

# Terms and Conditions of Sale

## 1. GENERAL

Any and all sales of material ("Product") by NOVA Chemicals ("SELLER") shall be subject to all of the terms and conditions of sale set forth below except to the extent such terms and conditions of sale are incompatible with the provisions that are contained in a written agreement between BUYER and SELLER that has been signed by SELLER's corporate officer or their delegate ("Written Agreement"). These Terms and Conditions of Sale shall take precedence over any differing terms in any other documentation of BUYER including, but not limited to, any other clauses or terms which appear on any letters, purchase orders, or order slips of BUYER. No terms, conditions or representations other than those set out in these Terms and Conditions of Sale including, but not limited to terms, conditions or representations made by any employee, agent or representative of SELLER shall be binding on SELLER unless expressly agreed to in writing and signed by SELLER's corporate officer or their delegate. In the event that BUYER and SELLER have entered into a Written Agreement, these Terms and Conditions of Sale, together with the Written Agreement, shall constitute the entire agreement between BUYER and SELLER.

## 2. PRICE AND PAYMENT TERMS

The price for Product will be as specified in SELLER's invoice. If payment is not received by SELLER when due, any outstanding amount shall bear interest at the monthly rate of 1% (12.7% per year) payable on the first day of default and on the first day of every month thereafter until paid in full. BUYER also shall pay to SELLER on demand all expenses, including reasonable legal fees, incurred by SELLER in protecting or enforcing any of its rights under the Agreement.

SELLER may, at its sole discretion, change Product price(s), any transportation term, any pricing related provision or any other commercial term by delivering written notice (the "Change Notice") to BUYER, which shall specify the change and the effective date of the change. The change(s) specified in the Change Notice shall operate from its effective date until it is withdrawn, superceded by another change or the contract for the sale of Product is terminated.

SELLER may, at its sole discretion, grant credit to BUYER in respect of Product purchased hereunder upon such terms and conditions as SELLER may establish from time to time. BUYER agrees and acknowledges that SELLER may at any time refuse to grant or extend credit to BUYER or that SELLER may demand immediate payment of all indebtedness outstanding in respect of Product purchased hereunder.

## 3. WARRANTIES

The warranties described in this paragraph are in lieu of all other warranties. SELLER warrants that the Product supplied by SELLER to BUYER shall be in accordance with SELLER's specifications, when delivered. SELLER warrants that all Product delivered in the United States under this Agreement will have been produced in compliance with the requirements of the Fair Labor Standards Act of 1938, as amended. BUYER AND SELLER AGREE THAT SELLER DOES NOT MAKE OR INTEND, AND SELLER DOES NOT AUTHORIZE ANY AGENT OR REPRESENTATIVE TO MAKE ANY OTHER WARRANTIES, EXPRESS OR IMPLIED AND THAT SELLER EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHETHER OR NOT THAT PURPOSE IS KNOWN TO SELLER. ALL OTHER WARRANTIES AND CONDITIONS, EXPRESS OR IMPLIED, NOT SPECIFICALLY AGREED TO IN WRITING BY SELLER, ARE EXPRESSLY EXCLUDED.

## 4. PRODUCT QUANTITY

SELLER will not be required to deliver to BUYER a quantity of Product exceeding that specified in the Written Agreement or if there is no Written Agreement between BUYER and SELLER, the quantity stated by SELLER at the time SELLER confirms BUYER's order. If no monthly quantity is specified in the Written Agreement, SELLER may limit the quantity to be supplied in any month to the lesser of the minimum annual volume divided by twelve or the average of the monthly quantities shipped during the expired months of the Written Agreement. SELLER's certified scale tickets shall determine the quantity of all bulk rail and truck shipments. SELLER reserves the right to deliver Product deviating from the specified weight or quantity by up to 1.5%. In the event that SELLER re-weighs a truck or railcar at the request of BUYER, all costs of such re-weigh shall be paid by BUYER.

