

Purchase Agreement for Serpent's Grip® Products

By purchasing Serpent's Grip® wholesale products you agree to the following terms and conditions.

The parties agree that Seller desires to sell certain goods ("Products") as set forth in this agreement (which may be amended from time to time), and Buyer desires to buy such Products under the terms of this Agreement; THEREFORE, in consideration of the mutual obligations set forth below, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Buyer and Seller agree to the following:

1. Price and Quantity. Products will be ordered by Buyer and shipped by Seller at prices and quantities as shown on the web site at time of purchase. Unless otherwise specified, prices do not include sales, use, services excise or other taxes of any kind, and Purchaser agrees to pay such taxes. Seller agrees to exercise commercially reasonable best efforts to supply Products to Buyer in a timely fashion. All prices shall be in United States dollars, unless otherwise specified.

2. Product modifications. Buyer acknowledges that the manufacturer of Products sold under this Agreement may change Product specifications at any time for various reasons, such as to improve quality, comply with applicable law, or to adopt changes in materials or component sourcing.

3. Payment Terms. Unless specified to the contrary in writing by Seller payment is due prior to shipment of goods.

4. Shipping. All Products shall be sent in accordance with Seller's then current shipping policies, including, without limitation, the use of cartons bearing external art work or labels as designated by Seller. Risk of loss shall transfer from Seller to Buyer either at the point where Seller delivers the goods to a common carrier of its choice or at Seller's shipping dock.

5. Delivery Dates. Seller endeavors to make shipments of orders as scheduled; however all shipment dates are approximate, and Seller reserves the right to readjust shipment schedules. If Seller suffers delay in performance or delivery due to any cause beyond its control, including acts of nature, acts or omissions of Purchaser, acts of government, fires, floods, strikes or other labor disturbances, war, riot, sabotage or delays in obtaining from others suitable services, materials, components, equipment or transportation, the time of performance or delivery shall be extended for a period of time equal to the period of the delay and its consequences. Seller will give to Purchaser notice in writing within a reasonable time after Seller becomes aware of any such delay.

6. Order Cancellation. All orders subject to this Agreement are mutually understood by Seller and Purchaser to be firm, non-cancelable purchase orders. Notwithstanding the foregoing, Seller may, in its sole discretion allow Purchaser to cancel an order upon Purchaser's prior written notice and upon

Purchaser's payment of reasonable and proper termination charges, including, but not limited to all direct and indirect costs associated with the order incurred prior to the effective date of notice of termination and all charges incurred by Seller in respect to the termination.

7. Order Modifications/Changes. Purchaser-requested order changes, including those affecting the identity, scope and delivery of the product(s) must be documented in writing and approved by an authorized representative of Seller, and Seller reserves the right to reject any change it deems inadvisable, inconsistent with its policies or incompatible with its capabilities. If any such change causes an increase or decrease in the cost of or the time required for performance of this order, an equitable adjustment shall be made in the order price or delivery schedule or both, and the order shall be modified in writing accordingly.

8. Notices. Any notice given under this Agreement shall be in writing and sent via certified or registered mail or electronic facsimile to the contact information provided in this Agreement. Notice shall be deemed sent upon receipt or three days after mailing, whichever happens first.

9. Claims. Purchaser's claims for lot shortages, correction of erroneous order charges or other errors must be made in writing and delivered to Seller within fifteen (15) days of Purchaser's receipt of the product(s). Claims outside of this time period will be disallowed.

10. Returned Goods. If, upon formal inspection and/or testing of the product(s), Purchaser is of the opinion that the product(s) is defective or otherwise unacceptable, Purchaser shall notify Seller in writing. Any Products received by Buyer and held more than 15 days are returnable at the sole discretion of Seller. Prior to making any return to Seller, Purchaser must obtain a Return Authorization ("RA") from a duly authorized representative of Seller. The following conditions also apply to returns: (1) all products returned to Seller must include the RA and must be properly packed and shipped; delivery of returns without the RA or returns not properly packed and/or shipped will not be accepted; (2) all returns are subject to inspection and/or testing by Seller as it deems appropriate. If Seller determines that the returned product(s) appears to be in compliance with order specifications, it shall notify Purchaser and Purchaser agrees to pay a 10% restocking fee for all returned Products which are not defective in the reasonable judgment of Seller; (3) all product(s) must be returned by delivery F.O.B. destination to Seller-specified locations. Title and risk of loss on all product(s) shall remain with Purchaser until such returned product(s) is received by Seller; (4) Seller will allow a refund on all defective product(s) returned in accordance with this paragraph, calculated on a last invoice basis; (5) all product(s) under the warranty will be repaired or replaced at the original invoice price. Purchaser shall not be charged for parts and labor associated with replacement or repair. All returns are subject to the provisions of this Section and Section 9 governing claims. Any product(s), which has been modified, altered, damaged or used by Purchaser, may not be returned.

