

# **Spectrum Brands, Inc. Hardware & Home Improvement Division Terms and Conditions of Purchase**

*Spectrum Brands, Inc., FKA as the following: Kwikset Corporation, Price Pfister, Inc, Weiser Lock Corporation, Baldwin Hardware Corporation, National Hardware Co., Conditions of Purchase*

## **1. General**

Buyer's purchase order is buyer's offer to seller to purchase the goods and services described herein and is not binding on buyer until accepted by seller. Acceptance of all terms and conditions of buyer's purchase order shall take place upon execution and return of the acknowledgement copy or by part performance of buyer's purchase order. Any additional or different terms or conditions set forth in any acknowledgement, acceptance or invoice of seller or in any similar communication are hereby rejected and shall not be binding or effective unless expressly assented to in writing by an authorized representative of buyer.

The Spectrum Brands terms and conditions for all purchase orders (the "terms of purchase") shall constitute the complete agreement between the buyer and seller and supersede all other agreements and understandings between the parties, except to the extent a formal agreement has been reached between the parties, as outlined in Section 50 below.

## **2. Changes**

Buyer may at any time prior to shipment of products by Seller, by written change order, change the design (including materials, drawings, and specifications), processing, method of packing and shipping, and the place of delivery, of the products and services. If the change affects cost or timing, Buyer shall adjust the purchase price and delivery schedules equitably. Seller shall not make any change in the design, processing, method of packing or shipping, or place of delivery of the products and services without the written consent of Buyer.

## **3. Shipping Instructions and Releases**

If Seller fails to follow shipping instructions, Seller shall be responsible for all additional transportation charges and costs incurred. If delivery dates are not specified on the face of Buyer's purchase order, Seller shall ship goods only as authorized in shipment releases issued to Seller by Buyer. Buyer may return over-shipments or early shipments to Seller at Seller's expense. Buyer from time to time and with reasonable notice to Seller may change or temporarily suspend shipping schedules specified in Buyer's purchase order or shipment releases.

## **4. Premium Freight Charges**

Premium Freight charges due to mis-description of freight terminology, mis-routing, overdue or partial shipments (not including those authorized) will be paid by Seller upon notification by Buyer. No charge for boxing or cartage, unless previously arranged, will be assessed. Seller will follow routing as shown for all shipments.

## **5. Delivery**

Delivery must be made within the time and at the specific quantity stated on the face of Buyer's purchase order or shipment release. If delivery is not made as requested, Buyer reserves the right, at its option, to purchase elsewhere and charge Seller with any loss incurred as a result thereof (including any incidental and consequential damages), and to cancel the order, and to have the goods shipped air freight at Seller's cost. Acceptance by Buyer of a late delivery of either the whole or a part of the order shall not constitute a waiver of Buyer's claim for any damage that the late delivery may have caused.

#### **6. Delivery and Risk of Loss**

Unless otherwise stated on the face hereof, all goods are to be furnished F.O.B. point of destination, and no charges will be allowed for freight, transportation, crating, handling, demurrage, or for any other matter relating to the delivery of the goods to Buyer unless authorized in writing by Buyer. The entire risk of loss, injury or destruction of the goods, regardless of the F.O.B. point and cause therefore, shall be borne by Seller until the goods are delivered to and accepted by Buyer. All deliveries are to be tagged with the purchase order number that appears on the face hereof, and no partial deliveries shall be permitted unless otherwise specified on the face hereof.

#### **7. Price**

If price is not stated in Buyer's purchase order or in any other agreement between Buyer and Seller, it is agreed that Seller's price shall be the lowest prevailing market price as at the time of order. Price is to cover purchased goods or services in their entirety and, where purchase is by weight, net weight of material. No charges of any kind, including but not limited to charges for boxing, packaging, loading, bracing or cartage, will be allowed unless authorized by Buyer in writing.

#### **8. Discount and Settlement of Invoices**

Unless otherwise agreed by Buyer and Seller, the payment terms hereunder shall be stated on the Purchase Order. Any adjustments in Seller's invoice due to shortage, late delivery, rejection or other failure to comply with Buyer's purchase order shall be made before payment.

#### **9. Warranty and Indemnity.**

(a) Seller expressly warrants that all goods, material and workmanship will conform to applicable drawings, specifications, samples, or other descriptions given, will be merchantable and fit for the purpose intended, and will be free from defects. All goods delivered shall meet all required UL/CSA or other international regulatory requirements as are mandated in the country of final sale. All goods delivered and services performed will be subject to test and inspection by Buyer at the place of manufacture or at destination or at both. Any of the goods found at any time to be damaged (including goods damaged due to unsatisfactory packaging by Seller) or defective or not in conformity with Buyer's purchase order may be corrected by Buyer at Seller's expense or rejected and returned at Seller's expense. If Buyer elects to return such goods to Seller at any time, Buyer shall be entitled to a credit equal to the purchase price of the goods or services, plus 15% of the purchase price of the goods or services. However, Buyer's inspection or failure to inspect shall in no way relieve Seller of responsibility hereunder.

