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Purchase Order Terms and Conditions

TERMS AND CONDITIONS

- 1. ACCEPTANCE.** Acceptance of this purchase order ("Purchase Order"), at the prices specified, is limited to the express terms contained herein. These terms and conditions may only be changed upon the execution of a separate written agreement signed by authorized representatives of Avery Dennison and the person or entity to which the Purchase Order is issued. Receipt of contrary provisions, provided in an order acknowledgement, invoice or other form are expressly rejected will be null and void and of no effect, whether or not Avery Dennison has accepted any products or services under said Purchase Order. A Purchase Order without prices specified therein is invalid. If Seller supplies Avery Dennison with products or services under a Purchase Order, Seller agrees to give Avery Dennison sixty (60) days notice of its intention to discontinue such products or services and to provide Avery Dennison with a final end of life buy to acquire any remaining products that Seller may have in inventory.
- 2. DEFINITIONS.** As used herein, "Buyer" or Avery Dennison is Avery Dennison Retail Information Services, LLC Fastener Division, Fitchburg, MA and "Seller" is the entity to whom Buyer has issued this Purchase Order.
- 3. DELIVERY.** Buyer shall have the right to reject and cancel without liability any deliveries that are not made upon the designated dates, or to cancel any Purchase Order within five (5) days of the delivery date, unless otherwise agreed to in writing.
- 4. PACKING.** All shipments must include a packing slip identified by Purchase Order number, including Release Number, if applicable, and show gross fare and net weights, or quantity as required as well as any other information requested in the Purchase Order.
- 5. QUALITY, INSPECTION, REJECTION, AND WARRANTY.** Seller expressly warrants that all goods or services furnished under this Purchase Order shall conform to all specifications and appropriate standards, will be new, and will be free from defects in material or workmanship. Seller warrants that all such goods or services will conform to any statements made on the containers or labels or advertisements for such goods, or services, and that any goods will be adequately contained, packaged, marked and labeled. Seller warrants that all goods or services furnished hereunder will be merchantable, and will be safe and appropriate for the purpose for which goods or services of that kind are normally used. If Seller knows or has reason to know the particular purpose for which Buyer intends to use the goods or services, Seller warrants that such goods or services will be fit for such particular purpose. Seller warrants that neither the goods and services nor Buyer's use of the goods and services will violate any intellectual property rights of any third party, or constitute misappropriation or wrongful use of any trade secret or confidential information. Seller warrants that goods or services furnished will conform in all respects to samples. Seller warrants that the goods will be free of any encumbrances. Seller warrants that all Certificates of Origin for its goods, including but not limited to those provided pursuant to the North American Free Trade Act (NAFTA), shall



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be provided to Buyer on a timely basis and shall be accurate and complete. Seller further warrants that it shall not change the country of origin of the goods, or any raw material or component of the goods, without obtaining Buyer's prior written approval. Inspection, test, acceptance, review and approval of Seller's materials or designs, or use of the goods or services furnished hereunder shall not affect the Seller's obligation under this warranty, and such warranties shall survive inspection, test, acceptance and use. Seller's warranty shall run to Buyer, its successors, assigns and customers, and users of products sold by Buyer. Seller agrees to replace or correct defects of any goods or services not conforming to the foregoing warranty promptly, without expense to Buyer, when notified of such nonconformity by Buyer. In the event of failure of Seller to correct defects in or replace nonconforming goods or services promptly, Buyer, after reasonable notice to Seller, may make such corrections or replace such goods and services and charge Seller for the cost incurred in doing so or engage a third party to provide substitute goods or services and charge Seller for the costs of obtaining the substitute goods or services from the third party.

Seller warrants that the prices for the goods sold Buyer hereunder are not less favorable than those currently extended to any other customer for the same or similar articles in similar quantities. In the event Seller reduces its price for such goods during the term of this Purchase Order, Seller agrees to reduce the prices hereof correspondingly. Seller warrants that prices shown on this Purchase Order shall be complete, and no additional charges of any type shall be added without Buyer's express written consent. Such additional charges include, but are not limited to, shipping, packaging, labeling, custom duties, taxes, storage, insurance, boxing, and crating.

