



## Purchase Order Terms and Conditions

This Purchase Order (Order) and any attachment are the exclusive agreement between Buyer and Seller for the purchase of products and services within the Order, and no other document will be a part of this Order unless specifically agreed to in writing by Buyer. These Purchase Order Terms and Conditions are an integral part of this Purchase Order. In construing these Terms and Conditions of Purchase, the following words shall have the meaning herein assigned to them:

- “Order”: this Purchase Order
- “Buyer”: X-Rite, Incorporated, a Michigan corporation
- “Seller”: the person or company so described in this Purchase Order
- “Items”: supplies, machinery, equipment, parts, materials, services, and any other subject specified in this Purchase Order.

### 1. ACCEPTANCE, ENTIRE AGREEMENT, MODIFICATION.

The Order constitutes an offer to purchase and not an acceptance of any offer to sell. The Order shall be deemed accepted upon receipt of an acknowledgment in writing delivered to Buyer or commencement of performance by Seller, which recognizes the existence of a contract pertaining to the subject matter hereof, whichever occurs first. Buyer hereby rejects any additional or inconsistent terms or conditions offered by Seller at any time irrespective of Buyer’s execution of Seller’s sales order acknowledgment or other form, or Buyer’s acceptance of payment for Items. The terms and conditions of the Order and any incorporated herein by reference constitute the entire agreement between the parties and no changes or supplements to the Order shall be binding upon Buyer without a signature of an authorized representative of Buyer. Provisions set forth on the face of the Order shall govern where inconsistent with these Terms and Conditions.

### 2. PRICE, TAXES.

The selling price is as specified in the Order. If price is omitted, Seller’s price shall not be higher than the price last quoted or charged to Buyer unless Buyer otherwise agrees in writing. Seller warrants that each price for Items sold to Buyer under the Order is no less favorable than that extended during the term of the Order to any other customer for the same or like Items in equal or less quantities on similar terms and conditions. No price increase shall be effective unless approved in advance and in writing by Buyer.

Unless otherwise stated in the Order or agreed upon by the parties in writing. Seller shall be responsible for shipping costs. No additional charges of any kind (including charges for packing, boxing, cartage) will be allowed unless agreed to in writing by Buyer. The price shall include all duties, federal, state and local taxes and any other governmental charges applicable to this Order, and same shall be paid by Seller. If Buyer provides a direct pay certificate, certification of an exemption from tax, or reduced rate of tax imposed by an applicable taxing authority, then Seller agrees not to invoice, nor pay, any such tax unless and until the applicable taxing authority assesses such tax, at which time Seller shall invoice and Buyer agrees to pay any such tax that is legally owed. Buyer shall withhold taxes as required under applicable law on payments made to Seller hereunder and shall be required to remit to Seller only the net proceeds thereof.

### 3. INVOICES, PAYMENT.

An invoice will be sent to Buyer upon shipment. No payment without invoice will be made unless otherwise specified in the Order and/or agreed to by the parties in writing. All invoices must list and match in relation to Buyer’s Order including: Order number, part number(s), quantity and price. Additional charges, if any, must be itemized. Payment will be made in accordance with the terms of the Order. Payment terms will be net sixty (60) days unless otherwise agreed upon in this Order. The cash discount period will commence from the invoice receipt date to Buyer, or the date an invoice conforming to this Order is received at Buyer’s designated offices, whichever is later. Payment shall not constitute acceptance. Payment shall be subject to offset for any claims of Buyer against Seller. If Seller is in breach of any material provision of the Order, Buyer may delay payment without losing cash discounts.

