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## RAW MATERIAL PURCHASE ORDER TERMS AND CONDITIONS

(Status: May 2023)

### 1. GOVERNING PROVISIONS.

In the event of conflict between the Commercial Terms and this Exhibit A, the Commercial Terms shall prevail. Each shipment received by Buyer from Seller shall be deemed to be only upon the terms in this Purchase Order (“#Order”), except as they may be added to, modified, superseded, or otherwise altered by mutual consent of the Parties, notwithstanding any terms and conditions that may be contained in any acknowledgment, invoice or other form of Seller and notwithstanding Buyer's act of accepting or paying for any shipment or any similar act of Buyer, and Buyer and Seller hereby reject any different or additional terms and conditions proposed by the other Party. Notwithstanding anything to the contrary contained herein, Buyer may issue raw material orders or release orders against this Order, to indicate quantities to be shipped or other commercial arrangements between the parties, provided such terms are consistent with the Commercial Terms.

### 2. COMPLIANCE WITH LAWS.

Seller warrants that the Products and any services performed hereunder shall conform to the requirements of all applicable Federal, State and local laws, regulations, rules and orders (collectively, the “#Laws”). In accordance with the foregoing provision, but not by way of limitation, it is specifically understood that Buyer is an Equal Opportunity Employer and Seller warrants that Seller complies with the Fair Labor Standard Act of 1938, as amended. Seller agrees that if this is construed to be a subcontract within the meaning of the Rules and Regulations approved by the United States Secretary of Labor pursuant to Executive Order 11246, as amended, the Vietnam Era Veterans Readjustment Act of 1974, as amended, or the Rehabilitation Act of 1973, as amended, or of the regulations issued pursuant to Executive Order 11625, the provisions of the applicable regulations as well as the Equal Opportunity and Nondiscrimination provision of Section 202 of Executive Order 11246 shall be incorporated herein by reference and shall be binding upon Seller as part of this Order.

Seller warrants that all Products shall be adequately contained, packaged, marked and labeled and registered in compliance with all applicable Laws and that all Products are in compliance with any applicable safety standards under the Occupational Safety and Health Act of 1970 and/or Mine Safety and Health Act of 1997, as either is amended, and applicable regulations what so ever applies. Seller warrants that every chemical substance and/or mixture are in compliance with the Toxic Substances Control Act, as amended, and its implementing regulations, in that such chemical substance is on the Inventory of Chemical Substances under the act, or subject to an applicable exemption thereto. If a Product is regulated under the



Federal Food, Drug and Cosmetic Act, as amended (the "Act"), Seller warrants that each shipment or other delivery of the Products covered by this Order, are as of the date of shipment or delivery, whichever is later, not adulterated or misbranded within the meaning of the Act and are not articles which may not, under the provisions of Section 405, 505 or 512 of the Act, be introduced into interstate commerce and are not adulterated or misbranded within the meaning of the food, drug or cosmetic laws of any state or municipality. The foregoing warranty shall be a continuing warranty and shall apply to each shipment. Seller warrants that all color additives covered by this Order were manufactured by Seller and (where color additive regulations require certification) are from batches certified in accordance with the applicable regulations promulgated under this Act. Seller shall defend, indemnify and save harmless Buyer from and against any claims, liabilities, expenses (including attorneys' fees), fines, penalties, damages and/or economic losses (collectively referred to as "Losses") arising out of or resulting from the failure of Seller and/or the Products to comply with the requirements of this Paragraph 2.

### **3. PRICE AND DELIVERY.**

Price is to cover the net weight of the Products. No extra charge of any kind, including charges for boxing, packing or crating shall be allowed unless specifically agreed to in writing in advance by Buyer. At any time during the term of this Order that Buyer can purchase goods of a like quantity at a price or under terms which will result in a delivered cost to Buyer that is lower than the delivered cost of the Products, Buyer may notify Seller of such lower delivered cost and Seller shall, within fifteen (15) days after such notice, advise Buyer in writing whether or not Seller shall meet such price or such terms. If Seller elects not to meet such price or such terms, or fails to advise Buyer within such period, Buyer may purchase the lower delivered cost goods, and the quantity of any purchase so made shall correspondingly reduce the purchase and sales obligations of Buyer and Seller hereunder. Unless otherwise provided in this Order, delivery of the Products shall be at Buyer's facility and risk of loss, liability and/or damage shall remain with Seller until the Products are physically delivered to Buyer's facility. Unless otherwise agreed on the face of this Order, all payments due hereunder shall be due and owing net 60 days following BUYER's receipt of a correct and proper invoice.

