

STANDARD CONDITIONS OF SALE

1. EXCEPT FOR THE MANUFACTURER'S WARRANTY FROM DUPONT, SELLER DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, WHETHER OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE IN FACT OR BY LAW, IN RESPECT OF PRODUCTS PURCHASED BY BUYER FROM SELLER, AND SELLER SHALL HAVE NO LIABILITY TO BUYER, ITS CUSTOMERS OR ANY OTHER PERSON OR ENTITY BY REASON OF THE MANUFACTURE, SALE OR LEASE OF ANY PRODUCT OR OF ITS USE, WHETHER FOR BREACH OF CONTRACT, BREACH OF WARRANTY, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY GENERAL, SPECIAL, EXEMPLARY, PUNITIVE, CONSEQUENTIAL OR INCIDENTAL DAMAGES, OR ECONOMIC LOSS, INCLUDING, WITHOUT LIMITATION, ANY DAMAGES RELATING TO PROPERTY DAMAGE, INCLUDING, WITHOUT LIMITATION, ANY DAMAGES FOR LOSS OF USE OR LOSS OF PROFITS. Buyer assumes all risk and liability resulting from use of the products delivered hereunder, whether used singly or in combination with other products. All returned merchandise must be accompanied by Seller's return authorization and this invoice, and is subject to a twenty percent (20%) restocking fee.
2. IN ANY EVENT, IT IS AGREED THAT THE TOTAL AGGREGATE LIABILITY OF SELLER TO BUYER, IF ANY, SHALL BE LIMITED TO THE TOTAL AMOUNT PAID BY BUYER TO SELLER PURSUANT TO THIS AGREEMENT. No claim of any kind, whether as to products (or materials) delivered or for non-delivery of products, and whether or not based on negligence, shall be greater in amount than the purchase price of the products in respect of which damages are claimed; and failure to give notice of claim within ninety (90) days (or such other period as may be provided in the Special Conditions of Sale referred to in Condition 14 hereof) from date of delivery, or the date fixed for delivery (in the case of non-delivery), shall constitute a waiver by Buyer of all claims in respect of such products. No charge or expense incident to any claims will be allowed unless previously approved by an authorized representative of Seller in writing. Products shall not be returned to Seller without Seller's prior permission, and then only in the manner prescribed by Seller.
3. No liability shall result from delay in performance or non-performance, directly or indirectly caused by circumstances beyond the control of the party affected, including, but not limited to, Act of God, fire, explosion, flood, act of war authorized by any Government, accidents, labor trouble or shortage, inability to obtain material, equipment or transportation. Quantities so affected may be eliminated from the agreement without liability, but the agreement shall remain otherwise unaffected. Seller shall have no obligation to purchase supplies of the products (or materials) specified herein to enable it to perform this agreement.
4. It is further understood and agreed between Buyer and Seller that if this agreement covers products (or materials) that must necessarily be manufactured especially for Buyer and is suspended or terminated for any reason, Buyer will take delivery of and make payment for such products as have been completed and such as are in process on the date notice of suspension or termination is received by Seller, provided, that if Buyer for any reason cannot accept delivery of such products, it will make payment therefore as though delivery had been made and Seller will store such products for Buyer's account and at Buyer's expense.
5. If for any reason Seller is unable to supply the total demand for products (or materials) specified herein, Seller may distribute its available supply among any or all Buyers, as well as departments and divisions of Seller, on such basis as it may deem fair and practical, without liability for any failure of performance which may result therefrom.
6. If any Government action should place or continue limitations on the price provided for in this agreement such that it would be illegal or against public or Government policy for Seller to charge, assess or receive the full amount of or to increase such prices as determined by this agreement, then Seller shall have the option (1) to continue to perform under this agreement subject to such adjustments in prices that Seller may deem necessary to comply with such Government action, (2) to revise this agreement, subject to Buyer's approval, in order to most nearly accomplish the original intent of this agreement, or (3) to terminate performance of the affected portions of the agreement without liability for any damages.
7. At Buyer's request, Seller may furnish such technical assistance and information as it has available with respect to the use of the products (or materials) covered by this agreement. Unless otherwise agreed in writing, all such technical assistance and information will be provided gratis, and Buyer assumes sole responsibility for results obtained in reliance thereon.
8. Buyer acknowledges that it has received and is familiar with Seller's labeling and literature concerning the products (or materials) sold hereunder and will forward such information to its employees who handle, process or sell such products and customers of such products, if any.
9. The Buyer shall reimburse Seller for all taxes, excises or other charges which the Seller may be required to pay to any Governmental authority (National, State or Local) upon the sale, production or transportation of the products sold hereunder.
