

Valbruna ASW Inc.
STANDARD CONDITIONS OF PURCHASE

1. Applicability.

(a) These terms and conditions of purchase (these “**Terms**”) are the only terms which govern the purchase of the goods (“**Goods**”) and services (“**Services**”) by Valbruna ASW Inc. (“**Buyer**”) from the seller (“**Seller**”) named on the accompanying purchase order (the “**Purchase Order**”) of these Terms. notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the Goods and Services covered hereby, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms.

(b) The accompanying purchase order (and these Terms (collectively, this “**Agreement**”)) comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms prevail over any of Seller’s general terms and conditions of sale regardless whether or when Seller has submitted its sales confirmation or such terms. This Agreement expressly limits Seller’s acceptance to the terms of this Agreement. The provision of Goods or Services to Buyer by Seller constitutes acceptance of these Terms.

2. Delivery of Goods and Performance of Services.

(a) Seller shall deliver the Goods in the quantities and on the date(s) specified in the Purchase Order or as otherwise agreed in writing by the parties (the “**Delivery Date**”). If Seller fails to deliver the Goods in full on the Delivery Date, Buyer may terminate this Agreement 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 Goods on the Delivery Date.

(b) Seller shall deliver all Goods to the address specified in the Purchase Order (the “**Delivery Point**”) during Buyer’s normal business hours or as otherwise instructed by Buyer.

(c) Seller shall provide the Services to Buyer as described and in accordance with the schedule set forth on the Purchase Order and in accordance with the terms and conditions set forth in these Terms.

(d) Seller acknowledges that time is of the essence with respect to Seller’s obligations hereunder and the timely delivery of the Goods and Services.

3. Shipping Terms. Delivery shall be made FOB Destination (“**Delivery Point**”) and Freight Prepaid or in accordance with the terms on the face of this Agreement. The Purchase Order number must appear on all shipping documents, shipping labels, bills of lading, invoices, correspondence and any other documents pertaining to the Purchase Order.

4. Title and Risk of Loss. Title and risk of loss passes to Buyer upon the earlier of delivery of the Goods at the Delivery Point or payment for the Goods, Services or part thereof.

5. Inspection and Rejection of Non-Conforming Goods. Buyer has the right to inspect the Goods before, on or after the Delivery Date. Buyer, at its sole option, may inspect all or a sample of the Goods, and may reject all or any portion of the Goods if it determines the Goods are non-conforming or defective. If Buyer rejects any portion of the Goods, Buyer has the right, effective upon written notice to Seller, to: (a) rescind this Agreement in its entirety; (b) accept the Goods at a reasonably reduced price; or (c) reject the Goods and require replacement of the rejected Goods. If Buyer requires replacement of the Goods, Seller shall, at its expense, promptly replace the non-conforming or

defective Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective goods and the delivery of replacement Goods. If Seller fails to timely deliver replacement Goods, Buyer may replace them with goods from a third party and charge Seller the cost thereof and terminate this Agreement for cause pursuant to Section 27. Seller agrees that Purchaser and its customers shall have the right to enter Seller's facilities or the facilities of Seller's sub-suppliers at reasonable times to inspect them and the goods, materials and any property of Purchaser covered by the Purchase Order. Such inspection, acceptance or other review of the goods, whether during manufacture prior to delivery or within a reasonable time after delivery shall not constitute acceptance of any work-in-progress or finished goods, whether or not a breach of warranty or other defect had become evident at the time and shall not limit or reduce Seller's obligations and liabilities in the Purchase Order. Any inspection or other action by Buyer under this Section shall not reduce or otherwise affect Seller's obligations under the Agreement, and Buyer shall have the right to conduct further inspections after Seller has carried out its remedial actions.

