

BASF CORPORATION - GENERAL TERMS AND CONDITIONS OF SALE

1. Entire Agreement. These Terms and Conditions of Sale (the "Terms"), together with other sales terms, if any, agreed to by Buyer and Seller in a writing ("Sales Terms"), contain the entire and exclusive agreement between the parties regarding the sale of each Product. The Terms, together with the Sales Terms, if any, are referred to herein as the "Contract". If there is a conflict between the Terms and the Sales Terms, the Sales Terms shall govern. All terms and conditions contained in any prior or subsequent oral or written communication concerning the sale of Products to which this Contract relates, including, without limitation, terms and conditions contained in Buyer's purchase order, which are different from or in addition to the Contract are hereby rejected and shall not be binding on Seller, and Seller hereby objects thereto. No addition to, or alteration or modification of, the Contract shall be valid unless made in a writing signed by an authorized representative of each party specifically referring to the Contract. Any action by Buyer in furtherance of a sale or purchase of Product shall constitute acceptance of the Contract.

2. Payment; Taxes. The price for Product is the price in effect on the date of shipment, unless otherwise agreed by the parties. Seller may adjust the price of any Product upon at least ten (10) days prior notice. Payment for the full amount of each invoice shall be made to Seller, addressed as indicated on an invoice, in United States currency. All claims by Buyer shall be made by written notice to Seller in accordance with the provisions of Section 8 of these Terms, and no offset or deduction from any invoice is permitted. Acceptance by Seller of bank draft, check, or other media of payment is subject to immediate collection of the full face amount thereof. In addition to the purchase price, Buyer shall pay Seller any and all governmental taxes, charges or duties of every kind (excluding any tax based upon Seller's net income or net worth) that Seller may be required to collect or pay upon sale, transfer or shipment of Product ("Tax"). Notwithstanding the above, Seller shall not collect, and Buyer shall not pay, any such Tax for which Buyer furnishes to Seller a properly completed exemption certificate or a direct payment permit certificate. Buyer shall be responsible for any Tax, interest and penalty, if such exemption certificate or direct payment permit certificate is disallowed by the proper taxing authority.

3. Breach; Termination. If a party breaches any term of the Contract, other than a party's obligation to render timely payment, or ceases to conduct its operations in the normal course of business, including inability to meet its obligations as they mature, and fails to cure such breach within thirty (30) days, then the non-breaching party may defer any or all further shipments or other performance under the Contract until such breach has been cured. Thereafter, if the breaching party does not provide satisfactory evidence of a good faith effort to cure such breach within a reasonable time, the non-breaching party may terminate the Contract. In the event of a termination, all outstanding payment obligations or other indebtedness of Buyer to Seller shall be immediately due and payable. Acceptance by Seller of less than the full amount due shall not be a waiver of any of Seller's rights under the Contract or applicable law. Notwithstanding any provision in the Contract, Seller shall have no obligation to pay any rebate, issue any credit or make any other payment of any kind to Buyer unless Buyer is fully in compliance with its payment and other obligations under the Contract. In addition, in the event that Buyer fails to make any payment when due, Seller shall have the right to offset any and all outstanding payment obligations or other indebtedness of Buyer to Seller against any outstanding payment obligations or other indebtedness that Seller may owe Buyer.

4. Force Majeure. Neither Seller nor Buyer shall be responsible for any delay or failure to make or take delivery of Product due to any cause beyond its reasonable control, including without limitation (a) fire, storm, flood, strike, lockout, accident, act of war or terrorism, riot, civil commotion, embargo, (b) any regulation, law, order or restriction of any governmental department, commission, board, bureau, agency, court, or other similar government instrumentality ("Governmental Authority"), or (c) inability of Seller to obtain any required raw material, energy source, equipment, labor or transportation, at prices and on terms Seller deems practicable from Seller's usual sources of supply. Neither party is subject to any liability to the other for failing to perform during the period such inability exists. Without limiting the generality of the foregoing, under no circumstances shall Seller be obligated to purchase Product from a third party for delivery to Buyer in the event of a force majeure. Quantities so affected may, at the

option of either party, be eliminated from the Contract without liability, but the Contract shall remain otherwise unaffected. A party's obligation to render timely payment shall not be excused by this provision.

