

## GENERAL TERMS AND CONDITIONS

- 1. Definitions.** The term “**Buyer**” as used herein shall mean The Scoular Company, a Nebraska corporation limited liability company. The term “**Seller**” as used herein shall mean a vendor who has received these GENERAL TERMS AND CONDITIONS (the “**Terms and Conditions**”) and a purchase order (the “**Purchase Order**”) from Buyer. The term “**Agreement**” shall include the following, as amended from time-to-time: (i) the Purchase Order; (ii) these Terms and Conditions; and (iii) any attachment or schedule referenced in and attached to the Purchase Order. All capitalized terms not defined in these Terms and Conditions shall have the respective meanings assigned to such terms in the Purchase Order, or if not defined therein, as ascribed to them under the Uniform Commercial Code as in effect in the State of Nebraska.
- 2. Purchase and Sale.** Buyer agrees to purchase from Seller, and Seller agrees to sell to Buyer, certain products from time to time as specified in a Purchase Order. This Agreement shall constitute an offer by Buyer for the purchase of the products specified on the face of each applicable Purchase Order (“**Products**”). Every order for Products by Buyer from Seller shall require a Purchase Order. This Agreement shall not establish any required volume of purchases or sales of Products and does not impose any exclusivity requirements on either party. This Agreement shall apply to any repaired or replacement Products provided by Seller hereunder.
- 3. Acceptance.** Seller’s acceptance of this Agreement shall occur, and this Agreement shall become binding on the parties, upon Seller: (a) executing and delivering the Purchase Order to Buyer; (b) beginning performance under this Agreement; or (c) acknowledging this Agreement in any other manner. If Seller does not reject a Purchase Order in writing within two (2) days of its receipt of the same, the Purchaser Order shall become binding on Seller to the extent that the terms contained in the Purchase Order are not inconsistent with the Terms and Conditions.
- 4. Delivery, Inspection and Rejection of Nonconforming Products.** Seller shall deliver the Products in the quantities and on the date(s) specified in the Purchase Order, or if no delivery date is specified, Seller shall deliver the Products within five (5) days of Seller’s receipt of a Purchase Order (the “**Delivery Date**”). Time is of the essence with regard to the Purchase Order. If Seller fails to deliver the Products in full on the Delivery Date, Buyer may terminate the Purchase Order immediately by providing written notice to Seller and Seller shall indemnify Buyer against any losses, claims, damages, and reasonable costs and expenses directly attributable to Seller’s failure to deliver the Products on the Delivery Date. The Delivery location for all Products purchased by Buyer shall be to Buyer’s facility as designated in the Purchase Order (the “**Delivery Location**”). Buyer has the right to inspect the Products on or after the Delivery Date. Buyer, at its sole option, may inspect all or a sample of the Products, and may reject all or any portion of the Products if it determines the Products are nonconforming or defective. If Buyer rejects any portion of the Products, Buyer shall have the right, effective upon written notice to Seller, to: (a) rescind the Purchase Order in its entirety; (b) accept the Products at a reasonably reduced price; or (c) reject the Products and require replacement of the rejected Products. If Buyer requires replacement of the Products, Seller shall, at its expense, within five (5) days replace the nonconforming Products and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective Products and the delivery of replacement Products. If Seller fails to timely deliver replacement Products, Buyer may replace them with Products from a third party and charge Seller for the cost thereof and terminate the Purchase

Order without any cost to Buyer. Any inspection or other action by Buyer shall not reduce or otherwise affect Seller's obligations under the Purchase Order, and Buyer shall have the right to conduct further inspections after Seller has carried out its remedial actions.

5. **Certificate of Analysis Requirements.** Where applicable, a signed and dated Certificate of Analysis ("COA") must accompany all deliveries to Buyer. The COA may be a paper document or an electronic certificate (preferred) which is provided by email to Buyer. Each Delivery Location has established an email address to which an electronic COA is to be delivered. At the point of delivery, COA documentation shall be clean, dry, legible, and written in English.

The COA shall contain:

- Seller's name and address of the manufacturing site
- Product trade name
- Production date (DD/MM/YYYY format)
- Expiry date (DD/MM/YYYY format)
- Seller lot number
- Batch weight (lbs.)
- Purchase Order number
- Seller's quality contact name and telephone number
- Analytical data for the lot and specification ranges

All parameters reported in the COA shall be measured per manufacturing lot. If a delivery is comprised of more than one manufacturing lot, a separate COA for each lot shall be provided. The analytical data included in the COA shall include the result and specification limits of each parameter that forms a part of Buyer's specifications as set forth in the Purchase Order.

