

General Terms and Conditions



The term "our", "us", or "we" means Graepel North America, Inc., or an affiliate. The term "you" means the person or entity purchasing goods identified on the attached order from Graepel North America, Inc.

**Graepel
North America Inc.**

13220 Lynam Drive
Omaha, NE 68138
USA

☎ +1 402 861 1817

☎ +1 402 894 4952

✉ office@graepel-na.com

www.graepel-na.com

A Graepel Company

§ 1 Applicable Terms

(1) The order form attached hereto is expressly conditional upon your assent to all the terms and conditions herein, including any terms additional to or different from those that you have proposed. These General Terms and Conditions shall supersede any provisions, terms, and conditions contained in writing you may give or receive, and the rights of the parties shall be governed exclusively by the provisions, terms, and conditions hereof.

(2) These General Terms and Conditions shall apply to all future business transactions and purchases between you and us. All transactions and business practices abide by our compliance guidelines as stated on our website at <https://www.graepel-na.com>

§ 2 Orders

(1) No proposed order shall be deemed final and binding upon us until we have executed and returned to you an order confirmation or acknowledgement. You may not withdraw or cancel a proposed order once delivered to us without our express written consent.

(2) Either party may terminate an order upon 3 months prior written notice to the other party. If you terminate an order pursuant to this section, you shall pay us all costs and expenses incurred in connection with the order and termination thereof.

§ 3 Price and Adjustments

(1) Our prices are stated in U.S. Dollars without sales tax, packaging, freight, postage, insurance, customs duties or fees. You are liable for the payment of all taxes and all costs including freight, insurance and fees. The prices

apply to the goods specified in our confirmation of order. Extra or special services will be charged separately.

(2) Upon written request of a party, the purchase price for the following goods may be adjusted for material changes in labor and/or material costs:
(a) goods that takes more than 3 months to produce; or
(b) tooling created by us that takes more than 6 months to produce.
If the parties are not able to agree on a requested price adjustment, then either party may terminate the order upon 30 days prior written notice to the other party; however, we shall be paid for all costs and expenses we incurred in connection with the order and termination thereof.

(3) You may place an open order for goods based on your forecasts. However, the open order shall provide a target order number which will be used by us to plan production. If you purchase less than the target number, we have the right to reasonably increase the unit price for the goods purchased by you to cover our costs based on the target number to be purchased.

§ 4 Confidentiality

1) Each party shall use all documents, samples, models, data, and knowledge (collectively "Confidential Information") obtained through this business relationship only for the purposes herein expressed, shall treat the Confidential Information with the same care as its own information, and shall not disclose the Confidential Information to third parties. This Section shall survive termination of the parties' relationship as long as the Confidential Information is treated as confidential by the disclosing party.

(2) Confidential Information shall not include documents and knowledge generally known or already known by the public at the time of receipt, information or knowledge transmitted by a third party entitled to disclose such information or knowledge, or information or knowledge developed by the receiving party without any use of the other party's information or knowledge.



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§ 5 Drawings and Descriptions

(1) If either party makes drawings or other technical documents available to the other party regarding the goods to be delivered or regarding their production, the party providing such drawings or technical documents shall retain title thereto and all responsibility and liability with respect to the use thereof.

§ 6 Means of Production

(1) If goods ordered require us to use or create special means of production (tools, molds, templates, etc.), you shall be invoiced for the production costs of such items unless we agree otherwise in writing. The cost of such means will be invoiced separately from the goods delivered.

(2) The means of production may be released to you upon your written request and the later of (i) the ordered goods are accepted and paid for in full, and (ii) you have paid our production costs for the means of production.

(3) If you have not requested delivery of the means of production within 3 years of the time set forth in subsection 2, ownership of the means of production shall pass to us.

§ 7 Terms of Payment

(1) Except as otherwise agreed in the purchase order or as set forth herein, payments shall be due and owing within 30 days of the invoice date. If we agree to a discount, you can only take the agreed discount if you are not in default.

(2) If partly defective goods have been delivered by us, you shall nevertheless be obliged to make payment for the defect-free part. You can only set off amounts that have been awarded by final judgment or are undisputed by us.

(3) In the event a payment is received by us after the due date, we have the right to charge interest at the rate at least 800 basis points above the National Prime Rate as reported in the Wall Street Journal.

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(4) If we have reason to believe you will default or there is an event of default, we can with prior notice to you either suspend the performance of our obligations until receipt of payment, or terminate the order. We shall retain all remedies available at law or in equity upon any breach.



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§ 8 Delivery

(1) Delivery dates and delivery periods indicated by us are only approximate unless a fixed date or period is expressly promised or agreed in writing. If we can foresee that the goods cannot be delivered by an identified delivery date, we will inform you, stating the reasons and if possible also the expected time of delivery. We shall not be liable for any delays caused by matters outside of our control and the parties agree that a delivery date for ordered goods shall be extended based on the following events: your acts or omissions, acts of god, inclement weather, labor disputes, unrest, government action, failure by our suppliers to supply, and other unforeseeable, unavoidable and significant events.