(b) To the fullest extent permitted by law, Seller agrees to indemnify and hold harmless Buyer from and against any and all liabilities, losses, damages, judgments, awards, costs, fees, and expenses, including all incidental and consequential damages (including, but not limited to, attorneys' fees and costs of investigation) incurred by Buyer resulting from or relating to any claim, notice, allegation, complaint, demand, action, lawsuit, investigation, proceeding, or other process or procedure of any kind (including, but not limited to, Buyer's own internal investigations, proceedings processes or procedures, and those based in whole or part on patent, trademark or copyright infringement, negligence, product liability, quality defects, willful misconduct, breach of express or implied warranties, strict liability, deceptive or unfair trade practices, advertising liability, governmental statute or regulation, and the like) and caused by, arising out of or in any way resulting from the goods, materials, products, or services provided, shipped, furnished or delivered or services performed by Seller to, for, or on behalf of Buyer. The obligations of Seller under this Section 7(b) shall survive cancellation or termination of each purchase order agreement. The obligations of Seller under this Section 7(b) are independent and do not in any way limit or satisfy the obligations of Seller to Buyer under any other provision of this agreement.

(c) In the event that Buyer becomes subject to any investigation or report to a governmental agency or voluntary standards organization relating to compliance with safety regulations or product safety, or becomes subject to any corrective action plan, consent agreement or order requiring corrective action (including without limitation notice, recall, retrofit, repair, replacement or the refund of purchase price of said products or services, whether at the wholesale, retail or consumer distribution level), whether such corrective action plan, consent agreement or order is voluntary or is a mandate of any governmental agency or voluntary standards organization, or becomes subject to Buyer's own investigation relating to compliance with safety regulations or product safety, as the result of, arising from or in any way related to the goods, materials, products or services provided, shipped, furnished or delivered or services performed by Seller to, for, or on behalf of Buyer, Seller agrees to defend, protect, indemnify and hold harmless Buyer from any and all expenses and liabilities (including without limitation attorneys' fees and expenses, administrative costs and expenses, costs of investigation, notice, corrective action, recall, repair, replacement or the refund of the purchase price) which may be incurred in connection with any such investigation, corrective action plan, consent agreement or order requiring corrective action, or in assuring compliance or aiding or assisting compliance with such mandates.

(d) The obligations of Seller under this Section 7 shall survive cancellation or termination of Buyer's purchase.

#### **10. Seller's Warranties**

Seller warrants, in addition to such warranties that are ordinarily extended by the Seller that are established by the Uniform Commercial Code or other applicable law, that the goods it sells to Buyer will comply with all applicable laws; be of merchantable quality and free of defects in workmanship and materials; not infringe the patent, copyright, trademark or trade secret rights of any person; and be sold to Buyer at all times at prices which are no higher than those charged by Seller to other purchasers who purchase goods of like grade and quality in similar quantities.

## **11. Confidential Information and Design Rights**

All drawings, specifications, technical information, pricing information, data, designs, and other information furnished to Seller by Buyer in connection with the purchase of goods or services covered by Buyer's purchase order shall remain the property of Buyer and shall be maintained in confidence by Seller and shall be used by Seller only in connection with the performance of its obligation hereunder. Seller may disclose such information only to its employees on a need-to-know basis, but except as required by law (and then only with prior written notice to Buyer) shall not disclose the same to any third party, or publish, release or duplicate it at any time in any manner, without the express prior written consent of Buyer. The obligations set forth in this paragraph shall not apply to such information which Seller can establish by tangible evidence (a) was rightfully known or possessed by Seller at the time of its disclosure by Buyer to Seller, (b) is or becomes known to the public through disclosure in a printed publication without breach of Seller's obligations hereunder, or (c) is subsequently received by Seller from a third party having a lawful right to disclose it without restriction. Seller expressly agrees to, and hereby does, assign and transfer to Buyer all right, title and interest that Seller may have or to which it may be entitled, (a) in and to all copyrights in any work authored, directly or indirectly, with regard to goods specially manufactured for Buyer, including all designs, drawings, graphics, pictures, sculptures, text, specifications, technical information, and data, and (b) in and to all inventions, whether or not patentable (and to any patents or other protective rights including trade dress rights thereon), conceived or first reduced to practice, directly or indirectly, with regard to goods specially manufactured for Buyer. Seller agrees to execute such further confirmatory assignments, not inconsistent with this Paragraph 8, as are deemed necessary or desirable by Buyer when presented by Buyer for execution by Seller, without charge. Seller expressly agrees and hereby does, grant to Buyer and its subsidiaries and affiliates, a nonexclusive, royalty-free, irrevocable worldwide license (a) under each and every copyright of Seller in any work authored prior to Buyer's purchase order that is in any manner applicable to any work produced in response to Buyer's purchase order and to any later modification thereof, and (b) to use and sell goods purchased hereunder anywhere in the world under each and every patent of Seller.

