

# Purchase order

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<b>Bill-to</b> Ascend Performance Materials LLC Attention: Accounts Payable P. O. Box 711 Alvin, TX 77512-0711 INVOICE HOTLINE 850-968-8686 WWW.Ascendmaterials.com/content/vendor-invoice-inquiry E-Mail Invoices in Pdf Format to: CHBAP@AscendMaterials.com			<b>Purchase Order Number</b> 4504012164		Please show this purchase order number on invoice, shipping label and bill of lading. By acceptance of this purchase order, vendor and its subcontractor(s) (if any) certify that they do not have and will not maintain any facilities they provide for their employees in a segregated manner, nor permit their employees to perform any services at any location under their control, where segregated facilities are maintained.
			<b>Date</b> 03/29/2012		
			<b>Your Vendor Number (PI)#</b> 322477		
<b>Seller</b> REFRACTORY CONSTRUCTION SERVICES CO LLC 3240 DELASANDRI LANE KEMAH TX 77565 USA			<b>Buyer</b> <b>Ascend Performance Materials LLC</b> Chocolate Bayou Plant PO Box 711 Alvin, TX 77512-0711 USA		
<b>Delivery Address</b> Ascend Perform. Materials Operations LLC Chocolate Bayou Plant FM 2917 Receiving Dept PO Box 711 Alvin TX 77512-0711			<b>Terms of Delivery</b> DDP Service Rendered		
			<b>Terms of Payment</b> Within 60 days of invoice due net		
<b>Freight/Routing</b> CALL 855-ASCEND1 (855-272-3631) TO ARRANGE FREIGHT. PLEASE HAVE PO, ORIGIN/DESTINATION & CONTACT INFO, DIMENSIONS, WEIGHT & VALUE READY. IF<130 LBS, SHIP UPS COLLECT ACCT# 1X814A.			<b>Delivery Required Date</b> 03/29/2012		<b>Contract Number</b>
Item	Quantity Delivery Required	Unit	Material Number & Description	Unit Price	Amount
			ATTN: Mike CONTACT: TC Thompson PH#: 281-228-4145  TERMS AND CONDITIONS PER CONTRACT #003704762 SHALL GOVERN THIS WORK. Quote #12-014  THE PURCHASE ORDER PRICING MUST NOT BE EXCEEDED WITHOUT A REVIEW AND APPROVAL BY ASCEND PERFORMANCE MATERIALS VIA A REVISED PURCHASE ORDER OR ASCEND'S CHANGE ORDER PROCESS - OTHERWISE ANY ADDITIONAL WORK IS NOT AUTHORIZED AND WILL NOT BE PAID.  THE DOLLAR VALUE ON THIS PURCHASE ORDER IS FIRM OR AN ESTIMATE AND THE VALUE REPRESENTS A COST-NOT-TO-EXCEED FOR THIS SERVICE.  REFERENCE THE PO # ON ALL INVOICES AND CORRESPONDENCE OTHERWISE PAYMENT MAY BE DELAYED. THE INVOICE MUST BE		
No changes, alterations or cancellations, or additions to this purchase order are to be honored except those made through the purchasing department. All questions, correspondence, etc. concerning this order are to be directed to the purchasing department attention of the undersigned. Price each item separately listing the item number as shown on the purchase order. This purchase order includes terms and conditions on back.			<b>Buyer:</b> Vivien Stroud <b>Phone:</b> +12812284845 <b>Fax:</b> +12812284742 <b>Signature:</b> _____		

## TERMS AND CONDITIONS

1. **GENERAL.** This purchase order (whether used as an offer, acceptance of an offer, or confirmation of a contract) is conditioned on and limited to its terms. By performing or by acknowledging receipt of this purchase order ("Contract"), Seller assents to all its terms and conditions. "Work" shall mean the goods supplied and/or services performed hereunder. Ascend, as defined on front of agreement ("Buyer") objects to any different or additional terms in Seller's quotations, acknowledgments, acceptances or similar documents. Specifications, drawings and other attachments or documents referred to herein are incorporated into and made a part of this Contract.

