

KREMIN INC.

TERMS AND CONDITIONS OF SALE1. Applicability.

(a) These Terms and Conditions of Sale (these “Terms”) are the only terms and conditions which govern the sale of the goods (“Goods”) and services (“Services”) by Kremin Inc., a Michigan corporation (“Seller”), to the Purchaser named on the accompanying quotation, confirmation of sale or invoice (“Purchaser”). Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the Goods and Services covered hereby, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms.

(b) The accompanying quotation, confirmation of sale or invoice (the “Sales Confirmation”) and these Terms (collectively, this “Agreement”) comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms prevail over any of Purchaser’s terms and conditions of purchase regardless whether or when Purchaser has submitted its purchase order or such terms. Fulfillment of Purchaser’s order does not constitute acceptance of any of Purchaser’s terms and conditions and does not serve to modify or amend these Terms.

2. Delivery of Goods and Performance of Services.

(a) The Goods will be delivered within a reasonable time after the receipt of Purchaser’s purchase order, subject to availability of finished Goods. Seller shall not be liable for any delays, loss or damage in transit.

(b) Unless otherwise agreed in writing by the parties, Seller shall deliver the Goods to Purchaser at Seller’s facility specified in the Sales Confirmation (the “Delivery Point”) using Seller’s standard methods for packaging and shipping such Goods. Purchaser shall promptly take delivery of the Goods upon Seller’s written notice that the Goods have been delivered to the Delivery Point. Purchaser shall be responsible for all loading costs and provide equipment and labor reasonably suited for receipt of the Goods at the Delivery Point.

(c) Seller may, in its sole discretion, without liability or penalty, make partial shipments of Goods to Purchaser. Each shipment will constitute a separate sale, and Purchaser shall pay for the units shipped whether such shipment is in whole or partial fulfillment of Purchaser’s purchase order.

(d) If for any reason Purchaser fails to accept delivery of any of the Goods on the date fixed pursuant to Seller’s notice that the Goods have been delivered at the Delivery Point, or if Seller is unable to deliver the Goods at the Delivery Point on such date because Purchaser has not provided appropriate instructions, documents, licenses or authorizations: (i) risk of loss to the Goods shall pass to Purchaser; (ii) the Goods shall be deemed to have been delivered; and (iii) Seller, at its option, may store the Goods until Purchaser picks them up, whereupon Purchaser shall be liable for all related costs and expenses (including, without limitation, storage and insurance).

(e) Seller shall use reasonable efforts to meet any performance dates to render the Services specified in the Sales Confirmation, and any such dates shall be estimates only.

(f) With respect to the Services, Purchaser shall: (i) cooperate with Seller in all matters relating to the Services and provide such access to Purchaser’s premises, and such office accommodation and other facilities as may reasonably be requested by Seller, for the purposes of performing the Services; (ii) respond promptly to any Seller request to provide direction, information, approvals, authorizations, or decisions that are reasonably necessary for Seller to perform Services in accordance with the requirements of this Agreement; (iii) provide such customer materials or information as Seller may reasonably request to carry out the Services in a timely manner and ensure that such customer materials or information are complete and accurate in all material respects; and (iv) obtain and maintain all necessary licenses and consents and comply with all applicable laws in relation to the Services before the date on which the Services are to start.

3. Non-Delivery.

(a) The quantity of any installment of Goods as recorded by Seller on dispatch from Seller’s place of business is conclusive evidence of the quantity received by Purchaser on delivery unless Purchaser can provide conclusive evidence proving the contrary.

(b) Any liability of Seller for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or adjusting the invoice respecting such Goods to reflect the actual quantity delivered.

(c) Purchaser acknowledges and agrees that the remedies set forth in Section 3 are Purchaser's exclusive remedies for the delivery of Nonconforming Goods (as defined in Section 7(a)). Except as provided under Section 3(b), all sales of Goods to Purchaser are made on a one-way basis and Purchaser has no right to return Goods purchased under this Agreement to Seller.

4. Shipping Terms. Delivery shall be made FOB Delivery Point.

5. Title and Risk of Loss. Title and risk of loss passes to Purchaser upon delivery of the Goods at the Delivery Point. As collateral security for the payment of the purchase price of the Goods, Purchaser hereby grants to Seller a lien on and security interest in and to all of the right, title and interest of Purchaser in, to and under the Goods, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under the Uniform Commercial Code, as enacted by the State of Michigan.

