

KRYTAR, INC.

SALES TERMS AND CONDITIONS AGREEMENT

These Terms and Conditions ("Terms and Conditions") shall govern all transactions between Krytar, Inc., a California corporation ("Krytar") and the buyer identified on the Krytar's Sales Acknowledgement form (the "Buyer").

1. Acceptance.

Buyer hereby accepts of all Terms and Conditions contained herein as supplemented by Krytar's: (i) Sales Acknowledgement form; (ii) End User form; (iii) invoices and; (iv) if Buyer has ordered the goods through Krytar's web site, the provisions of that web site to the extent not inconsistent with the provisions of the remainder of these Terms and Conditions.

2. Products.

a. Prices. The products supplied by Krytar (the "Products") and prices for such Products are established by Krytar and are set forth in Krytar's Sales Acknowledgement.

b. Pricing and Product Information. All Product pricing, description and availability information ("Information") provided by Krytar, in any form, is the property of Krytar. Krytar hereby grants Buyer a limited, non-exclusive, non-transferable license to use the Information for Buyer's internal use only for purposes of Buyer's purchase of Products sold by Krytar. Buyer agrees to hold in confidence and not to directly or indirectly use, reveal, report, publish, disclose or transfer to any other person or entity any of the Information or utilize the Information for any purpose except as permitted herein. KRYTAR MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED ON THE INFORMATION. ALL INFORMATION IS PROVIDED TO BUYER "AS IS." KRYTAR HEREBY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS AND IMPLIED, RELATING TO INFORMATION INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTY OF MERCHANTABILITY AND THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. All prices are subject to change without notice and will be established at time of order acceptance by Krytar. Additional fees may apply in accordance with Krytar's policies in effect on the date of shipment.

3. Delivery and Risk of Loss.

Krytar agrees to deliver the Products using commercially reasonable shipping methods, as determined by Krytar in accordance with Krytar's shipping policies at the time of shipment. Title and risk of loss, including damage, destruction, theft or other loss of the Products shall pass to Buyer upon delivery of the Products to the carrier by Krytar. Buyer shall be responsible for asserting any claims against the carrier and for maintaining any required insurance against loss in transit. Delivery dates, if any are specified by Krytar, are approximate and are based upon prompt receipt from Buyer of all necessary information concerning packaging, routing and shipping.

4. Inspection and Claims.

a. Buyer shall examine all Products upon receipt and shall notify Krytar, in accordance with the Notice section hereof, within five (5) days of all discrepancies and refusal to accept delivery of purchased Product. Such notice shall be reasonably detailed and explain the discrepancy or why the purchased Product was refused. If Buyer does not give Krytar such notice as stated herein, Buyer agrees that such Products have been accepted by Buyer as of the date of shipment.

b. All claims for any cause whatsoever (whether based in contract, negligence, strict liability, other tort or otherwise) shall

be deemed waived unless made in writing and received by Krytar within thirty (30) days after Buyer's receipt of the Products with respect to which the claim is made, or, if the claim is for non-delivery of goods, within forty-five (45) days after the date upon which the Products were delivered to carrier. Buyer's failure give written notice of any such claim within the applicable time period shall be deemed an absolute and unconditional waiver by Buyer of such claim.

5. Payment Terms.

a. Payments. Payment in full by Buyer will be made thirty (30) days from the order date on Krytar's invoice or Sales Acknowledgement. Payments shall be made to Krytar at the address shown on the Sales Acknowledgement for the Products. Should Buyer's financial condition become unsatisfactory to Krytar, Krytar, in its sole discretion, may require cash payment or security satisfactory to Krytar for future deliveries to Buyer. Any action taken pursuant to this paragraph shall be without prejudice to any other rights and remedies Krytar may have.

b. Interest on Late Payment. Interest shall accrue on all sums due or found to be due under the invoice, Sales Acknowledgement and/or these Terms and Conditions at the lower of the rate of 18% per annum or the maximum rate then permitted by applicable law, until such sums are paid to Krytar.

c. Taxes. Buyer shall pay applicable federal, state, municipal and other government taxes (such as sales, use, etc.). Unless otherwise specified, prices do not include such taxes. Exemption certificates valid in the place of delivery must be presented to Krytar prior to shipment if they are to be honored.