11. Limited Warranty. Unless otherwise provided in a third party warranty or licensing agreement, Seller warrants that at the time of shipment products shall be of marketable quality and free from defects in material and workmanship and shall be of the kind and quality designated or specified by Seller in writing. This warranty shall only apply to product defects reported in writing to Seller within ninety (90) days from the latter of the date of shipment or the date of the Seller invoice. This warranty is strictly limited and does not apply or extend to altered products(s) or damage caused by accident, the elements, abuse, misuse, temporary heat, overloading or by erosive or corrosive substances or the alien presence of contaminants in the product(s).

EXCLUSIONS FROM WARRANTY: THE FOREGOING IS IN LIEU OF ALL OTHER WARRANTIES, ORAL OR EXPRESSED OR IMPLIED, INCLUDING ALL WARRANTIES THAT EXTEND BEYOND THE DESCRIPTION OF THE PRODUCT(S). THERE ARE NO EXPRESS WARRANTIES OTHER THAN THOSE CONTAINED IN THIS SECTION 11 AND TO THE EXTENT PERMITTED BY LAW THERE ARE NO IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE. THE PROVISIONS OF THIS SECTION 11 AS TO DURATION AND LIMITATION OF LIABILITY SHALL BE THE SAME FOR BOTH IMPLIED WARRANTIES (IF ANY) AND EXPRESSED WARRANTIES. Satisfaction of this warranty is limited to: (a) the replacement of the product(s) by Seller; (b) repair or modification of the product(s) by Seller; or (c) issuance of a credit for the non-conforming product(s). The foregoing are the Purchaser's exclusive remedies and the extent of Seller's liability for breach of implied (if any) and express warranties, representations, instructions or defects from any cause in connection with the sale or use of the product(s). IN NO EVENT WILL SELLER BE LIABLE FOR INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY KIND. SELLER'S MAXIMUM CUMULATIVE LIABILITY RELATIVE TO ALL OTHER CLAIMS AND LIABILITIES, INCLUDING THAT WITH RESPECT TO DIRECT DAMAGES AND OBLIGATIONS UNDER ANY INDEMNITY, WHETHER OR NOT INSURED, WILL NOT EXCEED THE COST OF THE PRODUCTS GIVING RISE TO THE CLAIM OR LIABILITY, REGARDLESS OF ANY ADVICE OR RECOMMENDATION THAT MAY HAVE BEEN RENDERED CONCERNING THE PURCHASE OR USE OF THE PRODUCT(S). ANY ACTION AGAINST SELLER MUST BE BROUGHT WITHIN SIX MONTHS AFTER THE CAUSE OF ACTION ACCRUES. THESE DISCLAIMERS AND LIMITATIONS OF LIABILITY WILL APPLY REGARDLESS OF ANY OTHER CONTRARY PROVISION OF THE AGREEMENT AND REGARDLESS OF THE FORM OF ACTION WHETHER IN CONTRACT, TORT OR OTHERWISE, AND FURTHER WILL EXTEND TO THE BENEFIT OF SELLER'S VENDORS AND OTHER AUTHORIZED RESELLERS AS THIRD-PARTY BENEFICIARIES. EACH PROVISION IN THE AGREEMENT WHICH PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTY OR CONDITION OR EXCLUSION OF DAMAGES IS SEVERABLE AND INDEPENDENT OF ANY OTHER PROVISION AND IS TO BE ENFORCED AS SUCH.

12. Intellectual Property. Seller will defend any suit or proceeding brought against Purchaser based on a claim that the design or construction of the product(s) sold or licensed hereunder by Seller infringe any U.S. Patent, Copyright or Mask Work Registration, provided that Purchaser promptly notifies Seller of any such claim and resulting suit or proceeding in writing and further provided that, at Seller's expense: (a) Purchaser gives Seller the sole right to defend or control the defense of the suit or

