



## **TERMS AND CONDITIONS OF SALE FORM A-201**

These Terms and Conditions of Sale and any quote submitted with these Terms and Conditions of Sale (together, the "Contract") are between 2Source Manufacturing Inc. ("2Source") and the customer to which these Terms and Conditions of Sale and any quote are delivered ("Buyer")

1. **AGREEMENT.** Buyer accepts this Contract by: (a) executing a separate agreement with 2Source, which incorporates these terms and conditions, (b) delivering a purchase order for Products (defined below); (c) accepting delivery of the Products; or (d) paying the price for the Products, whether prior to delivery or not, as agreed to by the parties and/or set forth in the quote or invoice, whichever of the four acceptance methods comes first. Any counteroffer or proposed addition to or supplement of, or any material variance from, the material terms and conditions of this Contract are hereby expressly objected to and rejected. If this Contract is responsive to a prior offer by Buyer, then this Contract shall be deemed an acceptance of such offer limited to the material terms and conditions stated in this Contract, and any additional or supplemental terms or any material variance from the terms and conditions of this Contract are expressly objected to and rejected. Any non-material variance from the terms of this Contract proposed by Buyer shall not operate as a rejection of this Contract, and shall be deemed a part of this Contract.
2. **PRODUCTS ("Products").** Buyer agrees to buy, and 2Source agrees to provide the products described in a quote or, if none, pursuant to any acceptable orders placed by Buyer under this Contract. To the extent Buyer provides any product specifications to 2Source, Buyer grants 2Source the right to use any such specifications to fill any orders placed by Buyer in connection therewith.
3. **PRICE.** (1) Subject to Section 3(2) herein, prices for the Products are described on the quote and Buyer shall pay such prices to 2Source. Prices exclude all federal, state, national, provincial or local taxes, and therefore such prices are subject to increase in the amount of any such tax that 2Source may be required to collect or pay upon the sale or delivery of the Products. Prices are, and all payments shall be made, in the currency set forth in the quote or, if none, in the currency of the United States of America.  
  
(2) Notwithstanding anything else contained herein or on the quote, 2Source shall have the right at any time to request in writing from the Buyer a price adjustment for the Products based on significant increases in the commodity prices impacting the cost to 2Source of the Products, and, in the event that Buyer does not agree with such price adjustment for the Products, the Buyer shall have the right to immediately terminate this agreement without any penalty to the Buyer or 2Source by written notice to that effect to 2Source, following such request for price.
4. **PAYMENT TERMS.** Unless prepaid or otherwise stated on the quote, invoice or order confirmation (subject to completion of a credit review satisfactory to 2Source), and payment terms for sales of Products are net 30 days after the date of 2Source's invoice. Buyer shall make all payments irrespective of whether Buyer has made or may make any inspection of any Product. 2Source may cancel or reschedule deliveries of products if Buyer fails to make any payment when due. 2Source's rights under this section shall be in addition to all other rights and remedies available to 2Source upon Buyer's default. Buyer shall be liable for all expenses attendant to collection of past due amounts, including attorney's fees.

5. **FORCE MAJEURE.** 2Source shall not be liable for any delays in the delivery of orders, due in whole or in part, directly or indirectly, to fire, act of God, shortage of raw materials, supplies or components, retooling, upgrading of technology, delays of carriers, embargo, government order or directive, or any other circumstance beyond 2Source's reasonable control.
6. **DELIVERY TERMS AND QUANTITIES.** Unless otherwise stated on a quote, if any, all deliveries shall be made F.O.B. 2Source's facilities and risk of loss of such Products shall transfer to Buyer upon delivery to the freight carrier. 2Source will attempt to meet the requirements of Buyer's delivery schedule and 2Source shall not be in default of performance due to a delay resulting from any cause. 2Source reserves the right to undership or overship the quantity for each ship date on each line item by up to 10 per-cent or 1 piece, whichever is the greater amount, for each ship date on each line item.
7. **INSPECTION AND ACCEPTANCE.** Buyer must inspect delivered Products and report claims for any damages or shortages in writing within ten (10) days of delivery or the Products shall be deemed irrevocably accepted and such claims shall be deemed waived, except as provided in Section 9. In the event of source inspection by Buyer, 2Source reserves the right to designate the place within the plant where inspection may be performed and to deny access to areas and processes considered proprietary to 2Source.
8. **TITLE.** Title to the Products shall stay with 2Source until 2Source receives payment in full for such Products. Buyer hereby recognizes that 2Source retains all right, title and interest in (a) all processes, methods, formula, ingredients, designs, procedures and other practices used by 2Source or relating to the manufacture and sale of the Products, including all intellectual property rights therein; and (b) all of 2Source's equipment and tooling used in the manufacture and sale of the Products, including all intellectual property rights therein, (collectively "2Source Technology"). Buyer hereby assigns to 2Source all right (including intellectual property rights), title and interest it may now or hereafter possess in and to the 2Source Technology and in any derivative works of and improvements to the Products and agrees to execute all documents, and take all actions, that may be necessary to effect such assignment. 2Source is under no obligation to disclose any of the 2Source Technology to Buyer for any reason.
9. **LIMITED WARRANTY AND REMEDIES.** 2Source warrants to Buyer that the Products shall be free from defects in materials and workmanship. Any claims for breach of the foregoing warranty shall only be valid if Buyer makes such claim within sixty (60) days of the date of shipment of the Product to which the claim relates, or such shorter period specified on a quote, if any, by notifying 2Source's Sales Department in writing and obtaining a written authorization by 2Source for the return of the Products which is to be referenced on all return shipping documents. Buyer's exclusive remedy and 2Source's sole liability for any breach of the foregoing warranty shall be for 2Source, at 2Source's sole option, to repair, replace or modify the defective Product, or refund to Buyer the purchase price paid by Buyer for the defective product. The warranty service shall be performed at 2Source's facilities. In order to receive the warranty service, Buyer must return the defective Product within 30 days of notification from Buyer hereunder. All warranty claims will be handled pursuant to 2Source's standard procedures. If 2Source determines that the original Products were not defective, Buyer shall reimburse 2Source all costs of handling, transportation and repairs at 2Source's prevailing rates. All defective Products returned under this warranty which are replaced or for which a refund is given to Buyer shall become 2Source's property. **THE WARRANTY SET FORTH IN THIS SECTION 9 IS IN LIEU OF ALL OTHER WARRANTIES AND 2SOURCE HEREBY EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, INFRINGEMENT AND FITNESS FOR PARTICULAR USE.** Any repair or attempt to repair Products by anyone other than an authorized representative of 2Source automatically voids any warranty on those Products. 2Source's parts are not to be used for human implantation under any circumstances.
10. **INDEMNIFICATION.** Buyer shall indemnify and hold harmless 2Source from all losses, claims, damages, expenses or liabilities of any kind (including attorney's fees and court costs) resulting from or arising out of any use by Buyer of the Products.

