  GENERAL TERMS AND CONDITIONS OF SALE (DOMESTIC)

1 GENERAL ACCEPTANCE

2 PRODUCTS PRICING

|  |  |
| --- | --- |
| 2.1 | Except as otherwise provided in the Sales Agreement, Seller may change any price, payment of freight term in effect at any time and from time to time. The price, payment terms or freight terms at which each order shall be filled shall be that which is established by Seller at the time of shipment of the Products. |
| 2.2 | All payments to be made by Seller to Buyer pursuant to this Contract represent net amounts Seller is entitled to receive and shall not be subject to any deduction or offset for any reason whatsoever. Any tax or charge imposed, directly or indirectly, by any government authority in connection with the sale of the Products, including, without limitation, any sales, documentary, use, turnover, value-added, or import tax shall be for the account of Buyer; and Buyer shall on demand forthwith indemnify Seller against any such tax or charge. |

3 CHANGE OF CONTRACT

|  |  |
| --- | --- |
| 3.1 | This Contract shall be modified or cancelled except upon the written agreement of both Parties. Mutually agreed change shall be subject to all terms and conditions set forth herein, whether or not this Contract or changed agreement so states. In the event Buyer requests modification in any shipping dates specified in the Sales Agreement, any such requested change must be received at least fourteen (14) days prior to the scheduled shipping date. Seller shall use reasonable efforts to meet such change request. Any additional cost involved in said request shall be paid by Buyer. |
| 3.2 | Seller reserves the right, in its sole discretion and without incurring any liability to Buyer, to (i) alter the specifications for any Products; and (ii) discontinue the manufacture of any Products. Notwithstanding the above, Seller shall use its best efforts to provide Buyer with prompt written notice of such decisions and shall fill all accepted orders from Buyer for any such altered or discontinued Products of which manufacturing and commercial deliveries have commended. |

4 PRODUCTS QUANTITY   
  
Quantities of Products shall be determined by reference to Seller’s invoice weights, volumes and other measurement indicators established in good faith, unless shown to be erroneous.

5 PAYMENT TERMS

|  |  |
| --- | --- |
| 5.1 | Seller shall not be obligated to ship Products against accepted orders if Buyer is past due in its payments to Seller. In the event any dispute arises over any part of an invoice or the total amount due under an invoice, all undisputed amounts shall be promptly paid by Buyer in accordance with this Section. |
| 5.2 | If and for so long as any payment from Buyer to Seller under this Contract shall be overdue, any amount not paid by Buyer when due shall be subject to a late payment fee computed daily at a rate equal to one percent (1%) per month or, if lower, at the highest rate permitted under applicable usury law. |
| 5.3 | Notwithstanding the terms of payment specified in the Sales Agreement, should Buyer’s financial responsibility become unsatisfactory to Seller, cash payment or satisfactory security may be required by Seller before proceeding with further deliveries. |
| 5.4 | Seller may, from time to from, change the bank account information specified in the Sales Agreement by furnishing a written notice to Buyer. |

6 SHIPMENT TERMS

|  |  |
| --- | --- |
| 6.1 | Products shall be delivered in accordance with the delivery terms specified in the Sales Agreement governed by and interpreted pursuant to INCOTERMS 2000 as published by the International Chamber of Commerce. |
| 6.2 | In the event that Seller is responsible for customs clearance, Buyer shall provide necessary documentation and assistance in a timely manner, including not limited to the documents listed in the Sales Agreement. Seller shall not be liable for any delay of customs clearance by Seller due to Buyer’s delay or failure in providing sufficient documentation or assistance, in which case, Buyer shall indemnify Seller for any additional cost or loss incurred by Seller for such delay. |
| 6.3 | Buyer will give Seller reasonable written notice of shipment dates and Seller shall use its commercially reasonable efforts to meet acknowledged shipment dates; provided, however, Seller shall not be liable for any damages resulting from its failure to meet such shipment dates even if Seller has been advised of the possibility of such damages. In the absence of specific routing instructions, Seller reserves the right to make selections of common carrier and method of shipment. Risk of loss, damage to the Products shall pass to Buyer upon delivery of the Products to Buyer or the designated carrier in accordance with the INCOTERMS specified in the Sales Agreement. |