## 5. DELIVERY

Product will be delivered by SELLER when the Product is placed in the custody of the first carrier engaged to transport the Product. Title, together with the risks and benefits of ownership, including without limitation the risk of loss of Product, shall pass to BUYER when the Product is delivered to the BUYER. Each delivery shall be considered to be a separate and independent transaction. BUYER hereby grants to SELLER a purchase money security interest in and to the following currently existing or hereafter acquired personal property of BUYER: (a) all Product in BUYER's inventory, and (b) all proceeds of Product, including, without limitation, all accounts, contract rights, cash and general intangibles arising from the sale or other disposition of the Product, and all payments under insurance (whether or not SELLER is a loss payee thereof) or any indemnity warranty or guaranty payable by reason of loss or damage to or otherwise with respect to Product or such proceeds thereof. BUYER authorizes SELLER to file such financing statements, continuations and amendments, and to do all such other acts, as in SELLER's judgment may be necessary or appropriate to establish, perfect, and maintain a valid and prior security interest in the collateral described above. BUYER will promptly load or unload Product at the Transportation Destination at its own risk and expense, including any demurrage or detention charges levied by SELLER or carrier. Delivery times or dates provided by SELLER are estimates for planning purposes only and time shall not be of the essence and SELLER's liability for early, late or failure to deliver is expressly subject to the provisions of section 7 and section 8 of these Terms and Conditions of Sale.

Upon arrival and placement of the railcar, bulk truck, or other transportation vehicle (the "Equipment") at the Transportation Destination, BUYER will be responsible for promptly unloading the Equipment in a manner that does not damage the Equipment, and for promptly releasing the Equipment empty and in a condition suitable for loading by SELLER. BUYER shall make no use of such Equipment other than BUYER may use, subject to any demurrage or detention charges, the Equipment for temporary storage of Product at the Transportation Destination only while promptly unloading. Without limiting the foregoing, BUYER shall not use such Equipment to transport or store any other products. At no time prior to the empty return to SELLER of any railcar used to deliver Product shall BUYER cause the railcar to be transported to any other location without the express prior written consent of SELLER. All movement or temporary storage of any such railcar shall be at the risk and expense of BUYER and BUYER shall indemnify and hold SELLER harmless from any claims, costs, expenses or damages arising from the unloading, movement, or temporary storage or other use of the railcar prior to its empty return to SELLER.

## 6. TRANSPORTATION DESTINATION

SELLER shall arrange for and pay for transportation of Product to the transportation destination specified in the bill of lading ("Transportation Destination").

## 7. LIABILITIES - CLAIMS - INDEMNIFICATION

BUYER shall inspect all Product before use or incorporation into any manufacturing or other process of BUYER, and BUYER assumes all risks incident to non-conforming Product. Delivery of Product to BUYER by SELLER in accordance with section 5 of these Terms and Conditions of Sale shall be considered acceptance of same and a waiver by BUYER of claims with respect thereto, unless BUYER gives SELLER written notice of claim within thirty (30) days after the date such Product was delivered. SELLER's TOTAL LIABILITY FOR PRODUCT SOLD HEREUNDER, WHETHER BASED ON CONTRACT, NEGLIGENCE OR ANY OTHER LEGAL OR EQUITABLE THEORY, WILL NOT EXCEED THE SELLING PRICE OF THE PRODUCT INVOLVED IN THE CLAIM AND NEITHER PARTY WILL BE LIABLE FOR ANY PROSPECTIVE PROFITS, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES. BUYER assumes all risk and responsibility for handling of the Product following delivery, for the results obtained by the use of the Product in a manufacturing process or otherwise, and for the results obtained by the use of the Product in combination with other substances, irrespective of the fact that such use or handling of Product is in accordance with any description, advice or suggestion of SELLER. The provisions of this section 7 will survive termination or performance of this transaction.

BUYER will indemnify SELLER against any liability (whether strict or otherwise) for any claim, loss or expense, direct or indirect, on account of any injury, disease or death of any person (including BUYER's employees) or damage to property (including BUYER's) arising out of BUYER's transportation, storage, handling, sale, use in any manufacturing process or disposal of the Product.

## 8. EXCUSES FOR NONPERFORMANCE

Either SELLER or BUYER will be excused from the obligations hereunder to the extent that performance is delayed or prevented by any circumstances (except financial), direct or indirect, reasonably beyond its control including but not limited to fire, war, civil disturbance, floods, accidents, explosion, mechanical breakdown, pandemics, strikes or other labour trouble, plant shutdown, unavailability of or interference with the usual means of transporting the Product or compliance with any law, regulation, order, recommendation or request of any governmental authority. In addition, SELLER will be so excused in the event it is unable to acquire from its usual sources on terms it deems to be reasonable, any material necessary for sale of the Product. If, because of such circumstances, there should be a shortage of any Product from any of SELLER's facilities, SELLER will not be obligated to change its supply point for BUYER, purchase Product for BUYER or to change the facility where Product is manufactured for BUYER in order to perform this Agreement and SELLER may apportion its available Product among itself, its affiliates and all its customers in such manner as SELLER, in its sole discretion, determines is reasonable. Quantities of Product consequently not shipped will be deducted from any applicable remaining quantity obligation.