### 4. DELIVERY.

Time is of the essence with respect to delivery dates. Seller, at its expense, will ship by the most expeditious way if delivery schedule will not be met by conventional delivery. Seller will notify Buyer if partial delivery is available to meet Buyer’s production demands, and upon Buyer’s written approval, Seller at its expense will ship by express, air shipment or by the most expeditious way of delivery. Seller shall immediately notify Buyer in writing of any actual or potential delays in delivery. Seller’s notice shall include all relevant information concerning the nature and cause of delay. Seller



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shall keep Buyer advised of effects on delivery schedule and measures being taken to avoid or reduce delay until the Order delivery dates are achieved and risk to future delivery dates resolved. No such notification by Seller shall affect Seller's responsibility with respect to delivery dates. Unless delivery in lots is specified in the Order all Items must be tendered in a single delivery. If delivery is per Buyer's releases, Seller shall not procure, fabricate, assemble or ship any Item except to the extent authorized by Buyer in written releases. No variation of quantities is authorized unless agreed upon by Buyer in the Order. Delivery of any Items in excess of quantities specified may be returned to Seller at Seller's risk and expense. No shipment of Items shall be deemed complete without receipt of all corresponding data; and Buyer may, so long as data remains undelivered, withhold payment for any Item to which such data applies. "Data" may include and without limitation: drawings, reproductions, specifications, photographs, reproducible copies, part(s) lists, plans, reports, computations and certifications that may be specified in the Order.

### 5. SHIPMENT.

Shipment shall be made as specified in the Order. Seller shall follow Buyer's written instructions as to mode and routing of shipments. All Items covered by this Order shall be suitably packed, marked and shipped in accordance with the requirements of a common carrier. In addition to other rights and remedies provided herein, Buyer may reject Items shipped contrary to instructions or that are not in adequate containers. Each shipment shall contain a packing list of contents showing Buyer's Order number. Buyer's count shall be final and binding on all shipments received without a packing list. All Items are to be suitably prepared for shipment and must be packed and shipped per Buyer's Shipping document SPP72 in accordance with applicable classifications and tariffs. Seller shall give notice and Buyer must approve of any shipment to a destination other than Buyer's place of business. Whenever transportation is supplied by Buyer or procured for benefit of Buyer, Seller shall have such transportation loaded within the legal or customary lay days. Seller shall be responsible for all costs and damages arising from delays in loading and all demurrage charges or other charges for delay.

### 6. RISK OF LOSS AND DAMAGE.

Regardless of passage of title, and unless otherwise specified in the Order, all risks of loss of or damage in transit or delays en route, an all liability to Buyer

hereof, shall remain with Seller until final acceptance of Items by Buyer. Seller shall bear all risks as to reject Items after notice of rejection, providing that loss of or damage to such Items does not solely result from negligence of Buyer's employees acting within the scope of their employment.

### 7. INCOTERMS.

Incoterms in force at the time of execution of the Order shall apply to the interpretation of trade terms used in the Order if Seller is located outside the U.S.

### 8. INSURANCE.

Seller shall maintain at its own expense general commercial liability insurance which includes but is not limited to employer's liability, general liability, public liability, property damage liability, product liability, products and completed operations liability and contractual liability in amounts set forth in the Order and workers compensation insurance at the statutory limits. **[Note: confirm general liability amounts set forth in Order.]** Buyer shall be named in such insurance policies as an additional insured. Seller shall furnish Buyer with certificates of insurance issued by the companies providing the coverage and all such coverage and the related policies shall be subject to Buyer approval for adequacy of protection. All such certificates shall stipulate that the companies providing the coverage shall not cancel or materially change such insurance policies without giving Buyer at least thirty (30) days prior written notice.

### 9. INSPECTION, QUALITY CONTROL SYSTEM.

Seller shall provide and maintain a quality control system acceptable to Buyer covering the Items. Seller shall keep records of any inspections or tests performed by Seller and/or its suppliers and sub-contractors and shall make such records available to Buyer and its customers during performance of this Order and for five (5) years after final payment by Buyer, or for such longer period that may be required by law. Notwithstanding prior inspection, testing, passage of title or payment, all Items are subject to final inspection and acceptance by Buyer at delivery destination stated in the Order. Buyer reserves the right to reject Items or revoke acceptance of Items which are not in conformity with the Order. If Buyer should receive Items from Seller that are not in conformity to the Order, Seller shall reimburse Buyer for incurred costs including but not limited to labor, inspection, testing, troubleshooting and freight for returning Items to



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Seller. Lots may be rejected in whole or part where defect rates exceed levels reasonably acceptable to Buyer. If Items are delivered to Seller by or on behalf of Buyer, for fabrication or incorporation with Items of Seller or otherwise, Seller shall be responsible for inspection thereof, and Seller shall promptly notify Buyer in writing of any defect or deficiency. In the absence of such notice, no failure of Seller to deliver or to meet specifications shall be excused on the ground of defect or deficiency in the Items delivered to Seller.

