



MITSUBISHI CHEMICAL AMERICA, INC. TERMS AND CONDITIONS OF PURCHASE

1. ACCEPTANCE. THESE TERMS AND CONDITIONS OF PURCHASE, TOGETHER WITH ALL ANCILLARY AGREEMENTS EXECUTED BETWEEN THE PARTIES AND ALL SPECIFICATIONS, DRAWINGS, INSTRUCTIONS, DESIGNS AND DATA FURNISHED TO SELLER IN CONNECTION WITH THIS PURCHASE ORDER, IF ANY, ARE THE EXCLUSIVE AND BINDING AGREEMENT BETWEEN THE PARTIES COVERING THE PURCHASE OF ANY AND ALL MATERIALS AND/OR SERVICES ORDERED HEREIN (COLLECTIVELY, THE "PRODUCTS") WHEN THIS ORDER IS ACCEPTED BY SELLER. THIS ORDER CAN BE ACCEPTED ONLY ON THESE TERMS AND CONDITIONS. ADDITIONAL OR DIFFERENT TERMS PROPOSED BY SELLER WILL NOT BE APPLICABLE UNLESS ACCEPTED IN WRITING BY BUYER, BUT SUCH SELLER'S PROPOSAL SHALL NOT OPERATE AS A REJECTION OF THIS ORDER UNLESS SUCH VARIANCES ARE IN THE TERMS OF THE DESCRIPTION, QUANTITY, PRICE, OR DELIVERY SCHEDULE OF THE PRODUCTS, BUT SHALL BE DEEMED A MATERIAL ALTERATION THEREOF, AND THIS ORDER SHALL BE DEEMED ACCEPTED BY THE SELLER WITHOUT SAID ADDITIONAL OR DIFFERENT TERMS.

2. PRICES. The price of the Products is the price stated in this order. No increase in the price is effective, whether due to increased material, labor or transportation costs or otherwise, without the prior written consent of Buyer. Acceptance of this order constitutes a warranty by Seller to Buyer that the prices to be charged for Products ordered herein are not in excess of prices charged to other customers after adjusting for delivery requirements. Unless otherwise specified, the prices stated include all charges for packing, hauling, storage and transportation to point of delivery. Seller shall pay all delivery charges in excess of any delivery charge Buyer has agreed in writing to pay. Unless otherwise agreed, prices are inclusive of all taxes, fees, duties, VAT, etc. In the event that this order is designated by Buyer as a blanket purchase order or scheduling order, as indicated on the face hereof, Buyer shall have an option, but not the obligation, to procure up to the quantity of Products described on the face hereof at the pricing and during the time period specified by providing separate subsequent release orders to Seller. Each release shall be subject to these terms and conditions, except to the extent any release identifies, to the extent not specified in the original blanket order, the quantities of Products to be included in a particular order, the delivery locations and requested delivery dates for such Products.

3. INVOICES. A separate invoice shall be submitted for each shipment of the Products and shall contain the following information: purchase order number, Product number, description of Products, sizes, quantities, unit prices, and extended totals in addition to any other information specified elsewhere herein. Unless otherwise specified, no invoice shall be issued prior to shipment of the Products and no payment will be made prior to receipt of the Products and correct invoice. Payment of invoice shall not constitute acceptance of Products by Buyer and shall be subject to adjustment for errors, shortages, defects in the supplies, or other failure of Seller to meet the requirements of this order. Buyer may at any time set off any amount owed by Buyer to Seller against any amount owed by Seller or any of its affiliated companies to Buyer.

4. PACKING AND SHIPMENT. Unless otherwise specified, when the price of this order is based on the weight of the ordered materials, such price is to cover net weight of materials ordered only, and no charges will be allowed for boxing, crating, handling damage, carting, drayage, storage, or other packing requirements. Unless otherwise specified, all materials shall be packed, packaged, labeled, marked, and otherwise prepared for shipment in a manner which is (i) in accordance with good commercial practice, (ii) acceptable to common carriers for shipment at the lowest rate for the particular materials and in accordance with I.C.C. regulations, and (iii) adequate to insure safe arrival of the materials at the named destination. Seller shall mark all containers with necessary lifting, handling, and shipping information and also purchase order numbers, date of shipment, and the names of the consignee and consignor. An itemized packaging sheet must accompany each shipment. No partial or complete delivery shall be made hereunder prior to the date or dates shown unless Buyer has given prior written consent. Buyer will pay only for quantities of Products ordered. Over-shipments will be held at Seller's risk and expense for a reasonable time awaiting shipping instructions. Seller shall be responsible for the risk of loss and cost of return shipping.