## 9. RESPONSIBLE CARE®

BUYER and SELLER agree that they are each fully committed to the principles of Responsible Care®. BUYER and SELLER acknowledge the importance of handling Product in a manner that will ensure the safety of people and the protection of the environment. During such periods as the Product is under their respective care, custody, or control, BUYER and SELLER agree they will each endeavour to use, handle, store, transport and dispose of the Product in accordance with all applicable laws, regulations, ethics, principles and codes of the American Chemistry Council or the Chemistry Industry Association of Canada, as the case may be. BUYER and SELLER (in either case, herein referred to as the “Notifying Party”) shall have the right, but not the obligation, to suspend delivery or receipt of Product upon thirty (30) days prior written notice to the other Party (herein referred to as the “Receiving Party”) if, in the Notifying Party’s judgment, the Receiving Party is not complying with all such applicable laws, regulations, ethics, principles and codes. Delivery or receipt of Product will recommence at the time when the Notifying Party, in its sole judgment, is satisfied that the Receiving Party is in conformance with all such applicable laws, regulations, ethics, principles and codes. If the Receiving Party is unable or unwilling to conform to such requirements within ninety (90) days of receiving the Notifying Party’s notice that it is suspending delivery or receipt of Product, the Notifying Party shall have the right, but not the obligation, to terminate any order for Product or any Written Agreement between SELLER and BUYER for the supply of Product.

Subject to mutually agreeable times and formats, each of the Parties agrees to allow the other access to its facilities from time to time to assess conformance by the other Party with all applicable laws, regulations, ethics, principles and codes, provided that no such assessment shall be intended or interpreted as a representation or warranty of conformance, and there shall be no liability of any kind created between SELLER and BUYER or any other party in connection with the performance, failure to perform, or negligent performance of any such assessment. In the event of an incident during transportation of Product hereunder, SELLER may at its discretion provide technical advisors to advise emergency response personnel on the handling of Product, but in no event shall such advice be interpreted or construed as creating any duty, liability or obligation to BUYER on the part of SELLER with respect to such Product or incident.

## 10. REMEDIES

If BUYER fails to pay, when due, any invoice or any other indebtedness to SELLER (whether or not under these Terms and Conditions of Sale or a Written Agreement), or fails, within 30 days of receiving notice of a breach of other obligations hereunder, to remedy such breach, SELLER may, in addition to any other remedies, suspend shipments or deliveries, change terms of payment or terminate any order for Product or any Written Agreement forthwith by notice to BUYER. BUYER’s obligation to perform will not be limited by any previous waiver by SELLER. Any order governed by these Terms and Conditions of Sale or any Written Agreement shall immediately terminate at the sole option of SELLER without the necessity of written notice should BUYER be declared insolvent, file a petition in bankruptcy, make a general assignment to its creditors, or be dissolved or liquidated.

## 11. NOTICES

Either SELLER or BUYER will be excused from the obligations hereunder to the extent that performance is delayed or prevented by any circumstances (except financial), direct or indirect, reasonably beyond its control including but not limited to fire, war, civil disturban

Notice by either SELLER or BUYER shall be by prepaid mail or electronic mail addressed to the other Party at its address set out in any Written Agreement. If there is no Written Agreement, notices to BUYER will be sent to the address to which invoices are sent by SELLER and notice to SELLER will be sent to the attention of Vice President, Polyethylene Sales with a copy to Legal.Notices@novachem.com at 1555 Coraopolis Heights Road, Moon Township, PA 15108. Notice will be considered given five (5) days following the time it is deposited with the Postal Service in the case of mail, and when sent by confirmed electronic mail if sent during normal business hours of the recipient; if not, then on the next business day.

## 12. COMPLIANCE WITH LAW

Each Party hereto agrees to comply with all laws, rules, regulations, ordinances, and requirements of federal, state, and local governmental or regulatory bodies that are applicable to this Agreement and to the performance of such Party’s obligations hereunder.

Each Party shall ensure that neither all nor any portion of this Agreement paid, offered, promised or authorized for payment will be used to improperly influence any act or decision of any person, induce any person to do or omit to do any act in violation of his or her lawful duty, secure any improper advantage, or induce any person to use his or her influence with a government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality.

Each Party shall supply in a timely manner the other Party with such accurate and up-to-date data and information as the other Party reasonably require to enable it to fulfill its obligations under this Agreement.