### **4. FAVORED NATIONS.**

Seller warrants that the prices for the Products are not less favorable than those currently extended to any other customer for the same or like goods. In the event that, at any time during the term of this Order, Seller sells any Product at a delivered cost that is lower than the delivered cost to Buyer, then Seller shall reduce the price to Buyer correspondingly for all such Products during the period of time such lower price is in effect with any third party or for six (6) months from the date such Product was first sold at such lower price, whichever period of time is longer.



## 5. INSURANCE.

As of the Effective Date, Seller shall obtain and thereafter maintain insurance policies issued by an authorized insurance company that maintains a financial strength rating with A.M Best or similar rating agency of A-/VIII and shall provide limits of liability of not less than the following: Commercial General Liability including Products/Completed Operations; Independent Contractor's Liability; and Contractual Liability coverage with limits of liability of \$5,000,000 Each Occurrence.

(a) In addition, prior to Seller, its employees or anyone for whose acts Seller may be liable entering onto Master Builders Solutions premises, Seller shall obtain and thereafter maintain insurance policies issued by an authorized insurance company that maintains a financial strength rating with A.M Best or similar rating agency of A-/VIII and shall provide limits of liability of not less than the following:

(1) Workers' Compensation in conformance with the statutory requirements of the jurisdiction where any work is to be performed or where Seller's employees are located;

(2) Employer's Liability with limits of liability of \$1,000,000 each accident; and

(3) Commercial Automobile Liability insurance for all vehicles including contractual liability with limits of liability of \$5,000,000 Each Person and \$5,000,000 Each Occurrence Combined Single Limit.

(b) Seller may achieve the policy limits through policies that are placed as primary, excess or umbrella policies. Any excess or umbrella policy must be materially as broad as the underlying policies.

(c) Seller agrees to the following:

(1) Keep the insurance policies in effect until after final delivery of the Products and/or final completion of the Services except that the products/completed operations coverage shall be kept in effect through renewal or purchasing an Extended Reporting Period for at least six (6) years after final delivery of the Products or final completion of the Services or the expiration of the applicable statute of limitations for tort actions or defect claims whichever is later.

(2) Provide written notice at least thirty (30) days prior to any cancellation, material alteration or expiration of the policies.

(3) Except to the extent precluded by applicable law, name Master Builders Solutions, its subsidiaries, affiliates, officers, directors and employees as additional insureds.



(4) Endorse Seller's insurance to provide that such insurance shall be primary and non-contributing as respects to any and all insurance maintained by Master Builders Solutions and to provide that Seller and Seller's insurers agree to release and waive all rights of subrogation against Master Builders Solutions

(d) The terms of coverage shall be evidenced by certificates of insurance reflecting the required insurance coverages which shall be freely available to Master Builders Solutions and subject to audit and verification by Master Builders Solutions upon demand during normal business hours.

## **6. INSPECTION AND ACCEPTANCE.**

All Products shall be accepted subject to Buyer's rights of inspection, rejection, and revocation of acceptance (pursuant to the provisions of Article 2 of the Uniform Commercial Code). Payment for or use of Products prior to inspection shall not constitute acceptance thereof and shall be made without prejudice to any and all claims that Buyer may have against Seller. Any Buyer's signature on any shipping/receiving document shall not constitute acceptance of Product or any different terms or conditions or acknowledge condition of Product but shall merely acknowledge receipt of a shipment.

Without limiting any of Buyer's rights provided by law or by this Order, Seller shall, upon request of Buyer and at Seller's expense, immediately replace at Buyer's facility any Products rightfully rejected by Buyer.

