

GENERAL TERMS AND CONDITIONS (Industrial Chemicals, Inc.) Revised (03/2021)

1. **TERMS:** THE INVOICE AND THE GENERAL TERMS AND CONDITIONS OF SALE ARE THE EXCLUSIVE CONTRACT BETWEEN BUYER AND INDUSTRIAL CHEMICALS, INC. ("SELLER"). THERE ARE NO TERMS, UNDERSTANDINGS, AGREEMENTS, OTHER THAN THOSE STATED HEREIN. SELLER'S COMMENCEMENT OF WORK ON THE PRODUCTS SUBJECT TO BUYER'S ORDER, SHIPMENT OF THE PRODUCTS, OR PERFORMANCE OF ALL OR A PORTION OF THE SERVICES SUBJECT TO TERMS AND CONDITIONS MAY NOT BE ALTERED, AMENDED NOR WAIVED EXCEPT IN WRITING AND SIGNED BY AN OFFICER OF THE PARTY TO BE BOUND THEREBY. IF ANY PROVISIONS OF BUYER'S PURCHASE ORDER OR OTHER WRITINGS ARE DIFFERENT FROM OR ARE OTHERWISE IN CONFLICT WITH THE INVOICE AND THESE GENERAL TERMS AND CONDITIONS, THE INVOICE AND THESE GENERAL TERMS AND CONDITIONS SHALL GOVERN AND THE TERMS CONTAINED IN BUYER'S PURCHASE ORDER OR OTHER WRITINGS ARE EXPRESSLY REJECTED BY SELLER. ORDER ACKNOWLEDGEMENT BY SELLER IN NO WAY CHANGES ANY TERMS BY SELLER OTHER THAN AS STATED HEREIN. BUYER ACKNOWLEDGES SELLER WILL INCUR COSTS ONCE PRODUCT IS ORDERED. BUYER AGREES ALL SALES ARE ON A FINAL AS IS BASIS AND ANY COSTS INCURRED BY SELLER AS A RESULT OF ORDER CANCELLATION, TO INCLUDE BUT NOT LIMITED TO, SALE AS SALVAGE, DISPOSAL, STORAGE, TRANSPORTATION CHARGES, WILL BE PAID BY BUYER OR BUYER WILL AGREE TO TAKE THE GOODS ORDERED. SELLER SOLELY DETERMINES APPLICATION OF CHARGES.

2. **PAYMENT TERMS:** Net 30 Days upon approval or as deemed necessary by Seller. Order acknowledgement does not confirm or agree to Buyer's stated payment terms. Finance charges SHALL APPLY on any past due amount at the discretion of Seller. A 3.5% convenience fee will be charged on credit card orders.

3. **DISCLAIMER OF WARRANTIES-** SELLER DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. SELLER SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL AND/OR INDIRECT DAMAGES INCURRED BY THE PURCHASER THROUGH THE USE OF THE PRODUCTS PURCHASED BY BUYER.

4. **SELLER'S LIMITED WARRANTY-SUBJECT TO THE LIMITATIONS OF PARAGRAPH 3** Seller warrants that at the time of tender the goods will conform to the description stated herein, that Seller will convey good title thereto, and that such goods will be delivered free from any lawful security interest, lien, or encumbrance. Any alterations, blends, mixtures, repairs, or improper use of goods and products not approved by Seller or any improper use as in Seller's judgment affects the products materially and adversely, shall void this warranty. Any liability incurred by Seller shall be limited to the dollar amount of the goods purchased by the Buyer as contained in the INVOICE. Any and all claims, disputes and other actions arising out of or relating to the INVOICE and/or the General Terms and Conditions of Sale shall be governed by the laws of the Commonwealth of Virginia. Any and all claims, disputes and other actions shall be resolved in the Courts located in the City of Richmond, Virginia or such other venue as may be agreed upon by Seller. This agreement will be interpreted using Virginia law without regard to Virginia's choice of law rules. Buyer and Seller hereby waive their right to demand a jury trial.

5. EXCLUSION AND DISCLAIMER OF ALL OTHER WARRANTIES-THE LIMITED WARRANTIES CONTAINED IN SECTION 4 ABOVE ARE SELLER'S SOLE WARRANTIES WITH RESPECT TO THE GOODS AND ARE MADE EXPRESSLY IN LIEU OF AND EXCLUDE ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL OTHER EXPRESSED OR IMPLIED REPRESENTATIONS AND WARRANTIES.

