

## TERMS AND CONDITIONS OF SALE

**1. Parties.** Polyloom Corporation of America, a Delaware corporation doing business as Ten Cate Grass North America, is referred to herein as "Ten Cate Grass", and the person, firm or entity ("Person") purchasing from Ten Cate Grass as indicated on the front hereof is referred to herein as "Customer." All materials, goods or merchandise described on the front hereof or otherwise purchased by Customer from Company, regardless of type, are referred to herein as "Products."

**2. Acceptance of Orders.** Quotations furnished by Ten Cate Grass do not constitute an offer to sell. Ten Cate Grass reserves the right to reject any order based on Customer's creditworthiness. These Terms and Conditions are not an expression of acceptance or confirmation of any oral or written order of Customer. These Terms and Conditions, those on the front hereof and those in Ten Cate Grass's limited warranty certificate are the sole terms and conditions applicable to sales of Products by Ten Cate Grass to Customer and may not be modified or amended except by an instrument in writing signed by one of Ten Cate Grass's duly authorized officers expressly agreeing to such modification or amendment. Any additional or different terms or conditions appearing in any order of Customer or any other documents of Customer concerning the Products shall be ineffective, and Ten Cate Grass objects to such terms and conditions. Sales of Products hereunder are expressly conditioned upon Customer's assent to any Terms and Conditions of Sale herein which are additional to or different from any terms or conditions contained in any order submitted by Customer. Unless within ten days of receipt hereof, Customer delivers to Ten Cate Grass written objection to these Terms and Conditions and those on the front hereof, Customer shall be deemed to have accepted each of such terms and conditions. No acknowledgment by Ten Cate Grass of, reference by Ten Cate Grass to or performance by Ten Cate Grass under any order submitted by Customer shall be deemed to be an acceptance by Ten Cate Grass of any terms or conditions contained in such order which are additional to or contrary to these Terms and Conditions.

**3. Order Cancellations.** Ten Cate Grass reserves to its sole judgment when and under what circumstances it will approve any order changes or cancellations. If changes or cancellations are accepted, a change or cancellation fee may be charged to Customer in accordance with Ten Cate Grass's then current change and cancellation policy.

**4. Prices and Payment.** (a) Unless otherwise stated on the front hereof, (i) all prices for sales to locations within the United States are F.O.B. Ten Cate Grass's Dayton, Tennessee, U.S.A. facility, and (ii) all prices for sales to locations outside the United States are ex works (as defined in Incoterms 2000 published by the International Chamber of Commerce) Ten Cate Grass's Dayton, Tennessee, U.S.A. facility. Prices do not include applicable sales, use, excise, ad valorem, value added or similar taxes or any imposts, customs duties or charges related to importation or exportation of the Products. All such taxes, imposts, duties and charges, if applicable, will be added to Ten Cate Grass's invoices as separate charges and shall be paid by Customer. (b) Unless otherwise provided on the front hereof, the purchase price for all Products sold to Customer hereunder and all applicable taxes and freight, insurance and other charges shall be due and payable in the full invoice amount in U.S. dollars within 30 days after the date of the invoice; provided, however, that Ten Cate Grass reserves the right in its sole discretion to cancel or change credit terms and to request advance payment at any time. Any check or remittance received from or for the account of Customer may be accepted and applied by Ten Cate Grass against any indebtedness owing by Customer to Ten Cate Grass, without prejudice to and without discharging the remainder of any such indebtedness, regardless of any condition, statement or notation appearing on, referring to or accompanying such check or remittance. (c) Any amounts payable to Ten Cate Grass which are not paid when due shall bear interest at the rate of 1.5% per month or the maximum rate permitted by applicable law, whichever is less, from the due date until the date paid. Time is of the essence of all payments due hereunder, and if any payment due Ten Cate Grass is collected at law, or through an attorney-at-law or under advice therefrom, or through a collection agency, Customer agrees to pay all costs of collection, including all court costs and reasonable attorneys' fees and expenses. (d) Upon the failure of Customer to make any payment when due hereunder, or in the event of default, breach or repudiation by Customer of any obligation to Ten Cate Grass, whether contained herein or otherwise, or if Customer becomes insolvent, or if any bankruptcy, insolvency, reorganization or arrangement proceeding is commenced by or against Customer, Ten Cate Grass shall have (in addition to all rights and remedies Ten Cate Grass may have at law or in equity) the option to: (i) cancel this or any other transaction with Customer; (ii) defer any deliveries to Customer; or (iii) declare any and all outstanding amounts owing from Customer to Ten Cate Grass hereunder immediately due and payable. (e) Customer agrees not to set-off or offset against Ten Cate Grass's invoices amounts that Customer claims are due to Customer. Customer shall bring any claims it may have in a separate action and waives any right it may have to set-off, offset or withhold payment for Products delivered by Ten Cate Grass.