11. **LIMITATIONS ON LIABILITY.** Notwithstanding Section 5 and Section 6, 2Source shall not be liable for any loss or damage caused by delay in furnishing the Products. UNDER NO CIRCUMSTANCES SHALL 2SOURCE BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, COLLATERAL, SPECIAL, PUNITIVE, TREBLE, EXEMPLARY OR INCIDENTAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS OR GOODWILL) WHETHER SUCH CLAIM IS BASED ON CONTRACT, NEGLIGENCE, TORT, WARRANTY OR ANY OTHER BASIS UNDER OR AS A RESULT OF THIS CONTRACT, IRRESPECTIVE OF WHETHER 2SOURCE HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH LOSS OR DAMAGE. IN NO EVENT SHALL 2SOURCE'S AGGREGATE LIABILITY UNDER OR AS A RESULT OF THIS CONTRACT EXCEED THE TOTAL AMOUNTS ACTUALLY PAID BY BUYER FOR THE DEFECTIVE PRODUCTS PURCHASED UNDER THIS CONTRACT IN THE MOST RECENT CALENDAR QUARTER. The parties agree that the limitations on liability set forth in this Contract are independent of any exclusive or limited remedies, and shall survive and apply even if such remedies are found to have failed of their essential purpose. No action, regardless of form, arising out of the transactions under this Contract may be brought by Buyer more than 1 year after the events which gave rise to the cause of action occurred.
12. **TERMINATION/CANCELLATION.** 2Source may terminate this Contract or orders placed hereunder with notice to Buyer if (a) Buyer fails to pay when due any sums payable hereunder and such failure continues for fifteen (15) days after the due date or (b) Buyer materially breaches its obligations hereunder, other than the payment of money, and such breach continues for a period of fifteen (15) days after receipt by Buyer of written notice from 2Source specifying such breach. Buyer may not cancel all or any portion of an order for which Products have been shipped. If Buyer cancels all or a portion of an order for Products that are not yet shipped, Buyer shall be liable to 2Source for actual costs incurred by 2Source and its suppliers, including overhead and a reasonable profit, in connection with the cancelled order.
13. **INSTALMENT.** 2Source's failure to deliver or nonconformity of any installment under any installment agreement with, or blanket order from, Buyer shall not be a breach of this entire contract.
14. **APPLICABLE LAW; VENUE.** This Contract shall be governed by and construed in accordance with the internal laws (and not the laws of conflicts) of the Province of Ontario, Canada. The parties expressly waive the application of the United Nations Convention on Contracts for the International Sale of Goods to this Contract. Any action at law, suite in equity, or judicial proceeding of any kind arising directly, indirectly, or otherwise in connection with, out of, related to or from this Contract or the relationship between the parties shall be litigated only in the courts located in the City of Toronto, Province of Ontario, Canada and the parties waive any right they may have to challenge the jurisdiction of this court or seek to bring any action in any other forum, whether originally or by transfer, removal, or change of venue. The losing party in a lawsuit shall pay its own and the prevailing party's attorney's fees and expenses.
15. **MISCELLANEOUS.** This Contract and any other agreement or document entered into by the parties which incorporate these Terms and Conditions by reference, constitute the final, complete, exclusive and entire agreement between the parties and supersede all prior or contemporaneous agreements, written or oral, regarding the subject matter of this Contract. The failure of 2Source to enforce at any time any of the provisions of this Contract shall not be construed to be a waiver of such provisions nor of the right of 2Source to enforce such provisions in the future. Buyer may not assign any rights under this Contract or this Contract in whole or in part without the prior written consent of 2Source. Any prohibited assignment shall be null and void. This Contract shall inure to the benefit of successors in interest and permitted assigns. 2Source may subcontract any of its obligations hereunder. If any provision of this Contract is found to be invalid or unenforceable in any respect, the validity and enforceability of the remaining provisions shall not be affected. The parties may only modify this Contract in writing signed by both parties.