5. DELIVERY. It is understood and agreed that time is of the essence under this order. Unless otherwise specifically provided on the face of this order, Products called for hereunder shall be delivered DDP Buyer's Facility, or such other destination as designated by Buyer in this order (Incoterms 2020). Buyer reserves the right to cancel this order, in whole or in part, if shipment is not made by the date specified or may exercise any other lawful remedy. Goods shipped to Buyer in advance of schedule may, at Buyer's option, be returned to Seller at Seller's expense or retained by Buyer but paid for in accordance with delivery schedule. The title and risk of loss of materials sold by Seller to Buyer hereunder shall pass from Seller to Buyer upon receipt and



acceptance by Buyer or such other party specified as the receiving party in this order. Buyer may reject all or any excess Products. Any such rejected Products shall be returned to Seller at Seller's risk and expense. If Buyer does not reject the Products and instead accepts the delivery of Products at the increased or reduced quantity, the price for the Products shall be adjusted on a pro-rata basis.

6. **WARRANTY.** Seller warrants that all Products delivered hereunder shall be free from defects in workmanship, material, design, and manufacture; shall be free and clear of all liens, security interests or other encumbrances; and shall comply with the requirements of this order. Seller further warrants all Products purchased hereunder shall be of merchantable quality and shall be fit and suitable for the purposes intended by Buyer, and do not violate or infringe any patent, copyright, trademark, trade secret or other intellectual property right. All warranties shall run to Buyer, its successors and assigns, and to its customers, and users of its products, including the Products. If this order relates to the provision of any services, Seller warrants that Seller is engaged in the business of providing the services ordered herein ("Services"), and possesses the requisite expertise, knowledge, skill, and ability to perform and complete Services in a competent, professional, and workmanlike manner. Seller shall provide Services in a timely, professional and workmanlike manner, in compliance with all applicable laws, rules, and regulations and industry standards, and shall comply with all Buyer requirements, policies and procedures. The foregoing warranties shall constitute conditions and are in addition to all other warranties, whether expressed or implied and are cumulative and in addition to any other warranty provided by law or equity.

7. **INSPECTION.** (a) All Products purchased hereunder shall be subject to inspection and test by Buyer to the extent practicable at all times and places, including the period of manufacture and, in any event, prior to final acceptance. If Buyer conducts an inspection or test on Seller's premises, Seller, without additional charge, shall provide all reasonable facilities and assistance for the safety and convenience of Buyer's inspectors. Notwithstanding any prior inspections or payments hereunder, all Products shall be subject to final inspection and acceptance at Buyer's plant after delivery. No inspection or test shall relieve Seller from responsibility for defects or other failure to meet the requirements of this order. (b) If inspection or test by Buyer reveals that any Product is defective, or that performance in connection with this order is otherwise not in conformity with the requirements of this order, Buyer shall have the right either to reject it, in whole or in part, require its correction, replace the defective Products with similar products and recover the total cost relating thereto from Seller, including the cost of product recalls, or accept it with an adjustment in price. The foregoing shall not limit and shall be cumulative with Buyer's other available remedies under law or as set forth herein.

8. **CHANGES.** Seller shall make no changes to raw materials, processes or specifications of Products, testing or Services, without the written consent of Buyer. Products shall meet all criteria specified by Buyer and shall match all samples provided.

9. **SUBCONTRACTING; ASSIGNMENT.** No subcontracting shall be made by Seller with any other party for furnishing any Products or Services without the prior written approval of Buyer. Seller shall not assign this order, or any interest herein without the written consent of Buyer. Any actual or attempted subcontracting or assignment without Buyer's prior written consent shall entitle Buyer to cancel this order upon written notice to Seller, among other remedies.

10. **INDEMNIFICATION.** Seller agrees to defend, indemnify and hold harmless Buyer, its affiliates, agents, customers, successors and assigns against any claim, loss, direct or indirect damage or liability, including attorneys' fees, and other costs and expenses ("Losses"), for actual or alleged violation or infringement of any patent, copyright, trademark, trade secret, or other intellectual property right arising out of the use or sale by Buyer, its affiliates, agents, customers, successors or assigns, of the Products or any foreseeable use, combination or modification thereof. Buyer shall notify Seller of any suit, claim or demand involving such infringement and shall permit Seller reasonable control in defending against or settling the same. If any injunction is issued as the result of any such infringement, or Buyer concludes an injunction or finding of infringement is possible, Seller agrees, at Buyer's option, to (i) refund to Buyer the amounts paid to Seller hereunder, or (ii) furnish Buyer with an acceptable and non-infringing substitute Product. Seller further agrees to defend, indemnify and hold harmless Buyer from and against any and all Losses (arising out of or related to (a) any alleged or claimed defect in any Products, whether latent or patent, including allegedly improper construction and design, (b) the failure of Products to comply with specifications, (c) breach of any warranty from Seller to Buyer, (d) the performance, completion or use of the Products ordered herein, (e) the sale, distribution, use or recall of any of the materials used in connection with the Products or performance hereunder, or (f) bodily injury, death of any person or damage to real or personal property resulting from the acts or omissions of Seller or any of its personnel, including while performing Services. Seller agrees that all Products supplied will be free from liability with respect to royalties, mechanics



liens, or other encumbrances, and Seller agrees to defend, indemnify and hold harmless Buyer from these liabilities. The obligations of this clause survive cancellation, termination or completion of this order.