5. Compliance with Laws. Seller shall provide or make available to Buyer a Safety Data Sheet (SDS) for each Product. The SDS contains Product information and describes precautions, if required, associated with such things as transportation, delivery, unloading, discharge, storage, handling and use of the Product, as applicable. Buyer will familiarize itself with all such information and precautions, including but not limited to safety and health information contained in SDSs or otherwise transmitted to Buyer by Seller at any time. Buyer will instruct its personnel, agents, contractors, customers or any third party who may be exposed to the Product about such information and precautions, and any risks involved in using or handling the Products and to make copies of information made available by Seller to such parties. BUYER ASSUMES FULL LIABILITY AND RESPONSIBILITY FOR COMPLIANCE WITH THE SDS AND TO ENSURE NO MISUSE OF THE PRODUCTS IN ANY MANNER. BUYER SHALL COMPLY WITH ALL APPLICABLE LAWS, STATUTES, ORDINANCES AND REGULATIONS OF ANY GOVERNMENTAL AUTHORITY INCLUDING, WITHOUT LIMITATION, THE FOREIGN CORRUPT PRACTICES ACT, THE ANTI-MONEY LAUNDERING PROVISIONS OF THE USA PATRIOT ACT AND BANK SECRECY ACT, AND UNITED STATES EXPORT CONTROL AND ENVIRONMENTAL LAWS ("APPLICABLE LAWS"). Buyer shall not resell or ship to persons on the Denied Parties List or persons located within embargoed countries (in both cases as defined under the referenced export control laws). Seller assumes no liability for Buyer's failure to comply with Buyer's obligations arising under European Union REACH (Registration, Evaluation, Authorization, and Restriction of Chemicals) Regulations. Buyer shall defend, indemnify and hold harmless Seller from and against all claims, demands, causes of action, damages, losses, liabilities, costs, expenses (including reasonable attorneys' fees), penalties, and judgments (each, a "Claim") arising out of or related to (i) Buyer's (or others') processing, transportation, delivery, unloading, discharge, storage, handling, sale or use of any Product (or any product containing Product) or (ii) Buyer's violation of any Applicable Laws. Seller assumes no liability for failure of discharge

implements or unloading equipment used by Buyer, whether or not supplied by Seller.

6. Warranties. SELLER WARRANTS THAT AT THE TIME OF DELIVERY (I) PRODUCT IS FREE AND CLEAR OF ALL LIENS, ENCUMBRANCES AND SECURITY INTERESTS; AND (II) PRODUCT COMPLIES WITH SELLER'S PUBLISHED SPECIFICATIONS (OR AS OTHERWISE REFERENCED IN THE CONTRACT). SELLER MAKES NO OTHER WARRANTY OR GUARANTEE OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY.

BUYER SHALL INSPECT THE PRODUCT SUPPLIED HEREUNDER IMMEDIATELY AFTER DELIVERY. EXCEPT WITH RESPECT TO CLAIMS FOR SHORTAGES, BUYER'S FAILURE TO GIVE NOTICE TO SELLER OF ANY CLAIM WITHIN THIRTY (30) DAYS AFTER THE DATE OF DELIVERY SHALL CONSTITUTE UNQUALIFIED ACCEPTANCE OF THE PRODUCT AND A WAIVER BY BUYER OF ALL CLAIMS WITH RESPECT THERETO.

CLAIMS FOR SHORTAGES MUST BE RECEIVED BY SELLER IN WRITING WITHIN FORTY-EIGHT (48) HOURS AFTER DELIVERY OF PRODUCTS. SELLER SHALL BE GIVEN A REASONABLE OPPORTUNITY TO INSPECT ANY SHIPMENT CLAIMED BY BUYER TO CONTAIN A SHORTAGE.