Further, the Seller acknowledges that the Buyer is relying on the Seller's expertise in providing product that meets these requirements, and, should the product fail to perform to such specifications, the Buyer will be severely impacted. Buyer may reject all or any part of any shipment or performance that fails to meet specifications or is otherwise non-conforming. Buyer at its option, reserves the right to have rejected material replaced by Seller or returned for credit, with the Seller to bear all replacement product costs, transportation charges, packing costs, and any costs or expenses associated with the breach of warranty. This warranty shall survive any delivery, inspection, acceptance or payment for the materials or services by the Buyer and shall apply to defects or any other non-conformity, both patent and latent. The warranties listed above are in addition to any other warranties expressly made by Seller or imposed by law.

6. **COMPLIANCE.** By accepting this Purchase Order, Seller represents that it is in compliance with all applicable federal, state, or other HKSAR/Country of Origin workplace laws and regulations including Avery Dennison's Supplier Standards, Restricted Substance Lists (RSL) available at www.averydennison.com.

7. **BUYER'S PROPERTY.** Seller acknowledges that all materials and tools furnished or specifically paid for by Buyer are the property of Buyer and shall be used only for Buyer's purposes, unless otherwise specifically approved by Buyer. All such materials and tools shall be subject to removal or return upon notice by Buyer, shall be used only for this Purchase Order or subsequent ones issued by Buyer, shall be kept separate from other materials or tools, and



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shall be clearly identified as the property of Buyer. At the conclusion of the relationship between Buyer and Seller, Seller shall return all materials and tools to Buyer, or with Buyer's consent, arrange for the destruction of the tools and/or materials. The Seller assumes all liability for loss or damage to Buyer's property, normal wear and tear excepted and shall insure Buyer property as is customary in the industry.

8. **INTELLECTUAL PROPERTY.** If this Purchase Order is in whole or in part for the development for Buyer of any product or process or for the provision of any service that may result in the creation of any intellectual property: (I) Seller hereby conveys to Buyer all right, title and interest in and to all intellectual property (including, but not limited to, patents, trade secrets, trademarks, copyrights, mask works inventions, improvements, ideas, discoveries, software and other works of authorship, data, and know-how) whether or not patentable or otherwise protectable, conceived, created, or first reduced to practice, in connection with work called for under this Purchase Order. Seller agrees to keep and preserve, for three (3) years from final delivery under this Purchase Order, proper engineering and other records and to make such records available to Buyer upon request. At Buyer's request and expense, Seller and its employees shall execute all documents and perform all acts deemed by Buyer necessary or appropriate to perfect Buyer's title in such intellectual property, and to enable Buyer to apply for, obtain, own, maintain, and enforce anywhere in the world patent, trade secret, copyright, trademark and other forms of protection in such intellectual property. Buyer, in its sole discretion may make changes of any nature whatsoever to such intellectual property. Seller will promptly disclose to Buyer in writing any rights acquired under this subparagraph. (II) Unless expressly superseded by a separate license agreement signed by an officer of Buyer, Seller hereby conveys to Buyer a non-exclusive, perpetual, worldwide, royalty free right and license (with right to sublicense others) to utilize any other intellectual property that is incorporated in or utilized in connection with any product, process or service delivered hereunder that is owned or controlled by Seller or any of its subcontractors or licensors. To the fullest extent permitted by law, all software and other works of authorship created by Seller or its subcontractors under this Purchase Order that are subject to copyright protection shall be deemed works made for hire. No license or right, either directly or by implication, is granted to Seller or its subcontractors and their employees to use any intellectual property of Buyer, including, but not limited to, Buyer's name or any of Buyer's logos and designs for any advertising, promotional or other purpose without the prior written permission of Buyer.

