

CRAYOLA LLC PURCHASE ORDER TERMS AND CONDITIONS

The following terms and conditions ("**Terms**") apply to the purchase by Crayola LLC or any of its affiliates, (collectively or individually, "**Crayola**") of Goods or Services from **Supplier**. "**Goods**" or "**Services**" means the goods, services, software licenses or other deliverables to be furnished by Supplier to Crayola, as described in any attachment (each an "**Attachment**") agreed to by the parties. These Terms are incorporated into any such Attachment by reference.

1. TERM AND TERMINATION

These Terms are effective on the earlier of **(a)** acceptance from Supplier of Crayola's Purchase Order, or **(b)** Supplier's first delivery of Goods or Services. Crayola may terminate these Terms for convenience by giving written notice to Supplier. If Supplier fails for any reason to ship or deliver Goods or perform Services within the times specified in these Terms, Crayola may, without liability (except for Goods or Services previously delivered and accepted), terminate these Terms, in whole or in part, by written notice to Supplier, and Supplier will be liable to Crayola for damages incurred by Crayola due to non-performance, including the excess cost for substitute Goods or Services. In addition to any other rights available under these Terms or at law, upon termination of these Terms, Crayola may require Supplier to transfer title and deliver to Crayola, in the manner and to the extent directed by Crayola, any completed or partially completed Goods for which Crayola has paid.

2. SHIPPING, DELIVERY & ACCEPTANCE

All Goods must be packed in accordance with sound commercial practice to prevent damage in transit. A complete packing list must be enclosed with all shipments. Supplier must mark all shipments with the necessary shipping information including the Crayola Purchase Order Number, dates of shipment, and addresses of consignor, consignee, and the name of the Supplier with whom the order was originally placed. Direct shipments from other than the Supplier listed on the Purchase Order may not be made without Crayola's prior written approval. Crayola will not accept substitutions, excess quantities or untimely shipments unless Crayola has given its prior written approval. Unless otherwise agreed in writing by the parties, all shipping and delivery dates are firm. Crayola may return non-conforming shipments at Supplier's expense or hold non-conforming shipments at Supplier's risk. Supplier must comply with all carrier requirements. Goods must be classified to secure the lowest possible shipment and insurance rates. Crayola may designate the shipping method or determine the appropriate shipping costs. Crayola's lack of testing or inspection is not an acceptance of Goods or Services or a waiver of any right or warranty and does not preclude Crayola from rejecting Goods or Services that do not meet Crayola's specifications.

3. INVOICING AND PAYMENT

Separate invoices are required for each shipment. Invoices must be submitted in duplicate and must contain the following information: Crayola Purchase Order Number, Description of Articles, Quantities, Extended Totals, Item Number, Sizes, Unit Prices, and Sales Tax. Unless otherwise agreed in writing, the price for Goods or Services is complete and includes purchase price, packaging, labeling, customs duties, taxes, tariffs, storage, insurance, commissions and all other charges or fees. Supplier will invoice Crayola for Goods or Services only after Crayola accepts the Goods or Services. If Supplier materially breaches these Terms, Crayola is not obligated to pay Supplier until Supplier has cured or Crayola has waived the breach. Crayola will pay undisputed amounts within 60 days after receiving a properly rendered invoice.

4. CONFIDENTIALITY

All information furnished by Crayola, and all specifications, techniques, processes or other documents and methods prepared by Supplier for Crayola, is Crayola's Confidential Information. Supplier may use and copy Crayola's Confidential Information only as necessary to perform its obligations under these Terms. Supplier will not disclose Crayola Confidential Information to any third party without Crayola's written consent. Upon cessation of work, or upon request, Supplier will promptly return or destroy all Crayola Confidential Information. The terms of any existing Confidentiality Agreement between the parties are incorporated into these Terms by reference and will govern if there is a conflict.

