

General Conditions of Sale and Delivery for Covestro Eternal Resins (Far East) Ltd.

I. General

These General Conditions of Sale and Delivery shall govern and be incorporated in every contract for the sale and purchase of goods between the Seller and the Buyer. Any conditions of purchase or other reservations made by the Buyer shall not be effective unless the Seller has expressly accepted them in writing for a particular order.

II. Quotations and Orders

1. The Seller's quotations shall not be binding with respect to price, quantity, delivery time or availability and shall not constitute an offer.
2. The Seller's acceptance of the Buyer's orders shall become effective upon receipt by the Buyer of either the Seller's written acknowledgement of the Buyer's order, the Seller's invoice or the Seller's delivery note (whichever comes first).
3. The Seller reserves the right to engage a third party to process any and all orders.

III. Prices

1. The prices invoiced shall be the Seller's prices plus the Value Added Tax (VAT) effective at the time of delivery.
2. The invoice issued in relation to a particular transaction can be denominated in any currency agreed by the Seller and the Buyer. Where the Seller and Buyer agree that the payment of an invoice can be made in a currency (new currency) other than the currency in which the invoice is originally denominated (original currency), the Buyer shall pay an amount in the new currency such that when such amount is translated into the original currency, it is equal to the original currency value of the sum invoiced at the time the selling relationship becomes effective.
3. The weight of the goods on which the invoiced amount is to be calculated shall be ascertained in the dispatch department of the Seller's plant or Seller's designated sub-contractor from which the goods are supplied unless the Buyer wishes them to be weighed, at its expense, by any third party at the station of dispatch as agreed to by the Buyer and Seller in advance.

IV. Payment

1. Payment shall be made without deduction within the time stipulated in the invoice or otherwise within thirty (30) days after the date of the invoice. Time of payment is of the essence.
2. If any amount (including without limitation purchase price or where applicable service or handling fee) payable by the Buyer is overdue, interest shall be payable at the lending rate (quarterly) of Bank of Taiwan on such overdue amount from the due date of payment until receipt by the Seller of the full amount (including accrued interest); and should the Seller undertake debt recovery actions, the Buyer will be responsible for the subsequent costs, including but not limited to additional logistic costs, litigation (non-lawyer) costs and expert fees. In addition, all amounts per each order owing by the Buyer to the Seller shall become immediately due and payable. In case of default of payment, the Seller reserves the right to suspend delivery, terminate the contract and to claim damages.
3. Any method used by the Buyer to effect payment of invoices apart from cash (e.g. bills of exchange, checks, letters of credit, etc.) shall be subject to the Seller's prior consent and shall not constitute discharge of the Buyer's payment obligation until the Seller has received cleared funds as required by Article IV(5). Any charges, fees, expenses, taxes, etc. in relation to the use of any method of effecting payment of invoices by the Buyer shall be borne by the Buyer. If bills of exchange or checks are used to effect payment, the maturity of such bills or the issuing date of the checks shall not exceed ninety (90) days end of the month. Any discount expenses or other charges or taxes in connection with the bills of exchange or checks which are due after the due date of the invoice shall be for the Buyer's account.
4. Where the Seller has reason to doubt the Buyer's solvency or creditworthiness and the Buyer is not prepared to effect advance cash payment or provide the Seller with security as requested, the Seller shall have the right:
 - (i) to reject any order made by the Buyer without prejudice to its accrued rights under the contract; or
 - (ii) to terminate the contract, without prejudice to its accrued rights under the contract.
5. Payment shall not be deemed to have been made until the Seller has received all of the account receivables from each order in full.
6. The Seller may in its absolute discretion apply the payments received against any outstanding invoices, interest on arrears and costs accrued, in such order as it sees fit.
7. The Buyer shall not have the right to withhold payments. The Buyer shall not be entitled to offset any amount owing by the Seller to the Buyer against payments due. Counterclaims may only be offset if they are uncontested or have become res judicata.

V. Delivery

1. The Seller shall make every effort to effect delivery as early as possible but there shall be no fixed periods for delivery. Any delivery or dispatch times are approximate only and not of any contractual effect. The Seller is not liable to the Buyer for failure to deliver on a particular date or dates. Time for delivery is not of the essence of the contract and shall not be made so by the service of notice.
2. Delivery shall be subject to punctual delivery of the appropriate goods by the Seller's own suppliers. If the Seller's usual suppliers fail to supply the Seller with appropriate goods in whole or in part, the Seller shall not be under any obligation to purchase from other sources.
3. The provision of packaging including tankers and tank containers by the Seller shall be subject to special conditions.
4. The Seller is entitled to a deviation in the range of +/-10% (not per cent) on quantity of Products delivered. The only remedy for Buyer shall be to request for an adjustment on total purchase price calculated on the basis of the actual quantity delivered.

