

Momentive Performance Materials Japan LLC

Standard Terms & Conditions of Sale

("Conditions of Sale")

FORMATION OF CONTRACT Unless previously agreed in writing, an order placed with Momentive Performance Materials Japan, LLC ("MOMENTIVE") shall be deemed accepted only upon MOMENTIVE's acceptance in writing (including electromagnetic records) thereof. Unless MOMENTIVE specifically agrees in writing, supplies of products or materials (collectively "materials") from MOMENTIVE to any buyer ("Buyer") shall be governed by these Conditions of Sale, together with those related instruments or agreements, if any, which pertain to the same sale of materials and which have been accepted by MOMENTIVE in writing (these Conditions of Sale, alone or collectively with any such related documents, being hereinafter sometimes referred to as a "Sales Agreement"). MOMENTIVE's receipt of a purchase order or its shipment of materials to Buyer does not constitute an acceptance by MOMENTIVE of any term or condition of such purchase order or any proposed terms and conditions. ANY ATTEMPTED MODIFICATION OF THESE CONDITIONS OF SALE PROPOSED BY BUYER CONTAINING TERMS AND CONDITIONS INCONSISTENT WITH OR IN ADDITION TO THESE CONDITIONS OF SALE SHALL NOT BE BINDING UPON MOMENTIVE UNLESS SPECIFICALLY ACCEPTED BY MOMENTIVE IN WRITING.

PRICES AND DELIVERY Unless otherwise agreed in writing, Prices for materials shall be determined by MOMENTIVE's list prices current at the time of the requested delivery date; payment terms shall be payment of the net amount in cash on the last business day of the following month of which the invoice was issued. Costs of shipping by means or routes other than those selected by MOMENTIVE, or to places other than those selected by MOMENTIVE, shall be borne by Buyer. MOMENTIVE shall separately indicate on its invoice(s) any tax required to be imposed. Title to materials purchased hereunder, and all risk of loss or damage with respect thereto, shall pass to Buyer at the time material is delivered by MOMENTIVE to Buyer. Incompletion of the Buyer's payment shall not prevent Buyer's use or distribution to its customers of the materials in its ordinary business. All delivery dates are approximate and may be changed. MOMENTIVE shall not be liable for consequential, special or indirect damages (Including any passive damages, indemnity obligations to a third party etc.) exceeding purchase price of the material based on any delay in delivery or failure to deliver material.

WARRANTY MOMENTIVE warrants that all materials sold to Buyer in accordance with these Conditions of Sale will conform to MOMENTIVE's internal specifications therefor in effect at the time of manufacture of the material or such other specifications as may be mutually agreed upon in writing. Buyer shall inspect all material supplied under the Conditions of Sale to confirm that the materials conform to the specifications and the quantity of the materials conforms to the Sales Agreement immediately after receipt, and shall provide MOMENTIVE with prompt notice of any non-conformity to the specifications or the Sales Agreement. The conditions of any test of the materials for conformance with specifications shall be mutually agreed upon between MOMENTIVE and Buyer. If there is a shortfall or excess in quantity of any material and MOMENTIVE receives such notice within three (3) business days from the earlier of the date of shipment or the date of resale by Buyer, MOMENTIVE shall deliver to Buyer the shortfall of the materials or take back the excess materials. If any material does not conform to MOMENTIVE's internal specifications or such other specifications as may be mutually agreed upon in writing, and MOMENTIVE receives such notice within (i) six (6) months from the earlier of the date of shipment or the date of resale by Buyer (however, in the case of non-conformity that can be detected immediately, within three (3) business days), and no later than (ii) the "Use By" date provided by MOMENTIVE for the material, such non-conforming material shall be replaced by MOMENTIVE without additional cost to Buyer, or, at MOMENTIVE's option, MOMENTIVE shall refund the purchase price therefor. This remedy is Buyer's exclusive remedy for breach of warranty. Excess materials and non-conforming materials shall not be returned by Buyer until authorized in advance by MOMENTIVE. Returned materials to the extent possible should be intact in the form shipped and retain the MOMENTIVE identity. THIS LIMITED WARRANTY IS GIVEN ONLY TO BUYER AND DOES NOT EXTEND TO ANY SUBSEQUENT PURCHASER OR TRANSFEREE OF MOMENTIVE'S MATERIALS. BUYER IS NOT ENTITLED TO EXTEND OR TRANSFER THIS WARRANTY TO ANY OTHER PARTY. THE WARRANTY STATED HEREIN IS IN LIEU OF ALL

