



TERMS AND CONDITIONS OF SALE

The Terms and Conditions herein apply to the sale of PolyOne products

1. GENERAL

These terms and conditions (the "Terms and Conditions") shall exclusively govern the sale and purchase of all products sold by PolyOne Corporation, and any of its affiliates in Europe. The issuance of orders by Buyer implies full acceptance of these Terms and Conditions which shall prevail over Buyer's terms and conditions in the event they contradict or deviate from these Terms and Conditions.

2. LIMITED WARRANTY

Subject to paragraph 3, and unless otherwise expressly provided herein, Seller warrants good and free title and that the Product will conform to Seller's published specifications, if any, or those other quality standards and/or measurements set forth herein. Seller shall replace, free of charge, any Products which do not conform to these specifications in one or several deliveries. Buyer expressly agrees that the colour is subject to deviations which are caused by the nature of the material and is not covered by this warranty. Seller has based any recommendations to Buyer for the use of the Product upon information supplied by Buyer which Seller assumes to be reliable, but Seller makes no warranty of the results Buyer might obtain in any particular application for the Product. Subject to the foregoing, and except as otherwise expressly provided herein, Seller makes no representation or warranty of any kind with respect to the Product, express or implied, relating to merchantability or fitness for any particular purpose. Seller makes no warranties extending beyond the description of the Product, whether used alone or in combination with any other substance or in any process. All representations and warranties provided by applicable laws are expressly excluded and contractually waived.

3. LIMITATION OF LIABILITY

Immediately upon Buyer's acceptance of the Products at the moment of their delivery or collection, Buyer shall indicate in writing on the official delivery or collection documents whether the Products are affected by any apparent damages or defects resulting from their shipment or transportation. Notwithstanding the above, Buyer will examine the Product promptly after receipt for damage, defects and non-conformance. Buyer must give Seller written notice of the existence of each claim involving the Product (whether based in contract, breach of warranty, negligence, strict liability, other tort or otherwise) within ten (10) days after receipt of the quantity of the Product forming the basis for the claim; a failure by Buyer to give such written notice within the applicable time constraint will constitute an absolute and unconditional waiver of all such claims irrespective of whether Buyer has discovered the facts giving rise to such claim, or whether further processing, manufacture, other use or resale of such Product has actually occurred. Seller shall supply new Products or refund the amount corresponding to the defective Products, at Seller's discretion.

Buyer assumes all risk of patent or other intellectual property 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 liability to Buyer for damages, whether under breach of warranty or any other cause whatsoever, and whether under these Terms and Conditions or otherwise, shall in no event exceed that part of the purchase price applicable to the portion of the Product giving rise to Buyer's claim for such damages. In no event will Seller have liability to Buyer for any incidental, consequential or special damages, including but not limited to, loss of profits. Seller shall not be liable for any hidden defects discovered either within the ten (10)-day warranty period following receipt of the Product or following the expiration of such warranty period. Buyer hereby expressly waives any and all claims regarding hidden defects. All limitations and exclusions of Seller's liability shall also apply to the personal liability of its salaried and other employees, co-workers and agents of Seller acting within the performance of their contractual obligations.

4. ORDERING & LIMITS

All offers from Seller are subject to confirmation and without obligation. All orders and acceptance of orders must be in writing. Seller reserves a right to discontinue any Product sold hereunder at any time,

unless Buyer and Seller are bound by a pre-existing master agreement which would require Seller to notify Buyer of such discontinuance.

5. PAYMENTS

Unless otherwise directed or agreed to by Seller, all invoices are payable thirty (30) days after the date of invoice. Buyer will make all payments hereunder to the account indicated on the invoice. Seller shall be entitled to deduct all bank charges. If Seller, acting reasonably, determines that the financial responsibility of Buyer has become impaired or otherwise unsatisfactory to Seller, Seller may require advance payment or the posting of satisfactory security by Buyer, and may withhold shipments until Buyer makes such payments or posts such security; such action by Seller shall not constitute a change of payment terms hereunder. Notwithstanding any provision to the contrary, Seller shall be entitled to first credit payments against Buyer's old debts, and in the following order: costs, interests and lastly main obligation. All late payments shall bear an annual interest of one (1) month EURIBOR plus 8% accrued on a daily basis, notwithstanding any damages. Seller is entitled to rescind the sale agreement in the event that Buyer is in default of the purchase price payment by more than fifteen (15) days.

In the event Buyer is in default of any payments whatsoever due to Seller by more than fifteen (15) days, Seller shall be entitled to: (i) hold the shipment of any products ordered by Buyer until Buyer makes such payments; and (ii) require from Buyer immediate payment of any additional products ordered by Buyer prior to their shipment.

6. 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 identify mutually agreeable changes to conform these Terms and Conditions 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 the relevant purchase order(s) forthwith by written notice to Buyer.

7. PRICE AND 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. In addition, at any time prior to delivery, Seller may pass through increased fuel surcharges or taxes imposed upon Seller in connection with the sale/shipment of the Product after order acceptance. Unless otherwise stated, all prices are in Euro.

8. TAXES

Seller's invoices will include value added tax, and such value added tax shall be a separate line item on the invoice. Seller shall not be liable to Buyer for any other taxes or duties of any kind unless specifically and mutually agreed to between the parties.