11. REMEDIES. In addition to Buyer's remedies under the provision entitled "INDEMNIFICATION", Seller agrees either to reimburse Buyer monies paid under this order, or correct, at no additional charge to Buyer, any defects in Products or Services not performed in accordance with the terms and conditions of this order. Seller acknowledges and agrees that any breach of this order by Seller shall cause Buyer irreparable harm, and Buyer, in addition to any other remedies available at law or in equity, shall be entitled, without the requirement of posting a bond or other security, to equitable relief with respect to such breach, including injunctive relief and specific performance. If any materials delivered hereunder do not meet the warranties specified herein or otherwise applicable, Seller shall, Buyer's option and instruction, promptly (i) correct at no cost to Buyer any defective or nonconforming materials by repair or replacement within 30 days; or (ii) accept the return of such defective or nonconforming materials at its expense and risk of loss while in course of return transit, and reimburse Buyer for the order price thereof. The foregoing remedies are in addition to all other remedies at law or in equity or under this order and shall not be deemed to be exclusive.

12. BUYER'S PROTECTION IN CONNECTION WITH WORK DONE AT ITS PLANT. Seller shall take such steps as may be reasonably necessary to prevent personal injury or property damage during any performance hereunder that may be performed by any employees, agents or subcontractors of Seller at Buyer's plant, and Seller shall defend, indemnify and hold harmless Buyer from and against all Losses arising from or caused directly or indirectly by any act or omission of such agents, employees, or subcontractors of Seller, and Seller shall maintain such insurance against public liability and property damage, and such Employee's Liability and Compensation Insurance, as will protect Buyer against the aforementioned risks and against any claims under any Workmen's Compensation and Occupational Disease Acts.

13. INSURANCE; CLAIM OR LOSS WAIVER. Seller will maintain Commercial General Liability, including Contractual Liability and Completed Operations & Products Liability insurance, covering the subject of this order; Automobile Liability insurance covering all vehicles it uses to carry out this order; and Worker's Compensation, Employer's Liability, Third Party Liability, and General Aggregate Insurance. Such insurance shall be for amounts, terms and conditions as are customary for businesses similar in type and size to Seller's and shall meet any other express insurance requirements provided by Buyer. Seller waives all right of recovery or subrogation with respect to damages, losses or claims, whether or not paid under any of the insurance it maintains.

14. ENVIRONMENTAL EXPOSURE. Seller agrees to defend, indemnify and hold harmless Buyer from and against any and all Losses, or costs or expenses of investigation, testing, monitoring, neutralizing, detoxifying, treating, containment, clean-up, remediation or disposal resulting from, arising from, or incurred by Buyer as a result of allegations that Seller's Products or performance hereunder caused pollution or environmental injury or damage resulting in or causing personal or bodily injury to, illness of, disease of or death of persons, damage to, impairment of, destruction of or loss of use of property, land, soil, water or the atmosphere.

15. COMPLIANCE WITH LAWS. Seller warrants that all Products called for herein shall be produced, labeled, transported, provided and performed in compliance with all applicable federal, state and local laws, rules, ordinances and regulations and Seller agrees to defend, indemnify and hold harmless Buyer from any liabilities or losses resulting from Seller's failure to do so. Seller shall maintain required permits, licenses, approvals, and documentation in order to provide and complete the Products in compliance with federal, state, and local laws, regulations, ordinances, and rules. Seller shall label applicable Products accordingly and provide associated Safety Data Sheets and other necessary or useful safety information in its possession to Buyer. Seller accepts and agrees to comply with Buyer's code of conduct and Buyer's KAITEKI and Corporate Social Responsibility guidelines, as may be updated by Buyer from time to time and as are incorporated herein by reference.

16. GRATUITIES. Seller warrants that it has not offered or given and will not offer or give to any employee, agent, or representative of Buyer any gratuity with a view toward securing any business from Buyer or influencing such person with respect to the terms, conditions, or performance of any contract or purchase order with Buyer. Any breach of this warranty shall be a material breach of each and every contract between Buyer and Seller.

