

TERMS AND CONDITIONS FOR PURCHASE ORDER

1. Buyer reserves the right to cancel this order or any portion of this order (A) prior to receipt of acknowledgement from seller, or (B) if shipment is not made as specified on the reverse side hereof, whether because of fires, strikes, labor troubles or any reason whatsoever, and to purchase elsewhere and charge seller with any loss incurred as a result thereof.
2. It is understood that the case discount period will date from the receipt of the goods or from the date of the invoice, whichever is later. C.O.D. shipments will not be accepted.
3. No charge will be allowed for packing, creating, drayage or storage unless agreed upon in writing at time of purchase, and shipments must be packaged to conform with the requirements of the carriers.
4. Items not priced on this purchase order will be supplied at the lowest price last charged by seller for equal quantity.
5. Goods delivered in excess of amount called for in this order may be refused by buyer and returned at seller's expense.
6. All shipments must be forwarded to the buyer in the manner indicated on this purchase order. In the event of any variance, all additional expenses to which the buyer may be subjected shall be borne by the seller.
7. Seller shall not assign this order, or any part thereof, without written consent of buyer. Such consent shall not release seller from its obligations and liabilities.
8. Seller expressly warrants that all articles, materials and work furnished hereunder will be merchantable, fit and safe for the purpose for which it is manufactured, free from defects in material and workmanship, will conform to applicable specifications, drawings, samples, and descriptions and that if of seller's design will be free from design defects. These warranties shall survive acceptance and payment by buyer. Goods not in accordance therewith may be returned to seller with charge for transportation both ways and buyer shall have the option of returning such goods to seller at any time within thirty (30) days after delivery for credit or replacement at the price charged. The foregoing shall not be in limitation of any rights which buyer may have at law or in equity by reason of any breach of warranty.
9. Seller agrees that the goods and/or services produced and/or rendered pursuant to this contract will be produced and/or rendered in accordance with applicable federal, state and local laws, orders and regulations.
10. This contract is subject to modification or cancellation by buyer in the event of acts of God, acts of government authority, acts of the public enemy, fires, floods, strikes, labor troubles, freight embargoes or causes or contingencies reasonably beyond its control.
11. Seller agrees, solely at its expense, to defend any suit or proceeding brought against buyer or its customers because of any products supplied under this purchase order based on a claim (of which claim timely notice shall have been given to seller) that said product constitutes an infringement of any patent or any other right, and seller agrees to hold harmless and indemnify buyer and all persons who purchase any such product from buyer or thereafter use such product, for all expenses arising from any such claim, and should said product be adjudicated to constitute an infringement in any manner, seller further agrees to pay all damages and costs, and solely at seller's expense, either to procure for buyer and all persons who purchase any such product from buyer or thereafter use such product the right to continue selling and/or using said product; or to replace said product with non-infringing product; or to modify it so it becomes non-infringing: provided that such modification does not materially alter its characteristics, efficacy, dimensions or increase the cost of its use, operation or maintenance.
12. This order becomes a binding contract, subject to the terms and conditions hereof, when accepted by acknowledgement or delivery of materials in whole or in part. Any modification of this order, to be valid, must be in writing and signed by buyer's authorized representative. Any acknowledgement form or other form of seller containing terms and conditions of sale submitted by seller shall not have the effect of modifying the terms and conditions hereof. Buyer will consider seller's requests for changes only if such requests are in writing and are directed to specific clauses in this purchase order.

Toray International America Inc.

13. All goods shipped to the buyer from abroad shall be securely packed for export as light as possible and in the smallest cubical bulk consistent with safe carriage by ocean vessel, railroad or aircraft (as the case may be). All packaging and boxing costs shall be borne by the seller.

14. Seller, its successors and assigns shall forever protect, indemnify and save harmless buyer and affiliated companies, their successors and assigns, against all damages, claims, suites at law or in equity, demands or losses of any kind arising out of or in connection with the items sold hereunder and seller's performance or lack of performance of this contract.

15. Any merchandise put in the process of manufacturer of shipped prior to receipt of written confirmation on this form is made and shipped at seller's risk. Buyer will incur no responsibility resulting from such action.

16. An itemized packing slip bearing the buyer's order number as shown herein must accompany each deliver: and each container must be marked to show this purchase order number. The buyer's count will be accepted as conclusive on shipments not accompanied by a packing slip.

17. Whenever the seller has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the seller shall immediately give notice thereof, including all relevant information with respect thereto, to the buyer.

18. In the event of any institution of proceedings by or against seller in bankruptcy or insolvency, or under any provision of the United States bankruptcy act, or for the appointment of a receiver or trustee or any assignment for the benefit of creditors buyer may cancel this contract forthwith without waiving any remedies of buyer.

19. This order and the contract resulting therefrom shall be governed by and construed in accordance with the laws of New York without regard to conflict of laws rules.

20. Seller warrants that the goods purchased hereunder have been designed to and will comply fully with federal, state and local safety standards in effect on date of shipment.

21. The equal employment opportunity clause in section 202, paragraphs 1 through 7 of executive order 11246, as amended relative to equal employment opportunity and the implementing rules and regulations of the office of federal contracts compliance are incorporated herein by specific reference.

22. If this order is issued pursuant to a contract with the United States government, or any agency thereof, and such fact is communicated to seller on this order form or otherwise, then:

(A) Seller agrees to allow access to any representative of the United States government, or any agency thereof, to seller's plants, materials and process, and relevant books and records.

(B) All material and workmanship is subject to inspection by the government, and the government, as well as the buyer, has the right to reject any articles found to be non-conforming or defective.

(C) Seller performing work under this order shall not discriminate against any employee or applicant because of race, creed, color, national origin or sex and shall include a similar clause in subcontracts.

23. All controversies or claims arising out of or relating to this purchase order or any goods shipped thereunder, shall be submitted to the American Arbitration Association (herein referred to as "AAA") at its office in the city of New York, California, or any other state as applicable, or arbitration in accordance with the rules of the AAA, and the parties agree that such rules and any amendment thereto which may hereinafter be duly adopted by the AAA are incorporated herein by reference and made a part hereof. The award or decision made by the arbitrators shall be binding upon the parties hereto, and a judgement thereof may be entered in any court of competent jurisdiction.