2. **DELIVERY; TITLE.** Seller acknowledges that TIME IS OF THE ESSENCE in the performance and delivery of the Work by the date set forth on the face of this Contract. Title to materials, supplies and equipment comprising part of the Work shall pass to Buyer at Buyer's site or other delivery point. Passage of title shall not relieve Seller of any of its obligations under this Contract.

3. **WARRANTY.** Seller warrants that the Work will: (a) be of quality, design, material and workmanship, free of defects for one (1) year from date of final payment, (b) in the case of services, consist of furnishing all operations, labor, equipment, materials and supplies and doing all things necessary for proper performance as described in this Contract, (c) conform to agreed upon specifications, drawings, data and samples and all technical requirements in Seller's proposals, (d) be merchantable and fit for the purposes sold, and (e) to the extent the Work consists of equipment, hardware or software and to the extent that Seller's performance depends on information systems used in its order processing, delivery and other systems for timely supply of the Work to Buyer, will provide accurate performance and processing of date/time data involving dates in the year 2000 A.D. and beyond. This warranty continues in effect after acceptance and is in addition to warranties offered by Seller. Seller assigns to Buyer all applicable manufacturers' warranties. Seller shall promptly reimburse Buyer for its costs in remedying defects or, at Buyer's option, Seller shall remedy such defects at its own expense and with all possible speed. In addition to its other rights, Buyer may withhold money otherwise due Seller to cover Buyer's costs and damages.

4. **PRICE COMPETITIVENESS.** Seller warrants that prices for the Work are not higher than those charged other customers for the same or similar Work in similar quantities. If Buyer can purchase Work of like quality at a lower delivered cost than under this Contract, Buyer may notify Seller and Seller shall have 15 days to meet such lower cost for an equal quantity of Work. If Seller does not meet such lower cost, Buyer may purchase such Work from the other source and deduct such quantity from Buyer's obligation hereunder, but this Contract otherwise remains unaffected.

5. **PAYMENT/TAXES/LIENS.** Unless otherwise specified in this Contract, payment is due sixty (60) days after invoice date, or upon completion and delivery of the Work, whichever is later. Ascend's, as defined on front of agreement, policy is to issue payments on a weekly basis.

Payment by Buyer does not constitute acceptance. Seller's invoices shall list taxes separately. Buyer is liable only for taxes which Seller is authorized to collect from Buyer by law. Buyer may withhold payment until Seller, if requested, has furnished satisfactory releases of all liens and claims relating to the Work. Seller shall indemnify and defend Buyer from all liens and encumbrances arising out of the Work.

6. **DRAWINGS/SPECIFICATIONS/INSPECTIONS.** Buyer shall have access to Seller's facilities to inspect the Work at all reasonable times. No such approval/inspection shall relieve Seller of its obligations. If requested, Seller shall submit drawings and specifications ("Descriptions") to Buyer for approval. All Descriptions shall be Buyer's property, and Seller shall not use or permit others to use such Descriptions for any other work.

7. **PATENTS.** Seller shall indemnify, defend and hold Buyer harmless: (a) from claims for infringement of any patent, copyright, trademark or trade name because of the manufacture, use, or sale of the Work, and (b) for any costs, expenses, liability and damages, including attorneys' fees, which Buyer may incur as a result of any alleged infringement. Buyer shall give Seller written notice of any such suit or claim and, at Buyer's request, Seller shall promptly assume its defense.

8. **COMPLIANCE WITH LAWS.** Seller represents that the Work will comply with all applicable federal, state and local laws, rules, regulations, executive orders, including but not limited to 38 USC 4212 (formerly 2012) of the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended, as well as all regulations and requirements issued under the Department of Labor and the Environmental Protection Agency and the requirements of Executive Order 11246, as amended.

9. **CANCELLATION/TERMINATION.** Buyer may terminate all or part of this Contract for its convenience upon written notice to Seller. Buyer shall pay Seller reasonable charges for the portion of the Work already performed hereunder.