## **7. TAXES AND GOVERNMENTAL CHARGES.**

This Order shall not include Sales or Use taxes nor shall such taxes be added to the purchase price if Master Builders Solutions has indicated in the space provided for such purpose on this Order, that the purchase is exempt from such taxes. Seller agrees to pay any other taxes imposed by Federal, State, or local law upon the Products or Services sold to Master Builders Solutions hereunder unless otherwise agreed, except taxes required by law to be paid or borne by Master Builders Solutions.

Seller shall, upon request of Master Builders Solutions, inform Master Builders Solutions whether the Products are imported or manufactured with imported materials and furnish Master Builders Solutions with all documentation required for duty drawback for product or imported materials contained in the Product purchased by Master Builders Solutions hereunder." Seller shall, upon request of Buyer, inform Buyer whether the Products are imported or manufactured with imported materials and furnish Buyer with all documentation required for duty drawback for product or imported materials contained in the Product purchased by Buyer hereunder.



## 8. PATENTS.

Seller agrees to defend, indemnify and hold harmless Buyer, its successors, customer and users, from and against all Losses resulting from any actual or alleged infringement of any intellectual property right, or any litigation based thereon, with respect to the Products (or any part thereof and including Seller's process of manufacturing Products), and any such obligation shall survive acceptance of such Products and payment therefore by Buyer.

## 9 INDEMNIFICATION.

Seller shall assume the sole responsibility for any and all actual or alleged damage or injury (including death) to any and all persons (including, but not limited to employees of Seller or Buyer) and to all property arising out of or resulting from the performance of its obligations under this Order or the negligence of Seller, and shall defend, indemnify and save harmless Buyer from and against any and all Losses of whatever nature arising therefrom except that Seller shall not be liable for Losses to the extent such Losses are caused by the sole negligence of Buyer.

## 10. WARRANTY.

Seller warrants good title to all Products and that the Products are free from any encumbrances. Seller warrants that the Products are merchantable, safe, fit for their intended use, and conform to any specifications, drawings, samples, or other descriptions referenced herein or applicable thereto.

Buyer's failure to give notice to Seller of any claim within twelve (12) months from the date of Buyer's receipt of the Product shall constitute Buyer's acceptance of the Product and a waiver by Buyer of all claims with respect thereto, unless such claim is not readily discoverable within such twelve (12) month period, in which case Buyer shall give notice within sixty (60) days after Buyer learns of the facts giving rise to the claim.

Products, which do not meet the warranty, shall, at Buyer's option, be immediately replaced at Buyer's facilities by Seller, at Seller's expense, or Buyer shall obtain a full refund from Seller.

These warranties shall survive any inspection, delivery, use or acceptance of Products, or payment therefore by Buyer. Seller agrees that all warranties and indemnities applicable to Products provided hereunder shall automatically inure to the benefit of, and be directly enforceable by, a third party purchasing or receiving such Products from Buyer.

## 11. CANCELLATION.

Time is of the essence of this Order. In addition to all its other legal remedies, Buyer reserves the right to cancel all or any part of the undelivered Products if Seller does not make deliveries as specified, or if Seller breaches any of the terms hereof. Buyer may cancel this Order if, in



Buyer's discretion exercised in good faith, there is a deterioration in Seller's financial situation which threatens to impact Seller's ability to comply with its obligations hereunder.

## **12. FORCE MAJEURE.**

Each party shall be absolved from liability from any act, omission or circumstance occasioned by any cause not within its control, without the negligence of the party affected, and which could not, by reasonable diligence, have been foreseen or avoided. Such acts, omissions or circumstances, however, shall not relieve a party of liability in the event of its failure to use reasonable diligence to remedy the situation and remove the cause with all reasonable dispatch and to give notice (including all details of the situation) in writing to the other party as soon as possible after the occurrence thereof. If by reason of any such Force Majeure event, the quantity of Products available to Seller shall be less than its total needs for its own use and sale, Seller shall allocate on a fair and equitable basis. Quantities so affected, may at the option of Buyer, be eliminated from the Order without liability and Buyer may at its option terminate the Order.