7 ACCEPTANCE AND WARRANTY

|  |  |
| --- | --- |
| 7.1 | Seller warrants that the Products will conform to Seller’s specifications at the time of shipment and that Seller will convey good title to the Products to Buyer. |
| 7.2 | In the event of any shortage, damage, or discrepancy in or to a shipment of Products, Buyer shall promptly report the same to Seller and furnish such written evidence or other documentation as Seller may deem appropriate, and Seller shall not be liable for any such shortage, damage, or discrepancy unless Seller has received notice and substantiating evidence thereof from Buyer within thirty (30) days after arrival of the Products to the destination designated by Buyer. If the substantiating evidence delivered by Buyer demonstrates to Seller’s satisfaction that Seller is responsible for such shortage, damage or discrepancy, Seller will promptly deliver additional or substitute Products to Buyer in accordance with the delivery procedures set forth herein; provided that in no event shall Seller be liable for any additional costs, expenses, or damages incurred by Buyers, directly or indirectly, as a result of such shortage, damage or discrepancy in or to a shipment. |
| 7.3 | Seller’s sole obligation in the event of a breach of warranty shall be to provide at no charge to Buyer replacement Products. All costs of shipment of the replacement parts to Buyer shall be borne by Seller. |
| 7.4 | Warranty claims hereunder must be made promptly and in writing; must specify in reasonable detail the Product(s) concerned, the nature and details of the claim, the dates the cause of the claim was first observed, and such claim must be received by Seller no later than thirty (30) days after arrival of the Products to the destination designated by Buyer. |
| 7.5 | THE WARRANTIES SET FORTH HEREIN ARE INTENDED SOLELY FOR THE BENEFIT OF BUYER. ALL CLAIMS HEREUNDER SHALL BE MADE BY BUYER AND MAY NOT BE MADE BY BUYER’S CUSTOMERS. THE WARRANTIES SET FORTH ABOVE ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, AND ALL OTHER WARRANTIES OTHER THAN THOSE SPECIFIED HEREIN ARE HEREBY DISCLAIMED AND EXCLUDED BY SELLER, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE AND ALL OBLIGATIONS OR LIABILITIES ON THE PART OF SELLER FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE USE, REPAIR OR PERFORMANCE OF THE PRODUCTS. BY SIGNING THIS CONTRACT, BUYER ACKNOWLEDGES, AGREES, AND ACCEPTS THESE LIMITATIONS ON WARRANTIES. |

8 PRODUCTS HAZARDS, HANDLING AND SAFETY

|  |  |
| --- | --- |
| 8.1 | Determination of the suitability of the Product for the uses and application contemplated by Buyer and others shall be the sole responsibility of Buyer. Buyer assumes all risks and liabilities for results obtained by the use of the Product, whether used singly or in combination with other material, except those relating solely to the use of Product not conforming to Seller’s specifications, which non-conformity is not known to Buyer and is not discoverable by Buyer, by testing, inspection or otherwise, prior to the use thereof by Buyer or others. Any suggestions or recommendations made by Seller concerning uses or applications of the Product are believed to be reliable, but Seller makes no warranty or guarantee of the results to be obtained since the conditions of the use and application by Buyer and others are beyond Seller’s control. |
| 8.2 | Buyer agrees to undertake to become familiar with the characteristics, quality, hazards and precautions necessary for the safe handling and use of the Products, shall comply with all laws, regulations, and standards applicable to the possession, handling, processing or use of the Products by Buyer and shall take all steps necessary to inform, warn and familiarize its employees, agents, customers and contractors who may handle the Products of all hazards pertaining to and proper procedures for safe use and disposal of the Products, and the containers or equipment in which the Products may be handled, shipped or stored. Without limiting the generality of the foregoing, Buyer agrees to handle the Products in a manner consistent with good product stewardship practices and accepted safe handling guidelines with respect to the characteristics or risks as noted on Seller’s Material Safety Data Sheets. Buyer also undertakes to label as appropriate any materials which it makes or resells which include the Products. |
| 8.3 | As between the parties, Buyer assumes full responsibility for and liability arising out of the handling, processing, blending, storage, transportation, and disposal of the Products after it takes delivery of the Products. |