10. **CONFIDENTIALITY.** Seller may gain information about Buyer's operations, plans, equipment, finances, products, processes and customers ("Buyer Information"). Seller shall cause all Buyer Information to be kept confidential and not to be disclosed to others except with Buyer's prior written consent. Nothing in this paragraph shall prevent Seller from disclosing information which it can show: (a) is published and in the public domain other than through acts or omissions of Seller, its employees or agents; (b) was rightfully made known to Seller by third parties (other than those acting directly or indirectly for Buyer (or its predecessor, Solutia Company), without restriction on disclosure; or (c) was known at the time of entering into this Contract, and was not acquired from Buyer, Solutia or the employees or agents of either. Seller shall deliver to Buyer, upon request, all drawings, specifications, memoranda, notes, materials and all copies containing Buyer Information. These obligations shall continue beyond the termination of this Contract.

11. **CHANGES.** Buyer may change specifications, packaging, delivery and transportation at any time. If the change affects the cost or time required for performance, a fair adjustment will be made and confirmed by Buyer issuing a Change Order. Seller shall notify Buyer prior to making any changes to raw materials, methods of manufacture, production equipment or locations involved in the performance of this Contract and shall obtain Buyer's written consent prior to making any such changes(s). Buyer may terminate this Contract if Buyer does not consent to the changes.

12. **BUYER'S PREMISES.** If Seller enters Buyer's premises, Seller shall: (a) comply with Buyer's site rules, practices and policies; (b) indemnify and defend Buyer, its employees and officers against all liabilities and losses of any kind, including costs, expenses and attorneys' fees, due to injuries (including death) or damage to persons or property occurring to or caused by Seller, its agents or subcontractors, or any of their employees, such indemnity to include injuries or damage caused by the joint or concurring negligence of Buyer (but not those caused by the sole negligence of Buyer); (c) maintain the following minimum insurance: (i) Workers' Compensation - Statutory; (ii) Employer's Liability \$1,000,000 each accident/disease-each employee/disease - policy limit; (iii) Commercial General Liability (Bodily Injury, Property Damage, Products and Completed Operations and contractual liability on an occurrence form of policy naming Buyer as additional insured) - \$2,000,000 each occurrence, combined single limit; (iv) Comprehensive or Commercial Automobile Liability (Bodily Injury or Property Damage for owned, non-owned and hired vehicles and naming Buyer as additional insured) - \$1,000,000 each occurrence, combined single limit; (v) Umbrella Liability Insurance - \$1,000,000 each occurrence, excess coverage over underlying primary insurance required and naming Buyer as additional insured. Seller will secure from its Workers' Compensation and Employer's Liability carrier a waiver of subrogation in favor of Buyer, its employees and agents and furnish Buyer certificates confirming such coverage.

13. **ASSIGNMENT/ SUBCONTRACTING/ INDEPENDENT CONTRACTOR.** Seller shall not assign, subcontract or delegate all or any part of this Contract without Buyer's prior written consent and any attempt to so assign shall be void. Assignment with consent shall not relieve Seller of any obligations hereunder. Seller is and shall remain an independent contractor.

14. **MISCELLANEOUS.** THIS CONTRACT INCORPORATES THE UNIFORM COMMERCIAL CODE AS ADOPTED IN TEXAS, AND SHALL BE CONTROLLED BY AND INTERPRETED ACCORDING TO TEXAS LAWS and is the complete understanding and statement of the agreement. Any modification, rescission or waiver must be in writing and signed by both parties. A waiver of any breach of these terms shall not waive any other breach. Section headings are provided for convenience only. The obligations under sections 3, 6, 7, 10 and 12 of this Contract are of a continuing nature and shall survive any termination of the Contract, any suspension, completion or acceptance of the Work, or final payment to Seller. Seller shall bind all its subcontractors to the terms of this Contract which are applicable to the subcontracted Work.