6. Purchaser's Acts or Omissions. If Seller's performance of its obligations under this Agreement is prevented or delayed by any act or omission of Purchaser or its agents, subcontractors, consultants, or employees, Seller shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges, or losses sustained or incurred by Purchaser, in each case, to the extent arising directly or indirectly from such prevention or delay.

7. Inspection and Rejection of Nonconforming Goods.

(a) Purchaser shall inspect the Goods within three (3) days of receipt ("Inspection Period"). Purchaser will be deemed to have accepted the Goods unless it notifies Seller in writing of any Nonconforming Goods during the Inspection Period and furnishes such written evidence or other documentation as reasonably required by Seller.

"Nonconforming Goods" means only the following: (i) product shipped is different than identified in Purchaser's purchase order; or (ii) product's label or packaging incorrectly identifies its contents.

(b) If Purchaser timely notifies Seller of any Nonconforming Goods, Seller shall, in its sole discretion, (i) replace such Nonconforming Goods with conforming Goods, or (ii) credit or refund the Price for such Nonconforming Goods, together with any reasonable shipping and handling expenses incurred by Purchaser in connection therewith. Purchaser shall ship, at its expense and risk of loss, the Nonconforming Goods to the Delivery Point. If Seller exercises its option to replace Nonconforming Goods, Seller shall, after receiving Purchaser's shipment of Nonconforming Goods, ship to Purchaser, at Purchaser's expense and risk of loss, the replaced Goods to the Delivery Point.

(c) Purchaser acknowledges and agrees that the remedies set forth in Section 7(b) are Purchaser's exclusive remedies for the delivery of Nonconforming Goods. Except as provided under Section 7(b), all sales of Goods to Purchaser are made on a one-way basis and Purchaser has no right to return Goods purchased under this Agreement to Seller.

8. Price.

(a) Purchaser shall purchase the Goods and Services from Seller at the prices set forth in the Sales Confirmation (the "Prices").

(b) All Prices are exclusive of all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any governmental authority on any amounts payable by Purchaser. Purchaser shall be responsible for all such charges, costs and taxes; provided, that, Purchaser shall not be responsible for any taxes imposed on, or with respect to, Seller's income, revenues, gross receipts, personal or real property, or other assets.

9. Payment Terms.

(a) Purchaser shall pay all invoiced amounts due to Seller within thirty (30) days from the date of shipment of the Goods, unless otherwise set forth in the Sales Confirmation. Purchaser shall make all payments hereunder by wire transfer or check and in United States Dollars.

(b) Purchaser shall pay interest on all late payments at the lesser of the rate of one and one-half percent (1.5%) per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Purchaser shall reimburse Seller for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees. In addition to all other remedies available under these Terms or at law (which Seller does not waive by the exercise of any rights hereunder), Seller shall be entitled to suspend the delivery of any Goods or performance of any Services if Purchaser fails to pay any amounts when due hereunder.

(c) Purchaser shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Seller, whether relating to Seller's breach, bankruptcy or otherwise.

10. Limited Warranty; Disclaimer of Warranties.

(a) Seller warrants to Purchaser that for a period of thirty (30) days from the date of shipment of the Goods ("Warranty Period"), that such Goods will materially conform to the specifications furnished by Purchaser for the manufacture of the Goods.

(b) Seller warrants to Purchaser that it shall perform the Services using personnel of required skill, experience, and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and shall devote adequate resources to meet its obligations under this Agreement.

(c) EXCEPT FOR THE WARRANTIES SET FORTH IN SECTIONS 10(a) AND 10(b), SELLER MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS OR SERVICES, INCLUDING: (I) NO WARRANTY OF MERCHANTABILITY; (II) NO WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; AND (III) NO WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE.

(d) Seller shall not be liable for a breach of the warranties set forth in Sections 10(a) or 10(b) unless: (i) Purchaser gives written notice of the defective Goods or

Services, as the case may be, reasonably described, to Seller within five (5) days of the time when Purchaser discovers or ought to have discovered the defect; (ii) if applicable, Seller is given a reasonable opportunity after receiving the notice of breach of the warranty set forth in Section 10(a) to examine such Goods and Purchaser (if requested to do so by Seller) returns such Goods to Seller's place of business at Seller's cost for the examination to take place there; and (iii) Seller reasonably verifies Purchaser's claim that the Goods or Services are defective.

(e) Seller shall not be liable for a breach of the warranties set forth in Sections 10(a) or 10(b) if: (i) Purchaser makes any further use of such Goods after giving such notice; (ii) the defect arises because Purchaser failed to follow Seller's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods; or (iii) Purchaser alters or repairs such Goods without the prior written consent of Seller.