## **12. Tooling**

Any tooling for which Buyer is invoiced separately or the price for which is amortized into the item(s) price will become the property of Buyer, and title shall transfer to Buyer upon Buyer's payment. If Buyer decides to remove tooling from Seller's premises, the only additional charge to the Buyer will be for freight (FOB Seller's Plant where the tooling is located). Seller will also supply one complete set of Engineering Bill of Materials, drawings and prints covering the tooling.

## **13. Buyer's Property**

Any raw material furnished by Buyer in connection with Buyer's purchase order shall be deemed to be held by Seller upon consignment, and Seller agrees to pay for all such material spoiled or not otherwise satisfactorily accounted for. Buyer will specify acceptable scrap allowance, if any, and any amount in excess of this will be paid for by Seller at Buyer's cost. All tools, gauges, patterns, dies, and other material and equipment furnished to Seller by Buyer shall remain the property of Buyer. It shall be plainly identified by Seller as "Property of Spectrum Brands, Inc." and shall be safely stored and not used except in filling Buyer's orders. The property, while in Seller's custody, shall be maintained in good condition at Seller's expense and shall be kept

insured by Seller at Seller's expense in an amount equal to the replacement cost, with loss payable to Buyer. Seller shall furnish to Buyer a certificate of insurance evidencing Seller's compliance with the provisions of this Section 13. Buyer's property may be removed by Buyer at any time. Notwithstanding anything to the contrary in Buyer's purchase order, Seller shall not use any trademark, trade name or trade dress right of Buyer in any manner other than for the benefit of Buyer and only upon Buyer's prior written request and in strict accordance with Buyer's written instructions.

#### **14. Patent Guarantee**

Seller warrants that the sale or use of the goods or materials covered by Buyer's purchase order shall not infringe or contribute to the infringement of any patents, utility model registrations, design registrations, trademarks, or copyrights, or embody an unauthorized use of trade secrets, either in the U.S.A. or any patent territory or country. Seller agrees to indemnify and hold Buyer harmless from and against all claims, liabilities, costs, damages, or expenses (including attorneys' fees) of any kind, involving any such actual or alleged infringement or unauthorized use, excluding, however, any infringement or use solely relating to concepts, designs, or ideas furnished in writing by Buyer and which, as between Buyer and Seller, originated with Buyer. Seller agrees that it will, upon reasonable notice and request from Buyer, assume the defense of the Buyer, its successors, assigns, and customers of its goods, against any such aforementioned suit, claim or demand. In addition, if the sale or use of the goods or materials purchased is enjoined, Seller at its own expense and at Buyer's option shall (a) procure for the Buyer and its customers the right to continue using and selling the goods or materials, (b) modify the goods or materials so as to be non-infringing, (c) replace the goods or materials with non-infringing goods or materials, or (d) refund the purchase price to Buyer.

#### **15. Cancellation Provisions**

Either party shall have the right to cancel Buyer's purchase order in the event that the other party files or has filed against it any petition under the bankruptcy laws (if not vacated within 60 days of filing), the other party becomes insolvent or makes an assignment or arrangement for the benefit of creditors. In addition to all of the other rights which Buyer may have to cancel Buyer's purchase order, Buyer shall have the further right, without assigning any reason therefore, to terminate any work hereunder, in whole or in part, at any time. Upon receipt of a notice of termination, Seller shall, unless the notice otherwise directs, immediately discontinue all work on the order. Buyer will not be liable to Seller for any costs for completed articles, articles in process, or materials acquired or contracted for, if the costs were incurred more than ten (10) days prior to the delivery date stated on the face of the order. If Buyer cancels prior to the delivery date stated on the face of Buyer's purchase order and if the parties cannot agree within a reasonable time upon the amount of fair compensation to the Seller for the termination, Buyer shall pay (a) the contract price for all articles completed in accordance with Buyer's purchase order and not previously paid for, (b) a fair and proper portion of the contract price for articles in process, and (c) Seller's costs for all materials acquired or contracted for by Seller for the purpose of fulfilling Buyer's purchase order that Seller is unable to cancel or return. If Buyer so desires, cancellation charges shall be subject to Buyer's audit. With Buyer's prior consent, Seller may sell or retain at an agreed price any completed articles, materials, work in process, or other things, payments for which, in whole or in part, by Buyer is provided for above, and Seller shall credit or pay Buyer the amounts so agreed or received. Any goods, materials, work in process, or

other things not so retained or sold shall be transferred and delivered by Seller in accordance with Buyer's directions. Appropriate adjustment shall be made for delivery costs or cost savings. The provisions of this paragraph shall not limit or affect the right of Buyer to terminate Buyer's purchase order upon default of Seller. In no event shall Buyer be liable for any incidental or consequential damages, including without limitation, loss of profits or business, or damages arising out of Buyer's cancellation of orders or the termination of business relations with Buyer, even if Buyer has been advised by Seller of the possibility of such damages.

