronic, CAD data and other information provided by Buyer as of the date Seller's prices are specified and are subject to change if Buyer changes any such prints, specifications or other data. Prices are subject to change due to unanticipated increases in material costs or other operating expenses.
2. Tooling developed for Buyer shall be paid for as follows: 50% down with order, 40% with first samples, and 10% upon Buyer's approval of samples. Seller's invoices shall be due and payable upon receipt. Seller may change or withdraw extensions of credit at any time, in which event Seller may require cash in advance and/or collateral security for account balances. All indebtedness outstanding for more than 30 days from the date of Seller's invoice shall be subject to a late payment charge equal to the lesser of (i) 1 1/2% per month, or (ii) the highest rate permitted by applicable law. If Seller decides to obtain assistance in collecting past due balances, Buyer shall pay Seller's reasonable attorney fees, collection fees and court costs.
3. Buyer may not change any aspect of an order for Deliverables which Seller has accepted without Seller's written consent. Any changes approved by Seller with respect to quantities, delivery, and product specifications or other matters shall be subject to a change in the purchase price of the Deliverables. Buyer assumes all risks associated with any decrease in the useful life of molds resulting from any change requested by Buyer.
4. All special dies, molds, inserts, gauges, spare parts, jigs or other materials supplied by Buyer related to the design or manufacture of any Deliverables ("Buyer's Items") required by Seller to complete Buyer's order shall be supplied at Buyer's expense. In the event any of Buyer's Items do not meet Seller's specifications or require any reworking before they can be used by Seller, all costs and expenses of doing so shall be charged

to Buyer. Buyer shall pay for changes in molds and tools made necessary by changes in specifications requested or accepted by Seller, and Buyer assumes all risk of resultant damage.

5. Samples submitted to Buyer shall be deemed approved if written notice of rejection is not received by Seller within ten (10) days after the date of submission.
6. Seller reserves the right to withdraw any quotation at any time for any reason. If Buyer asks Seller to delay shipment of any Deliverables when ready for shipment, Buyer shall nonetheless pay for the Deliverables and for storage charges until actually shipped. If Buyer refuses to accept any shipment from Seller, Buyer shall nonetheless be liable for the full payment thereof and all of Seller's rehandling, reshipping, restocking and storage charges. A given quotation pertains exclusively to the Deliverables provided for therein and does not obligate Seller to deal with Buyer on any other matter.
7. Buyer is responsible for all freight and handling charges. Deliverables are furnished FCA Seller's plant specified in the Sales Order (Incoterms 2010). Shipments will be made via carrier selected by Seller. Title to and risk of loss for all Deliverables shall pass to Buyer upon Seller's delivery of the Deliverables to the carrier. Seller shall not be liable for shipment delays, or any loss or damage to Deliverables while in transit, and all Buyer claims therefore shall be made only to the carrier. Designated shipment and delivery dates are estimates, but Seller will use reasonable commercial efforts to ship by Buyer's requested ship date. Seller shall have no responsibility or liability for any loss or damage incurred by Buyer due to any late delivery of Deliverables. Seller reserves the right to deliver Deliverables in installments and invoice Buyer in installments. Delay in any installment delivery shall not relieve Buyer of its obligation to accept all remaining installments.
8. If Buyer defaults with respect to any payment or performance obligation whatsoever, in respect of an order or any other agreement with Seller, Seller may, in addition and without prejudice to its other lawful rights and remedies (i) defer further shipments of Deliverables until each default has been corrected to Seller's satisfaction, and/or (ii) terminate the applicable order and/or any other pending orders from Buyer. No course of conduct, nor any delay of Seller in exercising any rights hereunder, nor Seller's acceptance of any payment from Buyer shall waive any rights of Seller.
9. Until such time as the entire purchase price of the Deliverables has been paid, Buyer grants Seller a purchase money lien and security interest in the Deliverables and Buyer's Items to secure the payment of all amounts owed Seller for such Deliverables. The rights and remedies of Seller, as a secured party with respect to the Deliverables and Buyer's Items, shall be governed by the Uniform Commercial Code, or applicable equivalent statute(s) of the locale in which the Deliverables are located. Buyer authorizes Seller to execute and record on behalf of Buyer such financing statements and other instruments as Seller may deem necessary to perfect or protect its security

interest in the Deliverables and Buyer's Items.

