

Grace's Standard Terms and Conditions of Sale

- 1. Acceptance.** These Standard Terms and Conditions of Sale are the exclusive terms and conditions that apply to the purchase and sale of Product hereunder. No contrary or additional terms or conditions of sale proposed by Buyer are acceptable to Seller and any such proposal contrary hereto are construed as proposals which are hereby rejected. Buyer's performance pursuant to this agreement shall be deemed unqualified acceptance of Grace's Standard Terms and Conditions of Sale.
- 2. Freight Terms, Title Transfer.** Unless otherwise agreed, products shall be shipped FCA (Seller's plant or warehouse, INCOTERMS[®] 2020), freight prepaid and added to Seller's invoice. Title to and risk of loss to products shall pass to Buyer upon shipment, except that for sales by Seller's entities in the U.S. to customer locations anywhere outside the U.S. except Canada, ownership, risk of loss, right to possession, and title to products shall remain with Seller until products are delivered to Buyer at a point outside the United States. Such point shall be the designated point of entry. Upon delivery to the designated point of entry, the ownership, risk of loss, right to possession and title to products shall pass to Buyer. Neither the time, method, or place of payment, method of shipment, form of shipping document, manner of consignment, nor place of acceptance of Buyer's order shall alter the foregoing.
- 3. Taxes.** In the absence of satisfactory evidence of exemption supplied to Seller, Buyer shall reimburse Seller for all taxes (other than taxes based upon Seller's income) or other charges that Seller may be required to pay to any government based upon the production, sale, storage, or transportation of products hereunder.
- 4. Terms of Payment.** Net 30 days from date of invoice unless otherwise agreed. Invoices not timely paid shall be assessed interest at a rate of 12% per annum or the maximum allowed by law, whichever is lower, and Buyer shall pay all reasonable costs, including attorney's fees, incurred by Seller for collection of past due amounts. If at any time Seller doubts Buyer's financial responsibility, Seller may decline to make further deliveries except upon receipt of satisfactory cash or security or Buyer's payment of all arrearages in advance of delivery.
- 5. Warranty.** Seller warrants that the products and/or services delivered hereunder (collectively, the "Products") shall meet Seller's specifications for them in effect on the date of shipment (the "Specifications"), or, in the case of services, shall be of good workmanship and provided by qualified personnel. Seller also warrants that it will convey good title to the Products. SELLER DISCLAIMS ALL OTHER WARRANTIES, EXPRESS AND IMPLIED, NOT INCLUDING HEREIN INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. Buyer assumes all risk and liability for results obtained by the use of the Products.
- 6. Patent Warranty.** Seller warrants that the products in the condition and at the time shipped will not infringe any valid claim of any U.S. patent covering the products, unless the products are made pursuant to Buyer's specifications or instructions, in which case no patent warranty is made. The warranty shall not extend to infringement of third party patents attributable to the combination of products sold hereunder with other compounds, compositions, or materials. Seller may discontinue, without liability, delivery of products hereunder if in its opinion their manufacture, sale or use would constitute patent infringement or if the use or resale of the goods is enjoined.
- 7. Remedy.** Buyer's exclusive and sole remedy for any claim shall be, at Seller's option a refund or credit of the amount of the price paid for the Products in respect of which damages are claimed, or, where applicable, cure of the defect or replacement of non-conforming Products with Products that meet the Specifications or services with services conforming to the warranty in Section 5.
- 8. Limitation of Liability.** EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT (INCLUDING OBLIGATIONS TO PAY HEREUNDER), IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES OF ANY KIND OR NATURE (INCLUDING LOST REVENUE, PROFITS OR BUSINESS OPPORTUNITIES OR DIMINUTION IN VALUE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR CONNECTED WITH OR RESULTING FROM THE MANUFACTURE, SALE, DELIVERY, RESALE, REPAIR, REPLACEMENT, OR USE OF ANY PRODUCTS AND/OR SERVICES OR PART THEREOF, WHETHER SUCH LIABILITY IS BASED IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, EVEN IF SUCH PARTY HAD BEEN WARNED OF THE POSSIBILITY OF ANY SUCH DAMAGES. EXCLUSIONS OF AND LIMITATIONS ON DAMAGES UNDER THIS AGREEMENT SHALL SURVIVE FAILURE OF AN EXCLUSIVE REMEDY, EVEN IF SUCH REMEDY IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, AND EXCEPT (A) IN THE EVENT OF BREACH OF THE CONFIDENTIALITY PROVISIONS HEREOF OR (B) FOR OBLIGATIONS TO MAKE PAYMENT UNDER THIS AGREEMENT, IN NO EVENT SHALL GRACE'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, STRICT LIABILITY, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL AMOUNTS PAID PURSUANT TO THIS AGREEMENT IN THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM, OR ONE HUNDRED THOUSAND US DOLLARS (\$100,000), WHICHEVER IS LESS.
- 9. Claims.** No claim, whether arising from Products delivered or from non-delivery or services performed, shall exceed the purchase price of the Products in respect of which damages are claimed. Failure to give notice of a claim within ninety (90) days from the date of delivery, or the date fixed for delivery (in case of non-delivery), or the date of performance of services shall constitute a waiver by Buyer of all claims in respect of the Products at issue. Products shall not be returned to Seller without Seller's prior written permission, and then only in the manner prescribed by Seller.