### 10. MATERIAL, EQUIPMENT, TOOLS AND FACILITIES.

Seller shall supply all material, equipment, tools and facilities required to fulfill the Order. Buyer shall possess/retain/keep/control/hold title to all property furnished to Seller by Buyer or specifically paid for by Buyer (or the cost of which is fully or substantially amortized in the price of the Items purchased hereunder) and any replacements and any materials affixed or attached thereto including, without limitation, tools, fixtures and equipment (collectively referred to as "Articles"). Seller agrees to use the Articles only in performance to fulfill this Order and to promptly return the Articles to Buyer, in the same condition as originally received or purchased by Seller (reasonable wear and tear excepted ) within ten (10) days of completion of this Order or in accordance with Buyer's instructions or written request at Seller's expense,. All Articles in the custody or control of Seller, Seller's agents, suppliers or sub-contractors will be held at Seller's risk, and will be insured by Seller at Seller's sole expense against loss and damage in an amount equal to the cost of replacement. Maintenance, service and replacement of Articles shall be at Seller's expense. Seller will promptly notify Buyer of the location of Articles located in any place other than Seller's address. Seller agrees that all Articles shall be identified and marked immediately upon receipt or creation as property of Buyer.

### 11. WARRANTY.

(a) Seller warrants to Buyer, its successors, assigns, customers and any third party injured in person or property by reason of any breach hereof that, for the duration of one (1) year from completion, installation and commencement of operation of an Item or system in which the Item is incorporated by Buyer or its customer, or eighteen (18) months from delivery to Buyer, all Items (including all replacement Items and all replacement or corrected components)

will be new, merchantable, free from defects in design, material and workmanship, conform to any specifications (including performance specifications), drawings or samples which may have been provided to or furnished by Buyer and will be suitable for any intended use expressed or implied by this Order.

The warranties set forth in this Section 11(a) or otherwise with respect to the Items, are conditions to this Order and in addition to all other warranties expressed or implied and shall survive any delivery, inspection, acceptance or payment by the Buyer. (b) Seller further warrants that: (i) Seller has good title to the Item(s) free and clear of liens and encumbrances and will transfer such title to Buyer; and (ii) no Items have been manufactured using or containing ozone depleting substances; (iii) all Items are sold at prices and terms lawful and permissible under antitrust laws and other applicable price control laws, orders and regulations. (c) Buyer objects to any disclaimer of warranty, fitness for a particular purpose, merchantability, freedom from defects, or other conditions of this Order. (d) The warranty period for any Item(s) of which a defective component is a part shall be suspended from the date Seller receives notice of such breach of warranty until the date Buyer receives full replacement or repair. Seller shall, at the direction of Buyer, promptly remove, repair or replace, any defective Item(s) at Seller's expense (including costs of transportation to and from site(s) of such Items). If Seller fails to promptly do so, Buyer may, at its option, return the Item(s) at Seller's expense for a full refund of the purchase price, or repair or have the item(s) repaired at Seller's expense, or purchase or manufacture similar Items and recover from Seller all costs and expenses. The warranties and remedies specified herein are in addition to all other remedies available to Buyer through local, state and federal laws and in equity. Acceptance of Items shall not constitute a waiver of warranty.

### 12. CHANGES.

Buyer may at any time, by written change order and without notice to sureties or assignees, change: (i) drawings, designs or specifications; (ii) method of shipment or packing; (iii) place or time of inspection, delivery, or acceptance; (iv) the amount of Buyer furnished property, data or articles. If any change causes an increase or decrease in cost or time required for performance, an equitable adjustment shall be made in price, delivery schedule or both upon written acceptance of both Seller and Buyer. No claim by Seller for adjustment shall be allowed



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unless made in writing in an amount stated within ten (10) days from date notice of change is received by Seller. No claim for an adjustment will be valid unless such changes are specifically requested by Seller and the amount of the adjustment price is agreed to in writing by Buyer. Nothing in this clause shall excuse Seller from proceeding without delay with performance of the Order as changed.

