

Blueshift Materials, Inc.

STANDARD TERMS & CONDITIONS OF SALES

January 11, 2017

These Standard Terms and Conditions of Sale shall apply to all sales and contracts of sale of goods and/or services ("Products and Services") by and between Blueshift Materials Inc., ("Blueshift") and any customer ("Buyer").

ACCEPTANCE. Buyer's acknowledgement, commencement of performance or any other conduct by which Buyer recognizes the existence of a contract pertaining to the subject matter hereof shall constitute acceptance by Buyer of these terms and conditions of sale (the "Terms"). Additional or different terms provided in Buyer's acceptance of Blueshift's offer which vary in any degree from any of the Terms shall be deemed material and are hereby objected to by Blueshift without further need of objection. Any such proposed terms shall be void, of no effect and not in any circumstances binding upon Blueshift. These Terms, together with information contained in Blueshift's written purchase order acknowledgment and/or invoice (and any additions or revisions mutually agreed to in writing by authorized representatives of Blueshift and Buyer), shall constitute the entire agreement and understanding of Blueshift and Buyer with respect to the purchase and sale of Products, superseding all prior oral or written understandings relating thereto. No agreement or understanding to modify the Purchase Order or the Terms shall be binding upon Blueshift unless made in writing by Blueshift, provided that Blueshift may at any time, by written notice to Buyer, make changes, including but not limited to drawings designs, processes, specifications, mode of shipment, packing, time and/or place for delivery, quantity, acceleration, sequencing, or the general scope of work for the Products specified in the Purchase Order and to direct temporary suspension or resumption of the scheduled shipments. If any such change causes a material increase or decrease in the cost to Buyer or the time required for performance, then an equitable adjustment shall be made in the price or delivery schedule or both and the Purchase Order shall be modified accordingly.

TERMS OF PAYMENT. Unless otherwise stated on Blueshift's acknowledgment and/or invoice, Buyer shall pay all amounts due for Products purchased from Blueshift in U.S. Dollars within thirty (30) days from the date of Blueshift's invoice. Notwithstanding the foregoing, in the event Blueshift deems in its sole discretion Buyer's financial status unsatisfactory or Buyer is in default of any obligation of Buyer to Blueshift, Blueshift (without prejudice to any other rights or remedies it may have) may require payment in full in cash of all amounts payable to Blueshift by Buyer under Blueshift's invoice or otherwise prior to shipment of any Products thereunder. Buyer shall pay an additional interest and service charge in the amount indicated on Blueshift's then current applicable price list or, if none is so indicated, in an amount equal to one and one-half percent (1.5%) of the unpaid balance per month (or portion thereof), or if less, at the highest interest rate permitted by applicable law, accruing from the applicable due date.

Buyer shall not withhold or set off from any amounts due to Blueshift, any amounts claimed to be owed by Blueshift to Buyer for any reason whatsoever and, if any withholding is required to be made, then Buyer shall increase the amount to be paid to Blueshift so that it receives the same net amount after such withholding. Each shipment shall be separately invoiced and paid for when due without regard to other shipments and no set offs or claims shall be made relating to any other shipments.

PRICES. Unless otherwise expressly indicated in writing by Blueshift, prices for certain Products are as noted on Blueshift's list price (www.blueshiftmaterials.com/msrp) as in effect on date of shipment. All prices are based on quantity indicated and, unless otherwise indicated on Blueshift's acknowledgment and/or invoice, are EX-WORKS (EXW) from the location of Blueshift's Texas facility from which Products are shipped. Unless otherwise expressly indicated on Blueshift's acknowledgment and/or invoice, Buyer shall pay, and be exclusively liable for, all costs of shipping, delivery, insurance and the like after the Blueshift has made delivery of the Products to the carrier to be designated by the Buyer. Any and all dies, tools or other equipment used to produce Products shall remain Blueshift's exclusive property, notwithstanding any charges relating to such dies, tools and other equipment reflected on Blueshift's invoice.

TAXES. Prices do not include any tax or other governmental charge or assessment on the sale, shipment, production or use of any Products sold to Buyers. Such taxes and charges, when applicable, may appear as separate additional charges on Blueshift's invoice. Buyer shall be solely responsible for, and shall pay to Blueshift upon demand, any such tax, charge or assessment, unless Buyer has furnished to Blueshift an appropriate valid certificate of exemption issued by or acceptable to the tax authority in question. If taxes are in the form of withholding, Buyer shall pay an amount to Blueshift equal to the invoice price increased for any such withholding so that Blueshift receives the same net amount after such withholding.

