

HERAEUS TERMS AND CONDITIONS OF PURCHASE

1. General

1.1 This Purchase Agreement applies to sales by Seller to any of the Heraeus entities listed on **Attachment 1** (each entity, “**Heraeus**”). This Purchase Agreement consists of, in order of precedence: the Heraeus Purchase Order (“**Purchase Order**”) (typed portions control over pre-printed portions), the Product Specifications, and these Terms and Conditions (collectively, the “**Purchase Agreement**”). Conflicting terms and conditions presented at any time by Seller will be considered proposals that go into effect only to the extent accepted in writing by Heraeus. Under this Purchase Agreement, Seller agrees to sell and Heraeus agrees to purchase certain goods, products, or services as described on the face page of the Purchase Order (the “**Goods**”).

2. Orders, Acceptance

2.1 A Purchase Order will be deemed accepted by Seller upon the earlier of Seller’s (a) written acceptance of the front page of the Purchase Order, (b) shipment of any Goods, or (c) failure to provide written notice of rejection to Heraeus within five business days after Heraeus issues the Purchase Order or instructions. Heraeus may revoke or make any changes to the Purchase Order until accepted by Seller.

3. Price, Taxes and Payment

3.1 Purchase Price. Seller must bill Heraeus for the Goods at the lower of: the price last quoted; or the prevailing market price. Without Heraeus’s specific written authorization, Seller may not fill the Purchase Order or charge Heraeus a higher price. The price of Goods must be on the basis of the applicable shipping terms.

3.2 No Extra Charges. No additional charges of any kind, including charges for boxing, packing, cartage, or other extras will be allowed unless Heraeus specifically agrees in writing and in advance.

3.3 Taxes. Seller is responsible for the payment of any taxes related to the purchase of Goods hereunder, as well as any custom duties, value added tax or similar tariffs and fees, unless otherwise agreed to in writing by Heraeus. Heraeus will provide a valid exemption certificate authorized by the appropriate governmental authority at Seller’s request for any tax-exempt transactions.

3.4 Payment Terms. Heraeus’s payment terms are Net 60 unless otherwise agreed to by Heraeus in writing.

4. Quality, Packing and Documentation

4.1 Quality. Seller agrees, represents, and warrants that all Goods supplied under this Purchase Agreement will be

manufactured in strict accordance with the applicable Heraeus specifications and requirements. Goods must consist only of new materials, unless otherwise specified. No changes or substitutions can be made in the raw materials, manufacture, processing, testing, or inspection of Goods without notifying Heraeus in writing and subsequent written approval by Heraeus. Heraeus reserves the right to withhold approval and reject Goods that have been changed without prior authorization.

4.2 Packaging. Goods must be packaged securely, and each shipment must include documentation stating the exact quantities and description of the Goods shipped. In the absence of such documents, Heraeus’s count and verification will be deemed final. Applicable quality and compliance certifications will accompany each shipment of Goods, unless otherwise specified on the front page of the Purchase Order. Seller must show the Heraeus order number on the exterior of all shipping containers, packages, invoices, bills of lading and other shipping documents. Packing slips must be included in all shipments and last copy must state “ORDER COMPLETED.”

5. Shipping, Title and Delivery

5.1 Shipping and Title. Seller will deliver Products in strict accordance with the terms of this Purchase Agreement to the facility designated in the Purchase Order. Unless otherwise stated in the Purchase Order, Products will be delivered DDP (Incoterms 2010) Heraeus’s designated facility. Seller will retain title and risk of loss, and will further bear responsibility for warehousing and insurance, until receipt of the Products by Heraeus at the designated facility. Title will transfer to Heraeus upon receipt.

5.2 Time is of the essence. Heraeus requires the ordered Goods on the date specified for the purpose of efficiently conducting its operations. Seller must report to Heraeus immediately any anticipated delay in shipment or delivery. Heraeus reserves the right to terminate the Purchase Order in whole or in part, with no liability to Seller, should Seller fail to make deliveries in accordance with the terms of this Purchase Agreement.

6. Inspection and Acceptance

6.1 Inspection. Heraeus reserves the right to inspect and reject any Goods it receives. Defective or non-conforming Goods will be held for Seller’s instruction at Seller’s risk and, if Seller so directs, will be returned at Seller’s expense. Payment for any Goods prior to inspection does not constitute acceptance. Payment, if made, is without prejudice to any and all Heraeus claims against Seller.