VI. Force Majeure

1. No party shall be liable for the failure to carry out its obligations hereunder in the event that it is prevented from doing so by an event of force majeure being an event which is, or the consequences of which are, beyond the reasonable control of the parties eg fire, strikes, lockouts, injunction or other labour disturbances; governmental intervention; war, riots, acts of civil or military authorities; explosion; weather; flood; acts of God or nature; business interruptions due to pandemic measures; inability to obtain on terms acceptable to Seller or a shortage of fuel, power, raw materials, labour or transportation; accident; breakage of machinery; or disruption of normal supplier channels of distribution. In the event of force majeure, the obligations of the party affected by the force majeure shall be suspended for as long as the force majeure continues and to the extent to which the force majeure affects the party's obligations.
2. Except where the nature of the event shall prevent it from doing so, the party suffering force majeure shall notify the other party in writing forthwith after the occurrence of force majeure and shall in every instance, to the extent it is capable of doing so, use all reasonable efforts to remove or remedy such cause with all reasonable dispatch.
3. If for reason of force majeure, supplies of the Product or of the feedstock or raw material from which the Product is directly or indirectly derived from any of Seller's then existing sources of supply are curtailed or cut off, Seller shall have the option during such period of curtailment or cessation to allocate and apportion fairly among its customers including Seller's affiliated companies such Product in any manner as Seller in its sole discretion deems appropriate. Affiliated Companies means any company or organization controlling, controlled by or under common control with the party hereto.
4. The term control used herein means in the case of a corporation, ownership directly or indirectly of at least 50% (fifty percent) of the stock entitled to vote for the election of directors and in the case of a non-stock company, the legal power to direct or cause the direction of the general management and policies of such company.
4. Seller shall not be obliged to purchase or otherwise obtain alternative supplies of Product, or the feedstock from which Product directly or indirectly is derived.
5. If, as a result of a force majeure event, supply and/or delivery is delayed by more than eight (8) weeks, either party shall have the right to terminate the contract and the Seller shall not be liable for any loss or damage suffered by the Buyer resulting therefrom.

VII. Shipment

1. The Seller reserves the right to choose the route and the mode of transport. Any additional costs resulting from special transport requests made by the Buyer shall be borne by the Buyer. Unless prepaid freight has been agreed or is included in the invoice price, the Buyer shall also bear any increases in freight rates which become effective after the contract has been concluded, any additional costs resulting from re-routing a consignment, storage expenses, and any other related expenses. The Buyer shall have no right of termination in respect of such increases or additional costs.
2. The risk for the goods shall pass to the Buyer upon delivery.

VIII. Title

1. Notwithstanding delivery and passing of risk, the goods remain the property of the Seller until the Buyer pays to the Seller the agreed price for the goods (together with any accrued interest) and all other amounts owed by the Buyer to the Seller in respect of any other contract.
2. Until title in the goods has passed, the Buyer is in possession of the goods in a fiduciary capacity and shall:
 - (i) not part with possession of the goods otherwise than in accordance with Article VIII(5);
 - (ii) take proper care of the goods and take all reasonable steps to prevent any damage to or deterioration of the goods; and
 - (iii) keep the goods free from any charge, lien or other encumbrance and store the goods in such a way as to show clearly that they belong to the Seller.
3. The Seller reserves the right to repossess and resell any of the goods to which it has retained title. The Seller's consent to the Buyer's possession of the goods and any right the Buyer may have to possession of the goods shall in any event cease if the Buyer is in breach of any contract with the Seller. Repossession of the goods shall not constitute termination of the contract unless the Seller has expressly declared so in writing.
4. The Buyer grants an irrevocable right and licence to the Seller and its employees and agents to enter the Buyer's premises with or without vehicles during normal business hours for the purpose of inspecting and/or repossessing goods to which it has retained title. This right and licence shall continue to subsist notwithstanding the termination for any reason of a contract and is without prejudice to any accrued rights of the Seller under a contract or otherwise.
5. Whilst the Buyer is in possession of the goods with the Seller's consent (but not otherwise) the Buyer may in the ordinary course of its business sell the goods or any new product or products produced with the goods provided that:
 - (i) as between the Buyer and its customer the goods are sold as principal and the Buyer is not and shall not be empowered to commit the Seller to any contractual relationship with or liability to the customer or any other person; and
 - (ii) as between the Seller and the Buyer, the Buyer sells the goods in a fiduciary capacity as agent for the Seller. (iii) The Buyer is prohibited to make customers aware that Buyer is the Seller's agent only during a business dealing, unless such agency relationship is contracted between Seller and Buyer.6. Before title in the goods has passed, the Buyer agrees immediately on request by the Seller to assign to the Seller all rights and claims which the Buyer may have against its customers arising from any sales under Article VIII(5).