6. **BUYER'S WARRANTIES AND ACCEPTANCE OF DUTIES REGARDING SAFETY, HEALTH, UNLOADING, USE, REMEDIES, HANDLING AND DISPOSAL, AND PAYMENT OF THE GOODS**

A. The Safety Data Sheet (SDS) sets forth information concerning the goods and describes certain precautions to be taken in the storage, handling and use of the same. Buyer assumes the following duties and obligations:

(1) Buyer will familiarize itself with all information and precautions disclosed in safety and health information, including but not limited to any SDS or any such information supplied to Buyer by Seller or otherwise available to Buyer from Seller at any other time;

(2) Buyer will adopt and follow safe handling, storage, transportation, use, treatment and disposal practices with respect to the goods, including such special care and practices as Buyer's use of the goods requires, including, but not limited to, all such practices required by federal, state and local government statutes, rules, regulations or ordinances;

(3) Buyer will instruct its employees, independent contractors, agents, and customers of the precautions and safe use practices required in connection with the unloading, handling, storage, use, transportation and disposal of the goods, including, but not limited to, information contained in Seller's most current SDS; and

(4) Buyer will comply with applicable safety and environmental laws and take action necessary to avoid spills or other dangers to persons, property or the environment;

(5) Buyer acknowledges that empty containers may be hazardous and that residues or remaining product must be removed from all exterior and interior surfaces of containers before return to Seller and that appropriate labeling must be intact.

B. Buyer warrants that it has used its own independent skill and expertise in connection with the selection and use of the goods and that it possesses skill and expertise in the handling, storage, transportation, treatment, use and disposal of the goods.

C. Buyer is solely responsible to end user for products purchased, singly or in combination with other materials, and Seller shall have no liability to the end user with regard to the appropriate use of the product or warnings with regard thereto and Buyer agrees to indemnify and hold Seller harmless with regard to claims from the end user with regard to warnings or use of this product after it has been packaged, reused, re-fabricated, mixed or distributed by the Buyer to the end user.

D. Buyer agrees to indemnify Seller against any environmental damage claims unless the reason for the claim is a direct result of Seller's sole negligence.

E. Buyer agrees to pay all applicable attorney's fees and costs of collection in the event an attorney is employed for collection of any past due balance.

F. Upon delivery of the items purchased by Buyer, Buyer assumes sole responsibility to choose and use the appropriate vessel for delivery and storage of the product being delivered and will communicate those choices to the delivery operator in sufficient time prior to delivery so that safety precautions maybe taken. Buyer will supervise the connections and associated delivery for accuracy and safety. Buyer also agrees to take all steps necessary to ensure the vessel or storage facility can accept and accommodate the entire volume of the product purchased as indicated on the bill of lading and weigh ticket. Buyer also agrees to confirm that the delivery vehicle is empty prior to signing the bill of lading and will note in writing on the bill of lading any deficiencies or problems with the delivery at the time of delivery and hereby agrees that any deficiencies on behalf of Buyer not so noted in writing will not be considered by Seller. Buyer also hereby warrants that the delivery site will comply with all DOT, EPA, OSHA and all other federal, state and local regulations and laws. Demurrage charges will be charged to Buyer should delivery time exceed the carrier's limit.

7. **FORCE MAJEURE.** Seller shall not be held liable or responsible to the Buyer nor be deemed to have defaulted under or breached this Agreement for failure or delay in fulfilling or performing any term of this Agreement to the extent, and for so long as, such failure or delay is caused by or results from causes beyond the reasonable control of Seller including but not limited to fire, floods, embargoes, war, acts of war (whether war be declared or not), acts of terrorism, insurrections, riots, civil commotions, strikes, lockouts or other labor disturbances, acts of God or acts, omissions or delays in acting by any governmental authority, Seller's supplier, or Seller.

8. **SELLER'S SUPPLY OF ALTERNATIVE PRODUCTS-** Seller reserves the right to replace, supplement, or otherwise change the suppliers of the products it sells unless a particular manufacturer is specifically designated by the Buyer in writing. Supplying a particular manufacturer over time does not constitute an implied contract to continue with such supplier. Buyer assumes all risk with assuring a product is fit for their application.

9. **RETURNABLE CONTAINER/CREDITS/MATERIALS AGREEMENT-**Buyer agrees to return all deposit or otherwise returnable containers and materials to Seller within 60 days from the date of delivery or forfeit any deposits paid on all items not returned. Waiving a deposit charge on an otherwise deposit item does not exempt the Buyer from this section. In those cases where a deposit is waived the Buyer agrees to pay replacement costs for all materials not returned within 60 days. Credits or cash on account issued for container deposits, returns, refunds or for any other reason must be redeemed within 180 days of issue. No materials will be added to returnable containers by customer except clean/potable water for the purpose of rinsing and drained completely if appropriate based on the SDS.

10. **ENVIRONMENTAL IMPACT, DELIVERY AND HANDLING CHARGE-**These fees includes charges for the handling of hazardous materials, compliance with laws and regulations, certain disposal fees, container cleaning, handling, insurance, storage and shipping. Handling includes banding, shrink wrapping, ground delivery, and labeling. None of the charges represent a tax or fee paid to or imposed by governmental authority. Proceeds are used to offset these costs.

11. **INDEMNITY-** Buyer agrees to defend, indemnify and hold Seller, its officers, directors, agents, and employees harmless from all claims, demands, actions and causes of action relating to personal injury or property damage to third parties, including attorney's fees and actual costs, ("Claims") arising out of Buyer's negligence or arising after delivery of the products to Buyer. Seller agrees to defend, indemnify and hold Buyer, its officers, directors, agents, and employees harmless from Claims by third parties to the extent of its sole negligence.