6.2 Seller Response Time. Seller must respond to any quality-related notice from Heraeus within two business days

of receipt by Seller's relevant product division. Seller will handle any remediation of quality-related issues in accordance with the reasonable instructions of Heraeus.

7. Cancellation

7.1 Upon Notice. Heraeus reserves the right to cancel, on 15 days prior written notice to Seller, all or any part of the undelivered portion of any order without any liability of Heraeus to Seller.

7.2 Upon Breach. Notwithstanding any provision to the contrary, Heraeus may cancel any Purchase Order or terminate this Purchase Agreement by written notice to Seller immediately upon the occurrence of any of the following:

(1) if Seller has breached, or Heraeus reasonably believes that Seller has breached, any provision pertaining to disclosure, misuse or transfer of Confidential Information under Section 16.1 below;

(2) the dissolution of Seller;

(3) the insolvency, filing of a voluntary or involuntary petition under any law relating to bankruptcy, appointment by a court of a temporary or permanent receiver, trustee or custodian for Seller's business, or an assignment of Seller's assets for the benefit of its creditors;

(4) the non-permitted assignment, or attempted non-permitted assignment, by Seller of any interest in this Purchase Agreement without the prior written consent of Heraeus; or

(5) if Seller sells its business to a third party either through a stock or equity ownership transfer or through a sale of substantially all of its assets.

8. Change of Manufacturing Process

8.1 Seller agrees to provide reasonable prior written notice to Heraeus: of any changes to the manufacturing process or manufacturing location of the Goods that may materially affect the fit, form or function of the Goods; or of Seller's plans to discontinue production of any Goods, subject to Heraeus right, however, to make a "final buy" of up to one year's supply of such Goods before Seller discontinues production.

9. Warranty and Indemnity

9.1 Warranty. Seller expressly warrants that all Goods (a) will conform to the description or specifications furnished by Heraeus, (b) will be free from defects in materials, design and workmanship, and (c) will be of merchantable quality for a period of not less than 365 days after delivery to Heraeus. The warranties under this Section 9.1 will survive delivery and cannot be deemed waived either by reason of Heraeus's acceptance of or payment for Goods. Any deviation from the

warranties under this Section 9.1 must be approved in writing by Heraeus.

9.2 Warranty Claims. If Seller delivers Heraeus defective or non-conforming Goods, Heraeus may, at its option (a) accept some or all of the Goods with a claim for damages against Seller associated with the defect or non-conformance, (b) reject some or all of the Goods and terminate further deliveries, or (c) at Heraeus's sole option, require Seller to promptly repair or replace the Goods. Heraeus may also fix any defect or non-conformance, with Seller reimbursing Heraeus for the associated costs.

9.3 Returns. If Seller is unable to replace Goods under Section 9.2 within ten days of Heraeus's notice, Heraeus may return such Goods to Seller immediately and Seller must promptly refund to Heraeus all monies paid by Heraeus to Seller for such Goods.

9.4 Non-Infringement. Seller warrants and covenants that the Goods do not and will not infringe or misappropriate the patent, trademark, copyright, trade secret or other intellectual property rights of any third party.

9.5 No Litigation. Seller warrants that it is not involved in any pending litigation with respect to the Goods, nor has it been a party to such litigation at any time during the previous 24 months.

9.6 Infringement Indemnity. Seller shall indemnify, defend and hold harmless Heraeus, its affiliates and their respective officers, directors, employees and agents from and against any claims, losses, damages, liability and costs arising out of any claim, suit or action alleging infringement of any intellectual property rights of a third party by the Goods purchased under this Purchase Agreement. Seller may meet its obligation under this Section 9.6 if Seller obtains a license for Heraeus, its affiliates and their respective customers to continue to use, manufacture, market and sell any product incorporating the purportedly infringing Goods.

9.7 Product Liability Indemnification. Seller shall indemnify, defend and hold harmless Heraeus, its affiliates and their respective officers, directors, employees and agents from and against any claims, losses, damages, liability and costs arising out of any claim, suit or action alleging personal injury or property damage caused by the Goods purchased under this Purchase Agreement.

10. LIMITATION OF LIABILITY

10.1 IN NO EVENT SHALL HERAEUS BE LIABLE TO SELLER OR SELLER'S AGENTS OR TO ANY THIRD PARTY FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF, OR IN CONNECTION WITH, THIS PURCHASE AGREEMENT, WHETHER OR NOT HERAEUS WAS

ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

11. Excused Performance

11.1 If Seller fails to deliver Goods due to a force majeure cause, such as fire, flood, earthquake or other natural or man-made acts beyond its reasonable control, Heraeus may either: (a) terminate this Purchase Agreement or any part hereof as to the Goods not shipped; or (b) suspend the Purchase Agreement in whole or in part for the duration of the delaying cause and purchase Goods sufficient to cover and deduct the cost from any commitment to Seller the quantity so purchased.