**5. Security Interest.** To secure Customer's obligations, Ten Cate Grass reserves a purchase money security interest in all Products sold, together with all proceeds thereof, until all payments with respect to the Products have been received by Ten Cate Grass. Customer authorizes Ten Cate Grass to prepare and file such financing statements, and Customer agrees to execute, and constitutes and irrevocably appoints Ten Cate Grass as its agent and attorney-in-fact for the purpose of executing, such security agreements and other documents, that may be necessary or appropriate to evidence, perfect or maintain the security interest reserved herein.

**6. Delivery and Risk.** Unless otherwise provided on the front hereof, (i) if Customer's facility for use of the Products is within the United States, delivery of Products hereunder shall be F.O.B. Ten Cate Grass's Dayton, Tennessee, U.S.A. facility, and (ii) if Customer's facility for use of the Products is outside the United States, delivery of Products hereunder shall be ex works (as defined in Incoterms 2000 published by the International Chamber of Commerce) Ten Cate Grass's Dayton, Tennessee, U.S.A. facility. Title to and risk of loss of the Products sold hereunder shall pass to Customer when the Products have been made available at Ten Cate Grass's Dayton, Tennessee, U.S.A. facility to Customer or the carrier delivering the Products to Customer. If requested by Customer, Ten Cate Grass may, but is not obligated to, make arrangements, for and on behalf of Customer, for the carriage and insurance of the Products to Customer by such means and carrier as determined by Ten Cate Grass, unless otherwise designated by Customer in writing. Unless otherwise provided on the front hereof, any arrangements and expenses incurred by Ten Cate Grass for carriage and insurance of the Products shall be for the account of Customer, shall be billed to Customer and shall be due and payable together with the purchase price for the Products. Ten Cate Grass may deliver Products in partial deliveries, and Ten Cate Grass reserves the right to invoice for partial deliveries. Ten Cate Grass shall use commercially reasonable efforts to deliver the Products in accordance with any delivery dates reasonably requested by Customer or set forth on the front hereof, but such delivery dates are not guaranteed. Ten Cate Grass shall not be obligated to defer deliveries at Customer's request. If Ten Cate Grass defers deliveries at Customer's request, Customer shall indemnify Ten Cate Grass against all loss and additional expense incurred by Ten Cate Grass in connection with such deferred deliveries, and transfer to storage shall be considered delivery for all purposes hereunder, including invoicing, payment and risk of loss.

**7. Limited Warranty.** Ten Cate Grass provides a limited warranty with respect to certain of its products. The terms and conditions of the limited warranty, including warranty periods, exclusive remedy and exclusions and limitations of coverage, are set forth in Polyloom's limited warranty certificate, as amended by Ten Cate Grass from time to time, which Ten Cate Grass separately issues to its customers. A copy of the limited warranty certificate is available upon request. Products not covered by the limited warranty are sold "as is" with no warranties whatsoever. **EXCEPT AS EXPRESSLY PROVIDED IN TEN CATE GRASS'S LIMITED WARRANTY CERTIFICATE, TEN CATE GRASS MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING ANY OF ITS PRODUCTS OF ANY KIND, NATURE OR DESCRIPTION, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FITNESS OF ANY OF THE PRODUCTS FOR ANY PARTICULAR PURPOSE, AND TEN CATE GRASS HEREBY DISCLAIMS THE SAME.**