6. Price. The price of the Goods and Services is the price stated in the Purchase Order (the "**Price**"). If no price is included in the Purchase Order, the Price shall be the price set out in Seller's published price list in force as of the date of the Purchase Order. Unless otherwise specified in the Purchase Order, the Price includes all transportation costs to the Delivery Location, and fees and applicable taxes. Seller represents and warrants that its prices for the Goods or Services herein are the lowest prices charged by the Seller to buyers who purchased the same or smaller volume of Goods or Services within the 12 month period prior to this Purchase Order. No increase in the Price is effective, whether due to increased material, labour or transportation costs or otherwise, without the prior written consent of Buyer.

7. Payment Terms. Seller shall issue an invoice to Buyer on or any time after the completion of delivery and only in accordance with these Terms. Unless otherwise expressly set forth in the Contract, Buyer shall pay all properly invoiced amounts due to Seller within 60 days after Buyer's receipt of such invoice, except for any amounts disputed by Buyer in good faith. Without prejudice to any other right or remedy it may have, Buyer reserves the right to set off at any time any amount owing to it by Seller against any amount payable by Buyer to Seller under this Agreement.

8. Facility and Manufacturing. Seller agrees to manufacture and store the Goods at Seller's facility located at the current address supplied to Valbruna on the Purchase Order. Seller shall not change the location at which Goods are manufactured, processed, supplied or stored without providing at least sixty (60) days prior written notice to and receipt of approval from Buyer. Seller agrees to operate its facility and all equipment and machinery used, directly or indirectly, to manufacture, process or provide goods or services to Buyer in accordance with (a) current Good Manufacturing Practices; (b) in accordance with Buyer's standards communicated to Seller (including without limitation, Purchaser's specifications, drawings, designs, samples, engineering notices, technical data, work instructions and other requirements); and (c) in accordance with all applicable governmental and regulatory authority requirements.

9. Materials. Seller's raw materials shall meet the requirements set forth in Buyer's standards and specifications and shall be tested by Seller in accordance with the requirements of the specifications relevant to such materials. All Seller materials shall be obtained from sources of supply approved by Buyer in accordance with its applicable processes and procedures.

10. Specification and Configuration Control. Seller agrees to supply Buyer all Goods in the quantities listed, in conformance with all Purchase Order requirements, including applicable customer, Purchaser or other specifications, or drawings incorporated or specified in the Purchase

Order. The required test and/or inspection reports and data resulting from Seller's compliance with applicable Purchase Order requirements and specifications shall be kept on file at Seller's facility and made available for review by Purchaser at any reasonable time. Seller shall not make any changes in the design of any Goods, as set forth in the specifications or drawings incorporated or specified in the applicable Purchase Order, without Buyer's prior written approval. If Seller in any way adversely affects Buyer's ability to consistently deliver conforming products and services to Buyer's customers, Buyer may immediately terminate any current or pending orders and terminate any future orders with Seller.

11. Buyer's Inspection and Periodic Testing. Upon Purchaser's or Purchaser's customer's request, Seller shall provide Purchaser with samples of Goods for inspection, testing and analysis. Purchaser's technical or quality assurance representatives shall periodically visit Seller's facility for the purpose of ascertaining compliance with Purchaser's standards and specifications. Purchaser may inspect the manufacture of the Goods, storage facilities of the Goods, packaging and labeling components, all equipment, machinery and testing laboratories and all records relating to the manufacture, storage, equipment, machinery and testing laboratories. Observations and conclusions of the audit will be discussed and issues and corrective actions shall be implemented as appropriate. If at any time, Buyer thinks that Seller is operating in a manner not in compliance with Purchaser's standards or specifications and could adversely affect the Goods or Services, Purchaser may recommend Seller cease operations until such conditions are remedied. Seller shall immediately report to Purchaser any notice of inspection or unannounced visit of Seller's facility. Seller shall provide Purchaser a full report of the visit or inspection with copies of any letters, reports or documents issued by any governmental authority related to the Goods or Services.

12. Right of Access. Purchaser, Purchaser's customers and all regulatory authorities shall have the right of access to Seller's facilities and to applicable documented information related to the Goods or Services, at any level in the supply chain.

