



T | 314 621-0525 F | 314 621-0722

Mailing Address

831 S. 21st Street • St. Louis, MO 63103

www.uspaint.com

1. **Acceptance:** This Purchase Order shall be subject to and conditioned upon acceptance of the following terms and shall become a contract on first occur of: Seller's commencement of any work pursuant to the face hereof. Seller's written acceptance, or Seller's shipment of the goods. No condition or change in any nature, oral or in writing, stated by Seller in connection with this Purchase Order shall be binding on Buyer, and any such condition, change or addition to the provisions of this Purchase Order shall be deemed objected to by Buyer, unless such condition, change or addition is accepted in writing signed by Buyer's duly authorized representative. Provided, however, that no signature of any person employed by Buyer upon any form or invoice of Seller sent in response to this Purchase Order shall constitute Buyer's acceptance of or consent to any terms therein that differ from or add to the terms of this Purchase Order. Seller further agrees that this Purchase Order constitutes the entire agreement between the parties for the goods. References herein to documents or other information from Seller are for identification only and form no part of the contract except as specifically indicated to the contrary. In accepting this order, Seller agrees to ship the goods covered hereby at the prices appearing hereon, or any lower prices or better terms or discounts prevailing or quoted up to the actual shipping date.
2. **Shipment:** Delivery Date(s) of shipment and quantities and qualities specified are of the essence. Seller promptly shall notify Buyer whenever it appears to Seller that it will not be able to deliver the quantities specified on the date(s) specified and Buyer at its option may take steps to assist Seller in expediting delivery to Seller of anything necessary for Seller's performance. Buyer reserves the right to change or suspend delivery schedules. Acceptance of short shipments or late deliveries shall not constitute a waiver of any Buyer's rights.
3. **Warranties:** Seller represents and expressly warrants to Buyer, in addition to all warranties implied by law, that all goods and services covered by this Purchase Order, together with all related packaging, labeling and other printed matter furnished or authorized by Seller shall:
 - a. Be of first class quality and workmanship, and free from defects, latent or patent;
 - b. Conform to drawings, specifications, descriptions or samples furnished or specified by Buyer.
 - c. Be suitable and fit for their intended purposes;
 - d. Be of merchantable quality. No goods may be substituted in lieu of those specified.
4. **Indemnification:** Seller shall at its own expense defend indemnify and hold harmless Buyer and its agents and representatives from and against any and all costs (including attorneys fees), liabilities, judgments, damages and losses arising from or otherwise connected with any claim or claims of any kind whatsoever, including but not limited to claims of negligence, breach of warranty, breach of contract and strict liability in tort, for personal injury and/or property damage in connection with or resulting from, or arising to respect of the delivery or use of any goods purchased or services rendered pursuant to this Purchase Order or the performance of many terms of this Purchase Order.
5. **Patent indemnification:** Except in the case of goods for which Buyer furnishes complete specifications. Seller shall indemnify and hold harmless Buyer from all liabilities,



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damages and expenses (including attorney fees) arising from any actual or alleged infringement of any patent, trademark or other proprietary right by reason of the sale or use of any goods furnished by Seller, but this paragraph shall not apply to infringement by the use thereof in combination with other materials or in the operation of any process.

6. Rejection, Revocation: Buyer reserves the right to reject or revoke acceptance of all or any part of the goods or services. If any one or more of the goods or services fails to conform to the terms set forth, this Purchase Order Buyer has the right to inspect any goods for non-conformity and test any goods (prior to shipment by Seller) Seller is responsible for any defects in the goods or their failure to conform to Buyer's specifications or to this order and will rectify such defects or failures at Seller's expense or allow full credit for such defective or nonconforming goods (including transportation costs therefore paid by Buyer) when such defects or failures are discovered within one year from Buyer's receipt thereof, or to the extent the goods comprise equipment from the date of putting such equipment into commercial operation. Buyer will not unreasonably delay installation and operation. No defective goods shall be replaced without Buyer's agreement. Buyer may return or hold goods as rejected or which it has revoked acceptance at Seller's risk and expense and may charge Seller with the cost of shipping, unpacking, examining, repacking, reshipping replacement of goods and/or services secured elsewhere and other similar expenses.