#### **16. Non-Exclusivity; Waivers and Assignment**

Each of the remedies reserved to Buyer herein shall be cumulative and in addition to all other or further remedies provided herein or by law. Any waiver of strict compliance with the terms of Buyer's purchase order shall not be a waiver of Buyer's right to insist upon strict compliance with the terms of Buyer's purchase order thereafter. Seller may not assign any of its rights or delegate any of its duties hereunder without Buyer's prior written consent.

#### **17. Insurance**

Seller shall procure and maintain comprehensive commercial general liability insurance (including without limitation coverage for products liability, advertising liability and the contractual assumption of liability under this agreement) covering, on an occurrence basis, with limits of at least \$3,000,000.00 per occurrence, claims for bodily injury, sickness and disease including death, property damage, and damages relating to loss of use of physical property, arising out of or relating to all goods, materials, products or substances provided, shipped, furnished, or delivered or services performed which are the subject of this agreement. Each policy required by this paragraph shall name Buyer as an additional insured for all such coverages, shall require the insurer or the Seller to provide notice in writing to Buyer at least 30 days prior to any cancellation or non-renewal, and shall provide that such insurance shall be primary insurance without any right of contribution from any other insurance carried or maintained by Buyer. Seller shall annually, and more frequently upon request of Buyer, furnish to Buyer certificates of insurance evidencing Seller's compliance with the provisions of this Section 17. The obligations of Seller under this Section 17 are independent and do not in any way limit or satisfy the obligations of Seller to Buyer under any other provision of this agreement.

#### **18. Compliance with Law**

Seller shall comply with all applicable laws, rules, and regulations of the country of performance, shipment and destination. Seller represents and warrants that (i) the operation of the production facilities and the other business and labor practices of Seller and all its suppliers, subcontractors and agents involved in the production or delivery of goods and services purchased pursuant to Buyer's purchase order strictly adhere to all applicable federal, state and local laws, regulations and prohibitions of the countries in which the goods and services are produced or delivered, including laws, regulations and prohibitions governing the working conditions, wages, hours and minimum age of the workforce, (ii) the goods and services have not been and shall not be produced or manufactured, in whole or in part, by child labor or by convict or forced labor, (iii) the goods and services shall not have been transshipped for purposes of avoiding compliance with labor laws, and Seller is in compliance with the Customs-Trade Partnership Against Terrorism program initiated by the United States Bureau of Customs and Border Protection.

Seller further agrees to furnish such documentation as may be required by Buyer to evidence compliance with the foregoing. Buyer or a third party designated by Buyer shall have the right, at any time while Seller is supplying goods or services to Buyer, upon reasonable notice, to inspect Seller's and its suppliers', subcontractors' and agents' production facilities to verify the representations and warranties in this paragraph. Seller acknowledges that Buyer may serve from time to time as contractor for the United States Government. Seller agrees to comply with all United States federal laws, rules, and regulations applicable to subcontractors of government contractors. All contract clauses required by the government in such circumstances are incorporated herein by reference.

### **19. Taxes**

The price stated on the face hereof shall include any and all taxes and other governmental charges, now imposed or hereafter becoming effective, upon the production, sale, shipment, or use of the materials and Seller shall pay and discharge all such taxes and charges without reimbursement from Buyer.

### **20. Government Contracts; Affirmative Action Requirements**

If a Government Contract Number is shown on the face of this Purchase Order, the goods or portions thereof purchased by this order will be used in the performance of either a prime contract with the United States Government or a subcontract or purchase order there under. In any such event, Seller shall comply with any equal opportunity obligations under Executive Order 11246, as amended, the Vietnam Era Veterans Readjustment Assistance Act of 1974, the Rehabilitation Act of 1973, and the regulations promulgated under those orders or statutes, that would apply to it because work is performed as a government contractor under this Purchase Order, and make a good faith effort on any subcontracting work, if the amount is \$10,000 or more, to utilize Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals as set forth in Armed Services Procurement Regulations #7-104, 14(a). Further, in connection with the performance of such work, the Seller shall comply with, (a) the Affirmative Action clause for the Utilization of Women Owned Business concerns set forth in Armed Services Procurement Regulation #7-104.52; (b) The Equal Opportunity clause set forth in 41 C.F.R. #60-1.4 on contracts exceeding \$10,000; (c) the Affirmative Action clause for Disabled Veterans and Veterans of the Vietnam Era set forth at 41 C.F.R. #60-250.4 on contracts of \$10,000 or more, and (d) the Affirmative Action clause for Handicapped Workers set forth at 41 C.F.R. #60-741.4 on contracts of \$2,500 or more.