QUANTITIES. Unless otherwise indicated on Blueshift's acknowledgment and/or invoice, in accordance with industry practice, Blueshift reserves the right to ship and invoice plus or minus ten percent (10%) of the total quantity of each Product ordered by Buyer.

OWNERSHIP. Buyer acknowledges the exclusive ownership, right, title and interest in and to all of the trademarks, as well as all other patents, copyrights and intellectual property (in each case whether or not registered) owned or held by Blueshift with respect to the Products. Nothing herein is intended to transfer any ownership, rights, title or interest in the intellectual properties of Blueshift to Buyer or to grant to Buyer any license or right to use such intellectual properties.

BUYER'S MATERIALS. Buyer represents and warrants that any and all materials, other products or items furnished by or on behalf of Buyer ("Buyer Materials") to Blueshift for use in connection with production of Blueshift's Products will be Buyer's exclusive property, free and clear of all liens, claims and encumbrances whatsoever. Unless otherwise indicated on Blueshift's acknowledgment and/or invoice, Buyer shall bear all costs of delivering such Buyer Materials to Blueshift's production facility. Blueshift shall be liable for any loss, destruction or damage of any such Buyer Materials while in Blueshift's possession to the extent (but only to the extent) caused solely by Blueshift's negligence, subject to the limitation on Blueshift's liability described below.

DELIVERY. Blueshift shall make reasonable efforts to effect shipment on or before the scheduled shipping date(s) reflected on Blueshift's acknowledgment and/or invoice, but such schedule may vary due to, among other things, Blueshift's assessment of priority or conditions beyond Blueshift's reasonable control, including, but not limited to Blueshift's receipt of all Buyer Materials. If no shipping date is specified, shipment will be made on date(s) selected by Blueshift in its sole discretion. In no event shall Blueshift be liable for any damages or penalties for delay in delivery or for failure to give notice of delay. Delivery may be made in advance of any scheduled delivery date upon reasonable prior notice to Buyer.

PACKING AND SHIPMENT. Unless preferred packing method is noted on Blueshift's acknowledgment and/or invoice, all Products will be packed for shipment in accordance with Blueshift's standard practices. Unless otherwise specified on Blueshift's acknowledgment and/or invoice, Blueshift will package and ship by the most appropriate method, but by doing so does not assume any liability in connection with the packaging or shipment. Any and all claims by Buyer for damage or loss of Products in transit shall be made by Buyer solely against the carrier. If requested by Buyer, transportation charges and insurance will be prepaid and will be added to invoice as a separate item.

TITLE. Title to all Products sold by Blueshift to Buyer shall pass from Blueshift to Buyer when such Products are delivered by Blueshift at the Blueshift facility; however, if Buyer should fail to pay when due any amount Buyer owes to Blueshift on account of such Products, Blueshift shall have, in addition to any other rights of Blueshift, the right (without liability of Blueshift) to repossess such Products or to require Buyer to effect (at Buyer's expense) return delivery of such Products to Blueshift. In addition, until Buyer has paid to Blueshift the entire amount due to Blueshift for such Products, Blueshift shall retain a security interest in such Products in the amount of the full purchase price plus all other amounts due for the Products and all costs of collection incurred by Blueshift (including but not limited to court costs and attorneys' fees), and Blueshift shall retain all rights and remedies of a secured party under the Uniform Commercial Code as in effect at the time of delivery of such Products. A copy of Blueshift's invoice may be filed with the appropriate authorities at any time as a financing statement or chattel mortgage in order to perfect Blueshift's security interest. Upon the request of Blueshift, Buyer will execute any financing statements and other documents or instruments necessary or appropriate in order for Blueshift to perfect its security interest.

RISK OF LOSS. All risk of loss of or damage to such Products shall pass to Buyer upon Blueshift's delivery of such Products at the Blueshift facility. Any and all claims by Buyer for damage, loss or delays in transit shall be made by Buyer solely against the carrier (with notice thereof to Blueshift), and Blueshift shall have no responsibility or obligations with respect to any such damage, loss or delay.

INSPECTION BY BUYER. Buyer shall carefully inspect all deliveries of Products as they are received by Buyer and report to Blueshift promptly (but in any event within thirty (30) calendar days after receipt of shipment) any alleged error, shortage, defect or nonconformity of such Products. Any failure by Buyer to so inspect and report shall constitute a waiver by Buyer of any claim or right of Buyer against Blueshift arising with respect to any such error, shortage, defect, or nonconformity unless it would have been impossible to discover by such an inspection.