SELLER MAKES NO WARRANTY OR GUARANTY, EITHER EXPRESS OR IMPLIED, AS TO THE ACCURACY OR COMPLETENESS OF TECHNICAL ADVICE FURNISHED OR RECOMMENDATIONS MADE BY SELLER OR ITS REPRESENTATIVES CONCERNING ANY USE OR APPLICATION OF ANY PRODUCT OR OF THE RESULTS TO BE OBTAINED. WITH REGARD TO ANY HANDLING OF ANY PRODUCT, BUYER ASSUMES FULL RESPONSIBILITY FOR QUALITY CONTROL, TESTING AND DETERMINATION OF SUITABILITY OF PRODUCT FOR ITS INTENDED APPLICATION OR USE.

ANY ATTEMPT TO REMEDY OR CORRECT A CLAIMED DEFECT BY PERSONS OR ENTITIES NOT AUTHORIZED TO PERFORM SUCH WORK BY SELLER OR CONTINUED USE OF SUCH PRODUCT SHALL VOID THE PRODUCT WARRANTY SET FORTH ABOVE AND BUYER WILL BE DEEMED TO HAVE ACCEPTED THE PRODUCT AS IS, WITH NO FURTHER OBLIGATION OF SELLER TO BUYER.

IF REQUESTED BY SELLER, BUYER SHALL RETURN NONCONFORMING PRODUCT TO SELLER STRICTLY IN ACCORDANCE WITH SELLER'S WRITTEN INSTRUCTIONS CONCERNING SHIPPING, HANDLING, INSURANCE, AND OTHER MATTERS AS TO WHICH SELLER ISSUES INSTRUCTIONS. FAILURE TO COMPLY WITH THESE PROVISIONS SHALL INVALIDATE ANY CLAIM BY BUYER FOR BREACH OF WARRANTY.

7. Intellectual Property. Seller warrants that the process or processes of manufacture of the Product and the Product itself do not infringe any valid U.S. patents. Since Seller has no control over Buyer's (or others') processing, sale, use or disposition of any Product (or any product containing Product), including, without limitation, the admixing, reacting or combining of any Product with other products, chemicals or materials, Buyer assumes the entire liability and responsibility therefor and agrees to defend, indemnify and hold harmless Seller from and against all Claims arising out of or related to infringement of any third party's intellectual property rights, patents on processes practiced by Buyer or patents on products made by Buyer.

8. Limitation of Liability. SELLER'S TOTAL LIABILITY AND BUYER'S EXCLUSIVE REMEDY FOR ANY CLAIM OR LIABILITY ASSOCIATED WITH THE CONTRACT OR ANY PRODUCT, WHETHER BASED IN TORT, CONTRACT, STRICT LIABILITY OR ANY OTHER LEGAL THEORY IS EXPRESSLY LIMITED TO, AT SELLER'S OPTION, REPLACEMENT, REPAIR OR REWORK, AS APPLICABLE, OF NONCONFORMING PRODUCT OR PAYMENT IN AN AMOUNT NOT TO EXCEED, IN THE AGGREGATE, THE PURCHASE PRICE OF THE SPECIFIC PRODUCT FOR WHICH DAMAGES ARE CLAIMED. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY OTHER DAMAGES, LOSSES OR EXPENSES, INCLUDING, WITHOUT LIMITATION, INDIRECT, INCIDENTAL, PUNITIVE, CONSEQUENTIAL, AGGRAVATED, EXEMPLARY OR SPECIAL DAMAGES OR DAMAGES, LOSSES OR EXPENSES ASSOCIATED WITH LOSS OF PROFITS, BUSINESS, CONTRACTS OR SAVINGS, LOSS OF GOODWILL, LOSS OF PRODUCTION, LOSS OF USE, BUSINESS INTERRUPTION AND ANY OTHER DAMAGES, LOSSES OR EXPENSES OF ANY KIND OR CHARACTER TO BUYER, ITS CUSTOMERS, OR OTHER PERSONS OR ENTITIES.

9. Limitation of Action. BUYER'S FAILURE TO COMMENCE ANY CAUSE OF ACTION EITHER RELATED TO ANY PRODUCT OR OTHERWISE ARISING UNDER THE CONTRACT WITHIN ONE YEAR AFTER THE DATE OF DELIVERY SHALL FOREVER BAR ALL RIGHTS OF BUYER TO COMMENCE ANY CAUSE OF ACTION WITH RESPECT THERETO NOTWITHSTANDING ANY APPLICABLE STATUTE OF LIMITATIONS.