6. Excuse of Performance.

Krytar shall not be liable to Buyer for any delay in performance or nonperformance that is caused in whole or part by an event or circumstance beyond Krytar's reasonable control, including, but not limited to, fire, flood, accident, labor trouble, strike, lockout or injunction, compliance with governmental requests, laws, regulations, orders or actions, riot, sabotage, or war.

7. Limited Warranty.

Krytar warrants each Product to be free from any defect in materials and workmanship for a period of one (1) year after delivery of the Product to the Buyer. This limited warranty does not cover damage caused during shipment and any damage caused by: actions that are beyond Krytar's control, including without limitation, impacts, fluids, fire, flood, wind, earthquake, lightning or similar disaster, war, lockout, epidemic, destruction of production facilities, riot, insurrection, or material unavailability; unauthorized modifications, attachments or peripherals; improper use, environment, installation or electrical supply; improper maintenance; any other misuse, abuse or mishandling.

8. Disclaimers.

EXCEPT FOR THE LIMITED WARRANTY EXPRESSED HEREIN, KRYTAR DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OTHER THAN THOSE WARRANTIES IMPLIED BY AND INCAPABLE OF EXCLUSION, RESTRICTION OR MODIFICATION UNDER THE APPLICABLE LAW. KRYTAR SHALL NOT BE LIABLE TO BUYER, BUYER'S CUSTOMERS, OR ANY OTHER PARTY FOR ANY LOSS, DAMAGE, OR INJURY THAT RESULTS FROM THE USE OR APPLICATION BY BUYER, BUYER'S CUSTOMER, OR ANY OTHER PARTY, OF DELIVERED PRODUCTS, UNLESS THE LOSS OR DAMAGE RESULTS DIRECTLY FROM THE INTENTIONALLY TORTIOUS OR FRAUDULENT ACTS OR OMISSIONS OF KRYTAR.

IN NO EVENT SHALL KRYTAR BE LIABLE TO BUYER, BUYER'S CUSTOMERS, OR ANY OTHER PARTY FOR LOSS, DAMAGE, OR INJURY OF ANY KIND OR NATURE ARISING OUT OF OR IN CONNECTION WITH THESE TERMS AND CONDITIONS, OR ANY AGREEMENT INTO WHICH THEY ARE INCORPORATED, OR ANY PERFORMANCE OR NONPERFORMANCE UNDER THESE TERMS AND CONDITIONS BY KRYTAR, ITS EMPLOYEES, AGENTS OR SUBCONTRACTORS, IN EXCESS OF THE NET PURCHASE PRICE OF THE PRODUCTS ACTUALLY DELIVERED TO AND PAID FOR BY BUYER HEREUNDER. IN NO EVENT SHALL KRYTAR BE LIABLE TO BUYER, BUYER'S CUSTOMERS, OR ANY OTHER PARTY FOR INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO LOSS OF GOODWILL, LOSS OF ANTICIPATED PROFITS, OR OTHER ECONOMIC LOSS ARISING OUT OF OR IN CONNECTION WITH KRYTAR'S BREACH OF, OR FAILURE TO PERFORM IN ACCORDANCE WITH ANY OF THESE TERMS AND CONDITIONS, AN ORDER OR THE FURNISHING, USE OR PERFORMANCE OF ANY PRODUCTS OR INFORMATION KRYTAR SHALL PROVIDE TO BUYER, EVEN IF NOTIFICATION HAS BEEN GIVEN AS TO THE POSSIBILITY OF SUCH DAMAGES. BUYER HEREBY EXPRESSLY WAIVES ANY AND ALL CLAIMS FOR SUCH DAMAGES. IN NO EVENT SHALL KRYTAR HAVE ANY LIABILITY FOR ANY PRODUCTS USED FOR AVIATION, MEDICAL, LIFESAVING, LIFE-SUSTAINING OR NUCLEAR APPLICATIONS.