10. In the event Buyer ceases the purchase of Deliverables prior to the expiration of the useful life of a mold (either made by Seller or transferred to Seller), Seller reserves the right to charge Buyer for up to 150% of Seller's unrecovered cost of engineering services and other expenses incurred by Seller for the design, manufacture, validation and/or use of such mold. Buyer shall accept all such molds and tools "AS IS" and Seller makes absolutely no warranties in respect thereof.
11. In the event any request for proposal, purchase order, scheduling agreement or other document delivered by Buyer designates a term in excess of twelve (12) months (including an indefinite term) and purports to be a blanket purchase order or an equivalent arrangement ("Blanket Order"), then Seller reserves the right, in its sole discretion, to refuse to accept or fill any order received from Buyer at any time after the expiration of twelve (12) months from the date the Blanket Order is issued.
12. Buyer assumes all risk of loss of Buyer's Items. Buyer shall insure Buyer's Items against loss or damages due to fire, theft, storm, strike, accident, and other casualties. At any time after completion or termination of Buyer's order, Seller reserves the right to (i) return Buyer's Items to Buyer, whether or not requested by Buyer, or (ii) destroy Buyer's Items after giving Buyer at least 90 days advance notice. Buyer shall indemnify and hold Seller harmless from and against every loss, liability, cost, damage and expense ("Losses") suffered or incurred by Seller arising out of Seller's use of Buyer's Items, except only to the extent such Losses are due to Seller's gross negligence or willful acts.
13. Molds purchased or made by Seller for use with Deliverables will be kept in reasonably satisfactory condition for production for the normal life of the applicable mold. The normal life of a mold will be deemed terminated when Buyer no longer accepts Deliverables produced from the mold or when Seller deems the mold to no longer be useful. Minor maintenance and repair costs to molds will be borne by Seller. The cost of major maintenance, repair and replacement of mold parts such as cores, cavities and special cams and mechanisms, shall be borne by Buyer. With respect to molds which are provided by Buyer, Buyer shall be responsible for all repair and replacement costs, except where due to the willful acts of Seller.
14. Claims for alleged shortages or defects in any Deliverables must be made in writing within fourteen (14) days after date of delivery to Buyer or shall be deemed waived. No Deliverables shall be returned to Seller without Seller's prior written authorization, and Buyer assumes all costs and all risk of loss of any loss or damage to Deliverables returned to Seller without Seller's prior written authorization.
15. For a period of one (1) year from the date of delivery of goods, FOB Seller's plant, Seller warrants that Deliverables manufactured by Seller shall conform to applicable

specifications in all material respects, and shall be delivered free and clear of any lien, claim or encumbrance of any third party. **Except for such warranties, Seller makes no other warranties express or implied, including implied warranties of merchantability and fitness for a particular purpose.** Buyer's exclusive remedy and Seller's sole liability on any claim, whether based on the theory of tort, contract, warranty or otherwise, shall be limited, at Seller's option either to repair or to replace defective Deliverables or to refund the purchase price thereof. In no event shall Seller be liable for any other or further Losses of any kind whatsoever including, but not limited to, lost profits, special, incidental and consequential damages, or recall liability, regardless of the theory on which a claim therefore may be made or based. Seller shall have no obligation to repair or replace, nor any liability in respect of any Deliverable which has been misused, damaged or altered in any way. Buyer is solely responsible for determining the manner in which any Deliverable or subsequent subassembly or assembly thereof is used by Buyer, and that such use is in compliance with applicable laws.

16. With respect to Deliverables that consist of assembly, consulting and/or design services, the following additional provisions shall apply: (i) Seller may require significant disbursements to be prepaid by Buyer or paid directly by Buyer to the provider of such items, (ii) Buyer shall promptly respond to Seller's requests and inquiries and otherwise cooperate with Seller in order to enable Seller to provide such services, and promptly respond to and cooperate with Seller in the resolution of problems associated with the services, (iii) such services are primarily focused on enhancing the efficiency and cost effectiveness of manufacturing Buyer's products but Buyer shall remain solely responsible for any aspect of the design or performance of its products, including but not limited to all performance and safety testing and certification of its products, registering patents and other intellectual property rights, and maintaining all product development records as may be required by law, (iv) such Deliverables shall not become the property of Buyer until all fees and expenses due Seller are paid in full; and (v) Seller will not knowingly infringe or violate any patent, copyright or other intellectual property right of a third party in rendering such Deliverables.
17. Buyer shall indemnify and hold Seller harmless from each and every Loss incurred by Seller in connection with any claim, action or proceeding commenced against Seller or to which Seller is made a party, arising out of or relating in any manner to (i) Buyer's or Buyer's customer's purchase, installation, use, or ownership of any Deliverables, except only to the extent of Seller's acts or omissions, or (ii) a claim that any Deliverable infringes upon any patent or other intellectual property right of any other person or entity (iii) Buyer's breach or violation of any obligation of Buyer to Seller, (iv) any act or omission of Buyer, or any employee, agent or representative of Buyer, and/or (v) the sale, use, misuse, or alleged defect of any product of Buyer.
18. All notices shall be in writing and hand delivered, including by commercial courier, with

proof of delivery obtained, or sent by United States certified mail, postage prepaid, return receipt requested.

19. These terms and conditions shall be construed to be between merchants. The laws of the State of Vermont shall apply without regard to conflict of law rules. The exclusive venue for the resolution of all disputes shall be the state and federal courts located in the State of Vermont, regardless of where any order was placed or filled, the place of delivery of the Deliverables or where any other act or performance occurred, and Buyer consents to the personal jurisdiction of such courts.
20. Seller reserves the right to make changes in the means and methods which it uses to produce or provide Deliverables so long as such changes do not adversely affect the Deliverables.
21. Seller shall not be liable to Buyer or any other person, and Buyer shall make no claim against Seller, for any Loss, resulting from Seller's failure or delay in the performance of any obligation due to events beyond Seller's 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 slowdowns, 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, unforeseen or unanticipated design, mold, equipment or manufacturing problems or acts or regulations of the federal, state or local governments. Seller's period of performance shall be extended for the period of such failure or delay, and when the event causing such failure or delay in performance shall cease, Seller may complete its performance. Any Loss so incurred by Buyer shall be fully compensated for by Seller's completion of the order.