



Attachment A Terms and Conditions

These Terms and Conditions apply to the sale of Products.

1. **Limited Warranty.** Seller warrants good and free title in the Product and that the Product, when shipped, will conform to Seller's published specifications, if any exist, or to such other quality standards and/or measurements the parties have attached to this document or subsequently have agreed upon in writing. Seller makes no warranty as to any results Buyer might obtain in Buyer's use(s) for the Product. These warranties extend only to Buyer. **Seller makes no representation or warranty of any kind with respect to Product, express or implied, respecting merchantability or fitness for any particular purpose. Seller makes no other warranties extending beyond the description of the Product, whether used alone or in combination with any other substance or in any process.**
2. **Limitation of Liability.** Buyer will examine Product promptly after receipt for damage, defects, short-weight and non-conformance. Buyer must give Seller written notice of the existence of each claim involving Product (whether based in contract, breach of warranty, negligence, strict liability, other tort or otherwise) within the earlier of thirty (30) days after receipt of the quantity of Product forming the basis for the claim or applicable shelf-life expiration, if any. A failure by Buyer to give such notice within the applicable time constraint will constitute an absolute and unconditional waiver of all such claims. Buyer assumes all risk of patent infringement by reason of any use Buyer makes of the Product in combination with other substances or in the operation of any process. **Seller's entire liability to Buyer for damages, whether under breach of warranty or any other cause whatsoever, and whether under this contract or otherwise, shall in no event exceed that part of the purchase price applicable to the portion of Product giving rise to Buyer's claim for such damages. In no event will either party have liability to the other for any incidental, consequential, economic, exemplary or special damages.**
3. **Payment & Credit.** Buyer will make all payments hereunder in cash or in negotiable paper collectible at face value in the funds and at the location indicated on Seller's invoice; late payments will bear interest at 1.5%/month. If Seller determines that Buyer's financial responsibility has become impaired or otherwise unsatisfactory to Seller, Seller may require advance cash payments, COD, shorter terms, and/or the posting of satisfactory security by Buyer and may withhold shipments until Buyer complies.
4. **Governmental Constraints.** If a present or future law, governmental decree, order, regulation, or ruling under any existing or future legislation prevents Seller from increasing or revising the price as provided herein or nullifies or reduces any price or price increase hereunder, upon written notice from one to the other Seller and Buyer will attempt to implement mutually agreeable changes to conform this contract with such law, decree, order, regulation, or ruling. If the parties cannot agree upon and implement such changes within sixty (60) days after such notice, Seller shall thereupon have a right to terminate this contract forthwith by written notice to Buyer.
5. **Terms Adjustment.** Seller may change the price and/or terms of delivery and shipment at any time up until shipment, except where a written alternative pricing mechanism exists in this contract.
6. **Taxes.** Buyer will reimburse Seller for all federal, state, local or other taxes (other than income taxes), excises or charges, including superfund taxes and fees, which Seller must pay in connection with the manufacture and supply of Product, but only those amounts not already included in the price at the commencement of this contract.
7. **Title.** Title to the Product shall pass to Buyer at Seller's point of shipment. Buyer assumes all risks and liabilities arising out of unloading, discharge, storage, handling and use of the Product, or arising out of compliance or non-compliance with federal, state, municipal or local laws and regulations governing or controlling such activity, except to the extent, if any, attributable to Seller's gross negligence or willful misconduct. Seller has no liability for the failure of discharge or unloading equipment or materials used by Buyer, whether or not supplied by Seller. Except to the extent attributable to the Product failing to meet the express warranties set forth in paragraph 1, Buyer will indemnify, defend and hold Seller harmless from all costs, expenses, damages, judgments or other loss, including costs of investigation, litigation and reasonable attorneys' fees, arising out of Buyer's selection, use, sale and further processing of the Product.