9 LIMITATION OF LIABILITY

Seller’s total liability to Buyer for any claim relating to this Contract, other than for personal injury or death, shall not exceed the purchase price of the Products in respect of which such claim is made. Except in the case of personal injury or death, Buyer’s exclusive remedy for Products which does not meet the specifications in all material respects or failure to deliver Products as required by this Contract shall be replacement (or, at Seller’s option, refund of the purchase price) of the quantity of Products in respect of which the claim is made. This shall constitute Seller’s maximum liability even if Products has been handled, stored, processed or transported by Buyer or third parties. In no event Seller be liable for any lost profits or any indirect, consequential, special, incidental or contingent damages, or losses suffered or incurred by Buyer.

10 INDEMNIFICATION AND INSURANCE

|  |  |
| --- | --- |
| 10.1 | Buyer shall defend, indemnify and hold Seller harmless from and against any claim, liability, loss, damage or expense (including reasonable attorneys’ fees ) incurred by Seller to the extent that the claim, liability, loss, damage or expense arises from or is connected with the possession, handling, processing or use of the Products by Buyer or others, except to the extent that the liability, loss, damage or expense results from the failure of the Products to meet Seller’s specifications in all material respects at the point of shipment and is not reasonably discoverable by Buyer by testing, inspection or otherwise prior to the handling, processing or use thereof by Buyer. |
| 10.2 | Seller’s solid Products, including but not limited to powder and flake resin products, can be combustible and present a fire or explosion hazard under certain conditions (including but not limited to when dusts are finely divided and suspended in air, and/or allowed to accumulate on surfaces). Accordingly, Buyer shall comply with all laws, regulations and standards applicable to the possession, handling and use of all solid Products by Buyer, and shall defend, indemnify and hold Seller harmless from and against all claims, liabilities, attorneys’ fees, costs and expenses (including but not limited to those relating to injury to or death of Buyer’s employees) arising from or connected with the possession, handling, processing or use of such solid Products by Buyer or others. This indemnity agreement is in addition to the general indemnity agreement contained in Section 10.1, above. |

11 DEFAULTS OR DELAYS

If Buyer is in default of any of its obligations under this Contract, or Buyer fails to make any payment when due, or Seller becomes insecure with respect to Buyer’s financial condition or ability to perform under this Contract, Seller may defer further deliveries until the default is remedied or until Buyer agrees to pay cash on delivery. These remedies are in addition and without prejudice to any other remedy granted Seller by law or elsewhere in this Contract.

12 CONFIDENTIAL OR PROPRIETARY INFORMATION

|  |  |
| --- | --- |
| 12.1 | Any and all technical and other knowledge or information obtained or learned from Seller as a result of this buyer/seller relationship and all technical and other information furnished by Seller or jointly developed by Buyer and Seller (collectively, “Confidential Information”) shall remain Seller's property and Buyer shall maintain in confidence and safeguard all Confidential Information. Buyer agrees to use any Confidential Information only for conducting business with Seller in a manner contemplated by this Contract. |
| 12.2 | Buyer shall restrict disclosures of any Confidential Information to only those Buyer employees who have a need to know and shall bind such employees to obligations of confidentiality consistent with this Contract. Upon completion or termination of this Contract or upon request of Seller, Buyer shall promptly return all materials incorporating any such Confidential Information and any copies thereof. |