### **21. Export/Import**

For each international shipment, Seller shall include a priced invoice with the master packing slip and upon request shall furnish all other required documents. The invoice shall include (i) the Seller's name, contact person, address, telephone, and facsimile number, (ii) the "sold to" address or billing address, (iii) the "ship to" address or destination address, including a contact person at the receiving location, (iv) the number of cartons and total number of pieces for each item, (v) the total net weight for each part number, (vi) the Buyer's part number, (vii) the specific description for the part in English (if multi-tool kits are being shipped, an attached breakdown with cost must be included. Value of consigned inventory must also be included on the invoice or in an attachment), (viii) the HTS Code, (ix) the country of manufacture/origin (country of

origin is not determined by country of export, but by the country of manufacture), (x) the unit price for each component, (xi) the extended total (unit price multiplied by number of units/pieces), (xii) any freight or insurance incurred that is not included in the unit price, (xiii) the total value of the invoice, identifying the type of currency, (xiv) the total weight, including the weight of the outer packaging, and (xv) the terms of sale. Export credits shall belong to Buyer. Seller, upon request, shall furnish all documents required to obtain export credits and customs drawbacks and shall identify the country of origin of the materials used in the goods and the value added thereto in each country. Seller shall ensure that the proper country of origin is marked on the goods and/or their container as required by U.S. Customs regulations.

## **22. Environmental**

Seller warrants compliance with all environmental laws and regulations of the country of origin and destination for each material constituting or contained in goods sold or otherwise transferred to the Buyer under Buyer's purchase order.

## **23. Applicable Law and Jurisdiction**

Buyer's purchase order shall be governed by the laws of the state where the Buyer is located, and litigation arising out of or in connection with Buyer's purchase order shall be brought only in a Federal District Court located in such state, or in a court of such state. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to Buyer's purchase order.

## **24. Force Majeure**

The obligations of the parties hereto, except the obligation to pay monies when due hereunder, shall be subject to all acts of God; riots and insurrections; interference by civil, military or naval authorities; governmental actions; accidents; storms, fire or other casualty; shortages and inability to obtain energy; and other similar events of force majeure which are beyond the reasonable control of the party obligated to perform hereunder (provided that such affected party uses good faith and diligent efforts to perform its obligations despite the occurrence of such event), and such performance obligation shall be suspended during the period of such force majeure; provided that if any party intends to rely on an event of force majeure to suspend its obligation to perform hereunder, such party shall provide written notice to the other party of its intent to rely on such a force majeure event and identify specifically such event.

## **25. Set-Off; Credits**

Buyer may set off against amounts payable under Buyer's purchase order all present and future indebtedness of the Seller to Buyer arising from this or any other transaction whether or not related thereto. Seller agrees that any credit balance will be paid in cash to Buyer upon written request. If Buyer terminates its relationship with Seller, all balances due to Buyer shall be paid in cash to Buyer within 10 days of notification to Seller of such termination.

## **26. Entire Agreement**

Buyer's purchase order and these Conditions of Purchase, together with any Master Purchase Agreement noted in the body of the Purchase Order and all related exhibits and schedules constitute the entire agreement and an understanding between the parties in respect of the matters set forth therein and herein, and all prior negotiations, writings and understandings relating to the



subject matter of the Agreement. In the event of any inconsistency between the statements in the body of Buyer's purchase order and either the Master Purchase Agreement, then the statements in the body of Master Purchase Agreement noted herein shall control. Other than as set forth in Buyer's purchase order and these Conditions of Purchase, no representations, warranties, covenants, agreements or conditions, express or implied, whether by statute or otherwise, have been made by Buyer. No finding that a part of Buyer's purchase order is invalid or unenforceable shall affect the validity of any other part hereof.

### **27. Amendment, Waiver and Non-Exclusivity**

These Conditions of Purchase may be amended, modified, supplemented or changed in whole or in part only by an agreement in writing making specific reference to these Conditions of Purchase and executed by each of the parties. Any of the terms and conditions of these Conditions of Purchase may be waived in whole or in part, but only by an agreement in writing making specific reference to these Conditions of Purchase and executed by the party that is entitled to the benefit thereof. Each of the remedies reserved to Spectrum Brands Inc shall be cumulative and in addition to all other or further remedies provided herein or by law.

### **28. Binding Agreement and Successors**

These Conditions of Purchase shall be binding upon and shall inure to the benefit of the parties and their respective successors and permitted assigns; provided, however, that these Conditions of Purchase and the rights of the parties there under may not be assigned, and the obligations of the parties there under may not be delegated, in whole or in part, without the prior written consent of the other party hereto. Nothing in these Conditions of Purchase is intended to confer upon any person other than the parties any rights or remedies.