12. Offset

12.1 Heraeus may offset against Seller's account any claims, refunds or other damages due to Heraeus hereunder.

13. Severability

13.1 If any provision of this Purchase Agreement is prohibited by law, or held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions will remain in full force and effect.

14. Waiver

14.1 No failure by Heraeus or Seller to enforce or take advantage of any provision under this Purchase Agreement will constitute a waiver of the right subsequently to enforce or take advantage of such provision.

15. Governing Law, Arbitration and Venue

15.1 Governing Law. This Purchase Agreement will be construed in accordance with and governed solely by the laws of the State of New York, without regard to its conflict of laws rules.

15.2 Mediation and Venue. Heraeus and Seller will first endeavor to resolve through good faith negotiations any dispute arising under or relating to this Purchase Agreement. If a dispute cannot be resolved through good faith negotiations within a reasonable time, any actions brought under this Purchase Agreement will have venue solely in the United States District Court for the Southern District of New York or in the Supreme Court of New York County, New York, and Seller waives any and all objection to venue and jurisdiction of such courts.

15.3 Arbitration. Heraeus and Seller may agree to resolve any dispute arising out of this Purchase Agreement by binding arbitration administered and resolved by the American Arbitration Association ("AAA"). Any such arbitration must be conducted by a single arbitrator in accordance with the Commercial Arbitration Rules of the AAA, including the Optional Rules for Emergency Measures

of Protection, in effect at the time the arbitration is commenced (except as modified in this Purchase Agreement). Any arbitration award must be issued within one year from the date claimant files its notice of intention to arbitrate (i.e. the demand), and the arbitrator must agree to comply with this schedule before accepting appointment. Any evidentiary hearing must be held on consecutive hearing days. Any monetary award in the arbitration must include pre-award interest at the rate of one and a half percent (1.5%) per month from the time of the acts giving rise to the award. Judgment on the award rendered by the arbitrator may be entered in any court having appropriate jurisdiction.

16. Confidential Information and Property Ownership

16.1 Disclosure. Heraeus may provide to Seller certain information (written and verbal), intellectual property, supplies, drawings, software, specifications, tools, equipment, molds, fixtures and other proprietary items as Heraeus may determine necessary for Seller to fulfill the applicable Purchase Order ("**Confidential Information**"). Confidential Information is Heraeus property and is confidential. Seller undertakes to protect Confidential Information with the same degree of care as it uses for its own confidential information, but no less than reasonable care. Without Heraeus's prior written consent, Seller will not (a) disclose any Confidential Information, including the terms of this Purchase Agreement, except to its employees as necessary for Seller to perform its obligations under this Purchase Agreement, (b) use any Confidential Information except as necessary for Seller to perform its obligations under this Purchase Agreement, or (c) transfer any Confidential Information to a third party.

16.2 Return. Upon completion of the transactions under the applicable Purchase Order, at Heraeus's written direction, Seller must destroy or return any Confidential Information or copies. Seller assumes liability for loss, damage or misuse of any Confidential Information. If Heraeus reasonably requests, Seller must execute a more extensive confidentiality agreement with Heraeus to protect Confidential Information.

16.3 No License. Except as provided in this Purchase Agreement, Heraeus is not granting Seller a license to any Confidential Information.

16.4 Injunction. Heraeus may seek injunctive relief to enforce this Section 16.

16.5 Ownership. Heraeus will, at all times, have and retain all rights, title, and interests to all Confidential Information, any other property generated during Heraeus manufacturing activities and any improvements to the Goods made by Heraeus during the manufacturing process. Seller will not cause or permit any lien, encumbrance or other security interest to be asserted against any Heraeus property.

Any improvement of or additions to the Goods by Heraeus are Heraeus's property.

17. Compliance with Laws; Heraeus Code of Conduct

17.1 Compliance with Laws. In filling any Purchase Order, Seller shall comply with all applicable federal, state and local laws, government regulations and orders, including without limitation concerning: (a) manufacture, sale, delivery, or use of the Goods; (b) occupational safety and health; (c) protection of persons and property from death, injury or damage; (d) labor and employment, including equal employment opportunity; (e) tax; (f) export control; (g) the environment and the use, handling, storage, labeling, and disposal of toxic or hazardous materials; and (h) money laundering, bribery, anti-terrorism, trade embargos, and economic sanctions.