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1. **GENERAL.** This purchase order (whether used as an offer, acceptance of an offer, or confirmation of a contract) is conditioned on and limited to its terms. By performing or by acknowledging receipt of this purchase order ("Contract"), Seller assents to all its terms and conditions. "Work" shall mean the goods supplied and/or services performed hereunder. Ascend, as defined on front of agreement ("Buyer") objects to any different or additional terms in Seller's quotations, acknowledgments, acceptances or similar documents. Specifications, drawings and other attachments or documents referred to herein are incorporated into and made a part of this Contract.

2. **DELIVERY; TITLE.** Seller acknowledges that TIME IS OF THE ESSENCE in the performance and delivery of the Work by the date set forth on the face of this Contract. Title to materials, supplies and equipment comprising part of the Work shall pass to Buyer at Buyer's site or other delivery point. Passage of title shall not relieve Seller of any of its obligations under this Contract.

3. **WARRANTY.** Seller warrants that the Work will: (a) be of quality, design, material and workmanship, free of defects for one (1) year from date of final payment, (b) in the case of services, consist of furnishing all operations, labor, equipment, materials and supplies and doing all things necessary for proper performance as described in this Contract, (c) conform to agreed upon specifications, drawings, data and samples and all technical requirements in Seller's proposals, (d) be merchantable and fit for the purposes sold, and (e) to the extent the Work consists of equipment, hardware or software and to the extent that Seller's performance depends on information systems used in its order processing, delivery and other systems for timely supply of the Work to Buyer, will provide accurate performance and processing of date/time data involving dates in the year 2000 A.D. and beyond. This warranty continues in effect after acceptance and is in addition to warranties offered by Seller. Seller assigns to Buyer all applicable manufacturers' warranties. Seller shall promptly reimburse Buyer for its costs in remedying defects or, at Buyer's option, Seller shall remedy such defects at its own expense and with all possible speed. In addition to its other rights, Buyer may withhold money otherwise due Seller to cover Buyer's costs and damages.

4. **PRICE COMPETITIVENESS.** Seller warrants that prices for the Work are not higher than those charged other customers for the same or similar Work in similar quantities. If Buyer can purchase Work of like quality at a lower delivered cost than under this Contract, Buyer may notify Seller and Seller shall have 15 days to meet such lower cost for an equal quantity of Work. If Seller does not meet such lower cost, Buyer may purchase such Work from the other source and deduct such quantity from Buyer's obligation hereunder, but this Contract otherwise remains unaffected.

5. **PAYMENT/TAXES/LIENS.** Unless otherwise specified in this Contract, payment is due sixty (60) days after invoice date, or upon completion and delivery of the Work, whichever is later. Ascend's, as defined on front of agreement, policy is to issue payments on a weekly basis.

Payment by Buyer does not constitute acceptance. Seller's invoices shall list taxes separately. Buyer is liable only for taxes which Seller is authorized to collect from Buyer by law. Buyer may withhold payment until Seller, if requested, has furnished satisfactory releases of all liens and claims relating to the Work. Seller shall indemnify and defend Buyer from all liens and encumbrances arising out of the Work.

6. **DRAWINGS/SPECIFICATIONS/INSPECTIONS.** Buyer shall have access to Seller's facilities to inspect the Work at all reasonable times. No such approval/inspection shall relieve Seller of its obligations. If requested, Seller shall submit drawings and specifications ("Descriptions") to Buyer for approval. All Descriptions shall be Buyer's property, and Seller shall not use or permit others to use such Descriptions for any other work.

7. **PATENTS.** Seller shall indemnify, defend and hold Buyer harmless: (a) from claims for infringement of any patent, copyright, trademark or trade name because of the manufacture, use, or sale of the Work, and (b) for any costs, expenses, liability and damages, including attorneys' fees, which Buyer may incur as a result of any alleged infringement. Buyer shall give Seller written notice of any such suit or claim and, at Buyer's request, Seller shall promptly assume its defense.

8. **COMPLIANCE WITH LAWS.** Seller represents that the Work will comply with all applicable federal, state and local laws, rules, regulations, executive orders, including but not limited to 38 USC 4212 (formerly 2012) of the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended, as well as all regulations and requirements issued under the Department of Labor and the Environmental Protection Agency and the requirements of Executive Order 11246, as amended.

