

1. APPLICABLE CONTRACT PROVISIONS.

a. "Buyer" means the entity issuing the Order, and any affiliates, subsidiaries, successors or assigns thereof. "Seller" means the person, firm or company to whom the Order is addressed. "Materials" means all the products and/or services to be supplied by Seller under the Order. "Order" means the purchase order issued by Buyer for the supply of Materials, which may be an oral communication or a written or electronic document, and may also include particular shipping instructions and/or other specifications required by Buyer for the Materials.

b. These terms and conditions, together with the Order, constitute an offer by Buyer to purchase the Materials from Seller pursuant to the terms and conditions described herein. This offer is not an acceptance or a confirmation of any previous offer or proposal from Seller, and this offer shall be deemed to be a rejection and counteroffer with respect to any previous offer or proposal from Seller. Acceptance of any shipment of the Materials shall not be construed as an acceptance of any such previous offer or proposal or an acceptance of any different or additional terms proposed by Seller.

c. This offer shall become an "Agreement" upon acceptance by Seller. Seller shall be deemed to have accepted this offer by commencement of performance called for in the Order, by delivery of the Materials to Buyer, by written acceptance or confirmation of this Agreement, or by any other act or communication constituting legal acceptance, whether or not any such acceptance or confirmation purports to state terms additional to or different from those stated herein. Buyer hereby expressly objects to and rejects any such additional or different provisions, and none of such provisions shall be deemed to be a part of this Agreement unless specifically agreed to in writing by Buyer.

2. SALE OF MATERIALS.

a. Seller agrees to sell, transfer and deliver the Materials to Buyer for the purchase price set forth in the Order, subject to all of the covenants, terms and conditions hereof.

b. Buyer agrees to purchase the Materials, subject to all of the covenants, terms and conditions hereof, and to pay Seller the purchase price set forth in the Order. Typographical and other clerical errors in the Order are subject to correction. Buyer reserves the right at any time to modify the Order upon notice to Seller. Upon such notice, Buyer and Seller shall negotiate an equitable adjustment in price and/or time of performance. Buyer shall have the right to stop all or part of the work under the Order or cancel any future delivery of any Materials upon notice to Seller.

c. Seller agrees to obtain from Buyer a purchase order number for any and all purchase orders of goods and/or services. Seller further agrees it will clearly reference the purchase order number on the applicable invoice(s). Seller acknowledges that any invoice submitted to Buyer that does not clearly reference Buyer's corresponding purchase order number may be considered invalid by Buyer and may result in delayed payment.

3. PURCHASE PRICE AND TERMS OF PAYMENT.

a. Materials shipped against this Agreement shall be invoiced at the price set forth in the Order. Unless otherwise specified on the Order, payment of the purchase price shall be due seventy-days after the later of Buyer's receipt of Seller's correct invoice for such shipment or the date on which the Materials are received by Buyer. Seller agrees that it will take no adverse action against Buyer for any invoices not paid resulting from Seller's failure to obtain or clearly reference purchase order numbers on the applicable invoices or accurately invoice Buyer.

b. The purchase price for the Materials shall include all taxes, customs duties, customs fees or other governmental charges due with respect to the Materials. Buyer shall, however, pay for any taxes that it is statutorily required to pay. Seller shall provide Buyer with documentation satisfactory to Buyer that establishes Buyer's statutory liability to pay such taxes. If Seller fails to provide such documentation, Buyer shall not be obligated to pay any such taxes.

c. Seller shall be responsible for all shipping and insurance costs, including without limitation, packing, crating, cartage and freight costs.

d. Buyer may set off any amount owing at any time from Seller to Buyer or any of its affiliates against any amount payable at any time by Buyer.