13. Change in Process, Product or Service. No aspect of the way in which Goods are manufactured or processed or Services are provided shall be changed without the prior written consent of Purchaser, except as may be required to comply with applicable law. If Seller needs to change the process of manufacturing the Goods, Seller shall: (1) immediately notify Purchaser of such change; (2) be responsible for ensuring that all Goods manufactured or processed and all raw materials supplied or incorporated into the Goods meet Purchaser's standards and specifications and that the Goods' quality is achieved; and (3) provide Purchaser with all required information to amend any government or regulatory filings.

14. Product Safety. Seller shall comply with all applicable laws and regulations related to product safety. Seller shall ensure that all of Seller's employees and contractors are educated about the importance of their role in effecting product safety within Seller's facility as well as product safety related to customer's receipt and use of Goods.

15. Prevention of Counterfeit Materials. Seller shall plan, implement and control processes, appropriate to the Goods, for the prevention of counterfeit or suspected counterfeit part use and their inclusion in Goods delivered to Purchaser or Purchaser's customers.

16. Records Retention and Disposal. All original records, in whatever form, relating to manufacturing, processing and supply of Goods or provision of Services shall be retained for a period of not less than the shelf life of the Goods plus one year or as required by applicable law, whichever is greater. Upon request, Purchaser shall promptly be provided with copies of the appropriate

documents for each production lot. Seller shall prepare and maintain financial records associated with the Goods or Services, which shall be open to inspection and subject to audit and/or reproduction, during normal business hours, by Purchaser or its authorized representatives for evaluation or verification of any invoices, payments or claims submitted by Seller or any of its payees, required by governmental authorities, or required for any other valid business purpose. Seller shall preserve financial records for a period of five years after the parties no longer do business, or for such longer period as may be required by law. Disposal of records must be handled in a properly secured and timely manner.

17. Traceability and Recall. Seller shall maintain an effective system for the recall of the Goods in accordance with all relevant regulatory requirements. Seller shall not recall any Goods manufactured or processed for Purchaser or supplied to Purchaser without the prior written consent of Purchaser, unless requested by the appropriate governmental authority.

18. Seller's Obligations Regarding Services. Seller shall:

(a) before the date on which the Services are to start, obtain, and at all times during the term of this Agreement, maintain, all necessary licenses and consents and comply with all relevant laws applicable to the provision of the Services;

(b) comply with all rules, regulations and policies of Buyer, including security procedures concerning systems and data and remote access thereto, building security procedures[, including the restriction of access by Buyer to certain areas of its premises or systems for security reasons, and general health and safety practices and procedures;

(c) maintain complete and accurate records relating to the provision of the Services under this Agreement, including records of the time spent and materials used by Seller in providing the Services in such form as Buyer shall approve.

(d) obtain Buyer's written consent, which shall not be unreasonably withheld or delayed, prior to entering into agreements with or otherwise engaging any person or entity, including all subcontractors and affiliates of Seller, other than Seller's employees, to provide any Services to Buyer (each such approved subcontractor or other third party, a "**Permitted Subcontractor**"). Buyer's approval shall not relieve Seller of its obligations under the Agreement, and Seller shall remain fully responsible for the performance of each such Permitted Subcontractor and its employees and for their compliance with all of the terms and conditions of this Agreement as if they were Seller's own employees. Nothing contained in this Agreement shall create any contractual relationship between Buyer and any Seller subcontractor or supplier;

(e) ensure that all persons, whether employees, agents, subcontractors, or anyone acting for or on behalf of the Seller, are properly licensed, certified or accredited as required by applicable law and are suitably skilled, experienced and qualified to perform the Services; and

(f) ensure that all of its equipment used in the provision of the Services is in good working order and suitable for the purposes for which it is used and conforms to all relevant legal standards and standards specified by the Buyer.