9. TRANSFER OF 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 applicable laws and regulations governing or controlling such activity. Seller has no liability for the failure in discharging or unloading equipment or materials used by Buyer, whether or not supplied by Seller. Except to the extent attributable to the Product sold hereunder failing to meet the express warranties set forth in paragraph 2, Buyer will indemnify, defend and hold Seller harmless from all costs, expenses, damages, judgments or other loss, including costs of investigation, litigation and reasonable attorney's fees, arising out of Buyer's selection, use, sale and further processing of the Product sold hereunder. Notwithstanding the foregoing, in the event that the agreement is rescinded as a result of a failure from Buyer to make timely payments, title shall be deemed to have remained with Seller and risks shall be deemed to have passed to Buyer. All claims of Buyer against third parties with respect to title to the Products shall be assigned automatically to Seller.

10. FORCE MAJEURE

Either party may suspend performance hereunder (except to pay for the 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; (4) compliance with any applicable law, regulation, order, or rule, foreign or domestic, including but not limited to, export license restrictions, priority, rationing, allocation or preemption orders or regulations, or cancellation of Seller's or Buyer's license to operate its manufacturing facilities; (5) shortage or other failure of facilities used for manufacture or transportation, shortage of labor, power, fuel or raw materials; (6) total or partial shutdown due to Seller's normal plant turnaround; or (7) 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 these Terms and Conditions and/or the relevant purchase order(s), such party shall give written notice to the other party, with the full particulars including the expected duration of such *force majeure*, not later than 72 hours 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. Upon cessation of the *force majeure*, performance shall resume, but such delays shall not except by mutual agreement, operate to extend the term of the relevant purchase order(s) or obligate Seller to make up deliveries or Buyer to purchase quantities so missed. The settlement of strikes or lockouts involving the parties hereto shall lie entirely within the discretion of the party having the difficulty, and 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.

11. SAFETY & HEALTH INDEMNITY

Buyer acknowledges that Seller has furnished to Buyer Material Safety Data Sheets as required under applicable laws and regulations, 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. If Buyer fails to disseminate such warnings and information, Buyer will indemnify, defend and save Seller harmless against any and all liability arising out of or in any way connected with such failure, including without limitation, liability for injury, sickness, death and property damage.

12. DELIVERIES

Delivery dates as stated in the offer are for indication only and Seller is entitled to make partial deliveries, unless the parties expressly agree otherwise. Seller shall make its best efforts to cause the Products to be delivered on such dates. However, in the event that Seller and Buyer have expressly agreed in the sale agreement that time is of the essence, Buyer shall be entitled to a damage in the amount of 0.5 % of the invoice value for every full week of default. In all events, Seller's liability with respect to default of delivery or untimely delivery shall not exceed 5 % of the invoice value of the deliveries, excluding any other claims. Seller may use all evidence to establish that the damages are less than asserted by Buyer. Seller may deliver to Buyer a quantity of Products with a quantity tolerance which may vary, depending upon the quantities ordered by Buyer, as follows: (1) from 50 to 99 kgs, +/- 25%; (2) from 100 to 249 kgs, +/- 15%; (3) from 250 to 499 kgs, +/- 10%; (4) more than 500 kgs, +/- 5%. Subject to compliance with the above mentioned quantity tolerance thresholds, the quantity delivered by Seller shall be deemed to be the quantity effectively ordered by Buyer.

13. SHORTAGE OF THE PRODUCT

Unless otherwise prescribed under a pre-existing master agreement then in effect between Buyer and Seller, during periods when demand for the Product exceeds Seller's available supply, whether due to a *force majeure* or otherwise, Seller may distribute the Product among itself for its own manufacturing uses, its 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 shall have a right to terminate the relevant purchase order(s) upon: (i) 10 days written notice; and (ii) payment for all Product received to date, without further obligation. In the event of a *force majeure*, Seller has no obligation to purchase material from third parties for resale to Buyer, nor will Seller bear liability for any costs increases suffered by Buyer in purchasing substitute material from a third party.

14. DATA PROTECTION

Buyer hereby agrees that any data in relation with the business relationship between Buyer and Seller may be processed by Seller, in compliance with applicable laws and regulations.

15. ASSIGNMENT/DELEGATION

Buyer may assign/transfer rights and/or delegate duties/obligations hereunder only with the prior written consent of Seller. Seller may assign/transfer rights and/or delegate duties/obligations hereunder to any affiliated company within the PolyOne group.

16. INTEGRATION

These Terms and Conditions apply to all sales by PolyOne Corporation, and its affiliated companies. Except in the case of a pre-existing master agreement in effect between Buyer and Seller, no statement or agreement, oral or written, made before or at the signing of the relevant purchase order(s) 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 these Terms and Conditions. No modification or addition to these Terms and Conditions shall occur by the 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. In the event that a provision of these Terms and Conditions is ruled invalid or inapplicable, this shall not affect the validity of the remaining provisions.

17. TRANSLATION

These Terms and Conditions have been prepared in English and various local languages. The parties agree and acknowledge for the avoidance of doubt that in case of discrepancies between both versions, the English version shall prevail against the local language version.

18. GOVERNING LAW AND JURISDICTION

These Terms and Conditions shall be governed by the local countries laws, without reference to its principles of conflict of laws, and expressly excluding the Vienna Convention on the International Sale of Goods. Any dispute arising from the execution, implementation or interpretation of the sale agreement between Buyer and Seller shall be subject to the sole jurisdiction of the courts of the local country.

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