## **13. SECRECY.**

Seller agrees not to make any use of writings, data, designs, drawings, specifications or any other

information furnished to it by Buyer or observed or developed by Seller in the performance hereof, except as required in the performance of this Order. Upon request, Seller shall return to Buyer all of the foregoing, including all copies, extracts or derivatives of tangible materials containing any of the foregoing. Buyer shall at all times have title to all drawings, specifications, writings or other documents prepared or furnished by Seller hereunder. Seller may only refer to or publicly disclose its business relationship with BUYER with the prior written consent of BUYER.

## **14. SAFETY DATA SHEETS.**

Seller shall furnish BUYER, prior to the first delivery, Seller's current Material Safety Data Sheets or Safety Data Sheets and other literature pertaining to the hazards associated with the Products and the precautions which should be observed with respect thereto. Seller shall promptly furnish BUYER copies of any revisions to any of the same during the term of this Order and for one (1) year following such term.

## **15. QUALITY COMMITMENT.**

Seller acknowledges and commits itself to continuous quality improvement. In particular, Seller specifically acknowledges its commitment to attempt to attain 100% conformance with all of its obligations pursuant to this Order, including the goals of 100% on-time delivery and



100% conformance with warranty obligations. Buyer may note in writing to Seller any non-conformance by Seller to the contract requirements and Seller shall comply with the requirements of Buyer's Non-Conformance Management System.

In the event that the composition, packaging or sourcing of raw materials used in the production of Products is altered, or the manufacturing process, quality tests, or quality test methods used in the manufacture of the Products is altered, Seller agrees to promptly notify Buyer of the alteration.

Upon its request, Buyer or its customer may inspect and verify Products at Seller's facilities.

Seller agrees to promptly notify Buyer of loss of any third-party certification (such as ISO9000 Series, QS9000) that occurs during the term of this Order or any extension thereof.

#### **16. AUDIT AND INSPECTION.**

Buyer shall have the right to engage an independent auditor to inspect and audit Seller's records to evaluate and verify Sellers' compliance with the terms of this Order. If an audit inspection or examination in accordance with this Article discloses overcharges (of any nature) by the Seller in excess of the lesser of 1% of the annual amount purchased by Buyer or \$5,000, Buyer shall be reimbursed for the cost of such audit. Any adjustments and/or payments that must be made as a result of any such audit or inspection of the Seller's records shall be made within a reasonable amount of time (not to exceed 60 days) from presentation of Buyer's findings to Seller.

Buyer shall have the right to conduct health, safety and environmental ("HSE") audits and inspections at Seller's manufacturing sites. Buyer shall assess an HSE rating in accordance with Buyer's standard procedures. If, in the opinion of Buyer, such HSE rating is unsatisfactory, Seller agrees to address any deficiencies identified by Buyer, to Buyer's satisfaction, within three (3) months from Buyer's submission of the HSE rating to Seller. If Seller fails to correct all such deficiencies to Buyer's satisfaction within such three (3) month period, Buyer shall have the right to terminate the Order by giving Seller one (1) month written notice of its intent to so terminate.

#### **17. SUBSTANCE ABUSE.**

Seller certifies at all times while Seller's employees are on Buyer's premises, Seller shall be in compliance with the Drug Free Workplace Act of 1988, as it may be amended, (which shall be deemed to apply to any services performed hereunder) and any governmental laws or regulations regarding substance abuse. Seller will take all action: (i) necessary to comply with such requirements and (ii) which Buyer reasonably deems necessary to prevent substance abuse or their influence on Seller's employees while on Buyer's premises.





## **18. MISCELLANEOUS.**

No transfer or assignment, in whole or in part, of this Order or any of Seller's rights or obligations hereunder shall be made by Seller without the written consent of the Buyer, which consent shall not be unreasonably withheld or delayed but if any such transfer or assignment in part would result in rendering this Order subject to [the Dodd-Frank Act], such refusal to consent to such transfer or assignment shall be deemed reasonable. Buyer may at any time transfer or assign, in whole, its rights or obligations hereunder to (a) any affiliate of Buyer, (b) any successor in interest of Buyer, or (c) any bona fide purchaser of the site, facility or business unit which is subject to this Order.