9. Termination/Cancellation.

a. Acceptance of Orders By Krytar. Acceptance by Krytar of any order for Products from Buyer only occurs at the time of shipment of the Product by Krytar.

b. Termination/Cancellation Rights. Krytar may terminate or cancel Buyer's order, in whole or in part, prior to the shipment of the Products: (i) if Krytar determines or obtains evidence that Buyer is purchasing the Products for resale outside of the United States; or (ii) if Buyer's financial condition shall become such as, in the sole judgment of Krytar, to endanger performance and/or payment under an order from Buyer or (iii) for any or no reason in Krytar's sole discretion or for Krytar's sole convenience.

c. Acts of Insolvency. Krytar may terminate or cancel Buyer's orders prior to the shipment of the Products, by written notice to the Buyer, if Buyer becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, becomes subject to any proceeding under any bankruptcy or insolvency law whether domestic or foreign, or has sold a substantial part of its assets or wound up or liquidated, voluntarily or otherwise.

d. Remedies Non-Exclusive. The rights and remedies of Krytar provided in this Section shall not be exclusive and are in addition to any other rights or remedies provided for under the Sales Acknowledgement, an order, these Terms and Conditions, or under law.

e. Notice. In the event Krytar elects to terminate or cancel an order (or any part thereof) pursuant to this Section, Krytar shall provide notice of termination to Buyer.

10. Assignment.

Buyer shall not transfer or assign (by operation of law or otherwise) its obligations under these Terms and Conditions, in whole or in part, or any interest therein, without Krytar's written consent. If Krytar consents to any transfer or assignment, Buyer shall remain liable and responsible for all of its obligations hereunder, and shall guarantee performance by its transferee or assignee.

11. Relationship of the Parties.

Buyer's relationship with Krytar will be that of an independent contractor. Buyer will not have, and will not represent that it has, any power, right or authority to bind Krytar, or to assume or create any obligation or responsibility, express, implied or by appearances, on behalf of Krytar or in Krytar's name, except as herein expressly provided. Nothing stated in these Terms and Conditions will be construed as constituting Buyer and Krytar as partners or as creating the relationships of employer/employee, franchisor/franchisee, or principal/agent between the parties. Buyer will make no warranty, guarantee or representation, whether written or oral, on Krytar's behalf.

12. Amendment or Modification.

These Terms and Conditions, together with any terms and conditions contained in any Purchase Order (as applicable), may not be added to, modified, superseded or otherwise altered except by a written instrument signed by Krytar. Any attempt to alter, supplement or amend these Terms and Conditions or to enter an order for Products that are subject to additional or altered terms and conditions will be null and void, unless otherwise agreed to in a written instrument signed by Krytar. No waiver by either party with respect to any breach or default or of any right or remedy, and no course of dealing, shall be deemed to constitute a continuing waiver of any breach or default or of any right or remedy unless such waiver is expressed in a writing signed by the party to be bound. No course of dealing or usage of trade shall be applicable unless expressly incorporated into a written agreement by an authorized representative of Krytar.

13. Dead on Arrival Policy:

Notwithstanding any other provision contained herein, Krytar shall accept return of any and all Product that is found to be dead on arrival at Buyer's facility. Such Product will be returned to Krytar, freight collect, within five (5) days of Buyer's receipt from Krytar. Krytar agrees, at Buyer's request, to either promptly: (i) replace or repair such Product or (ii) issue a credit to Buyer's account.

14. Anti-Corruption.

Buyer has not made, and will not make, any direct or indirect payment, offer to pay, or authorization to pay, any money, gift, promise to give, or authorization of the giving, of anything of value to any government official, or the immediate family of any such official, for the purpose of influencing an act or decision of the government or such individual in order to assist, directly or indirectly, Buyer in obtaining or retaining business, or securing an improper advantage.

15. Compliance with U.S. Export Laws.

If Buyer delivers the Products to its customers who may use the Products outside the United States, Buyer acknowledges and agrees to advise its customers that the Products are controlled for export by the U.S. Department of Commerce and that the Products may require authorization prior to export from the United States or re-export. Buyer agrees that it will not export, re-export, or otherwise distribute Products, or direct products thereof, in violation of any export control laws or regulations of the United States. Buyer warrants that it will not export or re-export any Products with knowledge that they will be used in the design, development, production, or use of chemical, biological, nuclear, or ballistic weapons, or in a facility engaged in such activities, unless Buyer has obtained prior approval from the Department of Commerce. Buyer further warrants that Buyer

will not export or re-export, directly or indirectly, any Products to countries for which the United States maintains an embargo, or by a national or resident thereof, or any person or entity on the U.S. Department of Treasury's List of Specially Designated Nationals or the U.S. Department of Commerce's Table of Denials Orders.