(f) Subject to Sections 10(d) and 10(e), with respect to any such Goods during the Warranty Period, Seller shall, in its sole discretion, either: (i) repair or replace such Goods (or the defective part); or (ii) credit or refund the price of such Goods at the pro rata contract rate provided that, if Seller so requests, Purchaser shall, at Seller's expense, return such Goods to Seller.

(g) Subject to Sections 10(d) and 10(e), with respect to any Services subject to a claim under the warranties set forth in Section 10(b), Seller shall, in its sole discretion, either: (i) repair or re-perform the applicable Services; or (ii) credit or refund the price of such Services at the pro rata contract rate.

(h) THE REMEDIES SET FORTH IN SECTIONS 10(f) AND 10(g) SHALL BE THE PURCHASER'S SOLE AND EXCLUSIVE REMEDY AND SELLER'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTIES SET FORTH IN SECTIONS 10(a) AND 10(b), RESPECTIVELY.

11. Indemnification. Without limiting any remedies that may be provided under these Terms, Purchaser shall defend, indemnify and hold harmless Seller and Seller's affiliates, successors and assigns and their respective directors, officers, shareholders, managers, members, employees and other agents, against any and all loss,

injury, death, damage, liability, claim, deficiency, action, judgment, interest, award, penalty, fine, cost or expense, including reasonable attorney and professional fees and costs, and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers, arising out of or occurring in connection with: (a) a material breach of this Agreement by Purchaser; (b) products manufactured by third parties into which the Goods are incorporated into, attached to, contained in or packaged together with, by or at the direction of Purchaser; (c) Goods that are further processed by or at the direction of Purchaser; or (d) any suit, claim or action for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark, copyright or mask work right by reason manufacture, use or sale of Goods or Services, including infringement arising out of compliance with specifications furnished by Purchaser, or for actual or alleged misuse or misappropriation of a trade secret resulting directly or indirectly from Purchaser's actions.

12. Limitation of Liability: Time Limitation.

(a) **IN NO EVENT SHALL SELLER BE LIABLE TO PURCHASER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT, LOSS OF DATA, DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, ANCILLARY, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.**

(b) **IN NO EVENT SHALL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO SELLER FOR THE GOODS AND SERVICES SOLD HEREUNDER.**

(c) **ANY CLAIM OR DISPUTE WHETHER**

ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, AGAINST SELLER MUST BE BROUGHT WITHIN ONE (1) YEAR OF THE EVENT GIVING RISE TO THE CLAIM OR DISPUTE OR BE FOREVER BARRED, EXCEPT FOR APPLICABLE STATUTES REQUIRING A SHORTER PERIOD, IN WHICH CASE THE SHORTER LIMITATION PERIOD SHALL APPLY.

13. Compliance with Law. Purchaser shall comply with all applicable laws, regulations and ordinances. Purchaser shall maintain in effect all the licenses, permissions, authorizations, consents, and permits that it needs to carry out its obligations under this Agreement. Purchaser shall comply with all export and import laws of all countries involved in the sale of the Goods under this Agreement or any resale of the Goods by Purchaser. Purchaser assumes all responsibility for shipments of Goods requiring any government import clearance. Seller may terminate this Agreement if any governmental authority imposes antidumping or countervailing duties or any other penalties on Goods.

14. Termination.

(a) Seller may terminate this Agreement upon written notice to Purchaser. In addition, and without limiting any remedies that may be provided under these Terms, Seller may terminate this Agreement by providing written notice to Purchaser: (i) if Purchaser fails to pay any amount when due under this Agreement ("Payment Failure"); (ii) if Purchaser is in material breach of this Agreement, in whole or in part (other than committing a Payment Failure), and either the breach cannot be cured or, if the breach can be cured, it is not cured by Purchaser within a commercially reasonable period of time (in no case exceeding five (5) days) after Purchaser's receipt of written notice of such breach; (iii) if Purchaser (A) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due, (B) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law, (C) makes or seeks to make a general assignment for the benefit of its creditors, or (D) applies for or has appointed a receiver, trustee, custodian or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business; or (iv) if Seller terminates any other agreement between

Seller and Purchaser or Purchaser's affiliates, due to Purchaser's or Purchaser's affiliates' breach or non-performance thereof. Any termination under this Section 14(a) will be effective on Purchaser's receipt of Seller's written notice of termination or such later date (if any) set forth in such notice.

