# TERMS AND CONDITIONS OF SALE

**1. AGREEMENT**. Unless RectorSeal, LLC ("Seller") has executed a separate formal written agreement with the entity ("Buyer") purchasing the goods and services (the "Products") identified in Buyer's purchase order ("PO"), these Terms and Conditions of Sale ("Seller's Terms"), together with Seller's acknowledgement of the PO (the "Order Acknowledgement"), form the agreement that will govern the commercial transaction pursuant to which Seller will sell the Products to Buyer (this "Agreement"). Any terms or conditions other than those stated in this Agreement, whether contained in Buyer's PO or elsewhere, and whether submitted contemporaneously or in the future, that purport to vary the terms and conditions of this Agreement are expressly rejected by Seller and will not be binding upon Seller. Buyer acknowledges and agrees that (a) Seller's Terms are posted on Seller's website and are publicly available; (b) Buyer has had the opportunity to review Seller's Terms prior to issuing a PO to Seller; (c) Buyer's issuance of a PO to Seller constitutes Buyer's full acceptance of Seller's Terms; (d) Seller's issuance of an Order Acknowledgment constitutes Seller's acceptance of Buyer's PO subject to the express conditions that Buyer assent to Seller's Terms and this Agreement, without variance and regardless if Seller countersigns Buyer's PO; and (e) Buyer will be deemed to have so assented unless Buyer notifies Seller to the contrary in writing within 10 days following Buyer's receipt of the Order Acknowledgement.

**2. PRICE; PAYMENT TERMS**. The price of the Products is the price stated in the Order Acknowledgement. The Order Acknowledgement will also state any minimum purchase value for the particular Products being ordered. Unless different terms of payment are stated in the Order Acknowledgement, Buyer will pay Seller in USD, without offset, all invoiced amounts within 30 days following the date of Seller's invoice. Seller may charge and collect interest at the rate of 1.5% per month or the maximum rate permitted by law for overdue amounts, whichever is less. Seller may, among other remedies in equity and at law, including the right of setoff, cancel the sale of the Products subject to this Agreement or suspend further sales to Buyer if Buyer fails to make any payment when it is due. Seller reserves the right to require full or partial payment in advance based on Seller's opinion of Buyer's credit or financial condition. Except where otherwise prohibited by law, all applicable sales, excise, use or similar taxes or charges for the sale of Products will be in addition to the stated price and paid by Buyer. Buyer will be obligated to Seller for all costs and expenses (including reasonable attorney's fees and expenses and fees for collection agencies) incurred by Seller in collecting any amounts not timely paid by Buyer or in exercising any of its other rights hereunder.

**3. CREDITS**. Promotional credits, which are non-cash credits issued for trade promotions, marketing programs, price incentives, or customer incentives, will expire one year from the date of issuance. Cash reimbursement for credits in lieu of purchases of Products is not allowed.

**4. CHANGES; CANCELLATION; RETURNS**. There is a limited window of time to change or cancel a PO. A PO can no longer be changed or cancelled once the Products have shipped, or in the case of special order Products (bespoke, privately labelled, or specialty packaged goods) once the Order Acknowledgement has been issued. Seller reserves the right to reject or cancel a PO or any portion thereof for any reason upon notice to Buyer. All Product returns are subject to Seller's Return Policy.

**5. INSPECTION**. Seller will inspect the Products prior to shipment to confirm that they comply with the terms of this Agreement and the Product materials, qualities and components which comprise the Product, including, but not limited to, size, technical standards, storage requirements, quality standards, shelf-life and any other pertinent features of the Product (the "Specifications"). Buyer must inspect all the Products upon delivery to ensure the correct Product was received, there are no missing Products (or parts) and the Products were not damaged in transit. Buyer should immediately contact Seller's customer service team if Buyer identifies any damages to the Products during inspection or unpacking (and provide Seller pictures of the damaged packaging and Product if requested by Seller), so Seller can help Buyer process a claim with the carrier and arrange for return, repair or replacement, if and as applicable.