### 13. STOP WORK ORDER.

Buyer may at any time stop all or any part of the work under the Order for a period of up to ninety (90) days upon written notice. At any time during such period, Buyer may, with respect to all or any part of the work covered by the stop work order, either cancel the stop work order or terminate the Order in accordance with Section 14. To the extent the stop work order is canceled or expires, Seller shall resume work. If a stop work order has a material effect on cost or delivery, an equitable adjustment shall be made in price (excluding profit) or delivery schedule or both; however, no adjustment shall be made (i) if the work would have been otherwise interrupted or delayed or (ii) an adjustment is to be made or is excluded under any other provision of the Order. No claim for adjustment shall be allowed unless submitted to Buyer in writing in an amount stated within ten (10) days after work is terminated or the stop work order expires or is canceled, whichever first occurs.

### 14. TERMINATION.

Buyer may, at its option, terminate the Order in whole or in part, for its convenience by written notice stating the extent and effective date of such termination. Upon receipt of such notice, Seller shall to the extent directed by Buyer forthwith (i) stop work under the Order and place no further order hereunder (ii) terminate work under outstanding orders which relate to work terminated by such notice, and (iii) protect property in Seller's possession in which Buyer has or may acquire an interest. Seller will submit to Buyer its written claim, if any, not later than ten (10) days from date of termination. Seller grants Buyer the right to audit its books, records and documents relating to its termination claim. If the parties cannot agree within ninety (90) days upon compensation for termination, Buyer's liability to Seller will be limited to prompt payment of the following amounts only, without duplication: (i) contract price, not previously paid for Items completed under the Order prior to the effective date of termination and accepted by Buyer and (ii) actual costs (excluding overhead and profit)

incurred by Seller and properly allocable or apportionable under generally accepted accounting practices to the terminated portion of the Order. If the Order is to be performed per Buyer's releases, Buyer's liability for production components is limited to firm releases. Seller will, if directed by Buyer, transfer title to and make delivery of any such Items, work in process or inventory not retained or sold with Buyer's written consent. Buyer may terminate the Order, in whole or in part, for default at any time if Seller (i) fails to deliver Items or perform as required by the Order within the time specified, (ii) fails to perform or comply with any provision of the Order, (iii) fails to make progress so as to endanger performance of the Order in accordance with its terms and does not correct such failure within a reasonable time not to exceed ten (10) days after receipt of notice from Buyer specifying such failure or (iv) is insolvent, files or has filed against it a petition for the liquidation or completion of its business or for reorganization or bankruptcy or seeks reorganization, readjustment or arrangement under any federal or state law relating to bankruptcy, insolvency or creditors' rights or has appointed for it a receiver for all or substantially all of its property or makes an assignment or attempted assignment for the benefit of creditors. Such termination will be without liability of Buyer except for Items accepted by Buyer payment for which can be set off against any damages to Buyer. Buyer may require Seller to transfer title and deliver to Buyer any or all property produced or procured by Seller for performance of the work terminated and Seller shall be credited with the reasonable value thereof not to exceed Seller's cost. Seller will be liable for damages caused by or resulting from its default including but not limited to excess costs of reprocurement.

### 15. FORCE MAJEURE.

"Force Majeure" shall mean any causes reasonably beyond the control and without fault or negligence of the party affected thereby which cannot be foreseen or, if foreseeable, cannot be avoided, which occur after the effective date of the Order and which wholly or in substantial part prevent or delay performance of obligations under the Order. If due to Force Majeure a party is prevented from or delayed in performance and provided that such party promptly following the commencement of such Force Majeure notifies the other party in writing expressly claiming Force Majeure, then the obligations of the party giving such notice shall be suspended to the extent made necessary by such



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Force Majeure and during its continuance, provided the party invoking Force Majeure takes reasonable steps to mitigate the effect of such Force Majeure. A party sending a notice of Force Majeure shall, upon termination of such Force Majeure, promptly notify the other party in writing. If due to Force Majeure Seller is unable to deliver the full quantity of the Items purchased, Buyer may, by notice to Seller at any time, cancel the Order or require Seller to deliver such percentage of the lesser output or deliveries as the quantity called for by the Order bears to the normal output or deliveries of Seller or its supplier. Deficiencies in shipment, failures to ship when agreed, inability to receive due to suspension, or reduction of obligations for reasons of Force Majeure shall, at Buyer's option, be made up in whole or in part even though subsequent deliveries occur after the delivery date. Buyer shall exercise such option by written notice to Seller no later than the later of (i) ten days after receipt of notice claiming Force Majeure, or (ii) unless the Order has previously been terminated, ten days after the last date fixed for delivery.