4. SHIPMENT, DELIVERY AND ACCEPTANCE.

a. Seller shall deliver the Materials F.O.B. to the place designated for shipment by Buyer in the Order. Seller shall follow any shipping instructions provided by Buyer and shall properly and carefully package the Materials for shipment. Any loss or damage, whenever occurring, which results from Seller's improper packaging or crating shall be borne by Seller. Notwithstanding anything in the foregoing to the contrary, title to and risk of loss of the Materials shall pass to Buyer only upon receipt of the same by Buyer, and any rightful rejection or revocation of any Materials by Buyer shall immediately shift the risk of loss of such Materials, wherever located, to Seller. Seller agrees that any contrary provisions of Sections 2-509 and 2-510 of the Uniform Commercial Code shall not apply to this Agreement.

b. All items shipped shall be properly identified with Buyer's purchase order number and any purchase order item number or other identification number shown. Seller accepts full responsibility for the completeness and accuracy of all transport and customs documentation ("Shipping Documents") provided to Buyer. Seller accepts any liabilities resulting from incomplete or inaccurate data on Shipping Documents or failure to comply with any import or export requirements.

c. Notwithstanding anything herein to the contrary, Buyer shall have a reasonable opportunity to inspect the Materials after the same have been delivered to Buyer's premises. Buyer shall not be deemed to have accepted any such Materials until the expiration of such reasonable time for inspection. The parties acknowledge and understand that Buyer may inspect any commercial lot of the Materials consisting of numerous units of the same product by inspecting only a reasonable sampling of such units and that Buyer may revoke acceptance of any other units of such commercial lot which Buyer at a later time discovers to be defective. Upon rejection or revocation of acceptance of any Materials, Seller promptly shall replace or correct, at Buyer's option, any unsatisfactory units at Seller's expense, including all shipping costs. Buyer's failure to inspect or reject Materials, or payment for Materials, shall not relieve Seller of any of its obligations hereunder or constitute a waiver of any of Buyer's rights hereunder.

5. WARRANTY PROVISIONS.

a. Seller hereby warrants to Buyer that, in addition to any and all express and implied warranties provided under the Uniform Commercial Code, the Materials: (i) shall be provided in a competent, professional manner and in accordance with the highest standards and best practices of Seller's industry; (ii) shall be free from defects in materials and workmanship, and shall be merchantable and fit for their particular purpose; (iii) shall conform to and perform in accordance with all specifications, drawings, samples and other requirements referred to in the Order and provided by Seller; (iv) when shipped shall be free from all liens, security interests and encumbrances of any type whatsoever; and (v) shall be manufactured, produced, labeled, furnished and delivered to Buyer in full and complete compliance with all applicable laws and regulations, including, without limitation, the Robinson Patman Act, the Fair Labor Standards Act of 1938 as amended by Executive Order No. 11246 (Equal Employment Opportunity), Executive Order No. 11458 and 11625 (Utilization of Minority Business Enterprises), Executive Order No. 11701 (Listing of Job Openings for Disabled Veterans and Veterans of the Vietnam Era), Executive Order No. 11758 (Employment of the Handicapped), the Hazardous Materials Transportation Act of 1975, the Federal Hazardous Substances Act, the Federal Poison Prevention Packaging Act of 1970, the Occupational Safety and Health Act of 1970, the Toxic Substances Control Act, Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, any laws regarding slavery and human trafficking in any country in which Seller is doing business, and all rules, regulations, standards and rulings promulgated or issued thereunder, as from time to time amended, modified and/or superseded. Seller agrees to cooperate with any audit conducted by Buyer or at Buyer's direction to confirm that the Materials are being generated without reliance on child labor, slave labor or human trafficking. Furthermore, as requested by Buyer, Seller agrees to execute and provide any and all information, documents and certifications reasonably required by Buyer pursuant to subsection (v) above, and use due diligence protocols, standards and procedures in its supply chain as are necessary to comply with its obligations herein.

b. Seller shall act in a manner consistent with Buyer's Code of Ethics and Business Conduct Policy, which is located at: <http://www.valsparglobal.com/corp/pdf/policies/English/coe.pdf>.

c. Seller shall give Buyer reasonable advance written notice of any production change related to the Materials, including but not limited to any change in the manufacturing process, formulation, raw materials or production location. For any change that could affect performance of the Materials, Seller shall complete any reasonable qualification processes of Buyer and address Buyer's concerns about the change.