CANCELLATION. Cancellation by Buyer of any purchase order accepted by Blueshift cannot be effected except on terms which are acceptable to Blueshift in its sole discretion and indemnify Blueshift from any and all loss, damage or expense caused by said cancellation. In the event Buyer cancels any purchase order acknowledged by Blueshift and for which Blueshift has initiated any Blueshift Product manufacturing or finishing, Buyer shall be responsible for payment of a restocking fee equal to twenty-five percent (25%) of the price for the Products identified on such purchase order as noted on Blueshift's then-current list price (www.blueshiftmaterials.com/msrp). Blueshift reserves the right to discontinue any Products at any time for any reason and reserves the right to cancel any unexecuted Purchase Order for any such discontinued Products.

RETURNS. Authorization to return Products purchased from Blueshift must be obtained from Blueshift prior to any such return. In Blueshift's sole discretion, credit may be granted with respect to returned Products, less an appropriate restocking charge, depending on the reason for the return and the condition of the Product. Any returned Products must be shipped to Blueshift, freight prepaid, at Buyer's sole expense and risk.

PRODUCT RECALLS. In the event that Blueshift is required to recall, or on its own initiative recalls, any of the Products, Buyer shall assist Blueshift in such a recall.

LIMITED WARRANTY OR DISCLAIMER OF WARRANTY FOR EXPERIMENTAL PRODUCTS

It is the sole and exclusive responsibility of Buyer to determine the suitability of any and all Products of Blueshift for Buyer's intended purposes and uses, with Buyer agreeing that any information or other communication from Blueshift as to suitability is merely advisory and not to be relied upon in making said determination. If the Products are "experimental" as hereinafter defined, then Buyer acknowledges that such Products are sold on an "as is, where is" basis and Blueshift disclaims any and all representations and warranties with respect to any such experimental Products. Buyer agrees that the Products are experimental if (i) the order acknowledgement or the Product identifies them as "experimental," (ii) the Product nomenclature uses an "EX" prefix or suffix, (iii) clearly identified on Blueshift's web site as "experimental" or (iv) the Products are or should be understood to be experimental based on other communications with Buyer.

If the Products are non-experimental, Blueshift warrants that the Products sold: (a) conform to any specification expressly identified in writing as a limited warranty and signed by a duly authorized officer of Blueshift; and (b) are free from defects in materials and workmanship, provided that, Blueshift shall not have any liability whatsoever for any damage to or defect in Products or other failure to meet the above limited warranty resulting directly or indirectly from (a) events occurring after the delivery of such Products to carrier by Blueshift, (b) Buyer's Materials, (c) Buyer's failure to properly handle and store the Products in accordance with Blueshift's storage requirements, (d) use of the Products in combination with other products or processes not furnished or specified by Blueshift, (e) additions, enhancements or modifications to the Products by someone other than Blueshift or not in accordance with Blueshift's instructions, (f) Buyer's misuse of the Products, or (g) the negligence or willful misconduct of Buyer. Liability of Blueshift under or in connection with the sale of its Products shall be limited to, at the sole option of Blueshift, either refund of the purchase price of, or replacement of, any Product (i) with respect to which Buyer notifies Blueshift of Buyer's claim of any alleged defect or nonconformity in the Products promptly after delivery (and in any event within thirty (30) calendar days after receipt by Buyer) of the Products, (ii) which is returned to Blueshift promptly upon request and (iii) which is determined by Blueshift in its sole discretion to be defective or nonconforming. The foregoing is Buyer's sole and exclusive remedy for breach of the limited warranty set forth above by Blueshift.

THIS LIMITED WARRANTY IS THE SOLE AND EXCLUSIVE WARRANTY GIVEN BY BLUESHIFT WITH RESPECT TO PRODUCTS SOLD OR PROVIDED BY BLUESHIFT. BLUESHIFT GIVES AND MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, OTHER THAN THAT EXPRESSLY SET FORTH HEREIN. NO REPRESENTATIVE OF BLUESHIFT IS AUTHORIZED TO GIVE OR MAKE ANY OTHER REPRESENTATION OR WARRANTY OR MODIFY THIS WARRANTY IN ANY WAY EXCEPT IN A WRITTEN AMENDMENT OF THESE TERMS SIGNED BY A DULY AUTHORIZED REPRESENTATIVE OF BLUESHIFT WHICH MAKES SPECIFIC REFERENCE TO THESE TERMS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, NO IMPLIED WARRANTY OF MERCHANTABILITY, NO IMPLIED WARRANTY OF FITNESS FOR ANY PARTICULAR PURPOSE, NO IMPLIED WARRANTY OF TITLE OR NONINFRINGEMENT AND NO IMPLIED WARRANTY ARISING BY USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE IS GIVEN OR MADE BY BLUESHIFT OR SHALL ARISE BY OR IN CONNECTION WITH ANY SALE OR PROVISION OF PRODUCTS BY BLUESHIFT, OR BUYER'S USE OF ANY PRODUCTS, OR BLUESHIFT'S AND/OR BUYER'S CONDUCT IN RELATION THERETO OR TO EACH OTHER, AND IN NO EVENT SHALL BLUESHIFT HAVE ANY LIABILITY OR OBLIGATION WHATSOEVER UNDER OR IN CONNECTION WITH ANY SUCH WARRANTY WITH RESPECT TO ANY PRODUCTS.