OTHER WARRANTIES, WRITTEN OR ORAL, STATUTORY, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

LIMITATION OF LIABILITY, REMEDY AND DAMAGES MOMENTIVE's liability to Buyer under any Sales Agreement or arising out of Buyer's purchase, possession or use of the materials supplied hereunder or any technical advice relating thereto is limited to the warranty obligations set forth in the Warranty Article above, and in no event shall such liability, whether based in contract, warranty, negligence or other tort, product liability or otherwise, exceed the purchase price for the material in question and, upon the expiration of the applicable warranty period specified herein, all such liability shall be deemed waived unconditionally and absolutely. The foregoing shall constitute the sole and exclusive remedy of Buyer and the sole and exclusive liability of MOMENTIVE. MOMENTIVE WILL NOT BE LIABLE FOR CONSEQUENTIAL, SPECIAL, INCIDENTAL OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, COST OF ANY SUBSTITUTE FOR THE MATERIALS BUYER BOUGHT, CLAIMS OF THIRD PARTIES OR INJURY TO PERSON OR PROPERTY AND BUYER WILL RELEASE MOMENTIVE FROM ANY SUCH CLAIMS WHATSOEVER.

TECHNICAL ADVICE AND OTHER SERVICES Buyer agrees that MOMENTIVE will not have control over the overall design, testing or labelling of any product produced using any material supplied hereunder. Buyer agrees that it is not relying upon any representation, statement or other assertion made by MOMENTIVE with respect to the suitability of the materials for any purpose, and that Buyer has made its own inquiry, testing and investigation into, and based thereon has formed an independent judgment concerning, the suitability of the materials for the use, conversion or processing intended by Buyer, and will not assert any claim against MOMENTIVE, or hold MOMENTIVE liable in any manner, with respect to any information, testing or design furnished (or failed to be furnished) by MOMENTIVE including, without limitation, technical advice or recommendations. Statements made by MOMENTIVE concerning possible or suggested articles, designs, or uses of materials are not to be construed as constituting a license under any patent covering such articles, designs, or uses, nor as a recommendation for use of such materials, articles or designs in the infringement of any patent or other intellectual property right. Further, no rights under any patent, trademark, copyright, trade secret, or any other intellectual property right is granted, by implication or otherwise, by Buyer's purchase from MOMENTIVE of any materials.

PATENTS MOMENTIVE shall defend any suit or proceeding brought against Buyer insofar as such suit or proceeding is based on a claim that any material, in the form delivered by MOMENTIVE to Buyer, constitutes an infringement of any patent in the jurisdiction in which such sale occurred, if notified promptly in writing and given information and assistance (at MOMENTIVE's expense) and exclusive authority for the defence of any infringement claim and all negotiations relating to its settlement, and MOMENTIVE shall pay all damages and costs awarded therein against Buyer. In case any material in such suit or proceeding is held to constitute infringement and the use of the material is enjoined, MOMENTIVE shall at its own option and expense, either procure for Buyer the right to continue using the material, or replace same with a non-infringing material, or modify it so it becomes non-infringing, or accept return of the material from Buyer and refund the purchase price and the transportation cost thereof to Buyer. The foregoing states the entire liability of MOMENTIVE for patent infringement by the materials. MOMENTIVE shall not be responsible for, and Buyer shall hold MOMENTIVE harmless against, any expense or loss, including attorney's fees and expenses on a full indemnity basis, resulting from infringement of any intellectual property rights, if such infringement arises from MOMENTIVE's compliance with Buyer's specifications or instructions.

