



STANDARD TERMS AND CONDITIONS OF SALE

1. Applicability of Terms and Conditions

In these Terms and Conditions of Sale, "Seller" is Alexin, LLC, an Indiana limited liability company, and "goods" are all merchandise, material and other items offered by Seller including repair or services identified in the Seller's proposal, and "Purchaser" is a purchaser of goods from the Seller. These Terms and Conditions shall apply to all goods provided by Seller to Purchaser and accordingly, such Terms and Conditions supersede, and neither party places any reliance upon any and all prior representations, agreements, statements, understandings and negotiation whether oral or in writing relating in any way whatsoever to a sale of goods by Seller to Purchaser. Orders placed by the Buyer for goods shall not be binding on Seller and no contract shall be concluded until the order is accepted by an authorized representative of the Seller. If an order is accepted, except as otherwise agreed to in writing by Seller, the terms and provisions contained in Seller's proposal, Seller's order acknowledgement and Purchaser's credit application together with these Terms and Conditions constitute the entire contract for the sale of goods (collectively, the "Contract"). These Terms and Conditions may not be modified unless agreed to in writing by both Parties. Purchaser is hereby notified of Seller's objection to and rejection of any terms in Purchaser's proposal, bid, purchase order, acknowledgment or other forms which are in addition to, differ from, conflict with or are not included in these Terms and Conditions. These Terms and Conditions shall be deemed incorporated by reference in, and a part of, all transactions and documents relating to purchases by Purchaser from Seller, including, without limitation, quotations, purchase orders, order confirmations and invoices, whether or not any specific reference to these Terms and Conditions is made in any such transactions or documents.

2. Quality

The Purchaser shall not be entitled to reject the material or any part thereof for minor differences in the material from the grade, type or description specified by Seller; a fair allowance for any such differences will be made and settled by arbitration if necessary.

3. Quality and Quantity Determination

The Seller shall provide a certificate of quality and quantity which certificate shall be conclusive as between the parties of the quality, quantity and specification of the product sold.

4. Shipping

Unless otherwise specified in the Contract, all goods are sold f.o.b. shipping point with transportation at the expense of Purchaser and Seller reserves the right to select the means of transportation and routing. Unless otherwise specified in the Contract, title to and risk of loss and damage shall pass to Purchaser upon delivery of the goods to the transportation company at Seller's shipping point.

5. Limitation of Liability

The maximum liability of Seller for damages and penalties arising out of, in connection with or resulting from the transactions contemplated hereunder shall be the total invoice value of the goods. Seller disclaims any obligation or liability for the loss of use of the goods sold, loss of time, cost or expense, inconvenience, commercial loss or any other indirect, consequential, special or incidental damages. Seller shall have no other liability on any claim of any kind whether for negligence, breach of contract, breach of warranty, strict liability, tort or otherwise for any damage or injury to person or property or loss arising out of, in connection with, or resulting from the transactions contemplated hereunder, or the performance thereof.

6. Law and Arbitration

The construction, validity and performance of the Contract shall be governed in accordance with the laws of the State of Indiana, including its arbitration rules, statutes and applicable case law. Except as provided below, any dispute or other controversy relating to the Contract, these Terms or Conditions or the transactions contemplated hereunder shall be submitted to binding arbitration by one (1) arbitrator in Indianapolis, Indiana pursuant to the CPR Non-Administered Arbitration Rules effective at that time. Any such arbitration shall include only the claims of the parties to the Contract. There shall not be any class or representative arbitration and no claims of any person or entity not a party to the Contract shall be permitted in any arbitration initiated pursuant to this paragraph. The prevailing party at any arbitration shall be entitled to receive from the non-prevailing party reimbursement of its reasonable attorneys' fees, costs and expenses (including expert expenses) incurred in the arbitration. Neither party shall be entitled to receive punitive damages in any arbitration. To the extent the arbitrator permits discovery to be compelled outside of Indiana from persons or entities not parties to this arbitration, the arbitrator shall initiate and conduct a hearing in the relevant jurisdiction(s) for the purpose of obtaining such permitted discovery. Judgment upon the arbitration award may be entered in any court having jurisdiction thereof. However, any action or proceeding by Seller to collect sums owed to Seller by Purchaser may, at Seller's discretion, be commenced in any court having jurisdiction rather than submitting such matter to arbitration, and Purchaser hereby submits to personal jurisdiction over Purchaser in any court, state or federal, situated in Marion County, Indiana, and agrees that service of process on Purchaser by mail shall be sufficient service of process in any court proceeding so initiated by Seller.