5. WARRANTIES AND COVENANTS

Supplier warrants and covenants that: **(a)** all Goods and Services will: (i) conform with these Terms, the Purchase Order and all drawings, samples, specifications and applicable Attachments, (ii) be free from defects in materials, workmanship and design, (iii) be free from liens, restrictions, reservations, security interests or encumbrances, (iv) be merchantable, safe and appropriate for Crayola's use, (v) be suitable for, and perform in accordance with, the particular purposes for which they were purchased and for which they were designed, manufactured or constructed, and (vi) and with respect to Services only, be provided by individuals with the expertise, skills, training and professional education to perform the Services in a professional and workmanlike manner; **(b)** neither the Goods or Services nor Crayola's use, sale, offer for sale, or importation of the Goods or Services will infringe or misappropriate a third-party intellectual property right or violate any right of publicity or non-disclosure obligation, including any patent covering the Goods or Services themselves or covering a process by which the Goods are made; **(c)** all inks, paints, dyes, surface coatings, and adhesives used in the production of Goods will not contain more than 0.009% lead by weight and all other parts, components or substrates that become part of the Goods will not contain more than 0.03% lead by weight; **(d)** all Goods and any associated documentation will comply with applicable laws, regulations and standards, including the Federal Hazardous Substances Act, the Textile Fiber Products Identification Act, the Flammable Fabrics Act, the Lacey Act, the Consumer Product Safety Act, the Toxic Substances Control Act, the Federal Insecticide, Fungicide, and Rodenticide Act, and the Food, Drug and Cosmetic Act, and any import compliance laws and regulations, all as amended; Supplier has and will maintain all the licenses, permissions, authorizations, consents, and permits needed to carry out its obligations; **(e)** the Goods have been manufactured in accordance with the requirements of the Fair Labor Standards; **(f)** Supplier's performance will comply with all applicable anti-corruption laws, including the US Foreign Corrupt Practices Act; **(g)** all retail, wholesale, or shipping package or packaging components, as well as any raw material packaging, will meet all Toxics in Packaging Clearinghouse requirements; **(h)** all Goods comply with applicable European Directives and regulations and the Canada Hazardous Products Act, all as amended; **(i)** all Goods and Services 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 the Purchase Order; and **(j)** the labeling of all Goods will comply with applicable industry guides specified by the Federal Trade Commission, and upon Crayola's request and without additional expense to Crayola, Supplier will promptly correct or replace defective or non-conforming Goods or Services. Crayola may also return any defective or non-conforming Goods to Supplier and recover from Supplier the contract price plus any incidental costs incurred by Crayola.

6. INDEMNIFICATION AND INSURANCE

(a) Supplier will indemnify, defend and hold harmless Crayola and its affiliates and their respective directors, managers, officers, agents, employees, successors, and assigns (each an "**Indemnitee**"), from and against any cause of action, proceeding, claim, loss, liability, lien, or demand, and all costs or expenses (including court costs and reasonable fees and expenses of attorneys and other professionals) brought against Indemnitee arising from or relating to (i) any act or omission of Supplier under or relating to these Terms, (ii) Supplier's breach of any provision of these Terms, (iii) damages or injuries to persons or property or violation of any right of a third party, caused by any act, error or omission of Supplier, or its subcontractors, agents, or employees, or (iv) a claim that the Services or Goods, or any resulting use or sale of any Goods, infringes or misappropriates a third-party intellectual property right or violates any right of publicity or non-disclosure obligation. **(b)** If Crayola is enjoined

from purchasing or using Services or Goods, Supplier must at its own expense and at Crayola's option: (i) procure non-infringing Goods or Services, (ii) replace the Goods or Services with non-infringing equivalent Goods or Services, (iii) modify the infringing Goods or Services so the infringement is removed, or (iv) refund to Crayola the purchase price of the infringing Goods or Services. **(c)** Throughout its performance under these Terms, Supplier will maintain workers' compensation, general liability and auto liability insurance in sufficient amounts to comply with applicable law and ensure its performance under these Terms. Upon request, Supplier will provide proof of compliance with this section.

7. OWNERSHIP

(a) Crayola owns all right, title and interest in and to all Intellectual Property generated, conceived or developed under these Terms. **"Intellectual Property"** includes all artwork and all materials created for, supplied by or purchased by Crayola, including design files tooling, molds, cutting and creasing dies, rough/pre-production/production product, any improvement to the products of Crayola or its affiliates, or any proprietary materials, concepts, marketing strategies, discoveries, concepts, ideas, designs, processes, methods, inventions, and copyrightable or patentable material, including deliverables specifically identified in any Attachment. If ownership of Intellectual Property does not vest in Crayola by operation of law, Supplier hereby irrevocably conveys, transfers, and assigns ownership of Intellectual Property to Crayola. Supplier also agrees to provide reasonable assistance to secure Crayola's rights in and protection of Intellectual Property. Supplier appoints Crayola as its attorney-in-fact to execute all documents necessary to effect the foregoing. This appointment is coupled with an interest and is irrevocable. Supplier agrees that the compensation paid to Supplier under these Terms or any Attachment is adequate consideration for this assignment, and Supplier will execute any additional documents or take any additional steps as may be necessary to perfect Crayola's title to and rights in Intellectual Property. Supplier understands and agrees that Crayola's rights in Intellectual Property include the right to use Intellectual Property in any manner as Crayola determines appropriate, including to: (i) sell or otherwise commercially exploit Intellectual Property, (ii) renew any copyright or trademark registrations of Intellectual Property, and (iii) recover for any past, present and future infringements of Intellectual Property. Supplier will pay its employees any compensation due in connection with the assignment of any Intellectual Property or invention. Supplier warrants to Crayola that Supplier's employees are subject to agreements that will secure Crayola's rights under this section. **(b)** Supplier grants Crayola a fully paid-up, worldwide, perpetual license to install, execute, use, copy, test, display, perform and distribute all intellectual property, including software, provided under these Terms but not owned by Crayola under this section, for Crayola's business purposes.