16. Miscellaneous.

a. Use of Name, Logos Marks. Neither party shall use the name, logos, trade marks or service marks of the other for advertising or other such purposes without the prior written approval of the other party.

b. Governing Law and Form.

THESE TERMS AND CONDITIONS, AND THE APPLICATION AND INTERPRETATION OF THESE TERMS AND CONDITIONS, SHALL BE GOVERNED EXCLUSIVELY BY THE LAWS OF THE STATE OF CALIFORNIA AND APPLICABLE FEDERAL LAW OF THE UNITED STATES, EXCLUDING ANY CONFLICT-OF-LAWS PRINCIPLE THAT MIGHT REFER THE GOVERNANCE OF THESE TERMS AND CONDITIONS OR THE PARTIES' RELATIONS WITH EACH OTHER TO THE LAW OF ANOTHER JURISDICTION.

BUYER AGREES AND CONSENTS TO THE JURISDICTION OF THE STATE COURTS OF SANTA CLARA COUNTY, CALIFORNIA, AND OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA AND ACKNOWLEDGES THAT SUCH COURTS SHALL CONSTITUTE PROPER AND CONVENIENT FORUMS FOR THE RESOLUTION OF ANY ACTION BETWEEN BUYER AND KRYTAR WITH RESPECT TO THE SUBJECT MATTER HEREOF, AND AGREES THAT SUCH COURTS SHALL BE THE SOLE AND EXCLUSIVE FORUMS FOR BETWEEN BUYER AND KRYTAR WITH RESPECT TO THE SUBJECT MATTER OF THESE TERMS AND CONDITIONS.

c. Attorneys Fees. Should any proceeding or litigation be commenced between the parties concerning the rights or obligations of the parties under these Terms and Conditions, the Sales Acknowledgement form or any Purchase Orders (if applicable), the party prevailing in such proceeding or litigation shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for its attorneys' fees in such litigation. This amount shall be determined by the court in such litigation or in a separate action brought for that purpose.

d. Severability. If any of the provisions of these Terms and Conditions are determined to be invalid, illegal, or unenforceable, such provisions shall be modified to the minimum extent necessary to make such provisions enforceable, and the validity, legality, and enforceability of the remaining provisions of these Terms and Conditions shall continue in full force and effect.

e. Notices. All notices will be sent to the addresses set forth on Krytar's Sales Acknowledgement until such time as written notice of a change of address is given the other party. Any such notice or other communication shall be deemed to have been duly given and effective: (a) when sent by overnight delivery service of nationally recognized standing, on the business day following deposit with such service; (b) three (3) days after deposit in the United States mail when mailed by registered or certified mail, first class postage prepaid and addressed as aforesaid through the United States Postal Service; (c) when delivered by hand, upon delivery; and (d) when sent by facsimile machine, upon confirmation of receipt.

f. Waiver. No term or provision hereof shall be deemed waived or modified and no breach excused unless such waiver, modification or consent shall be in writing and signed by the party claimed to have waived or consented.

g. Duration. The provisions of these Terms and Conditions

shall continue to be applicable notwithstanding the transfer of title to the Products.

h. Entire Agreement. These Terms and Conditions, supplemented by any Purchase Order, Krytar's Sales Acknowledgement form and Krytar's End Use form, constitute the entire agreement between the parties relating to the purchase of the Products, regardless of any inconsistent or additional terms in any other document, and supersede all previous understandings, representations, negotiations and proposals. No oral representation, condition, usage of trade, course of dealing or course of performance shall supplement these Terms and Conditions. BUYER EXPRESSLY AGREES THAT IN THE EVENT OF A CONFLICT BETWEEN THESE TERMS AND CONDITIONS AND ANY PURCHASE ORDER OR OTHER AGREEMENT, THE PROVISIONS OF THESE TERMS AND CONDITIONS SHALL CONTROL AND PREVAIL.

i. Captions. The captions used herein are for reference purposes only and shall have no effect upon the construction or interpretation of any provisions herein.