

GOLDEN Purchase Order Terms and Conditions

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1. **ACCEPTANCE OF TERMS.** This Purchase order is conditional upon Seller's acceptance of its terms and conditions ("Terms"), as evidenced by Seller's signing the purchase order, or Seller's performance or delivery thereunder. The Terms supersede any additional or conflicting terms and conditions of Seller, and any prior agreements or negotiations with respect to the Goods (as later defined herein), regardless of any statement to the contrary. The Terms cannot be altered except in writing signed by Buyer.
2. **GOODS.** The articles, equipment, goods, services and materials identified in this purchase order are collectively referred to as the "Goods." Any reference to the Goods will include the rendering of services if the context of this purchase order calls for the rendering of such services.
3. **PRICE.** The price to Buyer for Goods will be no higher than the lowest price charged to similar customers who take delivery in substantially similar amounts during the same period of time. If before delivery of the Goods, Seller offers or sells such Goods to any similar customer at a price lower than specified in this purchase order, Seller will reduce the price charged to Buyer to reflect such lower price, or if Buyer has tendered payment, Seller will refund the difference to Buyer.
4. **WARRANTY.** In addition to warranties implied by law, Seller warrants that the Goods will be merchantable, free from defects in design, material, fabrication and workmanship, that they will be in conformity with specifications or samples, and that they will be fit for the use intended by Buyer. Seller warrants that services furnished hereunder will be rendered competently by qualified personnel in accordance with the highest applicable standards. Seller warrants that it is the lawful owner of the Goods, that it has the right to sell same, and that the Goods will be delivered free and clear of all claims, liens and encumbrances. These warranties will survive acceptance and payment. All warranties will run to Buyer and its customers. Seller warrants that illegal child or forced labor has not been used at any stage of the production of these Goods, nor their inputs. Any illegal child or forced labor the Seller becomes aware of shall be reported to the Buyer immediately.
5. **INSPECTION & ACCEPTANCE.** Acceptance of the Goods is subject to Buyer's inspection and approval, which may be made within six months after the date of delivery, notwithstanding prior payment. Notwithstanding the preceding sentence, Buyer will have reasonable time to reject Goods with latent defects after discovery thereof. All unaccepted Goods may be returned at Seller's risk and expense for a refund or credit of the purchase price paid, at the option of the Buyer.
6. **CHANGES.** Buyer will have the right at any time to change the specifications, materials, designs, drawings, packaging, quantity, time and place of delivery, and method of transportation of the Goods. If any such change causes an increase or decrease in the cost or time required for performance, an equitable adjustment will be made and this purchase order will be modified in writing accordingly.
7. **DELIVERY.** Time and manner of delivery are of the essence, however, fire, flood, strikes, lock-out, epidemic, accident, shortage of customarily used transportation equipment (or suitable substitute), or other causes beyond the reasonable control of the parties which prevent Seller from delivering, or Buyer from receiving and/or using of the commodity(s) covered by this agreement, shall operate to reduce or suspend deliveries during the period required to remove such cause. In the event of reduced deliveries by Seller under the provisions of this paragraph, Seller shall allocate its available supply of commodity(s), component raw materials, and related manufacturing facilities among purchases and Seller's divisions, departments, and affiliates on such basis that Buyer's percentage reduction will not be greater than the overall percentage reduction in total quantity of commodity(s), component raw materials and related manufacturing facilities Seller has available for supply. Any deliveries suspended under this paragraph shall be cancelled without liability, and the Agreement quantity shall be reduced by the quantities so omitted. In the event non-availability of raw materials causes Seller to reduce shipments to Buyer, Seller agrees to give Buyer the option to provide such raw materials to Seller at a price not to exceed market price. If Buyer provides raw materials to Seller at such price, Seller will increase deliveries of commodity to Buyer by the amount produced with the raw materials supplied by Buyer up to the quantity specified in the Agreement.
8. **PAYMENT.** Seller will send two (2) invoices on date of shipment of the Goods, showing, if applicable, weight per each shipment and attaching shipping receipt or bill of lading. Payment will be made by Buyer to Seller, as specified in this purchase order, upon receipt and processing of invoices. Invoices will be submitted by Seller in such detail and together with such supporting documentation as may reasonably be required by Buyer. Acceptance by Seller of final payment will operate as a release of all claims and liability of Buyer to the Seller for all things done or furnished by Buyer in connection with this purchase order, and for every act or omission of Buyer and others for whom Buyer is or may be responsible.
9. **PACKAGING.** Seller will pack the Goods carefully under specifications reasonably designated by Buyer to protect the Goods, and, in the absence of such specifications, in a commercially reasonable manner.
10. **TOOLS, EQUIPMENT AND MATERIALS.** All tools, equipment and other materials ("materials") directly or indirectly supplied by Buyer to Seller will remain the property of Buyer, will be maintained by Seller in good order and condition, and will be used only to fill orders from Buyer. The materials will be returned to Buyer upon completion of Seller's use thereof and in any event upon demand. All materials in Seller's custody or control will be held at Seller's risk and will be kept insured by Seller, at its expense, in an amount equal to the replacement cost thereof, with loss payable to Buyer. Seller will furnish Buyer with insurance certificates, as directed by Buyer, satisfactory in form and substance to Buyer setting forth the above coverage and providing for not less than ten (10) days' prior written notice to Buyer of cancellation or modification. If this Agreement relates to the purchase of equipment, Buyer shall have the privilege to make or to purchase parts, accessories and supplies for such equipment whenever and wherever Buyer may desire to do so and to make any alterations thereto which Buyer considers desirable provided that such alterations do not involve Seller's patent(s) other than those covering the machine supplied.
11. **ADDITIONAL CHARGES.** No additional charges of any kind, including charges for boxing, packing, cartage or other extras will be allowed unless specifically agreed to in writing in advance by an authorized representative of Buyer. Shipments sent C.O.D. without Buyer's written consent may not be accepted and will be at Seller's risk.
12. **CONSENT FOR ADVERTISING.** Seller shall not without first obtaining the written consent of Golden Artist Colors, Inc. in any manner advertise or publish the fact that Seller has furnished or contracted to furnish to Golden Artist Colors, Inc. the articles herein mentioned.
13. **TAXES.** In no event will Buyer be liable for payment of any taxes imposed upon Seller by virtue of Seller's activities or arising out of this purchase order, including, without limitation, taxes imposed upon Seller's income. Seller will hold harmless and indemnify Buyer from and against any liability arising out of the imposition of any such taxes
14. **REMEDIES.** If Seller breaches any one or more of the provisions of this purchase order, Buyer will have all the rights available in law and equity including, but not limited to, the right to: 1) rescind or cancel this purchase order; 2) cancel this purchase order in part and retain the Goods already delivered, subject to compensation or damages for such breach, and to retain from any money otherwise due Seller an amount which Buyer determines is adequate to cover such damages; 3) purchase substitute goods and charge Seller with any loss incurred thereby; 4) reject any nonconforming tender, and/or store and/or return such Goods to Seller at Seller's risk and expense; and 5) assert any claim for damages, including manufacturing costs, and incidental, consequential or special damages occasioned Buyer, and any expenses whatsoever including attorney's fees