**8. Exclusions.** Any warranty provided by Ten Cate Grass is solely for the benefit of Customer, and claims under the warranty may only be made by Customer and not by Customer's customers or any other third parties. Customer shall be responsible for ensuring that the Products meet its specific requirements, and Ten Cate Grass shall have no responsibility in connection therewith. If Customer requests Products in custom or non-standard colors (*i.e.*, colors other than those in Ten Cate Grass's standard offering of colors), Ten Cate Grass shall use commercially reasonable efforts to produce Products corresponding to the colors requested by Customer but shall not be responsible for variations from such colors. Ten Cate Grass may discontinue the sale or change the specifications of any Product at any time. Any drawings, designs or advice with respect to the Products or their properties, use, installation or maintenance furnished by Ten Cate Grass to Customer are provided free of charge as an accommodation to Customer on an "as is" basis with no warranties whatsoever. Ten Cate Grass assumes no liability or obligation for any such drawings, designs or advice.

**9. Limitation of Liability.** In no event shall Ten Cate Grass be liable to Customer or any other Person, whether in contract or in tort or under any other legal theory (including negligence or strict liability), for lost profits or revenues, loss of use or similar economic loss, or for any indirect, special, incidental, consequential, punitive or similar damages arising out of or in connection with the sale, delivery, non-delivery, servicing, use, maintenance, loading, unloading, installation, condition, ownership, possession, operation, selection, transportation or return of any of the Products, or for any claims made against Customer by any other Person, even if Ten Cate Grass has been advised of the possibility of such damages or claims. In no event shall Ten Cate Grass's liability under any claim made by Customer exceed the purchase price of the Products in respect of which such claim is made.

**10. Inspection; Limitation of Actions.** Customer shall promptly inspect and test all Products as soon as practicable after the date of receipt. Anything herein to the contrary notwithstanding, to the extent that any defects, shortages or nonconformities of Products are discoverable by inspection or testing upon receipt by Customer, all obligations of Ten Cate Grass with respect to such defects, shortages or nonconformities shall be deemed to be satisfied, and all Products shall be deemed to be free of such defects, shortages or nonconformities, unless Customer notifies Ten Cate Grass of such defects, shortages or nonconformities in writing within 30 days after the date of receipt. No action, regardless of form, arising out of or in connection with the sale of Products hereunder may be brought more than one year after the cause of action has arisen.

**11. Force Majeure.** Ten Cate Grass shall not be liable for any default or delay in the performance of any of its obligations hereunder if such default or delay is caused, directly or indirectly, by fire, flood, earthquake, the elements or other such occurrences; labor disputes, strikes or lockouts; wars, rebellions or revolutions in any country; riots or civil disorder; interruptions or delays in transportation or communications; supply shortages or the failure of any Person to perform any commitment to Ten Cate Grass relative to the production or delivery of any equipment or material required by Ten Cate Grass to perform its obligations hereunder; laws, rulings or regulations of any governmental entity; or any other cause, whether similar or dissimilar to those enumerated herein, beyond Ten Cate Grass's reasonable control.

**12. Miscellaneous.** Customer shall not assign all or any portion of its rights hereunder, or delegate or subcontract all or any portion of its obligations hereunder, without the prior written consent of Ten Cate Grass. Any such assignment, delegation or subcontracting without Ten Cate Grass's prior written consent shall be null and void and of no force or effect. These Terms and Conditions shall be binding upon and shall inure to the benefit of Ten Cate Grass and Customer and their respective successors and permitted assigns. No failure on the part of Ten Cate Grass to exercise, and no delay by Ten Cate Grass in exercising, any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy by Ten Cate Grass preclude any other or further exercise thereof or the exercise of any other right or remedy. No express waiver by Ten Cate Grass of any breach of any term or condition hereof shall constitute a waiver of any succeeding breach of the same or any other term or condition hereof. These Terms and Conditions and any amendments hereto, and all rights of the parties hereunder, shall be governed by and construed and enforced in accordance with the laws of the State of Tennessee, U.S.A., without regard to its principles of conflicts of law. Sales of Products hereunder shall not be subject to the United Nations Convention on the International Sale of Goods. Regardless of whether a copy of these Terms and Conditions is translated into another language, the official version hereof shall be the English language version, which shall prevail in all cases. All communications between Ten Cate Grass and Customer concerning the sale of Products hereunder shall be delivered in the English language. All amounts payable by Customer to Ten Cate Grass hereunder shall be paid in legal tender of the United States of America.