9. **INFRINGEMENT.** Seller warrants that the processes or services acquired by Buyer hereunder, do not and will not, infringe or contribute to the infringement of any patent now or hereafter issued, or misappropriate or violate any other intellectual property right (including but not limited to copyrights, trademarks and trade secrets) of any third party. Seller agrees to defend, at Seller's expense, all suits at law or in equity that may arise with respect to any actual or alleged infringement of any intellectual property right by reason of the manufacture, sale, lease or use of any of the processes, products or services acquired under this Purchase Order. Seller agrees to protect, indemnify and hold harmless Buyer, its successors, assignees, subsidiaries, affiliates, employees, representatives, customers and users of its products, processes or services from all loss, expenses, costs (including attorney's fees and court costs), royalties and other damages that may be incurred on account of any such actual infringement or violation of any intellectual property. If an injunction is obtained against Buyer or Buyer's customers against the sale or use of any products, processes or services, by reason of such infringement or violation, Seller, at its option and expense,



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shall either procure for Buyer the right to continue selling and using such products, processes or services, or replace or modify such products, processes or services so that they become non-infringing and remain suitable for Buyer's intended use. Seller shall not enter into any settlement agreement without the prior written consent of Buyer, not to be unreasonably withheld. The provisions of this paragraph shall not apply with respect to such infringement or violation with regard to products or processes developed or services performed under this Purchase Order directly resulting from specific detailed development requirements imposed in writing on Seller by Buyer. In the event that Seller does not assume the defense of Buyer, Buyer may take on the defense by counsel of its own choosing and Seller shall be responsible for all costs, including attorney fees incurred by Buyer in connection with such defense.

10. **CONFIDENTIAL INFORMATION.** Seller shall consider all information furnished by Buyer to be confidential and shall not disclose any such information to any other person, or use such information itself for any purpose other than performing this Purchase Order, without Buyer's written consent. All documents generated by Seller shall be considered (unless specifically marked otherwise) as confidential. This paragraph shall apply to drawings, specifications, or other documents prepared by Seller for Buyer in connection with this Purchase Order, all of which shall be returned to Buyer upon completion of this Purchase Order. Seller shall not, except as necessary in the performance of this Purchase Order or as authorized in writing by Buyer, supply, disclose or otherwise permit access to, or authorize any other person to supply, disclose or otherwise permit access to any information concerning or related in any way to Buyer's business which Seller may acquire by reason of its performance of this Purchase Order. Seller agrees to obtain the same assurances as to confidentiality and nondisclosure set forth in these Terms and Conditions from all entities which may be called upon to assist Seller in its performance of this Purchase Order. The obligations of this Article shall survive the termination of this Purchase Order. The obligations of confidentiality do not apply to information which is or becomes part of the public domain through no fault of Seller. Unless otherwise agreed in writing and signed by both parties, no information disclosed by Seller to Buyer shall be deemed confidential.

11. **ADVERTISING.** Seller shall not, without Buyer's prior written consent, advertise or otherwise disclose that Buyer has issued this Purchase Order to Seller.

12. **ASSIGNMENT AND SUBCONTRACTS.** Seller shall not assign, subcontract or transfer this Purchase Order or any right or obligation hereunder, without Buyer's prior written consent. Purchases of parts and materials normally purchased by Seller or required by this Purchase Order shall not be construed as assignments or subcontracts. Buyer may assign this Purchase Order to an affiliate under common control or to an entity acquiring substantially all of the assets of the business for which this Purchase Order is associated.

13. **HAZARDOUS MATERIALS.** If any of the materials furnished pursuant to this Agreement are designated by laws, rules, regulations or ordinances as hazardous or toxic, either in the form to be furnished or as waste upon disposal, Seller shall notify Buyer and propose a nonhazardous or nontoxic alternative if such an alternative exists. Seller shall package and label all such materials in accordance with applicable laws, rules, regulations and ordinances and with all applicable certificates, warnings and instructions for shipping, safety, handling exposure and



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disposal in a form sufficiently clear for use by non-technical personnel. Seller shall mark each package in accordance with the then current "Hazardous Materials Regulations" of the Department of Transportation

14. **GIFTS.** Buyer's employees and members of its families may not accept gifts or gratuities of any type from any supplier.

15. **CONFLICTS.** In the event of a conflict between this Purchase Order and specific terms and/or conditions contained in a properly executed and valid contract or supply agreement between Buyer and the Seller, the latter will be considered governing over this Purchase Order. This applies only to those specific terms and/or conditions that are in conflict.

