

These Standard Terms and Conditions of Sale ("Agreement") apply to your ("Buyer") purchase from ES OpCo USA LLC ("Seller") of products and services, including training materials, from Seller ("Products"). As used in this Agreement, Seller includes the affiliates of ES OpCo USA LLC. THIS AGREEMENT SHALL APPLY UNLESS BUYER AND SELLER HAVE ENTERED INTO A SEPARATE SIGNED AGREEMENT APPLICABLE TO THE PURCHASE OF THE PRODUCTS. By placing an order with Seller, Buyer agrees to be bound by the terms of this Agreement and that all orders are subject to acceptance by Seller in Seller's sole discretion.

1. **EXCLUSIVE TERMS.** The offer is expressly conditioned upon Buyer's acceptance of this Agreement and all the terms and conditions contained herein. This Agreement is the exclusive contract between Buyer and Seller regarding the Products acquired by Buyer from Seller and may not be altered or amended, nor its terms waived, except in writing, signed by an authorized representative of the party to be bound thereby. Acceptance or acknowledgment by Seller of purchase order forms or other similar forms containing provisions different from, or deletions or additions to, the terms of this Agreement are hereby rejected and shall not be binding on Seller. Buyer shall not assign its rights or delegate its duties under this Agreement, in whole or in part, without prior written consent of Seller. Should Seller make an offer to Buyer in writing, then any specific terms in such written offer shall prevail to the extent they conflict with the terms of this Agreement. Any offer on the part of Seller is subject to change without notice until actual receipt of a written order from Buyer and written acceptance of such order by Seller.
2. **QUOTES; ORDERS; PRICE.** All quotes of Seller shall be in writing and, unless otherwise expressly stated in the quote, expire on the 30th day following issuance. All orders are subject to acceptance by Seller in its sole discretion. Quoted prices are based upon present taxes (other than sales taxes), freight rates, United States Tariff classifications and import duties. Buyer shall pay any increased costs resulting from such changes or from Buyer's selection of means of transportation. Buyer shall reimburse Seller for all taxes or other charges by any national, state or municipal government upon the sale, use, production, or transportation of Product which Seller is required to pay. If Buyer is exempt from any taxes, it must provide Seller with appropriate exemption documentation with each order. Seller reserves the right to suspend or cancel any order if Buyer has any outstanding payments due or is not in good standing.
3. **PRICE ADJUSTMENTS.** Seller may adjust Product prices at any time. Buyer may suspend orders immediately upon notice of a price increase. In the event price protection is stated in a written agreement between the parties, Seller may temporarily suspend such Product's price protection in extraordinary market conditions as determined by Seller in its discretion. Seller shall reinstate the Product's price protection upon Seller's determination that the market condition for the Product is no longer extraordinary.
4. **PAYMENT.** Payment terms are net 30 days from date of invoice. All amounts are in U.S. dollars. Past due balances are subject to a late payment charge of 1 1/2% per month, or the maximum amount permitted by applicable law, whichever is less. Buyer shall pay all charges, costs and legal fees incurred in collecting amounts owed.
5. **CONTAINERS.** Seller retains ownership of all returnable containers. Buyer may use the containers only for the storage of original Product contents. Buyer shall return the containers to Seller empty and in good condition within 90 days from the date of delivery. Buyer shall pay a deposit on all returnable containers. Seller shall credit the deposit, less handling fee, to Buyer's account if Buyer returns the containers F.O.B. Seller's return point in good condition within 90 days from the date of receipt by Buyer. If not returned within such 90 days, Seller may reject the containers and retain the full amount of the deposit.
6. **TITLE AND RISK OF LOSS.** Title and risk of loss for Products (other than services or licensed content/materials) transfers to Buyer at Seller's shipping point, unless Products are shipped in Seller's vehicles in which case title and risk of loss transfers to Buyer when the vehicle first enters Buyer's property. Buyer shall unload railroad tank cars within 48 hours (Sundays and holidays excepted). Any shipment dates provided by Seller are estimates only and Seller have no liability for any losses or claims resulting from late (or even early) delivery of Products.
7. **MEET OR RELEASE.** If during the period covered by this Agreement, Buyer receives a bona fide offer to purchase Product qualifying as US origin goods under NAFTA of equal quality and quantity on the same terms and conditions as those herein, and Buyer has provided Seller with written evidence satisfactory to Seller of such offer, Seller will, at Seller's discretion, either: (i) meet such other offer during the time in which it continues, or (ii) permit Buyer to purchase the Product from such seller during such time and deduct the quantities purchased pursuant to such other offer from the quantity specified on the face hereof.