### 13. ANTI-CORRUPTION

The Parties represent and warrant to comply with, and to use reasonable endeavors to procure that relevant third parties used for fulfilling the Parties' respective obligations under the Agreement comply with, all laws, rules, regulations, decrees or official governmental orders prohibiting bribery, corruption and money laundering applicable to any of the Parties or their ultimate parent companies. A Party may terminate the Agreement, forthwith upon written notice to the other, if the other Party is in willful and material breach of the above. All financial settlements, billings and reports in connection with the Agreement shall properly reflect the facts related to any activities and transactions handled for the account of the other Party. The data may be relied upon as being complete and accurate in any further recordings and reporting made by the Parties or any of their representatives, for whatever purpose.

Each Party represents and warrants that it is not and will not solicit accept or give directly or through a third party anything of value, gifts, loans, cash, entertainment, meals, travel, any commission or other financial benefit or inducement from or to any person or party in connection with this Agreement (including to an employee, director, agent, consultant or representative of the Party) and will promptly disclose to the other the details of any such gifts, loans, cash, entertainment, meals, travel, commission, benefit or inducement which may be offered;

Each Party represents and Warrants that it has not and will not accept, facilitate, promise to make or provide, in the performance of this Agreement, anything of value, gifts, loans, cash, entertainment, meals, travel, any commission or other financial benefit or inducement, directly or indirectly to or for the benefit of:

- i) any official or employee of any government or governmental or regulatory agency;
- ii) any other person if the party knows or has reason to know that any part of such, loan, or gift will be directly or indirectly given or paid to any person referred to in subparagraph (i) above; or
- iii) to any other person or entity the payment of which would violate the laws of the United States, Canada or other countries with the purpose of influencing decisions, obtain expedited goods or services or retain business and each party will promptly disclose to the other the details of any such gifts, loans, cash, entertainment, meals, travel, commission, benefit or inducement which may be offered.

Each Party represents and Warrants that it has in place fraud policies and procedures to control and minimize the risk of fraud with respect to this Agreement. In the event that either Party is aware of, or has reasonable grounds to suspect, fraud with respect to this Agreement it shall promptly notify the other. In this event, the notifying Party shall provide the other Party and its nominee with access to the Party's books and records relevant to this Agreement and shall allow such Party its nominee to audit such books and records.

During the term of this Agreement, each Party will operate in accordance with the principles of NOVA Chemicals' Code of Conduct. The requirements of the NOVA Chemicals' Code of Conduct are incorporated by reference into the terms and conditions of this Agreement as if set forth fully herein. When, or if, differences arise between those standards and legal requirements, the stricter standard shall apply, in compliance with applicable law. In addition to other remedies, a Party may terminate this Agreement, forthwith upon written notice to the other, if the other Party is in willful and material breach of the above.

All financial settlements, billings and reports in connection with this Agreement shall properly reflect the facts related to any activities and transactions handled.

### 14. SEVERABILITY AND WAIVER

Should any provision of these Terms and Conditions of Sale be or become illegal or unenforceable, such provision shall be considered separate and severable from these Terms and Conditions of Sale and the remaining provisions shall remain in force and be binding upon SELLER and BUYER as though such provision had never been included. Any waiver by SELLER of any breach of any term or condition of these Terms and Conditions of Sale shall not be construed as or be deemed to be a waiver of any future breach of such term or condition.

### 15. ASSIGNMENT

Neither these Terms and Conditions of Sale nor any Written Agreement may be assigned in whole or in part by BUYER, whether by operation of law or otherwise, without the express prior written consent of SELLER, which consent may be withheld for any reason whatsoever.

### 16. LAW

For Product delivered in the United States, these Terms and Conditions of Sale will be interpreted and the rights, obligations and liabilities of the Parties determined in accordance with the laws of the State of New York. For Product delivered in Canada, these Terms and Conditions of Sale will be interpreted and the rights, obligations and liabilities of the Parties determined in accordance with the laws of the Province of Ontario. Buyer agrees that it shall adhere to the U.S. Export Administration Laws and Regulations and the U.S. Department of the Treasury, Office of Foreign Assets Control Regulations and will not sell, export or re-export any technical data or Products received from Seller to any prohibited country or entity listed in the U.S. Export Administration Regulations or the US Department of the Treasury Office of Foreign Assets Control Regulations unless properly authorized by the U.S. Government. The Parties agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply to these Terms and Conditions of Sale or any Written Agreement.