

BINNEY & SMITH INC. PURCHASE ORDER – TERMS AND CONDITIONS

ARTWORK INSTRUCTIONS

All artwork, negatives and all preparatory work created for or supplied by Binney & Smith in the production of this order, including cutting and creasing dies, shall be the exclusive property of Binney & Smith Inc.

SELLERS LIABILITY

Seller shall hold and save harmless Buyer, its officers, agents, employees and transferees from liability of any nature or kind, under any copyright, trademark, or patent, including costs and expenses, for or on account of the use, sale or lease of any invention or patented or unpatented article or appliance furnished or used hereunder, including the use or disposal of said items for their intended purpose by or on behalf of Buyer, Seller, by its counsel and at its expense, shall assume and defend all claims, demands and suits for infringement of any copyright, trademark, or patent against Buyer, its officers, agents and employees within the scope of the undertakings of the Seller in the preceding sentence. Seller's obligations hereunder shall not apply to any invention, article, or appliance manufactured to Buyer's detailed design if only that design is alleged to infringe.

WARRANTIES:

1. Seller warrants that all articles furnished hereunder shall be free from defects in workmanship and material and shall comply with the terms of this Purchase Order and any drawings and specifications incorporated herein. If any article delivered hereunder does not comply with any implied or expressed warranties, Binney & Smith may require Seller to correct at no cost to Binney & Smith, or return such defective or non-conforming article to Seller and recover from Seller the contract price thereof.
2. Seller expressly warrants that the goods covered by this order are of merchantable quality and fit and safe for consumer use. Acceptance of this order shall constitute an agreement upon Seller's part to indemnify and hold Binney & Smith harmless from all liability, loss, damage and expense, including reasonable counsel fees incurred or sustained by Binney & Smith by reason of the failure of the goods to conform to such warranties. Such indemnity shall be in addition to any other remedies provided by law.
3. Seller represents that the goods covered by this order have been manufactured in accordance with the requirements of the Fair Labor Standards Act.

4. The labeling of goods furnished hereunder shall comply with applicable industry guides specified by the Federal Trade Commission.
5. Seller represents and warrants that all articles and services covered by this Purchase Order meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Law (Public Law 91-956) and its regulations in effect or proposed as of the date of this order.
6. Seller warrants that all goods comply with applicable Federal and state laws and regulations, including, but not limited to, the Textile Fibre Products Identification Act, the Flammable Fabrics Act, the Consumer Product Safety Act, the Food, Drug and Cosmetic Act and the Hazardous Substances Act, all as amended.
7. Seller warrants that all inks, paints, dyes and surface coatings used in the production of this order will not contain more than 0.06% lead by weight.

THIS ORDER IS SUBJECT TO THE FOLLOWING CONDITIONS:

Failure to comply with any of the following gives the Buyer the right to cancel all or any part of this order (and return the goods collect, if delivery has been completed.)

- (a) All packaging and shipping memorandas must bear this **ORDER NUMBER**. Packages, containers, drums, etc., must be plainly **MARKED** and accompanied by a shipping memorandum specifying the goods and quantities in each container.
- (b) Goods must conform to quantity, description and specifications set forth including price and be properly packaged.
- (c) All invoices must be rendered immediately after shipment and be accompanied by:
 - (1) an original Bill of Lading if covering collect freight shipments.
 - (2) copy of the Bill of Lading if on prepaid shipments and also by prepaid freight bill if all or any part of the freight is included on the face of the invoice. The invoice and other required documents must bear this **ORDER NUMBER**.
- (d) In filling this order the seller certifies and warrants that the goods and/or service(s) called for herein have been

produced in compliance with the requirements of the United States Fair Labor Standards Act as amended under any other Federal, State or Municipal Law or Ordinance and President's Executive Order on Equal Employment Opportunity.

- (e) All shipments must be accompanied by a packing slip.

BILLING INSTRUCTIONS

1. Separate invoices in duplicate required for each shipment.
2. Invoice must show our Order Number and Specification Code Number.
3. Bill of Lading to be attached to invoice.
4. Mail invoice in duplicate to:
Binney & Smith Inc.
1100 Church Lane
P.O. Box 431
Easton, PA 18044-0431
ATTN.: Accounts Payable

SPECIFIC VENDOR INSTRUCTIONS

1. Binney & Smith has the right to cancel or change unproduced authorized quantity at no penalty as a result of specification change, discontinuance, or if the Vendor is unable to remain competitive.
2. There shall be no change in the manufacturing process, raw materials or component parts without the buyer's prior written approval.
3. Vendor is only authorized to produce against authorized releases.
4. Any Binney & Smith property (molds, cutting and sealing dies, artwork, etc.) given to or constructed under the supervision of a vendor is the exclusive property of Binney & Smith and is not subject to any type of removal fee or penalty whatsoever.
5. Vendor agrees that all information acquired from, or developed for, Binney & Smith by Vendor in connection with this or any other order by Binney & Smith is confidential and proprietary to Binney & Smith, except to the extent such information is in the public domain through no fault of Vendor or its agents or contractors. Vendor shall keep such information confidential and shall not use same except as authorized by Binney & Smith.