8. **WARRANTY.** Seller warrants that Seller branded Products conform to Seller's published specifications at the time of delivery. Seller warrants that services provided by Seller will be consistent with Seller's standard specifications or, if none, with Seller's standard practices. Buyer acknowledges that Seller acts as a distributor for Products not branded by Seller ("Resale Products") and that matters relating to the quality of the Resale Products are not within Seller's control. Accordingly, SELLER MAKES NO WARRANTIES WHATSOEVER CONCERNING RESALE PRODUCTS AND ALL RESALE PRODUCTS ARE PROVIDED "AS IS" AND WITHOUT WARRANTY OF ANY TYPE. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, SELLER MAKES NO REPRESENTATION OR WARRANTY AS TO THE PRODUCTS AND DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO ALL PRODUCTS, INCLUDING ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, TITLE, OR NON-INFRINGEMENT, AND ANY WARRANTIES THAT MAY ARISE FROM COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE. SELLER DOES NOT WARRANT, GUARANTEE, OR MAKE ANY REPRESENTATIONS REGARDING THE USE OF OR THE RESULTS OF THE USE OF THE PRODUCTS.
9. **REMEDIES.** Seller's liability and Buyer's exclusive remedy for Products failing to conform with the warranties set forth in Section 8 above is exclusively limited, at Seller's option, to replacement of the defective Products or refund of the purchase price of such Products. For Products consisting of services, Seller's liability for any defective or negligent service is limited to Seller, at Seller's option, re-performing the service or refunding an amount not to exceed the amount paid for the service, or, if the services were provided free of charge, to pay an amount Seller would have reasonably charged for such services (but not to exceed the amount paid Seller by Buyer for the Products to which the services related in the 12 months prior to the event of the liability).
10. **LIMITATION ON LIABILITY.** IN NO EVENT WILL SELLER BE LIABLE FOR INCIDENTAL, SPECIAL OR CONSEQUENTIAL, INDIRECT, EXEMPLARY OR PUNITIVE DAMAGES FROM ANY CAUSE OR FOR ANY REASON WHATSOEVER ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT OR THE PRODUCTS (INCLUDING NON-AVAILABILITY) AND IRRESPECTIVE OF WHETHER THE CLAIM ARISES FROM ACTUAL OR ALLEGED BREACH OF WARRANTY, INDEMNIFICATION, BREACH OF CONTRACT, PRODUCT LIABILITY, CONTRIBUTION OR ANY OTHER LEGAL THEORY AND IN NO EVENT WILL SELLER BE LIABLE FOR LOST PROFITS, COSTS OR LOSSES NOT ASSOCIATED WITH DIRECT PHYSICAL DAMAGE TO PROPERTY FOR ANY CLAIMS MADE UNDER OR RELATED TO THIS AGREEMENT OR THE PRODUCTS. IN NO EVENT SHALL SELLER'S LIABILITY UNDER THIS AGREEMENT EXCEED THE PURCHASE PRICE OF THE PRODUCTS THAT ARE THE SUBJECT OF THIS AGREEMENT FOR ANY CLAIMS MADE UNDER OR RELATED TO THIS AGREEMENT. THIS SECTION: (1) APPLIES TO SELLER AND ITS LICENSORS, DISTRIBUTORS, SUPPLIERS, AND AFFILIATES (INCLUDING ITS AND THEIR DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS) (COLLECTIVELY, "SELLER PARTIES"), (2) REFLECTS AN ALLOCATION OF RISK BETWEEN SELLER AND BUYER IN VIEW OF THE PURCHASE PRICE OF THE PRODUCTS, AND (3) APPLIES EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF THE DAMAGES AND REGARDLESS OF WHETHER SUCH CLAIMS ARE FOUNDED IN WHOLE OR IN PART UPON ALLEGED OR ACTUAL NEGLIGENCE OF ANY OF THE SELLER PARTIES.
11. **INDEMNITY.** Buyer acknowledges that it is the sole responsibility of Buyer to determine and verify the suitability of the Products for Buyer's use. Buyer agrees to defend, indemnify and hold Seller Parties harmless from all claims, demands, actions and causes of action relating to personal injury or property damage to third parties, including attorney's fees and actual costs incurred as a result thereof, to the extent of its negligence or arising after delivery of the Products to Buyer, including all use of the Products by Buyer.
12. **CLAIMS.** Any claim for shortage or non-conforming Products must be made in writing to Seller within 30 days after Buyer's receipt of the Product. As to any claim not reasonably discoverable within such 30 day period (including claims discoverable only in processing, further manufacture, other use or resale), such claim must be in writing and received by Seller within 180 days after Buyer's receipt of the Products. Failure of Seller to receive written notice of any such claim within the applicable time period shall be deemed an absolute and unconditional waiver by Buyer of such claim. Products may not be returned without Seller's permission and transportation for return will not be paid by Seller unless authorized in advance.