9. **CANCELLATION/TERMINATION.** Buyer may terminate all or part of this Contract for its convenience upon written notice to Seller. Buyer shall pay Seller reasonable charges for the portion of the Work already performed hereunder.

10. **CONFIDENTIALITY.** Seller may gain information about Buyer's operations, plans, equipment, finances, products, processes and customers ("Buyer Information"). Seller shall cause all Buyer Information to be kept confidential and not to be disclosed to others except with Buyer's prior written consent. Nothing in this paragraph shall prevent Seller from disclosing information which it can show: (a) is published and in the public domain other than through acts or omissions of Seller, its employees or agents; (b) was rightfully made known to Seller by third parties (other than those acting directly or indirectly for Buyer (or its predecessor, Solutia Company), without restriction on disclosure; or (c) was known at the time of entering into this Contract, and was not acquired from Buyer, Solutia or the employees or agents of either. Seller shall deliver to Buyer, upon request, all drawings, specifications, memoranda, notes, materials and all copies containing Buyer Information. These obligations shall continue beyond the termination of this Contract.

11. **CHANGES.** Buyer may change specifications, packaging, delivery and transportation at any time. If the change affects the cost or time required for performance, a fair adjustment will be made and confirmed by Buyer issuing a Change Order. Seller shall notify Buyer prior to making any changes to raw materials, methods of manufacture, production equipment or locations involved in the performance of this Contract and shall obtain Buyer's written consent prior to making any such changes(s). Buyer may terminate this Contract if Buyer does not consent to the changes.

12. **BUYER'S PREMISES.** If Seller enters Buyer's premises, Seller shall: (a) comply with Buyer's site rules, practices and policies; (b) indemnify and defend Buyer, its employees and officers against all liabilities and losses of any kind, including costs, expenses and attorneys' fees, due to injuries (including death) or damage to persons or property occurring to or caused by Seller, its agents or subcontractors, or any of their employees, such indemnity to include injuries or damage caused by the joint or concurring negligence of Buyer (but not those caused by the sole negligence of Buyer); (c) maintain the following minimum insurance: (i) Workers' Compensation - Statutory; (ii) Employer's Liability \$1,000,000 each accident/disease-each employee/disease - policy limit; (iii) Commercial General Liability (Bodily Injury, Property Damage, Products and Completed Operations and contractual liability on an occurrence form of policy naming Buyer as additional insured) - \$2,000,000 each occurrence, combined single limit; (iv) Comprehensive or Commercial Automobile Liability (Bodily Injury or Property Damage for owned, non-owned and hired vehicles and naming Buyer as additional insured) - \$1,000,000 each occurrence, combined single limit; (v) Umbrella Liability Insurance - \$1,000,000 each occurrence, excess coverage over underlying primary insurance required and naming Buyer as additional insured. Seller will secure from its Workers' Compensation and Employer's Liability carrier a waiver of subrogation in favor of Buyer, its employees and agents and furnish Buyer certificates confirming such coverage.

13. **ASSIGNMENT/ SUBCONTRACTING/ INDEPENDENT CONTRACTOR.** Seller shall not assign, subcontract or delegate all or any part of this Contract without Buyer's prior written consent and any attempt to so assign shall be void. Assignment with consent shall not relieve Seller of any obligations hereunder. Seller is and shall remain an independent contractor.

14. **MISCELLANEOUS.** THIS CONTRACT INCORPORATES THE UNIFORM COMMERCIAL CODE AS ADOPTED IN TEXAS, AND SHALL BE CONTROLLED BY AND INTERPRETED ACCORDING TO TEXAS LAWS and is the complete understanding and statement of the agreement. Any modification, rescission or waiver must be in writing and signed by both parties. A waiver of any breach of these terms shall not waive any other breach. Section headings are provided for convenience only. The obligations under sections 3, 6, 7, 10 and 12 of this Contract are of a continuing nature and shall survive any termination of the Contract, any suspension, completion or acceptance of the Work, or final payment to Seller. Seller shall bind all its subcontractors to the terms of this Contract which are applicable to the subcontracted Work.