(b) Purchaser may terminate this Agreement upon written notice to Seller, provided, that, within five (5) days following the date of Purchaser's written notice, Purchaser shall pay to Seller all amounts due to Seller for Goods delivered and Services provided by Seller to Purchaser prior to Seller's receipt of the written notice and reimburse Seller for all of Seller's out-of-pocket costs and expenses (including, without limitation, for raw materials, machinery and equipment purchases, unamortized tooling, engineering, handling, overhead and production costs) incurred by Seller prior to receipt of Purchaser's written notice that arise from or relate to this Agreement. In addition, Purchaser may terminate this Agreement by providing written notice to Seller: (i) if Seller is in material breach of this Agreement, in whole or in part, and either the breach cannot be cured or, if the breach can be cured, it is not cured by Seller within a commercially reasonable period of time (in no case exceeding five (5) days) after Seller's receipt of written notice of such breach; or (ii) if Seller (A) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due, (B) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law, (C) makes or seeks to make a general assignment for the benefit of its creditors, or (D) applies for or has appointed a receiver, trustee, custodian or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business. Any termination under this Section 14(b) will be effective on Seller's receipt of Purchaser's written notice of termination or such later date (if any) set forth in such notice.

15. Tooling. All tooling, dies, test and assembly fixtures, gauges, jigs, patterns, casting patterns, cavities, molds, and documentation (including engineering specifications and test reports) used by Seller to manufacture the Goods and provide the Services, together with any accessions, attachments, parts, accessories, substitutions, replacements and appurtenances thereto (collectively, the "Seller Tooling"), are owned by Seller.

Purchaser has no right, title, or interest in or to any of the Seller Tooling.

16. Waiver. No waiver by Seller of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Seller. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

17. Confidential Information. All non-public, confidential or proprietary information of Seller, including without limitation, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts, or rebates, disclosed by Seller to Purchaser, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated, or otherwise identified as "confidential" in connection with this Agreement is confidential, solely for the use of performing this Agreement and may not be disclosed or copied unless authorized in advance by Seller in writing. Upon Seller's request, Purchaser shall promptly return all documents and other materials received from Seller. Seller shall be entitled to injunctive relief for any violation of this Section 17. This Section 17 does not apply to information that Purchaser can demonstrate is: (a) in the public domain; (b) known to Purchaser at the time of disclosure; or (c) rightfully obtained by Purchaser on a non-confidential basis from a third party.

18. Force Majeure. Seller shall not be liable or responsible to Purchaser, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Seller including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion, or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lockouts, strikes or other labor disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials,

materials or telecommunication breakdown or power outage.

19. Assignment. Purchaser shall not assign any of its rights or delegate any of its obligations under this Agreement, including by a director or indirect change of control, merger (whether or not Purchaser is the surviving entity), operation of law or any other manner, without the prior written consent of Seller. Any purported assignment or delegation in violation of this Section 19 is null and void. No assignment or delegation relieves Purchaser of any of its obligations under this Agreement.

20. Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

21. No Third Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of these Terms.

22. Governing Law. All matters arising out of or relating to this Agreement are governed by and construed in accordance with the internal laws of the State of Michigan without giving effect to any choice or conflict of law provision or rule (whether of the State of Michigan or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Michigan. **THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS SHALL NOT APPLY TO THE AGREEMENT.**

23. Submission to Jurisdiction. Any legal suit, action or proceeding arising out of or relating to this Agreement shall be instituted in the courts of the State of Michigan located in Saginaw County, or the United States District Court for the Eastern District of Michigan, and each party irrevocably submits to the exclusive jurisdiction of such

courts in any such suit, action or proceeding.

24. Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder (each, a “Notice”) shall be in writing and addressed to the parties at the addresses set forth on the face of the Sales Confirmation or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), email (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section 24.

25. Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such term or provision will be ineffective only to the extent of such invalidity, illegality, or unenforceability, and such term or provision shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. To the fullest extent permitted and possible, the invalid, illegal or unenforceable term or provision shall be deemed replaced by a term or provision that is valid and enforceable and that comes closest to expressing the intention of such invalid, illegal or unenforceable term or provision.

26. Survival. Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Agreement including, without limitation, the following provisions: Section 11 (Indemnification), Section 13 (Compliance with Laws), Section 14 (Termination), Section 15 (Tooling), Section 17 (Confidential Information), Section 22 (Governing Law), Section 23 (Submission to Jurisdiction) and this Section 26 (Survival).

27. Amendment and Modification. These Terms may only be amended or modified in a writing stating specifically that it amends these Terms and is signed by an authorized representative of each party.

[END OF TERMS]

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