8. **Force Majeure.** Either party may suspend performance hereunder (except to pay for Product already received) in the event of: (1) acts of God, fire, explosion, flood, hurricanes; (2) strikes, lockouts or other industrial disturbances or riots; (3) war, declared or undeclared, or acts of terrorism; (4) compliance with any Federal, state, provincial, municipal or military law, regulation, order, or rule, foreign or domestic, including priority, rationing, allocation or preemption orders or regulations, or cancellation of Seller's or Buyer's license to operate its plant; (5) catastrophic failure of facilities used to manufacture Product, interruption or shortage of transportation, labor, power, fuel or raw materials; or (6) any other cause or causes of any kind or character reasonably outside the control of the party failing to perform, whether similar or dissimilar from the enumerated causes (a "force majeure"). In the event a force majeure renders a party unable to perform its obligations under this contract, such party shall give written notice to the other party, with the full particulars including the expected duration of such force majeure promptly after the occurrence of the cause relied on, and upon the giving of such notice such party may suspend its obligations hereunder to the extent affected by such force majeure for the duration of the force majeure, but no longer, and so far as possible, such party will remedy the force majeure with reasonable dispatch. When a force majeure ends, performance shall resume, but such delay shall not, except by mutual agreement, operate to extend the term of this contract or obligate the Seller to make up deliveries or Buyer to purchase quantities so missed. Settlement of strikes or lockouts shall lie entirely within the discretion of the party having the difficulty; the above requirements for remedy of any force majeure with all reasonable dispatch shall not require the settlement of strikes or lockouts by acceding to the demands of the employees involved, when deemed inadvisable by the party having the labor difficulty. In the event of a force majeure, Seller has no obligation to purchase material for resale to Buyer, and no liability for cost to cover incurred by Buyer.
9. **Safety & Health Indemnity.** Buyer acknowledges that Seller has furnished to Buyer Material Safety Data sheets, which include warnings together with safety and health information concerning the Product and/or the containers for such Product. Buyer will disseminate such information so as to give warning of possible hazards to persons whom Buyer can reasonably foresee may receive exposure to such hazards, including, but not limited to, Buyer's employees, agents, contractors and customers. Buyer will indemnify, defend and save Seller harmless against any and all liability arising out of or in any way connected with Buyer's failure to disseminate such information, including without limitation, liability for injury, sickness, death and property damage, and costs of investigation, litigation and reasonable attorneys' fees.
10. **Shortage of Product.** During periods when demand for Product exceeds Seller's available supply, due to a force majeure, Seller may distribute Product among itself for its own manufacturing uses, its other customers, and Buyer in such manner as Seller deems fair and practicable. Buyer will accept, as full and complete performance by Seller, deliveries in accordance with such determinations as Seller may make. Except in the case of a force majeure, if not satisfied with Seller's determination, Buyer as its sole remedy shall have a right to terminate this contract without further obligation upon: (i) 10 days written notice; and (ii) payment for all Product received to date.
11. **Assignment/Delegation.** Buyer may assign/transfer rights and/or delegate duties/obligations hereunder only with the prior written consent of Seller, not unreasonably withheld. Seller may assign this contract and/or rights and delegate obligations under this contract without the consent of Buyer.
12. **Integration.** These Terms and Conditions apply to all sales by Mexichem Specialty Resins, Inc. and its affiliated companies. No statement of agreement, oral or written, made before or at the signing of this contract shall vary or modify the written terms hereof, and neither party shall claim any amendment, modification or release from any provision hereof unless such change occurs in a writing signed by the other party and specifically identifying it as an amendment to this contract. No modification or addition to this contract shall occur by the acknowledgment or acceptance by Seller of a purchase order, acknowledgment, release or other form submitted by Buyer containing additional or different terms or conditions, and Seller hereby gives Buyer notice of the rejection of such additional terms and conditions. A provision elsewhere in this contract that conflicts with a provision in these general terms and conditions will govern.
13. **UN Convention.** The United Nations Convention respecting Contracts for the International Sale of Goods shall not apply to transactions under this contract.
14. **Severability.** In the event of illegality or invalidity of a provision of this contract under the law of a particular jurisdiction, the parties shall deem that provision stricken in its entirety; the balance of this contract shall remain in full force and effect.
15. **Applicable Law.** The law of the jurisdiction from which Seller ships Product shall govern the interpretation and construction of this contract, without regard to that jurisdiction's choice of law principles. All litigation concerning this contract shall occur only in the state and federal courts of northern Ohio, and each party consents to exclusive jurisdiction in such courts.
16. **Re-Export.** Buyer will comply with all U.S. law and regulation respecting the export and/or re-export of Product.
17. **No Construction Against Drafter.** The Parties acknowledge that this Agreement and all the terms and conditions contained herein have been fully reviewed and negotiated by the Parties. Having acknowledged the foregoing, the Parties agree that any principle of construction or rule of law that provides that, in the event of any inconsistency or ambiguity, an agreement shall be construed against the drafter of the agreement shall have no application to the terms and conditions of this Agreement.