10. All amounts due hereunder by Buyer to Seller are due and payable in accordance with the terms and conditions and on a date agreed upon prior to delivery of the products hereunder. Acceptance of delivery of the products confirms such agreement. Any and all amounts remaining unpaid after such agreed upon date will bear interest at the higher of 1-1/2% per month or the maximum permitted by law.
11. In the event Buyer fails to fulfill Seller's terms of payment, or in case Seller shall have any doubt at any time as to Buyer's financial responsibility, Seller may decline to make further deliveries except upon receipt of cash or satisfactory security.
12. This agreement is not assignable or transferable by either party, in whole or in part, except with the prior written consent of the other party.
13. In addition to the Standard Conditions of Sale set forth herein, any Special Conditions of Sale set forth in the current price list (or attached hereto) the products (or materials) covered by this agreement shall apply and are incorporated by reference herein. In the event of a conflict between the Standard Conditions of Sale and any Special Conditions of Sale, the Special Conditions of Sale shall control.
14. This document contains all of the terms and conditions with respect to the sale and purchase of the products (or materials) sold hereunder. These terms and conditions supersede any of previous date and no modification thereof shall be binding on Seller unless separately contracted in writing and agreed to by a duly authorized representative of Seller. No modification shall be affected by the acknowledgement or acceptance of purchase order forms stipulating different conditions. Unless Buyer shall notify Seller in writing to the contrary as soon as practicable after receipt of this document by Buyer but in no event more than ten (10) days after the date hereof, acceptance of the terms and conditions hereof by Buyer shall be indicated and, in the absence of such notification, the sooner of ten (10) days or Buyer's acceptance of the products shall be equivalent to Buyer's assent to the terms and conditions hereof. Waiver of either party of any default by the other hereunder shall not be deemed a waiver by such party of any default by the other which may thereafter occur.
15. The failure of either party to insist upon the performance of any of the provisions of this Agreement shall not be considered a waiver or relinquishment of future compliance therewith; nor shall a waiver by either party of any breach at one time of any provision operate as a waiver of any other provision or as a continuing waiver of such provision.
16. The interpretation, performance, operation, rights and remedies relating to, and the legal effect of this Agreement, including its termination or cancellation, shall be construed pursuant to and governed by the laws of the State of Florida. The parties exclude the application of the 1980 United Nations Convention for the International Sale of Goods, if otherwise applicable. If any part of this Agreement shall be adjudged invalid by any court, governmental department or agency, arbitration panel or other forum, such adjudication shall not affect the remaining valid portions of this Agreement. To the extent that any provision of this agreement shall be held illegal, unenforceable, or in conflict with any law of a federal, state, or local government having jurisdiction over this agreement, a court of competent jurisdiction may modify such provision to achieve a provision that is consistent with the parties' intent.
17. The parties encourage the prompt and equitable settlement of all disputes arising from or in relation to this Agreement. The parties agree to negotiate their differences directly and in good faith for a period of thirty (30) days after receiving notification of the existence of a dispute. If the dispute is not resolved within thirty (30) days, the parties agree to submit their dispute to mediation in accordance with the Commercial Rules of the American Arbitration Association (the "AAA"), as amended and in force as of the date the dispute is brought to the AAA. The place of mediation shall be in Miami, Florida. The language to be used in the mediation shall be English. In the event that the dispute or controversy has not been settled by mediation within thirty (30) days, any of the parties may thereafter file a written Notice of Arbitration with the AAA, in which case the dispute or controversy shall be finally settled by arbitration in accordance with the Commercial Rules of the AAA as amended and in force as of the date the dispute is brought to the AAA. The number of arbitrators shall be one (1). The language to be used in the arbitral proceedings shall be English. The arbitration shall be held in Miami, Florida. Judgment on the arbitral award may be entered in any court having jurisdiction. The arbitrators' fees and other expenses associated with the arbitration may be awarded by the arbitrators to the prevailing party in connection with the judgment.
18. This Agreement shall be binding upon and inure to the benefit of the parties, and their successors and assigns. Neither party shall assign, delegate, or convey any of its rights or obligations hereunder without the prior written consent of the other party, provided that Seller shall be permitted to assign its rights and delegate its duties hereunder to any affiliate of Seller.
19. Buyer shall be in default of its obligations hereunder if any check given by Buyer to Seller is subsequently dishonored. In the event Buyer is a corporation, all shareholders, directors, officers and managers of the corporation, as well as any other person with actual or apparent authority to act on behalf of the corporation, shall be individually responsible for all amounts owed by Buyer to Seller. Further, if Buyer is a corporation, the individual signing checks on behalf of the corporation shall be personally responsible for their validity.