10. Allocation. Seller may allocate its available supply of Product among its customers, itself, and its affiliates on such basis as Seller deems fair and reasonable if Seller is unable, for any reason, to supply the quantities of Product contemplated by the Contract.

11. Credit. If at any time the financial responsibility or credit risk of Buyer shall be unsatisfactory to Seller, Seller may require cash or satisfactory security or adjust payment terms prior to subsequent shipments or deliveries or other performance under the Contract. The election by Seller to act according to the foregoing shall not affect the obligation of Buyer to take and pay for contracted Product. Buyer agrees to pay all costs and expenses, including attorneys' fees, incurred by Seller in the collection of any sum payable by Buyer to Seller. Seller shall be entitled to apply an interest or service charge on any overdue sum at the lesser of (a) 2% per month, or (b) the maximum rate allowed by applicable law.

12. Title; Risk of Loss. Unless otherwise provided in the Contract, title to and risk of loss of Product shall transfer to Buyer upon delivery to the carrier at Seller's shipping point; Buyer shall bear all risk of loss or damage in transit.

13. Precious Metals. With respect to Products containing precious metals, unless otherwise specifically agreed to in writing, the following sales conditions shall also apply: (a) all metal accounts established or maintained by Seller shall be subject to Seller's Metal Account Terms and Conditions, the current form of which appears on each metal account statement; (b) payment for precious metals shall be cash in advance; (c) the precious metal contained in such Products shall be priced in accordance with the Engelhard Fabricated Products Price next published by Seller following the date the metal is shipped or credited to Buyer's metal account; (d) Seller shall have the right at any time without notice to set off any liability (whether to

pay money or to credit, deliver, or transfer metal or otherwise) of Seller to Buyer against any liability of Buyer to Seller and, in furtherance thereof, to convert metal to money or money to metal at market value at the date of such set-off.

14. Admixture Products. With respect to concrete admixture Products, Buyer shall provide, and agrees to be solely responsible for providing, a secondary containment system around/under the Product storage tanks designed to prevent migration of Product into environmental media. Buyer shall comply with all federal, state and local laws and regulations relating to secondary containment, and Buyer shall be solely responsible and liable for any failure to provide secondary containment around/under the Product storage tanks or any release of Product into the environment.

15. Assignment; Survival. Buyer shall not assign all or any portion of the Contract without Seller's prior written consent. The Contract shall bind and inure to the benefit of the successors and permitted assigns of the respective parties. In order that the parties may fully exercise their rights and perform their obligations arising under the Contract, any provisions of the Contract that are required to ensure such exercise or performance (including any obligation accrued as of the termination date) shall survive the termination of the Contract.

16. Governing Law; Miscellaneous. The Contract shall be governed by the laws of the State of New Jersey, USA, excluding its conflict of laws principles. The parties agree, consent and waive contest to the exclusive jurisdiction and venue of the federal or state courts of New Jersey for all disputes arising out of or relating to this Contract. The United Nations Convention on Contracts for the International Sale of Goods and the United Nations Convention on the Limitation Period in the International Sale of Goods, as amended, shall not apply to the Contract. Failure of either party to exercise any right it has under the Contract on one occasion shall not operate or be construed as a waiver by such party of its right to exercise the same right on another occasion or any other rights it has. Any waiver must be in a writing signed by the waiving party. If any provision of the Contract shall be adjudicated to be invalid or unenforceable, it is the parties' intent that the remaining provisions of the Contract will remain in full force and effect, and the affected provision or portion thereof will be

deemed modified so that it is enforceable to the maximum extent permissible to reflect as closely as possible the intentions of the parties as evidenced from the provisions of the Contract. The terms of the Contract are confidential, with the understanding that Buyer will not disclose such terms to any third party. The section headings used herein are intended for convenience of reference only and shall not be considered in interpreting the Contract. Nothing in the Contract shall be construed as creating any direct or beneficial right in or on behalf of any third party.