17. NON-DISCLOSURE OF CONFIDENTIAL MATTER. Products purchased hereunder with or to Buyer's specifications, instructions or drawings shall not be quoted for sale to or discussed with or disclosed to others without Buyer's written



authorization. Such specifications, drawings, samples, or other data or information furnished by Buyer shall be treated as confidential information by Seller, shall remain Buyer's property, and shall be returned to it upon request by Buyer. Seller shall hold in the strictest confidence all information that Buyer or its affiliates may provide to Seller, and/or Seller may come into possession of through observation or otherwise while on Buyer's premises, and all derivatives thereof, which information may include, but is not limited to, technical and business information, plans, samples, and information related to Products, including Products, processes, equipment, and production facilities, taking all reasonable measures to ensure confidentiality. The obligations of this clause survive cancellation, termination or completion of this order.

18. **BUYER-SUPPLIED MATERIAL.** All property including but not limited to specifications, drawings, other documents, data, tools, dies, molds, jigs, fixtures, patterns, machinery, special test equipment, special taps, gauges, or raw materials furnished by Buyer ("Buyer Supplied Material") for use in the performance of this order shall remain the property of Buyer, shall be used by Seller in the performance of this order only, in accordance with the requirements of this order relating to such use, and shall be returned to Buyer when requested upon the completion or termination of this order to the extent not previously delivered to Buyer.

19. **LICENSE.** Seller, as partial consideration for this order and without further cost to Buyer, hereby grants, and/or agrees to obtain and provide, to Buyer an irrevocable, non-exclusive, royalty-free right and license to, and to have third parties on its or their behalf, make, use and sell (i) any and all inventions and discoveries made, conceived, or reduced to practice in connection with the performance of this order and (ii) products embodying, incorporating or produced or performed using any such inventions or discoveries.

20. **NOTICES.** All notices, requests and other communications to any party hereunder shall be in writing (including facsimile transmission) and shall be deemed received on the earlier of (i) the date actually received as evidenced in writing, regardless of how sent or (ii) three (3) business days after being mailed by United States certified or registered mail, return receipt requested, with postage prepaid or (iii) the next business day, if sent by overnight courier.

21. **INDEPENDENT CONTRACTOR.** Seller is and shall be an independent contractor of Buyer. Buyer shall not exercise control over Seller, its employees, subcontractors, or agents, except in so far as may be reasonably necessary to ensure performance under and compliance with this order. Nothing in this order shall be construed to designate Seller, its subcontractors, agents, or assigns as the employees, subcontractors, partners, or agents of Buyer or Buyer's affiliates, subsidiaries, or members.

22. **TERMINATION.** Buyer may terminate this Order, in whole or in part, at any time with or without cause for undelivered Goods on ten (10) days' prior written notice to Seller. In addition to any remedies that may be provided under these Terms, Buyer may terminate this Order with immediate effect upon written notice to the Seller, either before or after the acceptance of the Goods, if Seller has not performed or complied with any of these Terms, in whole or in part. If the Seller becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors, then the Buyer may terminate this Order upon written notice to Seller. If Buyer terminates the Order for any reason, Seller's sole and exclusive remedy is payment for the Goods received and accepted by Buyer prior to the termination that are not subject to a claim hereunder.

23. **FORCE MAJEURE.** No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such party's (the "Impacted Party") failure or delay is caused by or results from the following force majeure events ("Force Majeure Event(s)": (a) acts of God; (b) epidemic, pandemic, flood, fire, earthquake, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order, law, or action; and (e) embargoes or blockades in effect on or after the date of this Agreement. The Impacted Party shall give notice within two (2) days of the Force Majeure Event to the other party, stating the period of time the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event that the Impacted Party's failure or delay remains uncured for a period of sixty (60) days following written notice given by it under this Section 23, the other party may thereafter terminate this Agreement upon five (5) days' written notice.

24. **GOVERNING LAW.** The validity and interpretation of these terms and conditions shall be governed by the laws of the state of New York, without respect to its conflict of law principles.



mitsubishi
CHEMICAL
GROUP

Polyester
Film

25. GENERAL. In the event that any of the provisions, or portions thereof, or interpretations by the parties or by either party of any provisions or portions of these terms and conditions are held to be unenforceable or invalid by any court of competent jurisdiction, Buyer and Seller agree that the court shall enforce such provision to the maximum extent permissible, and the other terms and conditions will remain in full force and effect. Waiver by Buyer of any breach of any of the terms and conditions set forth herein shall not be construed as a waiver of any other breach, and the failure of Buyer to exercise any right arising from any default of Seller hereunder shall not be deemed to be a waiver of such right, which may be exercised at any subsequent time. No amendment of these Terms and Conditions shall be valid and enforceable unless agreed to in writing by Buyer.