IX. Guarantees for Contractual Fulfillment

For guaranteeing the fulfillment of all obligations and responsibilities by the Buyer arising from or in connection with its various purchases from the Seller, the Buyer shall, if requested by Seller, provide one or more of the various forms of security, including but not limited to the following, to the reasonable satisfaction of the Seller for the benefits of the Seller.

- (1) With the Seller's approval, a guarantor guaranteeing fulfillment of contractual obligations and responsibilities by the Buyer.
- (2) Guarantee provided by a bank to be accepted by Seller.

X. Limitation of Liability

1. The Seller warrants that its Products shall conform with Seller's specifications ('Specification') and except as otherwise provided by law or as otherwise provided by these General Conditions, all other conditions, warranties and representations, expressed or implied (including the implied warranties of merchantability and fitness for a particular purpose or other implied warranty whatsoever regarding the suitability of any Product for use in any medical device or for any medical application), in relation to the Products are excluded. The Seller does not represent or warrant that the importation, use or sale of the Seller's Products is free from infringement of any third party rights.
2. Except as otherwise required by law, the Seller is not liable to the Buyer, whether for negligence, breach of contract, misrepresentation or otherwise for loss or damage incurred by the Buyer as a result of third party claims or indirect or consequential damage suffered by the Buyer, including without limitation loss of profit, goodwill, business opportunity or anticipated saving.
3. The entire liability of the Seller under or in connection with the supply of the goods, whether for negligence, breach of contract, misrepresentation or otherwise is limited in respect of each event or series of connected events to the cost of the defective damaged or undelivered goods which give rise to such liability as determined by the net price invoiced to the Buyer.

XI. Notification of defects

1. The Buyer shall inspect all Products for conformance to Specification and shall inform Seller according to the notification procedure under Article XI.
2. Subject to Article XI(3), notification of any defects in the goods shall be waived unless given to the Seller in writing within two (2) weeks of receipt of the goods by the Buyer, together with supporting evidence, samples and packing slips stating the invoice number and date and the marking on the packaging.
3. Latent defects must be notified to the Seller by Buyer immediately upon discovery, but not later than five (5) months after receipt of the goods. The burden of proving that a defect is a latent defect shall rest with the Buyer. 4. Goods forming the subject of a claim or complaint shall not be returned to the Seller except with the Seller's express consent.

XII. Replacement of Goods

1. If the Buyer has notified the Seller of a defect under Article XI and the complaint proves justified, the Seller shall have the right to supply the Buyer with a replacement. If the Seller waives its right to supply a replacement, or it does not supply a replacement within a reasonable period, or if the goods supplied in replacement also prove defective, the Buyer shall have the option of requesting a reduction in the purchase price or cancellation of the purchase of the defective items.

XIII. Technical Advice, Use and Processing

Technical advice provided by the Seller verbally, in writing or by way of trials is given in good faith but without warranty, and shall be subject to the provisions of Article X. The Seller's technical advice shall not release the Buyer from the obligation to test the Products supplied by the Seller as to their suitability for the intended processes and uses. The application, use and processing of the Products are beyond the Seller's control and therefore entirely the Buyer's responsibility.

XIV. Trademarks

1. The Buyer shall not have the right to refer to the Seller's Products when offering or supplying substitute products or similar business communications, to use the word substitute in conjunction with Product designations (whether or not such Product designations are registered trademarks used by the Seller) or list those designations together with any designations for substitute products.
2. When using the Seller's Products for manufacturing purposes or when processing them into new products, the Buyer shall not have the right, without the Seller's prior written consent, to use the Product designations (including without limitation trademarks) used by the Seller, on the resulting products or on the packaging or in any relevant printed matter or advertising literature, including by mentioning the Seller's Products as components of the Buyer's products. The supply of goods under a trademark shall not be deemed agreement to the use of this trademark for the products manufactured from such goods.