16. **INDEMNIFICATION.** Seller shall defend, indemnify and hold harmless Buyer, its affiliates, agents, successors, assigns, customers and other vendors, and their respective present and future directors, officers, employees (collectively, "Indemnified Parties") against all claims, demands, liabilities, losses, costs, fees, expenses, damages, penalties and injuries of any kind or nature (including court costs and reasonable attorneys' and experts' fees) (collectively, "Damages") arising out of or resulting in any way from any breach of the warranties set forth herein, from any act or omission of Seller, its agents, employees or subcontractors and from all damages suffered as a result of the failure of Seller's goods or services to comply with all state, federal and local laws, rules and regulations. This indemnification shall be in addition to the warranty obligations of Seller.

17. **FORCE MAJEURE.** Buyer shall have the option of canceling all or any part of the undelivered goods and/or services covered by this Purchase Order, or Buyer may delay delivery or acceptance occasioned by causes beyond its control without liability in respect of the goods and/or services so cancelled. Seller shall hold such goods at the direction of the Buyer, and shall deliver them when the cause affecting the delay has been removed. Buyer shall be responsible only for Seller's direct additional costs in holding the goods or delaying performance of this Purchase Order at Buyer's request. Neither party shall be responsible or liable to the other party for failure or delay in performance of its obligations under this Agreement, because of circumstances beyond its reasonable control, including, but not limited to, acts of God, flood, fire, accident, embargoes, sabotage (including, but not limited to computer viruses), governmental action, or the effect of any laws, ordinances or regulations which restrict or prohibit the transactions contemplated by this Agreement. In the event that Seller is unable substantially to perform for any of the reasons described in this Article, it shall notify Buyer promptly, in writing, of such inability to perform and shall use best efforts to remove or correct the cause of its inability to perform and shall resume performance hereunder as soon as practicable whenever such cause is removed or corrected. If Seller's ability to supply Buyer's purchase requirements under this Agreement is effected by a force majeure condition (as set forth in this Article), Seller agrees that it will not allocate its supply of goods amongst its customers unless and until Buyer's purchase requirements are met under this Agreement.

18. **IMPORTATION.** In the event Seller is responsible for the entry and importation into the customs territory of the United States of the goods subject to this Purchase Order, Seller will exercise reasonable care with respect to



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the declared value, tariff classification, and country of origin of the goods reported to United States Customs and Border Protection, and will otherwise comply with all applicable provisions of the United States customs laws. Seller shall indemnify Buyer for any costs, duties, fees, taxes, losses, and damages, including court costs and reasonable attorneys' and experts' fees, which may be incurred by Buyer for any actual or alleged violation of the U.S. customs laws with respect to such goods.

19. **TERMINATION OF CONVENIENCE BUYER.** Buyer reserves the right to terminate this Purchase Order or any part hereof for its sole convenience. In the event of such termination, Seller shall immediately stop all work hereunder. Seller shall be paid a reasonable termination charge consisting of a percentage of the Purchase Order price reflecting the percentage of the work performed prior to the notice of termination, plus actual direct costs resulting from termination. Seller shall not be paid 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.

20. **TERMINATION FOR CAUSE.** Buyer may terminate this Purchase Order for default in the event of failure to make timely progress, nonperformance, or breach by Seller of this Purchase Order, or in the event of insolvency, bankruptcy, or receivership of Seller, effective upon written notice to Seller. Late deliveries, deliveries of goods which are defective or which do not conform to this Purchase Order, and failure to provide Buyer, upon request, reasonable assurances of future performance shall all be causes allowing Buyer to terminate this Purchase Order for cause. In the event of termination for cause, Buyer shall not be liable to Seller for any amount, and Seller shall be liable to Buyer for any and all damages sustained by reason of the default which gave rise to the termination. In the event of termination under this Article, Buyer may engage a third party to provide substitute goods or services and charge Seller for the costs of obtaining the substitute goods or services from the third party. Upon receipt of notice of termination for any reason, Seller shall immediately deliver to Buyer all data and materials held or used by Seller in connection with this Purchase Order, whether generated by Seller or furnished to Seller by Buyer.