- 10. Prices.** Prices are subject to change without notice. On orders accepted for shipment within thirty days, prices in effect at the time of acceptance shall apply unless shipment is delayed beyond thirty days, in which event prices in effect at the time of shipment shall apply.
- 11. Force Majeure.** Seller shall have no liability for delay in performance or nonperformance, directly or indirectly caused by circumstances beyond its control, including, but not limited to, acts of God, fire, explosion, war, epidemics, pandemics, national, state and/or local emergencies, acts of any government, labor disputes or shortages, inability to obtain required inputs, or commercial impracticability. Quantities of Products so affected may be eliminated from the order referenced herein, but the order shall remain unaffected otherwise.
- 12. Effect of COVID-19 Pandemic.** The Parties hereby acknowledge that this Agreement has been negotiated before the end of the COVID-19 pandemic and that the effects of this pandemic have not yet been analyzed and measured at the time of execution of this Agreement. The Parties agree, to the extent that either Party is unable, in the exercise of reasonable commercial efforts, to perform any duty or obligation under this Agreement, except for obligations to pay monies, due, directly or indirectly, to the effects of the COVID-19 pandemic on the affected Party, its affiliates, or third parties, the affected Party may postpone its performance of such duty or obligation without default or breach, and the period term for performance of such duty or obligation shall be automatically extended for a period equal to the length of the period during which the affected Party is unable to perform as set forth above. Neither Party may claim penalties, interest, rebates or any other compensation or participation in damages as a result of such nonperformance. In the event that a Party believes that it will be unable to perform as described, the affected Party shall give reasonable notice to the other Party. The Parties shall discuss possible measures to mitigate the effects of such nonperformance, which may include, without limitation, reasonable extensions to deadlines and/or alternative means of performance considering the effects of the COVID-19 pandemic and any applicable governmental actions or orders, including but not limited to lock-downs, quarantines, travel bans and the like.
- 13. Product Safety.** Buyer acknowledges that there may be risks and liability resulting from the use of the Products and it has received Seller's Safety Data Sheets, labeling, and literature concerning the products. Buyer shall forward such information to its employees and any others who may handle or process the products.
- 14. Technical Information.** At Buyer's request, Seller may, at its option, furnish technical information and advice relating to use of the products. Unless otherwise agreed in writing or specifically subject to a specific payment to Seller, all such technical assistance and information will be provided without warranty, and Buyer assumes sole responsibility for results obtained in reliance thereon.
- 15. Confidentiality.** During the term of this Agreement, a Party (the "Disclosing Party") may communicate or directly or indirectly make available to the other party (the "Receiving Party") certain of its confidential and/or proprietary information, including trade secrets, know-how and other intellectual property ("Confidential Information") pursuant to the terms of this Agreement or in furtherance of the intentions hereunder. The Receiving Party shall not disclose such Confidential Information to any third party without the Disclosing Party's prior written consent or use such Confidential Information for reasons other than those identified herein during or after the term of this Agreement; provided however that the Receiving Party may disclose the Confidential Information to its affiliates and/or representatives who have a "need to know" for purposes of this Agreement, who have been apprised of this restriction and who are themselves bound by nondisclosure obligations at least as restrictive as those set forth in this paragraph, and provided further that the Receiving Party remains liable for any disclosures of Confidential Information by its affiliates/representatives in violation of this paragraph. These obligations shall not apply if such Confidential Information: (i) is already in the public domain at the time of disclosure or later through no breach of this Agreement; (ii) was lawfully in the Receiving Party's possession prior to receipt from the Disclosing Party without obligation of confidentiality; (iii) is received by the Receiving Party from a third party free to lawfully disclose such information; (iv) is independently developed by the Receiving Party without reference to the Disclosing Party's Confidential Information as evidenced by the Receiving Party's written records, or (v) the Receiving Party becomes legally compelled by law or governmental authorities to disclose any Confidential Information, if, prior to disclosure, the Receiving Party notifies the Disclosing Party of such requirement, as legally permissible, and cooperates with Disclosing Party to limit such disclosure, where legally permissible. The obligations under this paragraph shall continue for a period of ten (10) years after the termination of this Agreement. The parties acknowledge that remedies at law may be inadequate to protect the parties against a breach of this paragraph and hereby in advance agree to the granting of injunctive relief in favor of the Disclosing Party without proof of actual damages (and without needing to post a bond), in addition to, and without limiting the Disclosing Party's ability to obtain any other remedy otherwise available, including monetary damages.
- 16. Assignment.** This Agreement and any underlying order(s) may not be assigned or transferred by Buyer, in whole or in part, without the prior written consent of Seller.
- 17. Governing Law.** These terms and the underlying transaction are to be construed, and the respective rights of Seller and Buyer are to be determined, in accordance with the laws of the State of New York, without regard to choice of law or conflicts principles that might otherwise be applicable. The courts of the city of New York, New York shall have exclusive jurisdiction with regard to disputes arising out of or in connection with this Agreement. The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded.
- 18. Entirety of Agreement and Amendment.** These terms, this Agreement and any underlying order(s) contain the entire agreement of the parties with respect to the purchase and sale of the Products. Any previous agreements, understandings or representations, oral or written, which have not been specifically incorporated herein are superseded and may not be relied upon by either party. In entering into this Agreement, the Parties have not relied on any statement, representation, warranty, or other agreement of the other Party or of any other person on such Party's behalf, including any representations, warranties, or other agreements arising from statute or otherwise in law,

except for the representations, warranties, or agreements expressly contained in this Agreement. No amendment or modification of this agreement shall be binding on either party unless separately contracted in writing. Failure of either party to exercise any right or insist upon strict performance of any provision of these terms shall not be construed as a waiver.