XV. Warranties and Representations

1. The Buyer represents and warrants that it has obtained and shall obtain, maintain in force, and comply with all applicable licences, permits, approvals, consents, certificates, authorisations, and permissions (Approvals') required by all relevant governments, agencies or other authorities arising out of and in connection with the transaction including in connection with transportation, resale or use of the products. Upon request by the Seller, the Buyer agrees to promptly furnish applicable Approvals to the Seller for inspection.
2. The Buyer represents and warrants that in the execution of and performance of its obligations under each order the Buyer has complied with and shall comply with all applicable laws, regulations, rules, decrees, demands, requirements, standards and administrative treaties, notices and enacted, amended, consolidated or replaced, including but not limited to the applicable laws and regulations in relation to the purchase, sale, import, export, customs clearance, transportation, storage of the goods and any such environmental protection laws and regulations pertaining to the goods (hereinafter collectively as 'Laws').
3. The Buyer warrants that it will utilize the Product(s) in a manner consistent with the Guidance on Use of Seller's Products in a Medical Application (I'Guidance'). The Guidance (or such updated version as revised by the Seller from time to time) shall form part of these General Conditions of Sale and Delivery and shall be binding upon the Buyer. The Guidance is available upon request by the Buyer.
4. The Buyer further warrants that it shall abide by any service standards as communicated by Seller from time to time.

XVI. Indemnity

1. The Buyer shall indemnify, defend and hold the Seller harmless against any and all claims, liabilities, expenses, loss, damages and costs which the Seller may sustain or incur as a result of:
 - (i) breach of these General Conditions of Sale and Delivery by the Buyer;
 - (ii) breach of any contract or order by the Buyer;
 - (iii) the Buyer's non-compliance with the Laws, or failure to obtain, maintain in force or comply with applicable Approvals; and
 - (iv) any claim, prosecution or suit brought against the Seller by any third party including any government agency or other authority for any loss, injury or damage wholly or partly caused in any way by the Buyer's purchase, use, transfer, sale or disposal of the goods.

XVII. Applicable Law, Interpretation of Trade Terms, Costs

1. Each contract shall be governed by and construed in accordance with the laws of Taiwan, the Republic of China.
2. If the goods are sold on the basis of international trade terms, the meaning given to such terms in the I.C.C. Incoterms (as revised from time to time) shall apply, except where inconsistent with these General Conditions.
3. Unless otherwise agreed in writing, charges, taxes and costs connected with a contract shall be borne by the Buyer, including without limitation any customs and import duties in the place of destination and any increases in such duties which become effective between the date of the written order acknowledgment and delivery of the goods.

XVIII. Jurisdiction

Place of jurisdiction shall be the Taipei District Court as the court of first instance. The Seller shall furthermore have the right to commence legal proceedings for settlement of disputes (including but not limited to civil proceeding) where jurisdiction is permitted under laws of Taiwan.

XIX. Foreign Trade Law Requirements

1. The Seller is committed to strict compliance with export control regulations and international sanctions against countries, persons and institutions. Related measures may include, but are not limited to, trade restrictions and financial sanctions implemented by regulations adopted by any national or regional body which has jurisdiction over the Seller, including its subsidiaries, affiliates and employees wherever they may be located (together 'Foreign Trade Law Requirements').
2. The Seller may from time to time request from the Buyer information or confirmation of certain facts relevant for compliance with Foreign Trade Law Requirements with respect to Seller's products, services or technology.
3. The Seller reserves the right to change or cancel any accepted order for products or services based on Foreign Trade Law Requirements, and to terminate the business relationship in case of non-compliance with applicable Foreign Trade Law Requirements.
4. The Seller reserves the right to claim damages in case of the Buyer's non-compliance with applicable Foreign Trade Law Requirements.

XX. Invalidity of Individual Article

The invalidity, illegality or unenforceability of the whole or part of any Article does not affect or impair the continuation in force of the remainder of the General Conditions. The Articles shall replace any invalid, illegal or unenforceable provision by an effective provision which conforms as far as possible to the economic purpose of the original provision.