**6. DELIVERY**. Shipping terms and freight terms may vary depending on the Products and delivery location. Seller's default shipping terms are EXW – Incoterms® 2020, subject in each case to Seller's Logistics Rider. Any delivery dates stated in an Order Acknowledgement are estimated and are subject to change. Seller may make delivery in installments (including, but not limited to, for Products that are subject to backorder or blanket POs), each of which may be separately invoiced and paid as billed without regard to subsequent deliveries. Delay in delivery of any installment will not relieve Buyer of its obligation to accept remaining installments. Seller will use reasonable efforts to deliver Products on time, but will not be liable for any expenses or damages incurred as a result of late delivery. Seller will pack the Products for delivery in a manner (a) suitable for handling, transportation and storage; and (b) that protects the integrity of the Products so they remain free of damages.

**7. LIMITED WARRANTY**. The Products will be subject to Seller's Standard Limited Product Warranty Statement (the "Limited Warranty"). THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS WILL NOT APPLY TO THIS LIMITED WARRANTY OR THIS AGREEMENT.

**8. CONFIDENTIAL INFORMATION**. The parties acknowledge that in the course of their dealings each may disclose ("Discloser") and each may receive ("Recipient") non-public confidential and proprietary information concerning the business of Discloser and its business partners ("Confidential Information"). Recipient agrees to protect and hold all Confidential Information in strict confidence and to take all reasonable steps necessary to protect the Confidential Information from unauthorized and/or inadvertent disclosure to the same degree that it protects its own confidential information. Unless in receipt of specific written exemption from Discloser, Recipient will not (a) use, reproduce, modify or disclose any of the Confidential Information for any purpose other than to perform its obligations under this Agreement for which the Confidential Information is being disclosed; or (b) disclose any of the Confidential Information other than to officers, directors, employees and agents (collectively "Representatives") of Recipient who have a reasonable need-to-know in order to discharge their obligations under this Agreement and are, in turn, subject to obligations of confidentiality no less stringent than those in this Agreement. In the event of any court order or legal action requiring the disclosure of Confidential Information, Recipient agrees to give immediate verbal and written notification of the order or action to Discloser, and to the extent allowable under applicable law and at the expense of Discloser, hold the Confidential Information while the Discloser seeks a protective order. Recipient agrees and acknowledges that any violation of its obligation of confidentiality herein will result in irreparable injury to Discloser and that, in addition to any other remedies that may be available, in law, at equity or otherwise, Discloser will be entitled to seek injunctive relief against the threatened breach of this obligation, or the continuation of any such breach, without the necessity of proving actual damages or posting a bond or any other security. Upon the request of Discloser, Recipient will promptly return or destroy all Confidential Information to Discloser, including all copies thereof.

**9. COMPLIANCE**. Each party must at all times comply with all laws applicable to their respective performance under this Agreement. Without limiting the generality of the foregoing, each party (a) agrees to comply with all applicable laws governing the export/import or sale of the Products, including all applicable laws related to (i) commerce, environmental, health, and occupational safety, employment and labor; (ii) foreign bribery and corruption; (iii) trade regulations, export control and economic sanctions and embargoes; and (iv) international customs requirements and the local laws in countries of import, if applicable; (b) represents and warrants that it has no public officials as direct or indirect owners, officers or employees, and agrees to immediately notify the other party in writing if this representation and warranty changes at any time; (c) represents that it has in place adequate policies, controls and training to ensure compliance with the foregoing compliance requirements (the "Regulatory Requirements") and (d) at its own expense, will maintain all certifications, credentials, licenses and permits required by the Regulatory Requirements to conduct its business relating to the manufacturing, sale, purchase, use, resale, storage and/or delivery of the Products, as applicable. Breach of this clause will constitute a material breach of this Agreement incapable of remedy. Seller is not be responsible for regulatory and other legal compliance with respect to goods made by Buyer which incorporate the Products or to any use of the Products by Buyer other than as covered by the Limited Warranty. Buyer is solely responsible for determining the suitability of the use for the Products and Buyer will comply with the Specifications and all applicable laws relating to the use, storage and/or handling of the Products.

