

## CONDITIONS OF SALE

**1. DEFINITIONS.** As used below, "Seller" means Momentive Specialty Chemical Canada Inc. or its applicable affiliate selling Product to Buyer, as applicable, "Product" means any product sold by Seller, and "Buyer" means a party purchasing any Product from Seller.

**2. APPLICABLE TERMS.** All sales by Seller to Buyer, whether initiated by written purchase order, electronic means, telephone or any other method, will be subject to the following: (a) if a formal agreement is then in effect between Buyer and Seller and applicable to such sale (a "Sales Agreement"), then any term in the Sales Agreement that conflicts with these terms will apply, and these terms will otherwise apply; and (b) if no Sales Agreement is in effect, these terms, and the Product description and quantity specified in Buyer's order as accepted by Seller, will make up Buyer's complete contract with Seller. In order to promote their safe and effective use, all Products are provided solely for use or consumption by Buyer, and any resale or other transfer of any such Products by Buyer is prohibited and will constitute a material breach of these terms. These terms may be modified only by the written agreement of Buyer and Seller. By purchasing Products from Seller, Buyer confirms its agreement with these terms, and agrees that, even if Buyer sends Seller another form of agreement or terms, or modifications to these terms, and Seller does not respond, these terms shall govern. The United Nations Convention on Contracts for the International Sale of Goods will not apply to any sale of Products.

**3. PRICES AND DELIVERY.** Product prices are determined by the applicable Sales Agreement, if any. In the absence of a Sales Agreement, prices are determined by Buyer's confirmed order or, in the absence of a confirmed order, by Seller's list prices in effect at the time of shipment. If Seller implements a general or industry specific price adjustment for any Product, all orders for such Product that are confirmed but not shipped as of the effective date of such adjustment shall be re-priced accordingly. All prices are FCA (INCOTERMS 2010) a facility specified by Seller, and do not include taxes of any kind. Payment will be due in full, in U.S. Dollars, within thirty (30) days of the invoice date. Buyer agrees to reimburse Seller for Seller's costs of collection should Buyer fail to pay Seller in a timely manner, including interest at the rate of 1% per month, or the maximum interest rate permitted by applicable law, whichever is less, on any past-due amounts. Title and risk of loss or damage to Products will pass to Buyer at the time such Products are first delivered to a commercial transportation carrier for shipment. All delivery dates are estimates only. Buyer agrees that a variation of up to 10% in quantity delivered is acceptable to Buyer, and shall constitute fulfillment of an order. In addition to any other rights available to Seller, in the event that Buyer is in default of its obligations hereunder, files for bankruptcy, or is reasonably believed by Seller to be insolvent, then Seller may suspend shipments of Product to Buyer. Seller shall retain ownership of any re-usable packaging.

**4. LIMITED WARRANTY.** Seller warrants that all Products sold to Buyer will be free of any claim of ownership by third parties and will conform to the manufacturer's specifications in effect at the time of manufacture, or such other specifications as shall have been expressly agreed in writing by Buyer and Seller. Buyer will inspect all Products for damage, defect or shortage promptly after Buyer receives them, and will give Seller prompt notice of any damage, defect or shortage that Buyer finds. The conditions of any test for conformance with specifications shall be mutually agreed upon and Seller will be notified of, and may be represented at, all such tests. If any Product is determined not to conform to the warranty set forth above during the period ending at the earlier of (i) six months from date of shipment by Seller, or (ii) the applicable "Use By" date set by Seller, if any, then Seller shall, at its option, either replace the defective Product or refund the purchase price. Defective Products shall not be returned by Buyer until authorized by Seller. This remedy is Buyer's exclusive remedy for breach of warranty. If applicable law prohibits this limitation of Buyer's remedies, then Seller agrees that the maximum amount Buyer may claim from Seller is twice the net purchase price Buyer actually paid Seller for Product determined to be defective. **THIS LIMITED WARRANTY IS GIVEN ONLY TO THE ORIGINAL PURCHASER, IT MAY NOT BE TRANSFERRED OR ASSIGNED AND DOES NOT EXTEND TO ANY SUBSEQUENT PURCHASER OR TRANSFEREE OF PRODUCTS. THIS WARRANTY 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.**

**5. LIMITATION OF CLAIMS.** Except as agreed in the Limited Warranty set forth above, Seller will not be responsible for any harm arising out of Buyer's purchase, possession or use of any Product, whether based in contract, warranty, negligence or other tort, strict liability or otherwise. **SELLER WILL NOT BE LIABLE FOR CONSEQUENTIAL, SPECIAL, INCIDENTAL OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, EQUIPMENT DOWNTIME, COST OF ANY SUBSTITUTE FOR PRODUCTS, CLAIMS OF THIRD PARTIES OR INJURY TO PERSONS OR PROPERTY. THIS LIMITATION SHALL APPLY NOTWITHSTANDING A FINDING THAT ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.**

**6. ADVICE AND OTHER SERVICES.** Buyer agrees that Seller will not have control over the design, testing or labeling of any product produced using Seller's Products, and that Buyer is not relying on any representation or statement made by, or on behalf of, Seller with respect to the suitability of any Product for any purpose, or on any advice, recommendation or information obtained from Seller's product literature or web sites, including any design aid or other service made available by Seller. Buyer has tested and investigated the Products enough to form an independent judgment concerning their suitability for the use, conversion or processing intended by Buyer and will not make, and hereby waives, any claim against Seller based on Seller's advice, statements, information, services or recommendations.