7. Force Majeure

- a) Should the Seller be prevented from or hindered in delivering the goods or any part thereof by reason of war, riot, explosion, fire, flood, strike, lockout, interruption or delay in transportation, acts or regulations of government, acts of God, shortage of material or labor, or any cause beyond the Seller's control, time of delivery shall be extended until the operation or the cause preventing or hindering delivery has ceased; saved that the Seller shall deliver and the Purchaser shall take and pay for such part of the goods as the Seller shall be able to deliver in accordance with the agreed delivery date.
- b) If delivery of the goods or any part of them has not been made within two (2) calendar months of the agreed delivery date, the Purchaser shall be entitled by giving written notice to the Seller to cancel the order in respect of such goods that have not yet been received.
- c) In the event of the force majeure the Seller shall be entitled to deliver the goods in one or more deliveries, unless otherwise expressly agreed.

8. Installments

In the event that the material is made available in a number of installments, each such installment shall be deemed to be a severable part of the whole order, to which severable part(s) the provisions of the Contract shall apply.

9. Limited Warranty

Seller warrants only that the goods sold hereunder to Purchaser will be suitable for the general extrusion process at the time of delivery to Purchaser. Seller will, at the Seller's sole option, either repair or replace those goods or refund the purchase price paid for those goods, provided the Purchaser has properly notified the Seller in writing of such defects or failure within 45 days from the date of delivery to Purchaser. This warranty is non-transferable and limited to the original Purchaser (and does not extend to any of Purchaser's customers), and is expressly null and void if the goods have been used contrary to the Seller's specific instructions or have been subject to accident, alteration, unauthorized modification, abuse or misuse. This warranty is contingent upon Purchaser's timely written notification of a breach of this warranty and full cooperation with Seller to allow Seller to inspect or test such goods to confirm the breach. In the event this warranty is breached, Seller will replace the defective goods with conforming goods or, at Seller's election, repay or credit Purchaser with an amount equal to the purchase price of such goods. In no event shall the goods be returned, reworked or scrapped by the Purchaser without the express written authorization of Seller or this warranty is void. SELLER NEITHER ASSUMES, NOR AUTHORIZES ANY PERSON TO ASSUME FOR SELLER, ANY OTHER OBLIGATION OR LIABILITY IN CONNECTION WITH THE SALE OF GOODS OF SELLER AND THE WARRANTY OF SELLER SHALL NOT APPLY TO ANY GOODS WHICH HAVE BEEN SUBJECT TO ACCIDENT, NEGLIGENCE, ALTERATION, ABUSE, OR MISUSE. THE REMEDIES SET FORTH IN THIS WARRANTY SHALL BE THE EXCLUSIVE REMEDY AVAILABLE TO PURCHASER, AND SELLER SHALL NOT BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND OR NATURE AND ANY LIABILITY OF SELLER SHALL NOT EXCEED THE PRICE PAID FOR THE GOODS CLAIMED TO BE DEFECTIVE. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, AND THIS WARRANTY SPECIFICALLY EXCLUDES ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE. EXCEPT AS SET FORTH IN THIS SECTION, ALL OBLIGATIONS OR LIABILITIES OF SELLER FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE GOODS ARE FULLY DISCLAIMED AND EXCLUDED.