### **29. Notices**

Any notice, request, instruction or other document or communication required or permitted to be given under these Conditions of Purchase shall be in writing and shall be deemed to be given upon delivery in person or upon being deposited in the mail, postage prepaid, for mailing by certified or registered mail or upon being deposited with an overnight courier, charges prepaid, to the addresses set forth beneath the signatures of the parties on the Agreement, or to such other address or addresses as may be specified in writing at any time or from time to time by either party to the other party.

### **30. Further Assurances**

The parties each agree to execute, make, acknowledge, and deliver such instruments, agreements and other documents as may be reasonably required to effectuate the purposes of these Conditions of Purchase and to consummate the transactions contemplated hereby and thereby.

### **31. Construction**

As used in these Conditions of Purchase, any reference to the masculine, feminine or neuter gender shall include all genders, the plural shall include the singular, and the singular shall include the plural. With regard to each and every term and condition of these Conditions of Purchase and any and all agreements and instruments subject to the terms thereof, the parties understand and agree that the same have or has been mutually negotiated, prepared and drafted, and that if at any time the parties desire or are required to interpret or construe any such term or

condition, no consideration shall be given to the issue of which party actually prepared, drafted or requested such term or condition. The Section headings contained in these Conditions of Purchase are for convenience of reference only and shall not limit or otherwise affect the meaning or interpretation of these Conditions of Purchase.

**32. Relationship of Parties** Neither party shall have any authority to obligate, or to otherwise act as representative of, or agent for, the other party for any purpose, and neither party shall make any representations or hold itself out as having such authority.

### **33. Holidays**

If any payments, documents or notices are due on a legal holiday or other day on which Buyer is closed for business, then such payment, notice or document shall be due on the next business day.

### **34. Invoices**

All invoices **must** include our purchase order number, our part number and description where applicable.

All invoices **must be emailed** to: [S-HHI-APInvoice@SpectrumBrands.com](mailto:S-HHI-APInvoice@SpectrumBrands.com)

Seller invoice inquires and questions should be emailed to:

[S-HHI-APInquiry@SpectrumBrands.com](mailto:S-HHI-APInquiry@SpectrumBrands.com)

### **35. Transportation Bill of Lading**

For all orders that are not F.O.B. delivered to Spectrum Brands, Inc. the Transportation Bill of Lading must reference bill-to location of:

Spectrum Brands, Inc.  
Client ID (SBHH01)  
C/O Data2Logistics  
6056 Fashion Square Drive, Suite 300  
Salt Lake City, UT 84107-5412

### **36. NAFTA**

Sellers must provide a NAFTA certificate of origin at least annually as requested for all items sold to Spectrum Brands, Inc., for all items which qualify as originating in the NAFTA territory under the terms of the North American Free Trade Agreement. Sellers must provide a manufacturer's affidavit or certificate of origin at least annually as requested by Spectrum Brands, Inc. Sellers will be contacted by the Buyer's customs compliance department when these documents are required.

### **37. Shipping Instructions**

If seller fails to follow shipping instructions, seller shall be responsible for all additional transportation charges incurred.

Use small package shipping instructions for weight of 150 pounds or less.

Use specified carriers in ship via instructions for weight between 151 pounds and 10,000 pounds (less that truckload shipment).

For weight over 10,000 pounds, call 949-672-4041 for shipping instructions (truckload shipment).

### **38. Small Package Shipping Instructions**

All shipments to Spectrum Brands, Inc., with a cumulative weight of 150 pounds or less **MUST** be shipped via UPS-Freight Collect (not to be confused with consignee collect). If you are not currently set-up for collect shipments with UPS, please call 800-742-5877 to determine requirements to comply with the routing instructions. Spectrum Brands, Inc., will no longer pay freight charges that appear on invoices.

If seller fails to follow shipping instructions, seller shall be responsible for all additional transportation charges incurred.

The following UPS account number must be used for proper billing:

Charlotte	R17307
Denison	75001E
FT. Mill	A6T548
Lake Forest	07714W
Mexicali	73E4E4
Mira Loma	R2269V
Nogales	A8X176
Xiamen	7F956W

### **39. Seller Quality Requirements**

The purchase order is contingent upon the seller maintaining all specifications and tolerances in accordance with the print unless a written deviation warrants a change. All part deviation requests must be submitted through Global Sourcing and be approved by R&D engineering.

Part qualification submittals must comply with QF-SH-020 or QF-PL-020, with special attention to all requirements.

Seller is required to pay for all first articles independent inspections

### **40. Maximum Scope of Liability for Purchase Orders**

In the event of a cancellation of the purchase order (PO), Spectrum Brands, Inc.'s sole liability shall be limited to the following where applicable:

- Specific quantity of material or services which have been authorized in writing by Spectrum Brands, Inc. in the Purchase Order
- Material control planner and/or scheduled written release
- Firm quantities or fabrication (FAB) authorization quantities specifically stated on the material release
- Raw material authorizations specifically stated on the material release.