**10. INDEMNIFICATION**. Each party ("Indemnifying Party") agrees to indemnify, defend and hold harmless the other party and its affiliates, successors and permitted assigns and their respective officers, directors, employees and other representatives ("Indemnified Party") against any and all losses, liabilities, damages, fines, expenses, penalties, liens, encumbrances, interest expense, costs and fees and disbursements of any kind and nature incurred or suffered by Indemnified Party, that arise out of or result from any third-party claim, action, cause of action, demand, lawsuit, proceeding or investigation of any nature asserted against Indemnified Party in relation to (a) Indemnifying Party's failure to perform its duties under this Agreement and/or observe the terms and conditions contained herein, including incurring in any breach of a representation, warranty or covenant; (b) any damage to property and/or injury or death to the extent the damage, injury or death is caused by Indemnifying Party's negligent acts or omissions (including recklessness or willful misconduct); (c) Indemnifying Party's failure to comply with any applicable laws; and (d) Indemnifying Party's infringement, misappropriation or other unauthorized use of any third-party intellectual property rights.

**11. LIMITED LIABILITY**. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO ANY BREACH OF THIS AGREEMENT; PROVIDED, HOWEVER, THAT THIS LIMIT OF LIABILITY WILL NOT APPLY IN CASES OF FRAUD, WHERE PROHIBITED BY LAW, OR EITHER PARTY'S INDEMNIFICATION OBLIGATIONS. With the exception of payment and confidentiality obligations, neither party will be liable if its performance is delayed or made commercially impracticable due to acts of God, natural disasters or unusually severe weather, civil unrest, terrorism, military authority, war, riot, fire, labor disputes, accidents, pandemics, epidemics, zombie apocalypse, inability to obtain materials or goods, delays of carriers, contractors or suppliers, compliance with governmental requests, changes in laws affecting the import or export of goods or any other unforeseen circumstances or causes beyond such party's reasonable control (aka force majeure). The parties acknowledge and agree that these limits of liability allocate the risks between the parties. Furthermore, the parties acknowledge and agree that the consideration under this Agreement reflects this allocation of risk and limitation of liability.

**12. MISCELLANEOUS**. This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements, written or oral, between the Parties relating to the subject matter of this Agreement. This Agreement will be binding upon and inure to the benefit of the Parties and their respective heirs, successors and permitted assigns. Seller reserves the right to update or modify these Terms and Conditions of Sale at any time without prior notice. The revised version of these Terms and Conditions of Sale will apply on a prospective basis to any subsequently issued POs. This Agreement will be governed and interpreted in accordance with the laws of the jurisdiction of the location of Seller's principal place of business or corporate headquarters without giving effect to any choice or conflict of law provision or rule. Any action for breach of contract or otherwise must be commenced within 1 year after the cause of action has accrued. This Agreement may not be assigned without the prior written consent of the parties. Any purported assignment in violation of this Section will be null and void. Waiver by a party of any provision hereof in one instance will not constitute a waiver as to any other instance. If any provision of this Agreement is determined to be unenforceable by a court of competent jurisdiction, such provision will be severed and the remaining provisions will remain in full effect. Buyer agrees that the purchase of Products from Seller serves as Buyer's agreement to comply with Seller's Business Partner Code of Conduct. Unless the context of this Agreement clearly requires otherwise (a) the headings used in this Agreement are inserted for purposes of convenience of reference only; (b) references to the plural include the singular and vice versa; (c) the term "day" refers to a calendar day and the term "business day" refers to Monday through Friday and excludes legal holidays; (d) references to any requirement of written consent from a party include the standard that such consent not be unreasonably withheld or delayed; and (e) any references to any obligation in this Agreement on a Party to do something or to refrain from doing something includes an obligation to cause its Representatives to do or to refrain from doing the same thing. In the event that any action under this Agreement, becomes due on a day that is not a business day, such action will be performed on the immediately following business day. This Section and provisions relating to confidentiality, warranties, limitation of liability, indemnities, payment and governing law will survive the completion of the commercial transaction that is the subject of this Agreement.