17.2 Equal Opportunity and Affirmative Action. **Heraeus is an equal opportunity employer and federal contractor or subcontractor. As applicable, Heraeus and Seller must abide by the requirements of 41 CFR Section 60-1.4(a); 41 CFR Section 60-300.5(a); 41 CFR Section 60-741.5(a); and 29 CFR Part 471, Appendix A to Subpart A with respect to affirmative action program and posting requirements, and that these requirements are incorporated herein. Section 60-300.5 and 60-741.5 require that covered prime contractors and subcontractors ensure nondiscrimination and take affirmative action in employment to employ and advance qualified individuals without regard to their physical or mental disability and protected Veteran status.**

17.3 Heraeus Code of Conduct. Heraeus has adopted certain principles for the responsible conduct of its business as expressed in the Heraeus Code of Conduct, a copy of which has been made available to Seller. Seller shall perform under this Purchase Agreement in accordance with the Heraeus Code of Conduct.

17.4 Compliance Indemnification. Seller shall indemnify, defend and hold harmless Heraeus, its affiliates and their respective officers, directors, employees and agents from and against any claims, losses, damages, liability and costs arising out of any claim, suit or action alleging Seller's conduct which is in breach of the covenants under this Section 17.

18. Most Favored Customer

18.1 Each element of price, warranties, benefits and other terms provided to Heraeus under this Purchase Agreement are and will remain at least equal to the terms that have been offered or will be offered by Seller to its other customers. If Heraeus learns that Seller has provided or will provide better terms than those provided to Heraeus under

this Purchase Agreement, Heraeus may seek the same or better terms from Seller. If Seller fails to provide such terms, Heraeus may terminate this Purchase Agreement.

19. Notices

19.1 Unless otherwise noted, all notices or correspondence pursuant to this Purchase Agreement must be sent (or faxed with a follow up copy sent) to the address or number and to the contact on the Purchase Order or to such other address as may be designated by Heraeus.

20. Miscellaneous

20.1 Headings. The headings contained in this Purchase Agreement are for reference only and are not to be construed to affect construction or interpretation of this Purchase Agreement.

20.2 Entire Agreement. This Purchase Agreement, and the documents referenced in this Purchase Agreement, including any specifications, constitute the entire understanding and agreement between Heraeus and Seller, and supersede all prior oral or written negotiations and agreements with respect to the subject matter of this Purchase Agreement. Conflicts in terms will be resolved in the following order of precedence: (a) customized terms of the Purchase Order; (b) this Purchase Agreement; and (c) any written agreement signed by authorized representatives of Heraeus and Seller expressly amending this Purchase Agreement. No modification, change or amendment of the Purchase Agreement will be valid unless made in writing and signed on behalf of Heraeus and Seller by its duly authorized officer or representative.

20.3 No Third-Party Beneficiaries; Assignment. This Purchase Agreement is entered into solely for the benefit of Heraeus and Seller, and no other person will acquire the right to enforce any provision of this Purchase Agreement against either party. Neither Heraeus nor Seller may assigned this Purchase Agreement to a third party without the prior written consent of the other party except, with prior notice: (a) to an affiliate; or (b) to a third party who will acquire, by sale of assets, merger or otherwise, all or substantially all of the assets of such party. The assigning will remain obligated to perform under this Purchase Agreement notwithstanding such assignment.

20.4 Survival. All provisions that are continuing in nature, including but not limited to those involving confidential information and indemnity, will survive termination of this Purchase Agreement.

20.5 Remedies. Heraeus's rights and remedies are cumulative and in addition to any other rights and remedies provided by law or equity (or provided under the Uniform Commercial Code except to the extent modified herein).

ATTACHMENT 1

Heraeus Incorporated

Heraeus Electro-Nite Co., LLC

Heraeus Medical Components LLC
Heraeus Medical Components SRL
Heraeus Medical Components Caribe, Inc.

Heraeus Noblelight America LLC

Heraeus Quartz North America LLC
Heraeus GMSI LLC

Heraeus Metals New York LLC
Heraeus Precious Metal Processing LLC
Heraeus Precious Metals North America LLC

Heraeus Precious Metals North America Conshohocken LLC

Heraeus Precious Metals North America Daychem LLC

Heraeus Medical LLC