

### **ORDER ACKNOWLEDGEMENT**

1. **Terms of Sale:** Seller's acceptance of Buyer's order for the Products covered hereby and the making of any shipments of such Products are subject to the terms and conditions of the applicable written contract between Buyer and Seller, as signed by Seller, or, if none, subject to expressly conditioned upon Buyer's assent to the terms and conditions of this document hereof, which in such case constitute the Contract covering such order and shipments and the entire understanding and agreement between the parties relating thereto, anything inconsistent or to the contrary in any purchase order not withstanding. Buyer shall be deemed to have assented to the provisions hereof in all respects by failure to give Seller notice of objection received by Seller within ten (10) days of Buyer's receipt of this Acknowledgement of Buyer's purchase order. Seller shall not be bound by any change in, addition to or waiver of any of the provisions hereof, unless approved in writing by an authorized representative of Seller.
2. **Price:**
  - A. Prices are subject to change upon notice, unless otherwise agreed to in a written contract executed by the parties.
  - B. Unless otherwise stated on the face side of the Acknowledgement, the price is F.O.B. shipping point or origin. Prices exclude sales, use, occupation, license, excise and other taxes in respect of manufacture, sale or delivery of the Product and export and import duties, all of which shall be paid by the Buyer.
  - C. If, because of any law, regulation or other government action, Seller is required to reduce any price in effect under this Contract, or is prevented from increasing any price pursuant to the terms of this Contract, Seller may exclude from this Contract such quantity of the Product as is affected by such law, regulation or other government action.
  - D. Unless stated otherwise on the face side of the Acknowledgement, all shipments of Product to Buyer, shall be made on a "freight collect" basis. Buyer shall be responsible for the payment of all freight charges and either party may instruct the carrier to send freight invoices to Buyer for payment.
3. **Delivery/Risk of Loss:**
  - A. Unless otherwise specified on the face side of the Acknowledgement, title and risk of loss to the Product shall pass from Seller to Buyer when Seller delivers Product to the carrier at Seller's facility. Any usage of terms such as delivered F.O.B. Buyer's facility, freight prepaid on the document, or in other communications shall relate solely to pricing.
  - B. Where more than one shipment is to be involved, Buyer shall give Seller reasonable notice covering shipments and shall take deliveries in approximately equal monthly quantities except as may be otherwise provided herein. Seller shall not be required to supply during any single month a quantity of goods greater than the average delivered to the Buyer during the preceding three (3) months covered by this Contract, provided that, if such deliveries have been reduced because of conditions set for in Paragraph 4 below, the quantity employed in computing the "average" shall be one-twelfth (1/12) of the estimated annual minimum stipulated herein or of the amount ordered out by Buyer during the previous twelve months, whichever is less.
  - C. The scheduled shipment dates specified on the face of the Acknowledgement are approximate only. Seller will use its reasonable good faith efforts to schedule shipments at or near the dates specified, but shall have no liability for late shipments for any reason whatsoever.
  - D. Quantities of Product shall be determined by reference to Seller's invoice weights, volumes and other measurement indicators established in good faith, unless shown to be erroneous. Variations of 10% plus or minus from invoice quantity will be disregarded.
4. **Contingencies / Allocation:**
  - A. Neither party shall be in breach of its obligations under this Contract to the extent that performance is or has been prevented, delayed or (in the sole but reasonable judgment of the party concerned) made substantially more expensive as a result of any of the following contingencies: (1) any cause beyond the reasonable control of the party concerned; (2) any labor disturbance, whether or not involving the employees of the party concerned, and whether or not the disturbance could be settled by acceding to the demands of a labor group; (3) compliance with a request or order of a person purporting to act on behalf of any government or governmental department or agency, or (4) any shortage in raw materials, utilities, transportation facilities, or manufacturing capacity, or the Product itself, from Seller's producing location set forth on the face side of the Acknowledgement.
  - B. In the event of any shortage of Product, whether or not caused by a contingency, Seller may reduce deliveries in a manner which fairly apportions the consequences of this shortage among all Seller's customers (including affiliates of Seller) from the producing locations set forth on the face side of the Acknowledgement, provided that Seller will be permitted to supply all or any part of its available Product to companies affiliated with Seller as it believes may be required for them to maintain continuous manufacturing and processing operations utilizing the Product. Seller shall not be required to purchase Product from third parties or take Product from any producing locations other than the one designated for this Contract in order to remedy a shortage of Product.
  - C. Performance, as provided in this paragraph 4, will be excused even though the concurrence of the contingency or shortage in question may have been foreseen or foreseeable at the time of contracting or subsequently become foreseeable. The parties shall give each other immediate oral notice (to be confirmed promptly in writing) of the occurrence of a contingency or a shortage that would excuse performance under Paragraph 4.
  - D. Quantities of Product not purchased or sold due to the occurrence of a contingency or a shortage, as described in paragraph 4 may, but need not (at Seller's option), be delivered when the contingency or shortage is no longer applicable.
  - E. Nothing in this paragraph 4 shall excuse Buyer from its obligation to make payments when due under this Contract.
5. **Warranties:**
  - A. Seller warrants that at the time of delivery: (1) it will have and transfer unencumbered title to all Product sold; (2) the Product will meet the Seller's then current sales specifications; (3) unless the Product is made to Buyer's specifications, the Product itself does not infringe any valid US patent issued as of the date of sale.

