

- 1. TERMS.** These Terms and Conditions of Sale are the exclusive contract between Buyer and Seller; there are no terms, understandings, agreements, other than those stated herein. Seller's commencement of work on the Products subject to Buyer's order, shipment of the Products, or performance of all or a portion of the services subject to an order, whichever occurs first, shall constitute an acceptance of Buyer's purchase order and these Terms and Conditions without any additional or different terms. These Terms and Conditions may not be altered, amended, nor waived except in writing signed by an officer of the party to be bound thereby. Acceptance of Buyer's purchase order is subject to acceptance of the express Terms and Conditions contained herein. If any provisions of Buyer's purchase order or other writings are different from or are otherwise in conflict with these Terms and Conditions, these Terms and Conditions shall govern and the terms contained in Buyer's purchase order or other writings are expressly rejected by Seller.
- 2. PRICE.** Quoted prices are based upon Buyer's currency. Applicable taxes, freight charges, United States Tariff classifications and import duties and customs, when applicable, are additional and the responsibility of the Buyer. Buyer shall pay any increased costs resulting from such charges or from Buyer's selection of means of transportation. Buyer shall reimburse Seller for all taxes or other charges by any national, state or municipal government upon the sale, use, production, or transportation of Product, which Seller is required to pay.
- 3. PRICE ADJUSTMENTS.** Seller may adjust Product prices at any time. Buyer may suspend orders immediately upon notice of a price increase. In the event price protection is stated in a written agreement between the parties, Seller may temporarily suspend such Product's price protection in extraordinary market conditions as determined by Seller in its discretion. Seller shall reinstate the Product's price protection upon Seller's determination that the market condition for the Product is no longer extraordinary.
- 4. PAYMENT.** Payment terms are as agreed between Buyer and Seller. New customers and international clients, unless otherwise approved, are C.O.D. Where accounts are approved and set up, payment terms would be Net 30 days from date of invoice. Past due balances are subject to a late payment charge of 2% per month, or the maximum amount permitted by applicable law, whichever is less. Buyer shall pay all charges, costs and legal fees incurred in collecting amounts owed.
- 5. CONTAINERS.** Buyer takes ownership of both Product and container in which Product is sold. Buyer is responsible for the proper disposal of such containers as required by their jurisdiction. Seller will not accept container returns from Buyer unless agreed upon by Seller where Seller may allow reuse of containers as part of an agreement between Seller and Buyer.
- 6. TITLE AND RISK OF LOSS.** Title and risk of loss for Products transfers to Buyer at Seller's shipping point, unless Products are shipped in Seller's vehicles in which case title and risk of loss transfers to Buyer when the vehicle first enters Buyer's property.
- 7. WARRANTY.** Seller warrants that Seller branded Products conform to Seller's published specifications at the time of delivery. Seller warrants that services provided by Seller will be consistent with Seller's standard specifications or, if none, with Seller's standard practices. SELLER PROVIDES NO WARRANTY, WHATSOEVER, where Product is not used according to the Product Technical Data Sheet which would include, but is not limited to, proper and accurate mixing of the Product components of the Product System or use of components other than those manufactured as part of a Product System. Improper mixing or product components not part of the Product System from the Seller will also void the published specifications provided by Seller at time of delivery. Buyer acknowledges that should Seller act as a distributor for Products branded or not branded by Seller (Resale Products) and that matters relating to the quality of the Products are not within Seller's control. Accordingly, Seller makes no warranties whatsoever concerning resale products.

THE FOREGOING WARRANTIES ARE IN LIEU OF AND EXCLUDE ALL OTHER WARRANTIES EXPRESSED OR IMPLIED. SELLER EXPRESSLY EXCLUDES WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY.

**8. REMEDIES.** Seller's liability for nonconforming Products is exclusively limited, at Seller's option, to replacement of the defective Products or refund of the purchase price of such Products. Seller's liability for any defective or negligent service is limited to Seller re-performing the service or a refund of an amount not to exceed the amount paid for the service, or, if the services were provided free of charge, to pay an amount not to exceed the amount paid for the Products to which the services related in the 12 months prior to the event of the liability. As specified in Point 7. WARRANTY, improper/inaccurate mixing and mixing of components of Seller products with non-Seller products which are not part of Seller's Product System, would be deemed a nonconforming Product and would not be refunded or replaced should this nonconforming product prove to be defective.

**9. LIMITATION ON LIABILITY.** IN NO EVENT WILL SELLER BE LIABLE FOR INCIDENTAL, SPECIAL OR CONSEQUENTIAL, INDIRECT, EXEMPLARY OR PUNITIVE DAMAGES FROM ANY CAUSE OR FOR ANY REASON WHATSOEVER, IRRESPECTIVE OF WHETHER THE CLAIM ARISES FROM ACTUAL OR ALLEGED BREACH OF WARRANTY, INDEMNIFICATION, BREACH OF CONTRACT, PRODUCT LIABILITY, CONTRIBUTION OR ANY LEGAL THEORY AND IN NO EVENT WILL SELLER BE LIABLE FOR LOST PROFITS, COSTS OR LOSSES NOT ASSOCIATED WITH DIRECT PHYSICAL DAMAGE TO PROPERTY FOR ANY CLAIMS MADE UNDER OR RELATED TO THE SALE OF PRODUCTS OR SERVICES TO BUYER. IN NO EVENT SHALL SELLER'S LIABILITY EXCEED THE PURCHASE PRICE OF THE PRODUCTS OR SERVICES THAT ARE THE SUBJECT OF ANY CLAIMS MADE BY BUYER.