7. Cancellation: Buyer may cancel this Purchase Order in whole or in part if the goods or services specified, fail to conform to the Warranties and Indemnifications. If Seller fails to make deliveries as specified by Buyer or if Seller fails to perform any other Terms of this Purchase Order Buyer may forthwith cancel this Purchase Order upon the insolvency of Seller; the filing of a voluntary petition or other request for relief by Seller under any federal, state or foreign bankruptcy law or other similar law, the entity of an order for relief under any federal, state or foreign bankruptcy law or other similar law with respect to Seller of the filing of any petition against Seller for such relief; the appointment of a receiver, liquidator, assignee, custodian or trustee for Seller of a substantial portion of its property; or the execution by Seller or an assignment for the benefit of creditors in the event of any such cancellation. Buyer without prejudice to any other rights available to it for breach of contract, shall have the right:

- a. To refuse delivery of goods or performance of work
- b. To return to Seller Goods already received to recover from Seller all payments made therefore including freight, storage, handling and other expenses, and to be relieved from liability for any future payments to Seller
- c. To recover any advance payment to Seller for undelivered or returned goods or services to be performed; and
- d. To purchase like or similar goods elsewhere and charge Seller with any resultant losses. Upon such cancellation, returned goods shall be replaced without Buyer's written replacement Order. Any cancellation hereunder shall not excuse the Seller from performing uncanceled work on the Purchase Order.



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8. Compliance With Law: Seller shall comply with the Fair Labor Standards Act and all other applicable federal, state and local laws, regulations and orders and shall, upon request, furnish to Buyer a certificate to such effect.

9. Miscellaneous:

a. NO MODIFICATION OR WAIVER SHALL BE DEEMED AFFECTED BY SELLER'S ACKNOWLEDGEMENT OR CONFIRMATION CONTAINING OTHER OR DIFFERENT TERMS.

b. The word "goods" as used herein shall mean the services, work, material and equipment described on the face hereof:

c. Neither party shall be liable for nonperformance or delay in performance due wholly or partly to any cause not wholly or exclusively in its control. No party shall be relieved of liability unless it used reasonable diligence to remove the cause with all reasonable dispatch; provided, however, that no party shall be required to settle any strike or labor controversy by acceding to the demands of the opposing parties. If Seller delays shipment or completion of shipments for more than 30 days because of any cause covered by this paragraph, Buyer may obtain substitute quantities of the goods from other sources; and the quantities obtained by Buyer shall be deducted from the amount Buyer is obligated to purchase under this order:

d. Buyer shall receive the benefit of any general price reduction made by Seller prior to shipment for goods of like grade and quality sold in similar quantities for a similar use.

e. If this order is placed under a government contract or subcontract, the terms and conditions attached hereto shall apply in addition to those set forth herein;

f. No remedy provided herein shall be deemed exclusive of any other remedy allowed by law:

g. The laws of the State of Missouri shall govern the validity, performance, construction and effect of this contract.

h. Seller retains all responsibility for risk of loss or other damage to all goods until delivered to and accepted by Buyer.

i. Seller may not assign this Purchase Order or the proceeds there from without the prior written consent of Buyer.

j. Any waiver (s) of strict compliance with the terms of this Purchase Order or Buyer's right and options hereunder by Buyer's shall not be considered a waiver of Buyer's right to insist thereafter upon complete and strict compliance with the terms of this Purchase Order.

k. Any taxes now or hereafter imposed by any government authority upon the sale, transportation, or use of goods, materials, products, services, etc. sold to Buyer shall be paid by Seller. Seller agrees that its prices do not and its invoices shall not include any tax with respect to which exemption is available or indicated for Buyer in the Purchase Order or otherwise or as to which Buyer has furnished Seller with an applicable exemption certificate.

l. Should any of the terms of this Purchase Order be declared by any court of competent jurisdiction to be invalid, such decision shall not affect the validity of any of the remaining provisions.

m. Seller agrees that any and all disputes that shall arise from the terms set forth in this Purchase Order, shall not be settled by arbitrator. Seller further agrees that any amounts owing by it to Buyer arising under this Purchase Order or otherwise may be deducted from any amounts payable to Seller under this Purchase Order or otherwise.