### 16. SECURITY INTEREST AND TITLE.

Seller hereby grants Buyer a security interest in the Items, and all related raw materials, components, work in progress, and inventory, whether now owned or hereafter acquired, and products and proceeds thereof (the "Collateral") as security for any and all advances or progress payments now or hereafter made. Seller agrees to execute such documents evidencing such security interest as Buyer may request for perfecting or continuing such security interest. Seller agrees that as soon as Collateral or any part thereof is identified to this Order, title to such Collateral shall immediately pass to Buyer. Seller will mark or segregate Collateral to indicate Buyer's interest therein. Seller will not sell, assign, or otherwise dispose of any Collateral nor create, suffer, or permit to attach any lien or encumbrance, except for Buyer's interest.

### 17. CONFIDENTIALITY AND PROPRIETARY INFORMATION.

Buyer retains ownership of all proprietary data and other information disclosed to Seller by or on behalf of Buyer in connection with the Order. "Proprietary Data" includes all design, engineering, and technical information (whether patentable or not), and other information concerning Buyer's trade secrets. Such other information includes but is not limited to secrets of manufacture contained in Buyer's manufacturing methods or processes, treatments

and chemical composition, plant layout and tooling. Seller shall not use any Proprietary Data except as is necessary to complete the Order. Without the prior written consent of Buyer, Seller shall not disclose to any third party any Proprietary Data or the fact that it has furnished or agreed to furnish Items to Buyer. If requested by Buyer, Seller shall take specific additional precautions to preserve the confidentiality of Buyer's Proprietary Data, including and without limitation, limiting access to facilities and returning to Buyer such Proprietary Data and information and all copies thereof. The provisions of this Section shall survive the acceptance of the Items and payment therefor by Buyer and shall be binding upon Seller, its successors and assigns, and shall inure to the benefit of Buyer, its customers, successors and assigns. Seller hereby grants Buyer a nonexclusive, nontransferable and perpetual license to use any and all software that is embedded in the Items covered by this Order and any and all software that is otherwise pre-installed by the Seller on the Items covered by this Order at the time of delivery, together with the documentation under each program element thereof. Unless otherwise agreed upon in writing, any information disclosed to Buyer by Seller in connection with this Order shall be considered as having been disclosed to and received by Buyer on a non-confidential basis, except for those obligations arising under patent laws.

### 18. WORK ON PREMISES.

If the Items include work to be performed on premises specified by Buyer, Seller represents that it has or will examine the premises and any specifications or other documents furnished in connection with the Items and satisfy itself as to the condition of the premises and site. Seller agrees that no allowance shall be made in respect of any error as to any of the foregoing on the part of Seller. Seller shall at all times keep the premises free from accumulations of waste material or rubbish. At completion of the Items, Seller shall leave the premises clean of excess materials necessary for installation. Risk of loss or damage to Seller's materials or equipment, or risk of personal injury or death to Seller's employees or agents while on premises specified by Buyer shall remain with Seller. Buyer shall have no responsibility or liability to Seller, and Seller shall indemnify Buyer against anyone claiming through Seller, in respect of any loss or damage, or injury or death to Seller's materials or equipment or employees or agents, respectively, notwithstanding the fact that facilities or storage space on such premises is provided by Buyer. Seller



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will provide Buyer a certificate of insurance naming Buyer as additional insured.