13. **FORCE MAJEURE.** Seller is not liable for nonperformance or delay in performance caused by circumstances beyond Seller's control ("Force Majeure Event"). A Force Majeure Event includes, without limitation, (a) acts of God, war, riots, fire, explosions, floods, strikes, lockouts, injunctions, accidents, Product short supply, unforeseen shutdown of major sources of supply, breakage of machinery or apparatus, or national emergency, (b) Seller's inability to obtain at prices Seller deems in its discretion to be commercially reasonable, the applicable Product, fuel, power, raw materials, labor, containers or transportation facilities, (c) the occurrence of any unforeseeable contingency making performance impracticable, or (d) compliance in good faith with any applicable governmental statute, regulation, or order. Any delivery so suspended shall be cancelled without liability, but this Agreement shall otherwise remain unaffected. This section does not apply to payment obligations.
14. **QUANTITY.** Seller is not obligated to deliver in any month more than a proportionate part of the maximum quantity specified, determined by dividing such maximum quantity by the total number of months included in the period of this Agreement. When in the opinion of Seller there is a period of shortage of supply of said Products for any reason, Seller may allocate its available supply among any or all of its various customers upon such basis as it shall deem fair and practicable, with no liability on its part for failure to deliver the quantity or any portion therein specified.
15. **PRODUCT STEWARDSHIP.** Buyer agrees that Products will be used, handled, stored, transported and disposed of in such a manner as is necessary for the safety and protection of persons, property and the environment, and in accordance with the manufacturer's recommendations and applicable laws and regulations. Buyer agrees to instruct its employees with respect to, and to make certain that they know and understand, procedures necessary to enable them to comply with the requirements set forth herein and make certain that they are adequately trained in the use, handling, storage, transportation and disposition of the Products. Buyer further agrees to deliver the most recent edition of Product literature, including SDSs, to its employees and customers and to maintain a written record of such deliveries. Buyer shall only sell to those who can handle, use, store, transport and dispose of Products safely and in compliance with all applicable laws and regulations.
16. **PROPRIETARY RIGHTS.** Seller and its licensors and suppliers reserve all right, title, and interest in any intellectual property rights contained or embodied in Products, or resulting from the services, including any materials created or provided by Seller under this Agreement. Nothing in this Agreement will be deemed to grant to Buyer any ownership rights in or license rights to such intellectual property, other than a limited, non-exclusive, non-transferable right to use internally within Buyer's business the materials provided in connection with a service acquired hereunder by Buyer from Seller in such manner as reasonably anticipated by both Seller and Buyer.
17. **UPDATES; Limitation Period.** Seller reserves the right to update this Agreement at any time, effective upon posting an updated version at <https://veseris.com/sales-terms/>; however, the terms and conditions of this Agreement in effect at the time of purchase shall apply to that purchase of Products or services. SELLER SHALL NOT BE LIABLE FOR ANY CLAIM ARISING FROM AND/OR CONCERNING THIS AGREEMENT AND/OR THE PRODUCTS BROUGHT MORE THAN TWO YEARS AFTER THE OCCURRENCE CAUSING THE LOSS AND/OR DAMAGE GIVING RISE TO SUCH CLAIM (REGARDLESS OF WHETHER SUCH OCCURRENCE WAS DISCOVERABLE AT THE TIME).
18. **GENERAL TERMS.** This Agreement shall be governed by the laws of the State of Texas, without regard to principles of conflicts of laws. The parties submit to the exclusive personal jurisdiction of the state and federal courts in Travis County, Texas. This Agreement, and any terms incorporated herein by reference, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior understandings or agreements, whether written or oral, with respect to that subject matter. Buyer acknowledges reading this Agreement, understands these terms, and agrees to be bound by them. Except as expressly set forth herein with respect to quotes issued by Seller, this Agreement may not be altered, supplemented, or amended by the use of any other document unless otherwise agreed in writing by Seller. No delay or failure by Seller to exercise any right it has under this Agreement shall impair or be construed as a waiver of such right. A waiver of any provision of this Agreement by Seller must be in writing and shall not be construed as a waiver or modification of any other term hereof, or as a continuing waiver of any provision. If any part, term, or provision of this Agreement is held illegal, unenforceable, or in conflict with any applicable and enforceable law, the validity of the remaining portions or provisions of this Agreement shall not be affected, and the illegal, unenforceable, or conflicting part, term, or provision shall be reformed by a court of law with binding authority to the maximum extent possible to reflect the intent of this Agreement. The doctrine that any ambiguity contained in a contract shall be construed against the party that drafted the contract is expressly waived by each of the parties with respect to this Agreement.