The failure of either party to insist in any instance upon strict performance by the other party of any provision of this Order shall not be construed as a continuing waiver of such item, or waiver of any other provision of this Order. This Order shall be governed by and construed in accordance with the laws of the state of Delaware without reference to its conflicts of law principles. The parties exclude this Order from the application of the United Nations Convention on Contracts for the International Sale of Goods and its conflicts of laws rules, if otherwise applicable.

## **19. NON-COLLUSION.**

Seller warrants that Seller has not and will not, directly or indirectly, enter into any agreement, participate in a collusion or otherwise take any action in restraint of free or competitive bidding, including, but not limited to, any offer or promise of future employment or business opportunity by or for any contractor or subcontractor, or any personnel of Buyer or its contractors or subcontractors associated with this transaction.

## **20. ANTI-KICKBACK.**

When Seller has reasonable grounds to believe that a Buyer or Seller employee, subcontractor or subcontractor employee, directly or indirectly, solicited, accepted or attempted to accept any money, fee, gratuity, offer or promise of future employment or business opportunity, or thing of value of any kind for the purpose of improperly obtaining or rewarding favorable treatment in connection with a contract or subcontract associated with Buyer, Seller shall promptly report in detail the possible misconduct to Buyer's Corporate Security Department or Buyer's confidential Compliance Hotline at 1-800-241-1280.

## **21. SOCIAL RESPONSIBILITY.**

Buyer conducts its business in accordance with the principles of sustainable development and complies with internationally recognized fundamental environmental, labor and social standards. Buyer has described and set forth its understanding and implementation of these standards in its Values and Principles, its corporate Code of Conduct and its Code of Conduct





for procurement (collectively the "#Standards" and available through the corporate website at [www.master-builders-solutions.com](http://www.master-builders-solutions.com)). The Standards are critical to Buyer's basis of conducting its own business and to any business transaction with others of which Buyer is a party. Seller will comply with the Standards or its own environmental, labor and social standards that are materially similar to the Standards and shall require that its subcontractors and materialmen, of any tier, observe the applicable standards.

## **22. SUPPLIER DIVERSITY.**

BUYER, on behalf of itself and certain of its affiliated entities, is engaged in a Supplier Diversity Initiative, and encourages the use of CDSs (as defined below) by its suppliers, contractors and other vendors as allowed by law. Unless otherwise agreed in writing, Supplier shall endeavor to use commercially reasonable efforts to encourage CDSs to bid for, and to use CDSs in, any supply or subcontract opportunities that may arise as a direct result of and in connection with this Order as allowed by law. Upon request by BUYER, Supplier shall report such use by Supplier of CDSs in connection this Order to BUYER within thirty (30) days after the end of each calendar quarter. BUYER may ask Supplier to complete questionnaires or related forms to report Supplier's use of CDSs.

CERTIFIED DIVERSE SUPPLIER ("CDS") shall mean a supplier that has been certified by the Small Business Administration or another mutually acceptable qualified independent third-party agency that provides certification with respect to diverse businesses.

## **23. CONTRACTOR MANAGEMENT COMPLIANCE.**

Seller shall at all times, to the extent they apply, comply with the rules, regulations, policies and guidelines which are established by BUYER and made available to Seller relating to: (i) the provision of services at the BUYER facility(ies) at which the Services are or will be performed and (ii) the provision of Products and/or Services to BUYER generally and which are not related to the provision of services on BUYER premises or at a particular BUYER facility (collectively, the "BUYER Requirements").

BUYER Requirements may include, among other things, rules and regulations with respect to safety, health, environment, security and orderly operation, BUYER's contractor management requirements and protection of BUYER's confidential business information. BUYER may amend or add to the BUYER Requirements from time to time as it deems appropriate. BUYER will make available to Seller the current BUYER Requirements and any amended or additional BUYER Requirements.