(2) Delivery shall be F.C.A. our plant, and all freight and delivery costs from our plant shall be at your cost.

(3) The delivery of ordered goods is contingent on your performance of all obligations herein and the delivery of documents, permits, or releases requested by us.

(4) Partial deliveries or deliveries in instalments on an order are permitted unless otherwise agreed.

§ 9 Title and Risk of Loss

(1) Once we notify you that the goods are ready for shipment, you must promptly arrange pick up and/or delivery. If the goods have not been picked up or shipped within 3 days of notice to you, we shall have the right either to ship the goods to your address or to store them at your expense and risk. If the goods are stored, you must pay a storage fee to us for such storage amounting to 0.5 % of the purchase price at the beginning of every month, but such fee shall not exceed 5% of the purchase price. The storage fee may be increased without notice.



(2) Title and risk of loss shall pass to you upon the earlier of the following: (i) you are notified that the goods are ready for shipment; (ii) the goods are handed over for delivery; or (iii) the goods are stored as provided above.

§ 10 Security Interest

(1) You grant us a first priority security interest in all goods delivered and the proceeds thereof until all amounts owing to us have been paid in full.

§ 11 Inspection

(1) You shall have the right to inspect the goods at the point of shipment. Claims for defective goods shall be deemed waived and released by you, unless made in writing to us within 3 days of receipt of the goods.

(2) In case of any justified complaint about quality defects made within the above time period, we, at our option will remedy the defect or deliver a defect-free product.

§ 12 Warranty and Disclaimers

(1) We represent and warrant that the goods will conform in all material respects with the specifications agreed by the parties, and shall not infringe upon any intellectual property right or copyright of another person. THIS WARRANTY IS EXPRESSLY MADE IN LIEU OF ANY AND ALL OTHER WARRANTIES EXPRESS OR IMPLIED INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

(2) This warranty does not apply to any failure of the goods caused by unsuitable or improper use, faulty assembly or commissioning by you or third parties, usual wear and tear, negligent treatment, nor for the consequences of improper changes or maintenance made by you or third parties without our consent, or parts you provided or required to be used in the goods.

(3) Warranty claims shall be time-barred 12 months after delivery of the goods. In order to make a warranty claim within this period, you must provide us with written notice of the defect. If the claim arises because of an

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infringement claim, you shall notify us in writing immediately and shall not have any contact with the third party making the claim without our prior written consent.

(4) We shall have a reasonable period of time after a warranty claim is made to remedy any defect or replace the goods. If a warranty claim involves an infringement allegation, we shall at our option and at our expense either obtain the right to use the goods delivered or change them in such a way that the property right is not infringed.

§ 13 Default and Remedies

(1) If you fail to comply with any provision of these Terms and Conditions or the purchase order, we shall have all rights available at law or in equity, including without limitation the right to defer shipment of the goods, require payment in cash prior to delivery, or terminate your orders.

(2) Upon our failure to comply with any provision of these Terms and Condition or the purchase order, you shall provide us with written notice of the breach.

§ 14 Ownership of Proprietary Information

(1) We shall at all times have and retain title to all drawings, specifications, designs, concepts, and Confidential Information furnished to you in connection with the goods, and you acknowledge that all such items are our sole proprietary information. You shall not disclose any of our proprietary information to any person or entity. If the goods or our proprietary information is processed or inseparably mixed with other goods not belonging to us, we shall acquire co-ownership of the new items.

§ 15 Limitation of Liability and Indemnification

(1) In no event will we be liable for incidental, consequential, special, contingent or secondary damages or injuries, including but not limited to loss of profits, productions or products, rental or substitute equipment or other commercial loss. Our liability shall in no event exceed the price paid for the goods. In no event shall we be liable for punitive damages.



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(2) You assume full liability for and agree to indemnify and hold us harmless from your breach of these Terms and Condition and the purchase order, and any and all claims and legal actions including without limitation damage to property, personal injury, and death, made by anyone, relating to the ownership, or use of the goods (even if we assisted in the design or development of goods or tooling), unless such claims are the sole and direct result of our gross negligence or wilful misconduct.

§ 16 Governing Law and Jurisdiction

(1) These Terms and Conditions shall be construed under and governed by the laws of the state of Nebraska. Any legal or equitable actions arising in connection with these Terms and Conditions or the purchase order shall be brought in the state of Nebraska.

§ 17 Miscellaneous

(1) Each provision of these Terms and Conditions is completely severable, and the invalidity of any one or more of such provisions shall not affect the validity of the other provisions hereof.

(2) These Terms and Conditions and the attached purchase order constitute the entire agreement between the parties and supersede all previous negotiations or agreements. These Terms and Conditions can only be modified if agreed in writing by both parties.

Version: November 5, 2020



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