proceeding, including settlement, and (b) Purchaser provides all necessary information and assistance for that defense. Except for any consequential damages, Seller will pay all costs and damages finally awarded or agreed upon by Seller that are directly related to any such claim. In the event of a charge of infringement Seller's obligation under the Agreement will be fulfilled if Seller, at its option and expense, either: (i) procures for Purchaser the right to continue using such products; (ii) replaces the same with noninfringing products; (iii) modifies the same so as to make them noninfringing; or (iv) accepts the return of any infringing products and refunds their purchase price. Notwithstanding the foregoing, Seller will have no liability with respect to any claim of infringement to the extent based on a configuration or modification incorporated in the products at the request of Purchaser, on any process application into which the products are integrated by Purchaser, or on use of the products in combination with other equipment or products not supplied by Seller. THIS PARAGRAPH SETS FORTH SELLER'S ENTIRE LIABILITY WITH RESPECT TO INTELLECTUAL PROPERTY AND INFRINGEMENT OF PATENTS BY ANY PRODUCTS (INCLUDING SOFTWARE PROGRAMS, EQUIPMENT OR PRODUCTS THEREOF) OR BY THEIR OPERATION, AND IS IN LIEU OF ALL WARRANTIES OR CONDITIONS RELATING TO INFRINGEMENT OR INTELLECTUAL PROPERTY, EITHER EXPRESS OR IMPLIED.

13. Export. Product(s) purchased for export outside of the United States or its possessions are covered by the respective trade laws or other legal conditions specific to the country or possession in question so understood and agreed to by both parties. Purchaser shall be solely responsible for any permits, licenses, waivers or other requirements necessary to permit movement of any product outside of the United States.

14. Resolution of Disputes. In the event of a dispute between Seller and Purchaser arising out of this Agreement, the parties shall meet and negotiate in good faith to attempt to resolve the dispute. In the event the dispute is not resolved within thirty (30) days of the date one party notified the other party in writing of the dispute, and if any party wishes to pursue the dispute, it shall be submitted to binding arbitration in accordance with the rules of the American Arbitration Association. In no event may arbitration be initiated more than one (1) year following the sending of written notice of the dispute. Any arbitration proceeding under this Agreement shall be conducted in Colorado in Jefferson County. The arbiters shall have no authority to award any punitive or exemplary damages, or to vary or ignore the terms of this Agreement, and shall be bound by controlling law.

15. Governing Law. Seller does not assume any responsibility for compliance with any foreign or federal, state or local laws and regulations, except as expressly set forth herein, and compliance with any laws and regulations relating to the product(s) is the sole responsibility of the Purchaser. All laws and regulations expressly incorporated herein shall be those in effect as of the date hereof. In the event of any subsequent revisions or changes thereto, Seller assumes no responsibility for compliance therewith. Nothing contained herein shall be construed as imposing responsibility or liability upon Seller for the obtaining of any permits, licenses or approvals from any agency or governmental entity,

foreign or domestic, which may be required in connection with the supply of the product(s). All sales and purchases of product(s) from Seller, including terms and conditions thereof, shall be governed by the laws now prevailing in the Commonwealth of Virginia, without regard to its conflict of laws provisions.

16. Warranty and Liability. ANY PRODUCTS SOLD BY SELLER UNDER THIS AGREEMENT ARE PROVIDED WITH A 90 DAY MANUFACTURER'S DEFECT WARRANTY. SELLER MAKES NO OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL SELLER BE LIABLE TO BUYER OR ANYONE ELSE FOR SPECIAL, INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, USE, OR GOODWILL ON A CONTRACT, TORT, OR OTHER LEGAL THEORY. SELLER'S LIABILITY SHALL BE LIMITED TO THE PURCHASE PRICE OF PRODUCTS SOLD.

17. Miscellaneous. This Agreement, including attachments, constitutes the entire agreement between Buyer and Seller with respect to the subject matter contemplated herein, and supersedes all representations, whether express, implied, oral, or written. This Agreement shall be governed by and interpreted in accordance with the laws of the Commonwealth of Virginia. Any waiver by either party of any right or remedy hereunder shall be effective only if it is in writing and signed by an authorized representative. No delay or omission by a party to exercise any right related to any breach or default of this Agreement will impair any such right or operate as a waiver. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall form one and the same instrument. If any provision of this Agreement is held by a court of competent jurisdiction to be illegal or unenforceable for any reason, such determination shall not affect the remainder of this Agreement, and such remainder shall remain in full force and effect.

18. Force Majeure. The Seller will not be liable for loss, damage or delay caused by strikes or labor difficulties, lockouts, acts or omissions of any governmental authority, insurrection, riot, war or similar hostility, fires, floods, Acts of God, breakdown of essential machinery, accidents, cargo or material shortages, delays in transportation, inability to obtain labor, materials or parts from usual sources or otherwise due to causes beyond the Seller's reasonable control. In the event of any such delay, performance will be postponed by such length of time as may be reasonably necessary under the circumstances.

19. Partial Invalidity. If any provision herein or portion thereof shall for any reason be held invalid or unenforceable in accordance with prevailing law, such invalidity or unenforceability shall not affect any other provisions or portions thereof, but the terms and conditions herein shall be construed as if such invalid or unenforceable provision or portion thereof had never been contained herein.