6. **Prices.** Prices for the Products shall be as stated in the Purchase Order. The prices stated shall include all packaging, transportation costs to the Delivery Location, insurance, fees, taxes, levies and the costs incurred in the manufacture and packaging of the Products.
7. **Terms of Payment.** Terms of payment are 2/10 net 45 days based on the applicable periodic billing date, unless specifically stated otherwise in the Purchase Order.
8. **Risk of Loss; Shipment.** Unless otherwise specified on the Purchase Order or provided in this Agreement, all Products shall be delivered FOB destination to the Buyer's designated delivery location on the face of the Purchase Order. Seller shall be responsible to arrange and pay for all freight necessary, if any, to deliver the Products to the Delivery Location identified on the face of the Purchase Order. Seller shall be responsible for payment of all duties, import fees and taxes (other than sales and use tax on the sale of the Products to Buyer). Seller shall be responsible for payment of all costs associated with preparation and loading of Products for shipment. Title of the Products shall pass from Seller to Buyer at the Delivery Location identified on the face of the Purchase Order. Risk of Loss for the Products shall pass at the time the Products are delivered to Buyer's designated Delivery Location.
9. **Default.** Should Seller become insolvent or bankrupt, or breach a material provision of this Agreement, and thereafter fail to remedy (or in the case of insolvency or bankruptcy, commence proceedings in good faith to remedy) such breach within ten (10) days after written demand by Buyer, Buyer may cancel this Agreement. In addition, Buyer shall be entitled to receive such other remedies as may be available to it under this Agreement or applicable law.

- 10. Cancellation for Convenience.** Buyer reserves the right to cancel this Agreement at any time upon notice in writing to Seller. Should this Agreement be so cancelled by Buyer, Buyer shall be responsible for paying Seller, as Seller's exclusive remedy, that portion of the price, not already paid, relating to Products already delivered to Buyer which conform to the requirements of this Agreement, less amounts owed by Seller to Buyer hereunder.
- 11. Federal Food, Drug and Cosmetic Act.** Seller guarantees that none of the Products or any component or ingredient thereof included in any shipment or other delivery of Products hereafter made by Seller to or on the order of Buyer is, as of the date of such purchase or delivery, adulterated or misbranded, or unsafe, within the meaning of the Federal Food, Drug and Cosmetic Act, with all revisions and amendments pertaining thereto, and the Food Additives Amendment of 1958 or within the meaning of any substantially similar state or municipal law or ordinance. Seller warrants that none of the Products, nor any component or ingredient thereof, are prohibited from being introduced into interstate or intrastate commerce pursuant to any federal, state, or municipal law or ordinance. If at any time Seller is notified by any state, federal or other governmental entity that Products sold to Buyer are the subject of any regulatory inquiry or action, Seller shall immediately notify Buyer, and, in such event, Buyer may, in its absolute discretion, discontinue sourcing Products from Seller for such period as Buyer determines, notwithstanding the terms of this Agreement.
- 12. Warranties.** Seller warrants that the Products will: (a) comply in all respects with Buyer's written specifications; (b) be free from defects in materials and workmanship; (c) be fit for their intended purpose and operate as intended; (d) be merchantable; (e) be free and clear of all liens, security interests or other encumbrances; and (f) not infringe or misappropriate any third party's patent or other intellectual property rights. These warranties shall survive any delivery, inspection, acceptance or payment of or for the Products by Buyer. These warranties are cumulative and in addition to any other warranty provided by law or in equity. Any applicable statute of limitations runs from the date of Buyer's discovery of the noncompliance of the Products with the foregoing warranties. If Buyer gives Seller notice of noncompliance with this Section, and if Buyer so requires, Seller shall, at its own cost and expense, within five (5) days of such notice replace or repair the defective or nonconforming Products and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective or nonconforming Products to Seller and the delivery of repaired or replacement Products to Buyer.
- 13. Indemnification.** Seller shall defend, indemnify and hold harmless Buyer, and Buyer's affiliates, successors or assigns, directors, officers, shareholders and employees and Buyer's customers (collectively, "**Indemnitees**") against any and all loss, injury, death, damage, liability, claim, deficiency, action, judgment, interest, award, penalty, fine, cost or expense, including reasonable attorney and professional fees and costs, and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers (collectively, "**Losses**") arising out of or occurring in connection with the Products purchased from Seller and/or Seller's negligence, willful misconduct or breach of this Agreement. Seller shall not enter into any settlement without Buyer's or Indemnitee's prior written consent.
- 14. Insurance Requirements.** Seller shall, at all times, maintain (a) commercial general liability insurance, including premises, operations, products and completed operations, and contractual liability, with limits of not less than Five Million Dollars (\$5,000,000.00) per occurrence for bodily injury and property damage, and Five Million Dollars (\$5,000,000.00) in aggregate; (b) vehicle liability coverage with a combined single limit not less than \$1,000,000 per occurrence; and (c) workers' compensation coverage as required by applicable laws and regulations of the applicable state, and employer's liability insurance with limits of \$1,000,000 for bodily injury by accident, each accident; \$1,000,000 for bodily

injury by disease, each employee; and \$1,000,000 for bodily injury by disease, policy limit. Seller shall also maintain product recall or contaminated products insurance of not less than One Million Dollars (\$1,000,000.00) per occurrence, including coverage for third-party recall liability. All insurance shall be issued by reputable insurers reasonably acceptable to Buyer. Coverage requirements may be satisfied using a combination of primary and excess liability insurance. Insurance shall name Buyer as an additional insured under an "Additional Insured-Suppliers" endorsement, shall be primary and non-contributory, and shall provide that Buyer will be given at least thirty (30) days' prior written notice of any cancellation or reduction in coverage. Upon request by Buyer, Seller shall provide Buyer with a Certificate of Insurance evidencing the coverages herein required and identifying the "Certificate Holder" as Buyer. Seller shall cause its insurer(s) to endorse the required insurance hereunder to waive any rights of subrogation against Buyer. Should Seller fail to adhere to the requirements of this Section, Buyer may order any such insurance and charge the cost thereof to Seller, which amount shall be due and payable by Seller upon demand. The indemnity and insurance obligations of Seller shall remain in effect for so long as Seller is supplying any Products to Buyer and, thereafter, for a period equal to any applicable statute of limitations.