#### **41. Scope of Purchase Order's with Releases:**

The most current seller schedule purchase order (SSPO) and/or schedule agreement (SA) and or blanket purchase order (BPO) is a replacement of any existing SSPO and/or SA and/or BPO between Buyer and Seller and will cancel the current SSPO and/or SA and/or BPO if one exists. The SSPO and/or SA and/or BPO is meant as a tool for our suppliers to reduce inventories, improve lead-times, as well as provide a forecast for the parts currently supplied to Spectrum Brands, Inc. Accordingly the SSPO and/or SA and/or BPO only establishes a forecast and terms and conditions for such material released and/or raw material authorization as they are issued.

The "Open Quantity" provided on the SSPO and/or SA and/or BPO is intended only as a forecast of the remaining balance expected before the SSPO and/or SA and/or BPO expiration date and should not be used by the seller for production planning purposes, and does not represent a firm order or binding commitment by Spectrum purchase. Firmed orders (designated as "F") on a material release should be the only tool used by the seller for production planning and liability purposes.

#### **42. 12-Month Firm Pricing for SSPO/BPO/SA Orders:**

All pricing contained within the purchase order shall remain firm for 12 months and is inclusive of all packaging, transportation (if requested), environmental fees, applicable taxes, and material adders, supplier delivered material releases shall be F.O.B. designated facility.

#### **43. Authorization For Product Shipment**

A Spectrum Brands, Inc., material control planner shall authorize all material releases via the purchase order (PO) against the PO number. All requirements that are expressed as weekly requirements are considered to cover raw material inventory requirements. All requirements that are expressed as monthly requirements are considered as forecast requirements only and should be used as such. Not until weekly requirements move into daily requirements is the seller to release against the PO.

#### **44. Competitive Clause**

Seller will strive to maintain its position as a strategic supplier to Spectrum Brands, Inc., based upon its competitive advantage in quality, technology, service level, and cost. If seller should fail to meet agreed upon expectations despite cooperative efforts between the two parties, then Spectrum Brands, Inc., may terminate the purchase order without further liability to seller by furnishing written notice to seller of a termination date no less than four months after the date of such notice. In the event of cancellation of any purchase order under this agreement, Spectrum Brands, Inc.'s liability shall be limited to firm quantities or FAB authorization quantities specifically stated on the material release, and/or raw material authorization specifically stated on the material release.

#### **45. Duty Drawback**

Suppliers who sell imported products/goods to Spectrum Brands, Inc., agree to provide Spectrum Brands, Inc., (or its designated third party broker) with a certificate of delivery which transfers all duty drawback rights to Spectrum Brands, Inc. The seller also agrees that it has not and will

not claim or assign the right to claim duty drawback to any other party. The third party broker will be assigned by Spectrum Brands, Inc., to prepare the duty drawback claim assuring the seller of confidentiality.

**46. Tooling Acceptance for Tooling Purchase Orders:**

Tooling acceptance will be contingent upon meeting all dimensions designated per the part drawing. Part qualification submittals must comply with QF-SH-020 or QF-PL-020, with special attention to all requirements.

Seller is required to pay for all first articles independent inspections.

**47. Tooling Title for Tooling Purchase Orders:**

Unless otherwise agreed, Spectrum Brands, Inc. will retain title of the tooling. Tooling will be maintained by seller.

**48. Sales Tax Where Applicable:**

It is the seller's responsibility to charge sales tax for all purchased components that apply, per state, in which the seller does business. A sales exemption certificate will be provided for all items that are exempt from sales tax.

**49. Liability Insurance for Indirect Purchases:**

Proof of liability insurance in the amounts set forth in the terms of purchase must be submitted prior to start of construction or service. Proof of workers compensation must be submitted prior to start of construction or service.

**50. General Terms For Written Agreement/Contracts:**

When there is a formal agreement with both parties, the formal agreement and the purchase order shall constitute the complete agreement between the parties and supersede all other agreements and understandings between the parties. Any pre-printed terms and conditions on any of seller's invoices, acknowledgements or other documents shall not apply. In the event of a conflict between these terms and conditions and a formal agreement between Buyer and Seller, the formal agreement shall control.

**51. Seller Product Shipment for Indirect Purchase Orders:**

All product shipments shall contain source documents that reflect the following information:

1. The Spectrum Brands, Inc., PO release number.
2. The Spectrum Brands, Inc., part number and description.
3. The total quantity of parts contained within the shipment.
4. The current Spectrum Brands, Inc., part revision level, if applicable.
5. The manufacture date of the product shipment lot.
6. A final dock audit (FDA) report or statistical data, if applicable.
7. A MSDS safety sheet, if applicable.