10. Remedies

In the event of the failure of Purchaser to make any payments to Seller when due, or in the event of any breach of the Contract by Purchaser, Seller shall be entitled, at its sole option and cumulatively, to: a) suspend shipment of any or all goods to Purchaser (including any unshipped installments); b) cancel the Contract or any orders then outstanding for the sale of goods to Purchaser; c) to the extent permitted by law, recover from Purchaser all expenses incurred by Seller in the collection of said payment or as a result of said breach, including reasonable attorney's fees; and d) exercise all of its rights and remedies available at law (including, without limitation, the right to exercise its rights as a mechanic's or tradesman's lien holder and to sell any materials of Purchaser in Seller's possession to satisfy unpaid charges owing from Purchaser in accordance with applicable law) or equity, including those under the Uniform Commercial Code (including, without limitation, those granting to Seller rights and remedies of a secured party under Article 9). In addition to any right of setoff or recoupment provided by law, all amounts due Purchaser shall be considered net of indebtedness of Purchaser to Seller and its subsidiaries and affiliates, and Seller may deduct, setoff and recoup any amounts due or to become due from Purchaser to Seller and its subsidiaries and affiliates from any sums due or to become due from Seller and its subsidiaries and affiliates to Purchaser.

11. Security Interest and Mechanic's Lien

Purchaser hereby expressly grants to Seller a purchase money security interest in all aluminum ingot inventory or other aluminum goods or inventory which are sold from time to time by Seller to Purchaser, including any additions, accessions, increases, substitutions and replacements and all proceeds thereof, in order to secure Purchaser's purchase money payment obligations for such aluminum ingot inventory or other aluminum goods or inventory (and all additional sums advanced, and expenses (including reasonable attorneys' fees) incurred, by Seller in collecting any sums due from Purchaser or enforcing any of Seller's rights and remedies hereunder or pursuant to applicable law). Purchaser agrees to cooperate with Seller in complying with all laws and regulations pertaining to the perfection of such purchase money security interest and agrees to execute and deliver such other documents as Seller may request in order to protect its purchase money security interest granted hereunder. Without limiting the generality of the foregoing, Seller is hereby authorized to file financing statements and other documents to perfect the purchase

money security interest granted hereunder in jurisdictions deemed necessary in Seller's sole judgment and to notify Purchaser's other secured parties as deemed necessary in Seller's sole judgment in order to preserve and perfect the priority of the purchase money security interest granted hereunder. Notwithstanding the fact that the parties intend to evidence the grant of a purchase money security interest, if Seller fails to obtain a purchase money security interest for any reason, Seller shall nevertheless have a non purchase money security interest. Purchaser also acknowledges and agrees that Seller has a mechanic's or tradesman's lien on all of Purchaser's materials that are altered, improved, processed or repaired by Seller to the extent Seller has not been paid for its services.

12. Miscellaneous

- a) Payment shall be due as provided by Seller in its invoice or other writing. In the event that payment for the material or goods is delayed beyond the time agreed, interest is payable at the rate 3% over prime (as published in the *Wall Street Journal*) from the date payment fell due to the date of payment. If no date for payment has been agreed, or if payment is dependent upon presentation of documents, interest runs from five (5) days after invoice date. Purchaser shall pay or reimburse Seller for all taxes, excises or other charges which Seller may be required to pay to any government or governmental authority which are hereunder levied upon the production, sale, transportation or use of any goods purchased from Seller.
- b) Seller's waiver of any breach by Purchaser of any of the provisions of the Contract shall not constitute a waiver of any other breach of the same or any other provision. Seller's rights and remedies hereunder shall be in addition to and not in substitution of any other rights and remedies available to Seller under applicable law.
- c) The Contract shall bind the respective successors and assigns of the parties, but none of Purchaser's rights or obligations hereunder shall be assigned without Seller's prior written consent.
- d) The Contract comprises the entire agreement relating to the sale of the goods. The invalidity of any part of the agreement shall not affect the remaining provisions.