**10. INDEMNITY.** Buyer agrees to defend, indemnify and hold Seller, its officers, directors, agents, and employees harmless from all claims, demands, actions and causes of action relating to personal injury or property damage to third parties, including attorney's fees and actual costs ("Claims") incurred as a result thereof, to the extent of its negligence or arising after delivery of the Products to Buyer. Seller agrees to defend, indemnify and hold Buyer, its officers, directors, agents, and employees harmless from Claims to the extent of its gross negligence.

**11. CLAIMS.** Any claim for shortage or non-conforming Products must be made in writing to Seller within 30 days after Buyer's receipt of the Product. Any claim for non-delivery of Product must be made within 30 days after the date upon which the Product was to be delivered. As to any claim not reasonably discoverable within such 30-day period (including claims discoverable only in processing, further manufacture, other use or resale), such claim must be in writing and received by Seller within 180 days after Buyer's receipt of the Products. Failure of Seller to receive written notice of any such claim within the applicable time period shall be deemed an absolute and unconditional waiver by Buyer of such claim. Products may not be returned without Seller's permission and transportation for return will not be paid by Seller unless authorized in advance. Amounts owing to or payable by either party hereunder these Terms and Conditions shall be deemed finally reconciled on the first anniversary of the final delivery under these Terms and Conditions and any outstanding rights of either party to receive over-payments or under payments including rights to unclaimed credits or refunds shall expire on such date.

**12. FORCE MAJEURE.** Seller is not liable for non-performance or delay in performance caused by circumstances beyond Seller's control ("Force Majeure Event"). A Force Majeure Event includes, without limitation, (a) acts of God, war, riots, fire, explosions, floods, strikes, lockouts, injunctions, accidents, Product short supply, unforeseen shutdown of major sources of supply, breakage of machinery or apparatus, or national emergency, (b) Seller's inability to obtain at prices Seller deems in its discretion to be commercially reasonable, the Product, fuel, power, raw materials, labor, containers or transportation facilities, (c) the occurrence of any unforeseeable contingency making performance

impracticable, or (d) compliance in good faith with any applicable governmental statute, regulation, or order. Any delivery so suspended shall be cancelled without liability, but these Terms and Conditions shall otherwise remain unaffected. This section does not apply to payment obligations.

**13. QUANTITY.** Seller is not obligated to deliver in any month more than a proportionate part of the maximum quantity specified, determined by dividing such maximum quantity by the total number of months included in the period of performance. When in the opinion of Seller there is a period of shortage of supply of said products for any reason, Seller may allocate its available supply among any or all of its various customers upon such basis as it shall deem fair and practicable, with no liability on its part for failure to deliver the quantity or any portion therein specified.

**14. PRODUCT RETURNS.** All Product returns must be approved in advance by Seller. Tinted Products do not qualify for return. All Product return approvals are subject to a minimum 25% restocking fee. Returns are shipped at Buyer's expense including all freight, customs and brokerage charges applicable. Product received damaged, unusable or expired is deemed unacceptable and non-refundable. Product must pass Seller's Quality Control check performed by Seller's QC Test Lab. If product satisfies Seller's required Product specifications, a credit less 25% of the original purchase will be issued on Buyer's account. If Buyer is no longer purchasing Product from Seller, a refund will be issued.

**15. PRODUCT STEWARDSHIP.** Buyer agrees that Products will be used, handled, stored, transported and disposed of in such a manner as is necessary for the safety and protection of persons, property and the environment, and in accordance with the manufacturer's recommendations and applicable laws and regulations. Buyer agrees to instruct its employees with respect to, and to make certain that they know and understand, procedures necessary to enable them to comply with the requirements set forth herein and make certain that they are adequately trained in the use, handling, storage, transportation and disposition of the Products. Buyer further agrees to deliver the most recent edition of Product literature, including SDSs, to its employees and customers and to maintain a written record of such deliveries. Buyer shall only sell to those who can handle, use, store, transport and dispose of Products safely.

**16. TERMINATION.** Any order or delivery may be terminated or suspended, (a) by either party if any proceeding under bankruptcy is brought by or against the party, (b) by a party if the other party defaults in its material obligations and such default is not cured within a reasonable time if such default is curable, or (c) by Seller if it has reason to doubt the ability or willingness of Buyer to pay for the Products.

**17. GOVERNING LAW AND VENUE.** This Agreement shall be interpreted under the laws of the Province of Alberta, Canada. This Agreement shall not be governed by the conflict of law rules of any jurisdiction or the United Nations Convention or Contracts for International Sale of Goods, the application of which is expressly excluded. In the event of a dispute arising out of or relating to this Agreement, the parties agree that they will submit to the exclusive jurisdiction of the courts of Edmonton, Alberta, Canada.