Except as otherwise expressly provided in writing by Blueshift, Blueshift's Products are not fail-safe and have not been tested or otherwise certified by Blueshift for use in applications (e.g., nuclear, aerospace, mobile vehicles, medical devices or equipment, weapons systems) in which the failure of the Products could lead directly or indirectly to death, personal injury, or severe physical or environmental damage ("High Risk Activities"). Accordingly, Blueshift specifically disclaims any express or implied warranty of any kind for High Risk Activities. Blueshift also specifically disclaims any compliance with any record retention or notification standards or mandates.

LIMITATION ON BLUESHIFT'S LIABILITY

Buyer acknowledges that no guarantees or assurances have been made as to the results that may be obtained from the use of the Products sold whether used singly or in combination with other materials, items or products. Buyer acknowledges that no guarantees or assurances have been made as to the method by which Products are manufactured, or any follow-on obligations such as record retention or notice requirements. Buyer acknowledges that it does not rely on, and waives any claim relating to, any recommendation or instruction given to Buyer by Blueshift or any of its representatives regarding the specifications, storage, handling or use of Products purchased and sold by Blueshift, which recommendation or instruction shall be followed or acted upon by Buyer entirely at Buyer's own risk.

BLUESHIFT'S LIABILITY, AND BUYER'S EXCLUSIVE REMEDY, IN CONNECTION WITH THE SALE OR USE OF PRODUCTS SOLD HEREUNDER (WHETHER BASED ON CONTRACT, NEGLIGENCE, BREACH OF WARRANTY OR OTHERWISE), SHALL BE STRICTLY LIMITED TO BLUESHIFT'S OBLIGATIONS AS SPECIFICALLY AND EXPRESSLY PROVIDED IN THE LIMITED WARRANTY SET FORTH IN THESE TERMS. EXCEPT AS SPECIFICALLY PROVIDED IN SUCH LIMITED WARRANTY, BLUESHIFT SHALL HAVE NO LIABILITY, OBLIGATION OR RESPONSIBILITY OF ANY KIND, IN ANY WAY OR TO ANY EXTENT FOR ANY LOSSES, EXPENSES, COSTS, DAMAGES OR LIABILITIES FOR ANY REPRESENTATION OR WARRANTY OF ANY KIND WITH RESPECT TO THE PRODUCTS (OR THE PERFORMANCE THEREOF), OR ARISING IN ANY WAY OR IN CONNECTION WITH THE PURCHASE BY OR USE OR SALE OF THE PRODUCTS BY BUYER, EVEN IF BLUESHIFT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WHATSOEVER SHALL BLUESHIFT HAVE ANY LIABILITY, OBLIGATION OR RESPONSIBILITY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR EXEMPLARY DAMAGES ARISING IN ANY WAY IN CONNECTION WITH THE PRODUCTS OR THEIR SALE OR USE, INCLUDING BUT NOT LIMITED TO DAMAGE TO PROPERTY, INJURY TO PERSONS, LOSS OF USE OF THE PRODUCTS OR ANY ITEM WITH WHICH SUCH PRODUCTS ARE USED, LOST PROFITS, OR DELAYS OR INCONVENIENCE. IN NO EVENT WHATSOEVER SHALL BLUESHIFT HAVE ANY LIABILITY TO BUYER, ARISING OUT OF OR IN CONNECTION WITH THE SALE OR USE OF THE PRODUCTS SOLD HEREUNDER, THE TRANSACTIONS CONTEMPLATED HEREBY, OR BLUESHIFT'S OR BUYER'S CONDUCT OR ACTIONS IN RELATION TO ANY OF THE SAME OR TO EACH OTHER, IN AN AMOUNT IN EXCESS OF, AND BLUESHIFT'S LIABILITY SHALL BE STRICTLY LIMITED TO, THE AMOUNT(S) ACTUALLY RECEIVED BY BLUESHIFT FROM BUYER AS PURCHASE PRICE FOR THE PRODUCTS WHICH GIVE RISE TO BLUESHIFT'S LIABILITY.