TERMINATION FOR DEFAULT Either party may terminate any Sales Agreement in the event the other party breaches any term or provision thereof and such breach is not cured within a period of thirty (30) days after the receipt of a written notice from the terminating party. If Buyer is in default hereunder, MOMENTIVE may suspend shipments of material during such cure period without liability to Buyer.

FORCE MAJEURE Both parties shall not be liable if its performance of its obligations (except the obligation to pay money), in whole or in part, under any Sales Agreement becomes impossible resulting from an act of God, act

of the other party or any other condition or cause beyond its reasonable control (including any inability to obtain labor, machinery or material).

PRODUCT WARNINGS AND INSTRUCTIONS Buyer shall be noted that various regulations may designate the material as hazardous material in the future, regarding its usage and processing. Buyer agrees to familiarize itself without further reliance on MOMENTIVE with any hazards of the materials, their processing and applications and the containers in which the materials are shipped. Buyer further agrees to properly manage and dispose of all wastes and residues resulting from its use of the materials in accordance with applicable laws and regulations.

SECURITY AND TITLE MOMENTIVE shall retain a purchase money security interest in the materials sold hereunder until all payments therefor shall have been received in full by MOMENTIVE and, if requested in writing to do so, Buyer agrees to do all acts necessary to perfect and maintain such security interest in MOMENTIVE, such as drafting a consent letter on seizure of materials purchased from MOMENTIVE.

PROHIBITATION OF IMPORT Unless MOMENTIVE accepts otherwise in writing, Buyer is prohibited to export materials abroad.

ENVIRONMENTAL COMPLIANCE. MOMENTIVE will provide Buyer Material Safety Data Sheets ("MSDS") and Buyer will provide the MSDS to all those required by law to receive them. Buyer will take such precautions as may be appropriate for hazards identified in the MSDS and properly manage and dispose of all wastes and residues resulting from Buyer's use of the materials in accordance with applicable laws and regulations. Buyer agrees to dispose of disposable packaging as required by any applicable disposal or recycling laws.

EXPORT CONTROL COMPLIANCE. Buyer ensures that products, technology or software Buyer receives from Seller are exported by Buyer only in compliance with applicable laws, not limited to Japan, including U.S. and other relevant jurisdiction's export control laws and regulations, including re-exporting and/or returning import cases. Accordingly, Buyer certifies that it will not use or support the use by others of such products, technology or software in the design, development, production or use of (i) nuclear, chemical or biological weapons of mass destruction or conventional arms, (ii) rockets, ballistic missiles or unmanned arial vehicles, or, (iii) integrated circuits in China and other semiconductor and semiconductor related products in specified countries or to specified enterprises, etc. so as shown in such regulations, in violation of the applicable export control laws and regulations.

GENERAL Cancellation of any order, or return of any conforming material purchased hereunder, will be subject to acceptance by MOMENTIVE and to a restocking charge and cancellation charge in accordance with MOMENTIVE's policy as then in effect. These Conditions of Sale, together with the other documents, if any, comprising part of the same Sales Agreement, contain the entire agreement among the parties as to the subject matter thereof, and supersede all prior understandings, whether written or oral, relating thereto. No Sales Agreement may be renewed, in any manner, except by an instrument in writing signed by the parties. The rights and obligations of Buyer under any Sales Agreement may not be assigned or delegated to any third party, in whole or in part, without MOMENTIVE's prior written consent. These Conditions of Sale, and any other instrument or agreement making up part of a Sales Agreement, shall be governed by, and interpreted in accordance with, the laws of Japan. The parties agree that any disputes arising from or in connection with Sales Agreement including these Conditions of Sale shall be subject to exclusive jurisdiction of the Tokyo District Court in the first instance.