19. Change Orders. Buyer may at any time, by written instructions and/or drawings issued to Seller (each a "**Change Order**"), order changes to the Services. Seller shall within 3 business days of receipt of a Change Order submit to Buyer a firm cost proposal for the Change Order. If Buyer accepts such cost proposal, Seller shall proceed with the changed services subject to the cost proposal and the terms and conditions of this Agreement. Seller acknowledges that a Change Order may or may not entitle Seller to an adjustment in the Seller's compensation or the performance deadlines under this Agreement.

20. Conditions and Warranties.

- (a) Seller covenants and warrants to Buyer that all Goods will:
 - (i) be free from any defects in workmanship, material and design;
 - (ii) conform to applicable specifications, drawings, designs, samples, engineering notices, technical data, work instructions and other requirements specified by Buyer;
 - (iii) be fit for their intended purpose and operate as intended;
 - (iv) be merchantable;
 - (v) be free and clear of all liens, security interests or other encumbrances; and
 - (vi) not infringe or misappropriate any third party's patent or other intellectual property rights.
- (b) Seller will not substitute any goods for the goods covered by this Purchase Order unless Buyer consents in writing.

These warranties survive any delivery, inspection, acceptance or payment of or for the Goods by Buyer.

(c) Seller warrants to Buyer that it shall perform the Services using personnel of required skill, experience and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and shall devote adequate resources to meet its obligations under this Agreement; and

(d) the warranties set forth in this Section 20 are cumulative and in addition to any other warranty provided by law or equity. Any applicable statute of limitations runs from the date of Buyer's discovery of the noncompliance of the Goods or Services with the foregoing conditions and warranties. If Buyer gives Seller notice of noncompliance pursuant to this Section, Seller shall, at its own cost and expense, promptly (i) replace or repair the defective or non-conforming Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective or non-conforming goods to Seller and the delivery of repaired or replacement Goods to Buyer, and, if applicable, (ii) repair or re-perform the applicable Services.

21. General Indemnification. Seller shall defend, indemnify and hold harmless Buyer and Buyer's affiliates, successors and assigns and its and their respective directors, officers, shareholders and employees (collectively, "Indemnitees") against any and all loss, injury, death, damage, liability, claim, deficiency, action, judgment, interest, award, penalty, fine, cost or expense, including reasonable legal fees 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 Goods and Services purchased from Seller or Seller's negligence, wilful misconduct or breach of the Terms. Seller shall not enter into any settlement without Buyer's prior written consent.

22. Limitation of Liability. Nothing in this Agreement shall exclude or limit (a) Seller's liability under Sections 2, 9, 10, 18, 20, 21, 26 and 29 hereof, or (b) Seller's liability for fraud, personal injury or death caused by its negligence or wilful misconduct.

23. Insurance. During the term of this Agreement, Seller shall, at its own expense, maintain and carry insurance in full force and effect which includes, but is not limited to, commercial general liability (including product liability) in a sum not less than \$2,000,000 with financially sound and reputable insurers as well as Workers' Compensation insurance or qualification as a self-insurer to satisfy the laws of the provinces or states in which work is being performed. Upon Buyer's request, Seller shall provide Buyer with a certificate of insurance from Seller's insurer evidencing the insurance coverage specified in these Terms. The insurance requirements of this paragraph are separate and distinct from any other obligation of Seller contained herein, and neither the issuance of any insurance policy nor the minimum limits specified herein will be deemed to limit or restrict in any way Seller's liability arising under this Contract.

24. No Gratuities and Ethical Business Clause. Seller represents and warrants that neither it nor any of its employees, agents or representatives has offered or given any gratuities to Buyer's employees, agents, or representatives with a view toward securing the Contract or securing favourable treatment with respect thereto. Purchaser operates within the Valbruna Code of Ethics. Seller agrees that in connection with the Goods, Terms and Purchase Orders that Seller, and anyone operating on Seller's behalf, shall be made aware of the compliance requirements under Valbruna's Code of Ethics and that Seller and its employees, subcontractors and agents shall abide by this Code of Ethics, including monitoring and ensuring such compliance by Seller's employees.