INDEMNIFICATION. Buyer agrees to indemnify, hold harmless and defend Blueshift (and its employees, subsidiaries, affiliates, successors and agents) from and against any and all judgments, liabilities, damages, losses, expenses and costs (including, but not limited to, court costs and attorneys' fees) incurred or suffered by Blueshift, which relate to or arise out of (a) Buyer's use, handling, installation, removal, sale or distribution of the Products; (b) Buyer's breach of any representation, warranty or obligation set forth in these Terms; (c) the infringement or violation of any third party's intellectual property or other rights arising out of or in connection with Blueshift's use of Buyer Materials or specifications provided to Blueshift by Buyer; and/or (d) any negligence or intentional misconduct by Buyer (or its employees, agents or representatives).

WAIVER. Blueshift shall not be deemed to have waived any provision hereof, or any breach by Buyer of any provision hereof, unless such waiver is specifically set forth in writing and executed by an authorized officer of Blueshift. No waiver by Blueshift of any provision hereof or any breach by Buyer of these Terms shall constitute a waiver of such provision on any other occasion or a waiver of any other breach by the Buyer. Buyer acknowledges and agrees that an alleged waiver of any provision hereof purported to arise from Blueshift's receipt of payment or acceptance of Buyer's purchase order is not valid or enforceable.

FORCE MAJEURE. In no event shall Blueshift have any liability to Buyer for any delayed performance or nonperformance by Blueshift which results, in whole or in part, directly or indirectly, from any cause beyond the reasonable control of Blueshift. Such causes shall include (but shall not be limited to) acts of God, wars, riots, civil disturbances, strikes, labor disputes, fires, storms, floods, earthquakes, natural disasters, inability to obtain or use raw or component material or parts, labor, equipment, facilities, or transportation, inability for technical reasons to produce any Products or to produce any Products with any consistency and acts of any government or agency thereof. Buyer's order will be deemed suspended for so long as any such cause prevents or delays Blueshift's performance. In the event of any such suspension, Blueshift shall have the right, at its option, upon notice to Buyer, (a) to terminate its obligation to sell any or all of the Products ordered from Blueshift or (b) to resume performance as soon as practicable after the suspension, and reschedule delivery of the Products ordered to one or more deferred dates to be mutually agreed upon by Buyer and Blueshift, subject to Buyer's payment of any additional charge for any increase in Blueshift's direct or indirect costs occasioned by the suspension of its performance.

GOVERNING LAW. These Terms and the transactions contemplated hereby shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware without regard to its conflicts of law rules that might direct the application of the laws of any other jurisdiction.

Any and all disputes arising under or in connection with this Purchase Order or the Terms shall be resolved exclusively in the state or federal courts of the State of Delaware and the Buyer expressly agrees not to challenge the jurisdiction or venue of such courts on any grounds and agrees to accept service of process by mail at the address indicated for Buyer in the order acknowledgement. The Buyer and Blueshift agree that The United Nations Convention on Contracts for the International Sale of Goods will be expressly excluded from the choice of applicable law and will not apply to these Terms or the Purchase Order.

SEVERABILITY. The invalidity or unenforceability, in whole or in part, of any provision, term or condition hereof shall not affect the validity and enforceability of the remainder of such provision, term or condition or of any other provision, term, or condition, and, to the extent possible, such invalid or unenforceable provision shall be replaced by a provision most nearly reflecting the fundamental objectives of the original provision.

AMENDMENTS. These Terms may not be amended except by written agreement of Blueshift and Buyer expressly referring hereto.

ASSIGNMENT. Buyer's rights and obligations set forth in these Terms may not be assigned or otherwise transferred without Blueshift's express prior written consent.

NOTICES. All communications under these Terms shall be in writing or by confirmed email, and shall be deemed to have been duly given (a) upon personal delivery, (b) upon deposit in the mail if mailed by certified mail, return receipt requested, postage prepaid, (c) upon deposit with a recognized courier with next-day delivery instructions, or (d) upon confirmation of transmission, if sent by confirmed email, to the address set forth in the order acknowledgement or such other address as either party may specify by notice sent in accordance with this Section.

RELATIONSHIP OF THE PARTIES. Nothing contained in these Terms shall be deemed to constitute either party as the agent or representative of the other party, or create a joint venture or partnership for any purpose.