6. DEFAULT.

a. Seller shall be deemed to be in default hereunder if it violates any of the terms hereof or fails timely to perform any of its covenants, duties or obligations hereunder, or if it performs or fails to perform any other act, whether pursuant to this Agreement or otherwise, which gives Buyer reasonable grounds to feel insecure with respect to Seller's future performance hereunder.

b. Upon default by Seller hereunder, Buyer may exercise any or all of the following rights and remedies, in addition to such other rights and remedies as may be provided hereunder or under applicable law: (i) Reject or revoke acceptance of any or all of the Materials, whether or not such Materials are defective and whether or not the condition of delivery thereof otherwise relates to, pertains to, concerns or gives rise to such event of default; and/or (ii) Terminate this Agreement without any obligation whatsoever with respect to Materials not yet delivered to Buyer at the time of such termination. Buyer's decision to pursue any one such remedy shall not be deemed to be an election not to pursue any other remedy at the same time or at any other time.

7. INDEMNIFICATION.

a. Seller agrees to indemnify and hold Buyer harmless from and against any and all liabilities, costs, losses or expenses, including reasonable attorneys' fees, incurred or suffered by Buyer as a result of or in connection with Seller's breach of any of its obligations hereunder.

b. Seller agrees to indemnify and hold Buyer harmless from and in respect of any damages, losses or expenses which Buyer may suffer or incur (including reasonable attorneys' fees) arising out of, relating to or concerning any claim, action or allegation that any of the Materials (or the use of same in an intended manner) infringes any patent or intellectual property rights claimed by any third party; provided that Buyer shall notify Seller in writing of any such claim, act or allegation promptly after learning of the same and shall assist and cooperate in the defense or settlement thereof. Such defense or settlement shall be at Seller's sole expense, and Seller shall pay all damages and costs finally awarded against Buyer as a result of any such suit or proceeding.

8. INSURANCE.

a. For the duration of this Agreement and for three years following its completion or termination, Seller shall secure and maintain in effect, at its own expense, by insurance companies rated A-VII or better by A.M. Best, at least the following insurance coverage that will fully protect both Seller and Buyer: commercial general liability (including product liability and completed operations liability) in a sum no less than \$5 million per occurrence, automobile liability with a minimum combined single limit of \$1 million per occurrence, worker's compensation in an amount no less than the applicable statutory minimum requirement and employer's liability in an amount no less than \$1 million per occurrence. The insurance Seller is required to maintain under this Agreement shall: (i) name Buyer and its affiliates, directors, officers, employees and agents ("Buyer Parties") as additional insureds, (ii) be endorsed to provide a waiver of subrogation in favor of Buyer Parties, and (iii) be primary over any other insurance available to Buyer or any self insurance program of Buyer.

b. Prior to delivery of any Materials, Seller will provide to Buyer certificate(s) of insurance evidencing that Seller maintains insurance in accordance with the foregoing requirements. Buyer shall have no obligation to examine such certificate(s) or to advise Seller in the event the insurance is not in compliance with Buyer's requirements. Buyer's receipt and/or acceptance of certificate(s) not in compliance with Buyer's requirements shall not be construed as a waiver of such insurance requirements, which constitute a material condition to this Agreement. Further, the insurance coverage and amounts to be maintained are not intended to and shall not in any manner limit or qualify the liabilities and obligations of Seller.

9. GENERAL PROVISIONS.

a. In order to assess Seller's performance under and compliance with the Agreement, including but not limited to Seller's compliance with respect to pricing, specifications, warranties and certifications, Buyer and/or its designated representative(s) shall have the right upon reasonable notice to Seller to access and audit Seller's facilities, books, records, goods and services related to the Agreement and Materials. The costs of any such audit will be paid by Buyer, unless the audit reveals any nonconformance by Seller, in which case Seller will promptly reimburse Buyer for the reasonable costs of the audit.