25. Limitation of Seller's Remedies. In the event of breach of contract by Buyer, Buyer shall be liable to Seller only for actual monetary damages suffered by Seller and in no event shall Buyer be liable for any amount greater than the amount of the Contract. In no event shall Buyer be liable to Seller for consequential, incidental or special damages of any kind.

26. Compliance with Laws. Seller shall comply with all applicable laws, regulations and ordinances. Seller shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under this Agreement. Seller shall comply with all export and import laws of all countries involved in the sale of the Goods under this Agreement or any resale of the Goods by Seller. Seller assumes all responsibility for shipments of Goods requiring any government import clearance. Buyer may terminate this Agreement if any governmental authority imposes antidumping or countervailing duties or any other penalties on Goods.

27. Termination. In addition to any remedies that may be provided under these Terms, Buyer may terminate this Agreement with immediate effect upon written notice to the Seller, either before or after the acceptance of the Goods or the Seller's delivery of the Services, if Seller has not performed or complied with any of these Terms, in whole or in part. If the Seller becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors, then the Buyer may terminate this Agreement upon written notice to Seller. If Buyer terminates the Agreement for any reason, Seller's sole and exclusive remedy is payment for the Goods received and accepted and Services accepted by Buyer prior to the termination.

28. Waiver. No waiver by Buyer of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Buyer. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

29. Confidential Information. 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 this Agreement is confidential, solely for the purpose of performing this Agreement and may not be disclosed or copied unless authorized in advance by Buyer in writing. Upon Buyer's request, Seller shall promptly return all documents and other materials received from Buyer. Buyer shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to Seller at the time of disclosure; or (c) rightfully obtained by

Buyer on a non-confidential basis from a third party.

30. Force Majeure. Neither party shall be liable to the other for any delay or failure in performing its obligations under this Agreement to the extent that such delay or failure is caused by an event or circumstance that is beyond the reasonable control of that party, without such party's fault or negligence, and which by its nature could not have been foreseen by such party or, if it could have been foreseen, was unavoidable ("Force Majeure Event"). Force Majeure Events include, but are not limited to, acts of God or the public enemy, government restrictions, floods, fire, earthquakes, explosion, epidemic, war, invasion, hostilities, terrorist acts, riots, strike, embargoes or industrial disturbances. Seller's economic hardship or changes in market conditions are not considered Force Majeure Events. Seller shall use all diligent efforts to end the failure or delay of its performance, ensure that the effects of any Force Majeure Event are minimized and resume performance under this Agreement. If a Force Majeure Event prevents Seller from carrying out its obligations under this Agreement for a continuous period of more than 30 business days, Buyer may terminate this Agreement immediately by giving written notice to Seller.

31. Assignment. Seller shall not assign, transfer, delegate or subcontract any of its rights or obligations under this Agreement without the prior written consent of Buyer. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the Seller of any of its obligations hereunder. Buyer may at any time assign or transfer any or all of its rights or obligations under this Agreement without Seller's prior written consent to any affiliate or to any person acquiring all or substantially all of Buyer's assets.

32. Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

33. Governing Law. All matters arising out of or relating to this Agreement are governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. The parties hereby agree to exclude application of the United Nations Convention on Contracts for the International Sale of Goods to any contract made pursuant to this Purchase Order.

34. Dispute Resolution. Any dispute arising out of or relating to this Agreement shall be adjudicated exclusively in the courts of the Province of Ontario in each case located in the City of St. Catharines, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.

35. Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder (each, a "Notice") shall be in writing and addressed to the parties at the addresses set forth on the face of the Sales Confirmation or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.

36. Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in

any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

37. Survival. Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Agreement including, but not limited to, the following provisions: Insurance, Limitation of Seller's Remedies, Compliance with Laws, Waiver, Confidential Information, Governing Law, Dispute Resolution and Survival.

38. Amendment and Modification. These Terms may only be amended or modified in a writing stating specifically that it amends these Terms and is signed by an authorized representative of each party.