which may be incurred by Buyer by reason of any such default or breach of warranty. Such rights will be in addition to any other remedies provided herein or provided by law or in equity, such remedies to be cumulative and not alternative.

15. **INDEMNIFICATION.** Notwithstanding the availability and policy limits of any insurance, Seller will, at its expense, defend, indemnify and hold Buyer and its trustees, officers, employees and agents harmless from and against all damages, claims, liabilities, and expenses (including attorney's fees, whether incurred in a third party action or in an action to enforce this provision) to the extent arising out of or resulting in any way from (i) any defect in the Goods; (ii) any breach of warranty; (iii) any act or omission of Seller or Seller's agents, employees or subcontractors, and (iv) any claim that the manufacture, use, sale or resale of any Goods infringes any intellectual property or proprietary right. This indemnification will be in addition to any of Seller's warranty obligations.
16. **BANKRUPTCY OF SELLER.** If Seller becomes bankrupt or insolvent, or if a petition in bankruptcy or insolvency is filed against the Seller, or if a receiver, trustee or assignee for the benefit of creditors is appointed for Seller, Buyer will have the right, at its sole election, to treat such occurrence as a breach hereof.
17. **TERMINATION.** Buyer reserves the right to terminate this purchase order or any part hereof for its convenience. If Buyer does, Seller will, to the extent Buyer directs, immediately stop all work hereunder and cause Seller's suppliers and subcontractors to cease such work. Buyer will pay Seller a reasonable termination charge equal to the percentage of the purchase order price reflecting the percentage of the work performed prior to the notice of termination, plus Seller's actual direct costs resulting from termination, but in no event more than the original purchase price for the Goods. Buyer will not pay for any work done after receipt of the notice of termination or for any costs incurred by Seller's suppliers or subcontractors which Seller could reasonably have avoided. Buyer may also terminate this purchase order or any part for cause if Seller defaults or fails to comply with any of the Terms. In addition to Buyer's other rights, late deliveries, deliveries of defective or non-conforming Goods, and Seller's failure to provide Buyer, upon request, reasonable assurance of future performance will all allow Buyer to terminate this purchase order for cause. If Buyer terminates for cause, Seller will be liable to Buyer for any and all damages sustained by reason of such termination, and Buyer may offset any amounts owed against Buyer's estimate of damages.
18. **WAIVER.** Exercise or non-exercise by Buyer of any right hereunder will not constitute a waiver of its right, usage of trade, or course of dealing with respect to any failure, delay or breach, or with respect to any subsequent failure, delay or breach.
19. **APPLICABLE LAWS.** Seller will comply with all local, state and federal laws and regulations affecting the price, production, sale or delivery of the materials or services under this order including, without limitation, the Fair Labor Standards Act of 1938, as amended (29 U.S.C. §§ 201 et seq.). Seller will indemnify and save harmless Buyer, its officers, employees and agents, from and against any liability, expense or loss resulting from Seller's failure to comply with any applicable law or regulation. Further, in such case, this purchase order will be cancelled and terminated forthwith without notice and without the imposition of any liability whatsoever on Buyer. Buyer will not be liable for the purchase price of the Goods and the Goods may be returned or held for the account of Seller and at the Seller's risk and expense.
20. **ASSIGNMENT.** Seller's rights and obligations hereunder may not be assigned, delegated or transferred, in whole or in part, by Seller except with the prior written consent of Buyer. Any purported assignment, delegation or transfer made without such written permission will be wholly null and void for all purposes, and Buyer may, at its sole election treat such occurrence as a breach.
21. **CONSTRUCTION.** Stenographic and clerical errors are subject to correction by Buyer. If any Term is modified or invalidated by statute or judicial decision, the remaining Terms will continue in full force and effect.
22. **OTHER TERMS.** This purchase order will be construed in accordance with the laws of the State of New York, without effect of its principles of conflict of laws. The U.N. Convention on the International Sales of Goods will not apply to this purchase order. Seller consents to the exclusive personal jurisdiction and venue of the Courts of the State of New York to determine any controversy arising out of this purchase order.
23. **ENTIRE AGREEMENT.** This purchase order is the entire understanding of the parties with regard to the subject matter hereof and it cannot be amended, terminated or discharged orally.