b. Seller shall furnish, at Seller's expense, all labor, materials, equipment, transportation, facilities and other items that are necessary to meet the Order requirements. Time is of the essence in Seller's performance. Seller must immediately notify Buyer whenever Seller has knowledge of an actual or potential delay to the timely performance of the Order. In the event of Seller's refusal or failure to meet the delivery date(s) specified in the Order, Buyer may, without limiting its other rights and remedies, direct expedited routing and charge excess costs incurred thereby to Seller, or cancel all or part of the Order.

c. This Agreement shall constitute the complete understanding and contract between Seller and Buyer with respect to the subject matter hereof and supersedes any prior written or oral understandings with regard thereto. No purported amendment, modification or waiver of any provision of the Agreement shall be binding on Buyer unless set forth in a written document signed by an authorized representative of Buyer. Any waiver shall be limited to the circumstance or event specifically referenced in the written waiver document and shall not be deemed a waiver of any other term of the Agreement between Seller and Buyer or of the same circumstance or event upon any recurrence thereof.

d. Seller may not assign or subcontract any of its rights or obligations without Buyer's prior written consent. Seller is responsible for the performance or non-performance of any subcontractor and will indemnify, defend and hold harmless Buyer from and against all claims, actions, losses, damages, costs and expenses (including reasonable attorneys' fees) arising from any subcontractor's acts or omissions.

e. If any provision hereof is held to be unenforceable by the final order of any court of competent jurisdiction, such provision shall be severed herefrom and shall not affect the interpretation or enforceability of remaining provisions hereof.

f. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Minnesota, without reference to any conflicts of law principles. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. Seller hereby consents to the exclusive jurisdiction and venue of the Federal and state courts located in the state of Minnesota as the exclusive forum for the resolution of disputes.

g. Seller shall not advertise, publicly announce or provide to any other party information relating to the existence of this Agreement or use Buyer's name in any format for any promotion, publicity, marketing or advertising purpose, without Buyer's prior written consent. All information, drawings, material, goods, equipment, apparatus or documents disclosed or delivered to Seller by Buyer or arising from work or services done for Buyer, and also all knowledge of any business relationship between Seller and Buyer, shall be treated by Seller as confidential proprietary information of Buyer and shall not be disclosed or made available to others by Seller without prior written permission by an officer of Buyer. Seller also agrees not to use any of such information, drawings, material, goods, equipment, apparatus or documents for the manufacture or production of products or components for any other party or for Seller. Such obligation shall not apply to any information, material, goods, equipment or apparatus which Seller establishes (a) is already known to Seller at the time of its receipt from Buyer as shown by Seller's records, (b) is or subsequently becomes available and accessible to the public through no fault of Seller, or (c) is disclosed to Seller by a third party on a non-confidential basis.

h. The title to any tangible property, including but not limited to material, goods, equipment, apparatus, documents, and literary property (e.g., drawings, manuscripts, artwork, motion pictures, video programs, and computer software), provided to Seller by Buyer or produced by Seller in submitting a bid or estimate or in carrying out an Order for Buyer shall be vested in Buyer, and Seller agrees to return or deliver such tangible property to Buyer upon request. Seller hereby expressly assigns to Buyer all copyrights in and to any literary property produced by Seller for Buyer.

i. In the event the Agreement relates to consulting services, the Seller shall be considered a consultant and every work or idea created or acquired by or on behalf of the Seller for Buyer (past and future) shall be considered a "work made for hire" on behalf of the Buyer. It is the intent of the parties that Buyer shall have unrestricted ownership in and to all such works and to any derivative works, without further compensation of any kind to the Seller. To the extent that the law would fail to automatically vest in Buyer the full unrestricted ownership of all such works under "work for hire" treatment or similar concepts, the Seller hereby assigns to Buyer the copyright and any and all other rights in and to every such work including any derivatives, and the Seller waives any claim of moral right that it may have in or in connection with such work.

j. Buyer and Seller acknowledge that they are each independent parties and neither shall be deemed an agent or representative of the other or have authority to bind the other in any manner whatsoever.

k. During the term of this Agreement and one year following completion of final delivery of the Materials, Seller agrees that it will not, without Buyer's prior written consent, directly, or indirectly through third parties, employ, solicit, engage or retain the services of Buyer's employees or personnel.