



## TERMS AND CONDITIONS OF SALE

The Terms and Conditions ("Terms") contained herein shall apply to all quotations and offers made by and purchase orders accepted by **ORG CHEM Group, LLC** its subsidiaries and/or affiliates, as the case may be (entity or entities referred to herein as "Seller"). These Terms apply to all sales made by Seller except to the extent the Terms conflict with a separate agreement signed by Seller and Purchaser (the term Purchaser used herein to refer to party identified in Seller's proposal or acknowledgement). These Terms apply in lieu of any course of dealing between the parties or usage of trade in the industry. These Terms may in some instances conflict with some of the terms and conditions affixed to the purchase order or other procurement document issued by the Purchaser. In such case, the Terms contained herein shall govern.

1. Purchaser acknowledges that by agreeing to purchase any goods or services from Seller, Purchaser shall be deemed to have accepted the following terms and conditions. However, Seller shall have no obligation whatsoever to make any sale to Purchaser or to extend credit to Purchaser, except to the extent that Seller agrees to such sale by issuance of an order confirmation or acknowledgement.
2. Seller shall not be liable for delays or defaults, nor the direct or indirect, consequential, incidental or special damages resulting therefrom, due to the elements, acts of god, acts of the Purchaser, war, labor dispute, accident, fire, flood, government action, or any other cause beyond Seller's reasonable control. In such event, Seller may at its sole discretion, delay the delivery date for any time lost due to causes specified herein, and/or apportion such goods among its customers, as it may consider equitable.
3. Terms of payment are net 30 days unless otherwise agreed upon in writing and so noted on each invoice. Terms shall be effective from the date of invoice. All payments shall be made in U.S. Dollars. An interest charge at the lower of 1% per month or the highest permissible rate allowed by law may be assessed by Seller on any invoiced amount not paid within the terms of each invoice. The price for any product of Seller shall be as set forth on Seller's price list as of the date Purchaser places an order. Product prices are subject to change without notice to Purchaser, and are exclusive of any sales, revenue, excise or other taxes that may apply. In the event that Seller incurs costs and expenses in collecting amounts due from Purchaser, or is required to institute legal action in order to collect delinquent accounts, Purchaser agrees to pay reasonable attorney's fees, expenses and costs, including costs of suit.
4. Unless otherwise agreed upon by the parties, delivery will be made F.O.B. point of shipment and risk of loss and title shall pass to Purchaser upon delivery to carrier, without regard to which party is responsible for shipping costs.
5. Seller's liability and Purchaser's exclusive remedy, whether under this agreement or any other contract between Seller and Purchaser, under strict liability, for Seller's negligence, breach of contract or otherwise, is limited to: (i) for products, replacement, or repair of the defective merchandise or return of the purchase price, at Seller's option, and (ii) For any processing or other services provided by Seller, the invoice amount for such services. **IN NO EVENT SHALL SELLER BE RESPONSIBLE FOR ANY OF PURCHASER'S INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES.** Prompt written notice or any claim or defect must be provided to the Seller. Failure to notify Seller in writing within seven (7) days of any visible defects in the products or of quantity shortages or incorrect shipments shall be deemed an unqualified waiver of any rights to return products on the basis of visible defects, shortages or incorrect shipments.
6. **SELLER WARRANTS THAT THE GOODS OR SERVICES PROVIDED HEREUNDER ARE WARRANTED ONLY TO PERFORM IN ACCORDANCE SPECIFICATIONS FURNISHED BY SELLER. OTHERWISE, THE GOODS OR SERVICES PROVIDED BY SELLER, ARE PROVIDED "AS IS" AND WITHOUT WARRANTIES OF ANY OTHER KIND, WHETHER EXPRESS OR IMPLIED. TO THE FULLEST EXTENT PERMISSIBLE BY APPLICABLE LAW, CHEM GROUP DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE.**
7. Purchases may not be returned without Seller's prior written consent. Restocking charges may be assessed at the sole discretion of the Seller.



# CHEM GROUP

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8. Purchaser agrees that any credit balances issued will be processed and used within one (1) year of its issuance. IF NOT PROCESSED OR REQUESTED WITHIN ONE (1) YEAR, ANY BALANCE REMAINING WILL BE SUBJECT TO CANCELLATION, AND CHEM GROUP SHALL HAVE NO FURTHER LIABILITY.
9. No order shall be subject to cancellation or modification without prior written consent of the Seller. Seller shall have the right to cancel any unfilled order without notice to Purchaser in the event that Purchaser becomes insolvent, adjudicated bankrupt, petitions for or consents to any relief under any bankruptcy reorganization statute, or becomes unable to meet its financial obligations in the normal course of business.
10. The parties agree that Seller's obligation to maintain records concerning transactions with Purchaser is limited to those obligations contained in Seller's internal record-keeping and record retention policy.
11. Purchaser is responsible for any taxes, charges or other fees presently or subsequently imposed by any law, order, regulation or ordinance of the Federal, State or Municipal governments for production, sale, use, transportation, deliver or servicing of the products sold hereby.
12. Seller hereby represents that it currently has in force worker's compensation insurance, comprehensive general liability (CGL) insurance and commercial auto bodily injury and property damage liability insurance, with each policy having a combined single limit of coverage per incident of at least \$1,000,000. CGL insurance includes coverage for liability assumed by contract to the extent that such was, at Seller's sole discretion, available and affordable when coverage was purchased. Seller, at Seller's option, and if agreed to separately in writing with Purchaser, may provide certificates of coverage or other information concerning coverage, may cooperate to add Purchaser as an additional named insured, and may agree to a waiver of any subrogation rights against Purchaser, so long as the waiver is mutual. This provision sets forth the entire responsibility of the Seller with respect to insurance.
13. The parties agree that Seller solely owns and retains any and all intellectual property and other property rights that may exist related to its products and services provided to Purchaser. Purchaser shall have sole responsibility for any liability resulting from the manufacture and sale of goods using specifications provided by Purchaser that results in an infringement of patent or other intellectual property right of a third party.
14. It is hereby agreed that any provisions that may appear in Purchaser's other documents concerning the responsibility of one party to indemnify the other for any reason shall be modified and hereby limited such that each party is responsible for indemnifying the other for loss, liability and expense only to the extent such loss, liability and expense is attributable to the negligent or intentional acts or omissions of the indemnifying party arising from the indemnifying party's performance of the agreement to provide goods or services provided hereunder.
15. Each of the parties agrees to comply with any federal, state and local laws, regulations, ordinances, etc. that may apply to it as a result of purchase and sale of any products or services, and also other conduct in furtherance of agreement to provide goods or services.
16. Clerical errors that may appear in Seller's or Purchaser's documents that are clearly mistakes when compared to other relevant materials are subject to correction.
17. The terms and conditions as stated herein together with such other terms contained in Seller's acknowledgement are the final expression of the agreement between Seller and Purchaser and are a complete and exhaustive statement of terms and conditions of such agreement. Seller hereby objects to and rejects any and all additional or different terms proposed by Purchaser, whether contained in Purchaser's purchasing or shipping release forms, or elsewhere.
18. Seller's failure to object to provisions contained in any communication from Purchaser shall not be deemed a waiver of the provisions herein. Any changes in the Terms contained herein must specifically be agreed to in writing signed by an officer of CHEM Group and an authorized official of Purchaser before becoming binding on either party.
19. This agreement on terms and conditions shall be governed by and construed for all purposes, including, without limitation, Seller's obligations or liabilities respecting its products, according to the laws of the state of Indiana, without regard to its conflict of law provisions.