**B. SELLER DOES NOT MAKE AND EXPRESSLY DISCLAIMS, AND BUYER WAIVES, ANY AND ALL OTHER WARRANTIES WHATSOEVER, INCLUDING WITHOUT LIMITATION ANY AND ALL WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, REGARDLESS WHETHER ORAL OR WRITTEN, EXPRESSED OR IMPLIED, OR ALLEGEDLY ARISING FROM ANY USAGE OF ANY TRADE OR ANY COURSE OF DEALING.**

6. **Product Inspection and Claims:** Buyer shall examine the Product promptly upon receipt of each shipment at Buyer's plant and before any use or commingling of Product with other materials. Buyer shall promptly notify Seller of any damage or off-specification Products, shortfall in delivery, or non-receipt of Product, together with relevant details. The parties will cooperate with each other in the handling of any claim with the carrier. Seller will not be responsible for any variation in quality or quantity unless Buyer gives Seller written notice within thirty (30) days of receipt and the variation is verified by an authorized agent of Seller or an independent professional inspector. Buyer's failure to give notice of any claim shall constitute an unqualified acceptance of the Product and a waiver by Buyer of all claims with respect thereto.

7. **Liabilities of the Parties:**

A. Except in the case of personal injury or death, Buyer's exclusive remedy for Product which does not meet the specifications in all material respects or for failure to deliver Product as set forth on the face side of the Acknowledgement, shall be replacement (or, at Seller's option, refund of the purchase price) of the quantity of Product in respect of which the claim is made. In all events, Seller's total liability to Buyer for any claim relating to this Contract, other than for personal death, shall not exceed the lesser of : (1) the actual out-of-pocket loss, liabilities or damages directly and proximately incurred by Buyer, or (2) an amount equal to the purchase price of the Product in respect of which such claim is made. This shall constitute Seller's maximum liability even if Product has been handled, stored, processed or transported by Buyer or third parties. In no event shall Seller be liable for any lost profits or any indirect, consequential, special, incidental, contingent or punitive damages or losses suffered or incurred by Buyer.

B. As between the parties hereto, Buyer assumes full responsibility for and liability arising out of the storage, handling, transportation, sale, use and disposal of any Product after delivery to it of such Product, and of any derivative product, any co-product, by-product, or waste product therefrom, including the use of any such Product alone or in combination with other substances and compliance or non-compliance with any laws or regulations relating thereto.

C. As between the parties hereto, Seller shall, subject to the limitations set out in Paragraph 6 and 7A, defend and indemnify Buyer from and against all claims, losses, liabilities, damages, and expenses (including reasonable attorney's fees) made against or incurred by Buyer arising out of any claim, suit or proceeding by any governmental agency or any third parties (including without limitation any employee of Seller or member of his/her family) which claim, suit or proceeding alleges death, personal or economic injury or damages to any private or public property or resources caused or contributed to by the Product, to the extent that such death, injury or damage is caused by reason of the failure of the Product to meet the physical and chemical specifications in all material respects when delivered to Buyer, which failure is not reasonably discovered by Buyer, or by reason of a material inaccuracy in the health and safety information provided by Seller concerning the Product.

D. As between the parties hereto, Buyer shall defend and indemnify Seller from and against all claims, losses, liabilities, damages, and expenses, (including reasonable attorney's fees) made against or incurred by Seller arising out of any claim, suit, or proceeding by any governmental agency or any third parties (including without limitation any employee of Buyer or member of his/her family), which claim suit or proceeding alleges death, personal or economic injury or damages to any private or public property or resources caused or contributed to by the Products delivered to Buyer, or any derivative product, co-product, by-product, or waste product, if the event or condition causing such death, injury, or damage occurred subsequent to delivery of the Product by Seller to Buyer, except to the extent such loss, injury or damage is caused by reason of the failure of the Product to meet the physical and chemical specifications in all material aspects when delivered to Buyer, which failure is not reasonably discoverable by Buyer, or by reason of a material inaccuracy in the health and safety information provided by Seller concerning the Product.

E. The foregoing undertakings in this Paragraph 7 apply in full measure, whether or not it is alleged or proved that either party was negligent or at fault, or liability without fault is sought to be imposed on either party for any reason or on any legal theory.

F. Buyer shall at its own expense, carry and maintain comprehensive general bodily injury liability insurance and broad form property damage liability insurance with companies in amounts and on terms satisfactory to Seller to support the indemnities in this Paragraph 7. Seller shall be treated under such policies as an additional insured in the same manner and to the same extent as Buyer. Buyer's obligation to carry insurance does not otherwise limit, satisfy or derogate from Buyer's primary obligations under this Paragraph 7.

8. **Assignment:** Buyer shall not (by operation of the law or otherwise) assign its rights or delegate its performance hereunder, without the prior written consent of Seller, and any attempted assignment or delegation without such consent shall be void.

9. **Government Law:** Any disputes concerning our Products and/or Services relating to this document shall be governed by and in accordance with the laws of the State of Ohio, Country of United States without regard to principles of conflict of law. Any acceptance of this document or action taken in regards to this document shall be deemed acceptance of the foregoing governing law language.

10. **Arbitration:** The parties agree to use reasonable efforts to amicably resolve any dispute between them concerning this Contract. In the event that the parties acting in good faith are not able to resolve any such dispute, the matter shall be submitted to arbitration in the State of Ohio. The rules of commercial arbitration of the American Arbitration Association in effect on the date the matter is submitted to arbitration shall apply. The decision of the arbitrators shall be in writing and shall contain the findings of fact and conclusions of law on which their decision is based. Such decision shall be final and binding on the parties unless clearly erroneous as a matter of law and may be enforced in any court having jurisdiction.