**7. INTELLECTUAL PROPERTY.** Any suggestions Seller makes about possible articles, designs or uses of Products do not give Buyer a license under any patent or other intellectual property right covering such articles, designs or uses, nor are they a recommendation that Buyer use any Product in a manner that may infringe any patent or other intellectual property right. If there is a claim that any Product, in the form in which Seller sold it to Buyer, infringes another person's patent or other intellectual property right in the jurisdiction in which such sale took place, then (i) Seller will defend Buyer against such claim, and indemnify Buyer against all reasonable costs of such defense incurred by Buyer, and (ii) if any Product subject to such a claim is determined to infringe another person's patent or other intellectual property right, Seller shall, at its sole option and expense, either procure for Buyer the right to continue using the Product or accept return of the Product from Buyer and refund the purchase price thereof. The foregoing states the entire obligation of Seller for intellectual property infringement. Seller shall not be responsible for, and Buyer shall hold Seller harmless against, any damages and costs incurred by Seller as a result of any claim of infringement of another person's patent or other intellectual property right that arises from Seller's compliance with any specification or instruction provided by Buyer. In the event that Buyer shall become aware of any claim of the type described above, it will promptly notify Seller in writing and give Seller all necessary information, assistance and exclusive authority for the defense of any such claim and its settlement.

**8. EVENTS BEYOND SELLER'S CONTROL.** Seller will not be responsible if Seller's performance of any obligation hereunder (other than the payment of money) becomes impossible or commercially unreasonable due to any cause or event beyond Seller's reasonable control, including, without limitation, acts of God, acts of any governmental authority, acts of Buyer, acts of terrorism, war, civil disturbance, labor disruption or strike, fire, explosion, release of dangerous or hazardous materials, inability to obtain necessary raw materials, utilities, transportation, machinery or services, and any similar or dissimilar cause or event.

**9. HEALTH AND SAFETY COMPLIANCE.** Seller will give Buyer Material Safety Data Sheets ("MSDSs") for Products sold to Buyer. Buyer understands that some Products may be hazardous materials or hazardous substances under various laws and regulations when handled or processed. Buyer agrees to familiarize itself (without further reliance on Seller) with any hazards of the Products, their processing and applications and the containers in which the Products are shipped. Buyer agrees to provide the MSDSs to all those required by law to receive the same and to inform and train its employees, and properly warn and instruct its customers, as to hazards identified in the MSDSs or discovered by Buyer in its investigations. Buyer agrees to properly manage and dispose of all wastes and residues resulting from its use of all Products, including any disposable packaging, in accordance with applicable disposal or recycling laws.

**10. EXPORT CONTROL COMPLIANCE.** Buyer will ensure that any Products, technology or software received from Seller are exported by Buyer only in compliance with applicable laws, including U.S. export control laws. Buyer certifies that it will not use, or knowingly support the use by others of, such Products, technology or software in the design, development, production or use of nuclear, chemical or biological weapons, land mines or ballistic missiles. At all times, Seller will be entitled to decline to sell or ship to any party appearing on the Denied Persons List published by the Bureau of Industry and Security of the U.S. Department of Commerce, or identified in any similar governmental publication.

**11. ELECTRONIC COMMERCE.** Buyer may not share any password, access code or similar credential issued to it by Seller, and Seller reserves the right to suspend or revoke any such credential. Buyer is solely responsible for ensuring the security and integrity of its ordering process. Any information provided by Seller via any Internet site or electronic communication (i) is subject to correction or change without notice, and (ii) is provided for the sole use of Buyer for purposes of facilitating individual transactions involving the purchase and sale of Products. Seller may issue electronic invoices for any purchases of Products made using the Internet, e-mail or any other computer-based electronic communications method, and agrees to honor such invoice as if it had been delivered in writing.

**12. MEDICAL APPLICATIONS.** Buyer understands that the Products are not intended for use in any medical application involving permanent implantation in the human body, or any such implantation lasting longer than 29 days, and agrees not to use any Product for any such application, or for any other application into which, to Buyer's knowledge, Seller has previously declined to sell Products.

**13. GENERAL.** Cancellation of any order, or return of any conforming Product, will be subject to acceptance by Seller and to Seller's applicable cancellation policies and charges. All orders shall be subject to Seller's applicable transaction service standards, including minimum order quantities. Neither course of performance or dealing, nor usage of trade, nor prior writings or agreements shall be used to qualify, explain or supplement any of these terms and conditions. Failure by either party, at any time or from time to time, to require the performance by the other party of any term hereof shall not constitute a waiver of such term. The invalidity, in whole or in part, of any term herein, shall not affect any other term, each of which shall be enforced to the full extent permitted by law. Buyer may not assign or transfer any rights or obligations under any Sales Agreement or other agreement governed by these terms without the prior written consent of Seller. These terms shall be governed by, and interpreted in accordance with, the laws of the State of New York, without giving effect to its conflicts of laws principles.