- 15. Trademarks and Confidential and Proprietary Information.** Seller agrees and acknowledges that Buyer is the exclusive owner of all trademarks and trade names relating to the Products sold by Buyer ("**Buyer's Products**"). If necessary, Seller may use such trademarks and trade names during the term of this Agreement for the sole purpose of supplying Products to Buyer under this Agreement. Seller shall acquire no proprietary or other rights with respect to any such trademarks or trade names, and shall discontinue all use of any such trademarks and trade names upon the termination or conclusion of this Agreement. All non-public, confidential or proprietary information of Buyer, including, but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates disclosed by Buyer to Seller, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential," in connection with the Purchase Order is confidential, solely for the use of performing the Purchase Order and may not be disclosed or copied unless authorized by Buyer in writing. Upon Buyer's request, Seller shall promptly return or destroy all documents and other materials received from Buyer.
- 16. Records.** Seller shall keep accurate books of account and records covering all transactions relating to the Products and this Agreement. During the term of this Agreement and for a period of twelve (12) months thereafter, Buyer or its representatives shall have the right upon reasonable notice to Seller to examine and photocopy such books and records during normal business hours to determine compliance with this Agreement.
- 17. Compliance with Laws.** Seller and its designated manufacturing facilities must fully comply with all applicable federal, state and/or local laws and regulations, including, but not limited to, those related to labor, immigration, health and safety, and the environment.
- 18. Severability.** If any term or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be found to be invalid, void, or unenforceable, the remaining provisions of this Agreement and any application thereof shall, nevertheless, continue in full force and effect without being impaired or invalidated in any way. In the event that any portion or all of this Agreement is held to be void or unenforceable, the parties agree to negotiate in good faith to reach an equitable agreement which shall effect the intent of the parties as set forth herein.
- 19. Notices.** Whenever notice is to be served hereunder, service shall be given under this Agreement in writing to the address and contact information set forth in the Purchase Order. Service shall be by (a) hand delivery, and deemed received upon delivery, (b) first class certified mail, return-receipt

requested, postage prepaid, and deemed received five (5) business days after being mailed, (c) a reputable overnight delivery service, postage or delivery charges prepaid, and deemed received three (3) business days after being sent, or (d) via facsimile and deemed received upon oral or e-mail confirmation. Any party may change its address for notice and the address to which copies must be sent by giving notice of the new address to the other party pursuant to this paragraph.

- 20. Governing Law.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of Nebraska, regardless of the laws that might be applied under applicable principles of conflicts of laws. The parties irrevocably submit to the exclusive jurisdiction of (a) the Courts of the State of Nebraska in Douglas County, and (b) if federal jurisdiction exists, to the District Court located in Douglas County for the purposes of any suit, action, or other proceeding arising out of this Agreement.
- 21. No Waiver.** No waiver of any term, provision or condition of this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed to be or be construed as a further or continuing waiver of any such term, provision or condition or as a waiver of any other term, provision or condition of this Agreement.
- 22. Survival.** The provisions of this Agreement which by their nature are intended to survive the termination, cancellation, completion or expiration of the Agreement, including but not limited to any indemnity obligations hereunder, shall continue as valid and enforceable obligations of the parties notwithstanding any such termination, cancellation, completion or expiration.
- 23. Assignment.** This Agreement may not be assigned by Seller without Buyer's written consent. Seller shall promptly notify Buyer of any change in its ownership or certification information on file with Buyer.
- 24. Headings.** Headings and titles of Sections, paragraphs and other subparts of this Agreement are for convenience of reference only and shall not be considered in interpreting the text of this Agreement.
- 25. Exclusive Benefit of Parties.** This Agreement and each and every provision hereof is for the exclusive benefit of Buyer and Seller, and their permitted assignees, and not for the benefit of any third party.
- 26. Complete Agreement.** This Agreement sets forth the full and complete understanding of the parties and supersedes any and all agreements and representations made or dated prior thereto. No terms or conditions in Seller's forms or communications with Buyer, including, without limitation, acknowledgements and invoices, shall apply, even if Buyer accepts or pays for Products covered thereby. Trade custom, trade usage and past performance are superseded by this Agreement.
- 27. Conflicts.** In the event of any conflict or inconsistency among the Purchase Order, these Terms and Conditions and any schedule or attachment to the Purchase Order, the conflict or inconsistency shall be resolved by giving precedence in the following in descending order: (a) provisions set forth on the face of the Purchase Order, (b) these Terms and Conditions, and (c) the schedules and attachments to the Purchase Order.