### 19. PATENT, TRADEMARK AND COPYRIGHT INDEMNITY.

Seller shall indemnify Buyer from any and all losses, costs, damages or expenses (including attorneys' fees and expenses) for any infringement or alleged infringement of any United States or foreign patent, trademark or copyright by reason of the sale or use of any Item sold to Buyer. Buyer will promptly notify Seller of any claim for infringement and cooperate, at Seller's request, in the defense thereof. This indemnity shall not extend to infringement resulting from Seller's compliance with Buyer's designs, processes or formulas. The provisions of this Section shall survive the acceptance of Items and payment and shall be binding upon Seller, its successors and assigns and shall inure to the benefit of Buyer, its customers, successors and assigns.

### 20. INDEMNIFICATION.

Seller will indemnify and defend Buyer, its employees, agents, officers and directors from and against all liability demands, claims, losses, costs, damages and expenses for property damage, death and personal injury arising out of or relating to the Items sold to Buyer and to performance of the Order.

### 21. DEVELOPMENT WORK.

Seller agrees that all inventions or improvements conceived or discovered by Seller in performing any development work under this Order shall be the sole property of Buyer or its successors or assigns. Seller will disclose to Buyer all such inventions and improvements, and upon request from Buyer, Seller will execute such proper papers, prepared by and at the expense of Buyer, as Buyer deems necessary to patent or otherwise protect its rights in such inventions and improvements.

### 21. RIGHTS AND REMEDIES, WAIVER.

Rights and remedies herein shall be in addition to any other rights and remedies available to Buyer in law and equity. Failure or delay in exercise of any rights or remedies shall not operate as a waiver.

### 22. COMPLIANCE WITH LAWS, ENVIRONMENT.

Seller warrants that in performance of the Order it will comply with all applicable federal, state and local laws, rules, regulations, or orders, and same shall be deemed incorporated herein by this reference. Such reference includes but is not limited

to applicable requirements of Federal Acquisition Regulations, Consumer Product Act, the Occupational Safety and Health Act, Toxic Substances Control Act, the Fair Labor Standards Act, Worker's Compensation laws, the US Department of Labor, EEOC, the Civil Rights Act of 1964 and Executive Order 11246, as same may be amended from time to time. All Items shall be in full compliance with federal or state motor vehicle safety and emissions standards and regulations, if applicable. Seller agrees to indemnify and defend Buyer and its customers against any losses, damages or expenses sustained because of Seller's non-compliance with any applicable law, rule, regulation or order, including but not limited to Buyer's costs and expenses of a recall or notification complaint due to alleged defects in the Items. Upon Buyer's request, Seller will furnish Buyer with certification of compliance with the foregoing. Items shall be accompanied by material safety data sheets if required by law. In accordance with the principles of X-Rite's Corporate Social Responsibility Policy (which can be found on the X-Rite website at [http://www.xrite.com/top\\_company.aspx](http://www.xrite.com/top_company.aspx)), seller agrees that all material provided under the Order will be produced and provided in such a way that promotes responsible corporate behavior regarding our social and physical environments. Seller agrees that all material provided under the Order will comply with all requirements stated in the then current version of the X-Rite Global Product and Component Specification for the Environment (X-Rite Form ENV70, GPCSE), as can be found on the X-Rite supplier website at <http://supplier.xrite.com/>. Any Seller requests for deviations from the requirements stated in X-Rite Form ENV70 must be made in writing to Buyer at the time of Order acknowledgement.

### 23. ASSIGNMENT.

Any assignment of the Order, performance of work hereunder in whole or in part, or monies due or to become due, shall be void unless Seller has obtained Buyer's prior written consent.

### 24. SUBCONTRACTING.

Seller shall not subcontract the Order or any substantial part thereof without Buyer's prior written consent.

### 25. SEVERABILITY.

The invalidity of any part of the Order shall not affect the remaining provisions.



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### 26. CHOICE OF LAW, DISPUTES.

Construction, interpretation and performance shall be governed by the laws of the State of Michigan. For international contracts, the provisions of the Uniform Commercial Code as adopted in Michigan, and not the UN Convention on Contracts for the International Sale of Goods, shall apply.

### 27. NOTICE.

All notices required or permitted under this Purchase Order Terms and Conditions to be in writing shall be sent postage prepaid, registered or certified mail, return receipt requested to each party thereto at its address set forth on the Order or at such other address as may be designated by it in a notice and delivered to the other party.