### **Special Requirements for PO's Issued by Nogales, Mexico Maquiladora Site**

**Note: These do not apply to Direct Material Purchase Orders. These do not apply to US Vendors shipping into Nogales.**

Requirements for materials delivery

1. Purchase Order
2. Attached to the purchase order a copy of the original invoice, this must include purchase order number, description and part number, if applicable (IN-XXX).

Local suppliers must deliver physical invoice to accounts payable on Mondays from 9am to 12pm and send electronic files.

At the time of generating the invoice to the mail below.

Non Mexican based suppliers send electronic invoice to:

[Weiser.facturas@spectrumbrands.com](mailto:Weiser.facturas@spectrumbrands.com) .

### **Requisitos especiales para OP emitidos por Nogales, México Sitio de Maquiladora**

***Nota: No se aplican a las Órdenes de Compra de Material Directo. Éstos no se aplican a los vendedores de los EEUU que envían en Nogales.***

Requisitos para entrega de Materiales

- 1- Orden de compra correspondiente
- 2- Anexo a la orden de compra copia de factura original, esta debe incluir número de orden de compra, descripción y numero de parte si aplicable (IN-XXX).

Los Proveedores locales deben entregar factura física a cuentas por pagar los días Lunes en horario de 9am a 12pm además enviar archivos electrónicos.

Al momento de generar la factura al correo abajo.

Los Proveedores foráneos enviar las facturas electrónicas a:

[Weiser.facturas@spectrumbrands.com](mailto:Weiser.facturas@spectrumbrands.com) .

### **Special Requirements for PO's Issued by Mexicali, Mexico Maquiladora Site**

**Note: These do not apply to Direct Material Purchase Orders. These do not apply to US Vendors shipping into Mexicali.**

Requirements to deliver invoices against receipt and receive payment:

1. Present original invoice stamped and signed by reception area personnel,
2. Copy of the invoice verification result (CFDI) on the SAT page,
3. Copy of the corresponding purchase order,

4. Against receipt previously prepared by you, or copy of each of the invoices that you deliver to Accounts Payable,
5. Upload the XML files of your invoices to the FTP, using the application to download in the following link: [www.essistemas.net/promo/xml.zip](http://www.essistemas.net/promo/xml.zip).

If you have any problems uploading invoices, please contact Gloria Barajas at:

[Gloria.Barajas@spectrumbrands.com](mailto:Gloria.Barajas@spectrumbrands.com)

In order to comply with the requirements in the issuance of tax receipts, we ask you in the most careful way to include the following data in all your invoices and your XML files. Indicate this data so that the payment of your invoices is carried out:

Payment in Mexican Pesos:

- Method of payment (Check): (02)
- Four-digit account: 1316

Payment in US Dollars:

- Method of payment (Check): (02)
- Four-digit account: 8709

**Requisitos especiales para los PO emitidos por Mexicali, México Sitio de Maquiladora**  
***Nota: No se aplican a las Órdenes de Compra de Material Directo. Éstos no se aplican a los vendedores de los EEUU que envían en Mexicali.***

Requisitos para entregar facturas a contra recibo y recibir pago:

1. Presentar factura original sellada y firmada por personal de área de recibo,
2. Copia del resultado de verificación de la factura (CFDI) en la página del SAT,
3. Copia de la Orden de compra correspondiente,
4. Contra recibo previamente elaborado por ustedes, o bien copia de cada una de las facturas que entregaran a Cuentas por Pagar,
5. Subir los archivos XML de sus facturas al FTP, mediante la aplicación a descargar en la siguiente liga: [www.essistemas.net/promo/xml.zip](http://www.essistemas.net/promo/xml.zip)

Si tienen algún problema para subir las facturas comunicarse con Gloria Barajas

[Gloria.Barajas@spectrumbrands.com](mailto:Gloria.Barajas@spectrumbrands.com)

Con el fin de cumplir con los requisitos en la expedición de comprobantes fiscales, les solicitamos de la manera mas atenta. Incluyan los siguientes datos en todas sus facturas y sus archivos XML Indiquen dichos datos para que el pago de sus facturas se lleve a cabo:

Pago en MXN:

- Metodo de pago (Cheque): (02)

- Cuenta: 1316

Pago en USD

- Método de pago (cheque): (02)
- Cuatro dígitos de la cuenta: 8709

**Special Requirements for POs Issued by Denison, Texas Manufacturing Site**

**Note: These do not apply to Direct Material Purchase Orders.**

Requests for price changes must be approved by Denison personnel. A revised purchase order will be issued by Spectrum Brands to reflect changes agreed upon.

Acknowledgement of the PO must be sent by fax: 903-463-7941 or email to:  
[denise.cain@spectrumbrands.com](mailto:denise.cain@spectrumbrands.com) with Schedule Order Number.

For questions contact Denise Cain at 903-463-7934 or [denise.cain@spectrumbrands.com](mailto:denise.cain@spectrumbrands.com)