8. GOVERNMENT CONTRACTS

Goods and Services purchased under these Terms may be utilized by Crayola in fulfilling its government contracts. Crayola and Supplier will abide by the requirements of 41 CFR §§ 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veteran status or disability and required affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities. To the extent applicable, the employee notice requirements set forth in 29 CFR Part 471, Appendix A to Subpart A, and the VETS-4212 reporting requirements set forth in 41 CFR § 61-300.10 are hereby incorporated by reference into these Terms.

9. CHANGES AND DEFAULT

Crayola may, by a written change order, increase or decrease the quantity of Goods to be furnished, extend the time of delivery or make changes within the general scope of the Purchase Order. Crayola will make an equitable adjustment in price, if applicable, as a result of the above. Crayola may, by written notice to the Supplier, cancel the whole or any part of the Purchase Order if Supplier fails to: **(a)** make delivery of the Goods or to perform the Services within the time specified, **(b)** replace or correct defective goods in accordance with the provisions of these Terms, or **(c)** perform any of the other requirements of the Purchase Order or make progress that would endanger satisfactory performance of the Purchase Order.

10. CHOICE OF LAW; JURISDICTION AND VENUE

These Terms will be construed and governed in accordance with the internal laws of the Commonwealth of Pennsylvania without regard to its conflicts of law provisions. The parties consent, and waive any objection, to the jurisdiction of and venue in any state or federal court in Pennsylvania. This Purchase Order and any contract resulting from it will be governed by and construed in accordance with the United Nations Convention on Contracts for the International Sale of Goods (CISG). The parties expressly agree that the CISG will apply to the interpretation, performance, and enforcement of these Terms, to the exclusion of any domestic law that would otherwise govern.

11. JURY TRIAL WAIVER; ARBITRATION

EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ITS RIGHT TO A JURY TRIAL IN ANY COURT ACTION TO THE EXTENT PERMITTED BY LAW. IF THIS JURY TRIAL WAIVER IS UNENFORCEABLE UNDER APPLICABLE LAW, THE PARTIES AGREE TO BINDING ARBITRATION IN EASTON, PENNSYLVANIA.

12. GENERAL

Without Crayola's written consent, Supplier will not disclose, confirm or deny the existence or substance of these Terms. Supplier is not granted any implied right or license to use Crayola's Intellectual Property. If Crayola grants Supplier a right to use Crayola marks, Supplier will do so only in strict compliance with Crayola guidelines. These Terms may only be amended by written agreement signed by the parties. Supplier will not assign all or any part of these Terms without Crayola's prior written consent. Crayola's failure to insist upon Supplier's strict performance of its obligations under these Terms will not waive any subsequent or other default or failure to perform by Supplier. Crayola's rights and remedies in law or equity are cumulative and may be exercised concurrently or separately. The invalidity, in whole or in part, of any provision of these Terms will not affect the validity of any other provision. Time is of the essence in Supplier's performance. Supplier is an independent contractor and not an agent or employee of Crayola. Supplier is solely responsible for paying wages, salaries, fringe benefits and any other compensation to or claims by Supplier's employees. Supplier will not subcontract any portion of these Terms without Crayola's written consent. Supplier will keep Crayola's property free of claims, liens and encumbrances. Supplier will provide Crayola with lien waivers upon request. "Includes" and "including" are used in the nonexclusive sense. Any reference to a section refers to the entire section, including subsections. Any terms, which by their nature would survive, will survive the termination or expiration of this Agreement.

13. ENTIRE AGREEMENT; CONFLICTS

These Terms and any Attachments constitute the entire agreement between the parties regarding the Goods or Services and supersede all previous representations, statements, negotiations, commitments and writings relating to such Goods or Services. If there is a conflict between these Terms (including Attachments) and any Master Services Agreement ("**MSA**") between the parties, the MSA will control. Any terms on Supplier's web site, product schedule or other ordering document will have no effect and these Terms will control.