13 FORCE MAJEURE

|  |  |
| --- | --- |
| 13.1 | Neither Seller nor Buyer shall be responsible or liable for any delay or failure to deliver or take delivery of any or all of the Products if occasioned by: act of God, fire, flood, embargo, explosion, accident, breakdown of machinery or equipment; shortage of or inability to obtain fuel, power, raw materials, equipment, transportation, or the Products themselves, without litigation and at usual prices or from usual sources; good faith compliance with any law, regulation, standard, order, rule or recommendation made by any governmental authority; strike or labor controversy (neither Seller not Buyer shall be required to settle any labor matter against its own best judgment); any cause or circumstance beyond Seller’s or Buyer’s reasonable control; or any other cause or circumstance, whether similar or dissimilar to the forgoing (“Force Majeure”), which makes impracticable the production, transportation or delivery of the Products or any material used in or in connection with its production; and the contracted quantity shall be reduced to the extent of the quantities not delivered due to any such cause or circumstance. In no event shall Seller be obligated to sell Products, or to deliver from any plant or facility other than the shipping point specified herein to replace the quantities not delivered due to any such cause or circumstance. |
| 13.2 | If a party's performance of this Contract is directly affected, delayed or prevented by an event of Force Majeure, it shall notify the other party of such event of Force Majeure as soon as reasonably possible. If the event of Force Majeure affected only a portion of Seller’s capacity to perform this Contract, Seller shall have the right to utilize its available production and/or supply capacity to satisfy its own requirements, including those of its subsidiaries and affiliates, in full, and to allocate any remaining production and/or supply capacity among its customers, including those not under contract, in a fair and reasonable manner, and Buyer hereby releases Seller from responsibility or liability for any resulting incomplete fulfillment of this Contract. If the affected party is unable to perform all or any material part of this Contract for more than six (6) months after the written notice in respect of the occurrence of an event of Force Majeure is given to the other party, such other party may terminate this Contract without further liability hereunder. |

14 GOVERNING LAW AND DISPUTE RESOLUTION

|  |  |
| --- | --- |
| 14.1 | This Contract shall be governed, interpreted and construed by, and in accordance with, the laws of the PRC. |
| 14.2 | Each of the Parties shall in good faith attempt to resolve any dispute, controversy, or claim (a “Dispute”) arising out of or in relation to this Contract by amicable negotiation. |
| 14.3 | Either Party may initiate dispute resolution by sending written notice of a Dispute (a “Dispute Notice”) to the other Party. If such Dispute is not resolved to the mutual satisfaction of both Parties, either may at any time, but not less than thirty (30) days after the date of the Dispute Notice, submit the Dispute to the China International Economic and Trade Arbitration Commission Shanghai Branch (“CIETAC”) for binding arbitration in Shanghai conducted in accordance with the then effective CIETAC arbitration rules (the “Rules”) in effect at the time of the application for arbitration, which rules are deemed to be incorporated into this Contract. If any provision of the Rules is in conflict with the provisions of this Contract, the provisions of this Contract shall prevail. |
| 14.4 | The arbitration proceedings shall be held in both English and Chinese by a sole arbitrator agreed upon by the Parties. In the event the Parties cannot agree on appointment of the arbitrator within ten (10) days, either Party to the Dispute may ask the Chairman of CIETAC to make such designation. |
| 14.5 | The arbitral award shall be final and binding upon both Parties with no right of appeal and shall specify the allocation of costs of the arbitration. |
| 14.6 | The arbitration described above shall serve as the exclusive means for resolving a Dispute under this Contract; however, nothing in this Contract shall prohibit either Party from seeking interim protective measures before or during the arbitration proceeding in order to protect its interests or applying to a court of competent jurisdiction for the recognition and enforcement of an arbitral award. The provisions of Sections 15.3 to 15.6 shall not be binding for Disputes in the nature of cross-claims, impleaders, or any similar co-Party or third Party claims, by one Party against the other, resulting from and in connection with any action brought by any Person other than a Party to this Contract. |
| 14.7 | During the dispute resolution process described above, Buyer and Seller shall each continue to perform its obligations pursuant to this Contract. |

15 COMPLIANCE WITH LAWS

Buyer shall comply fully with all applicable legal requirements and, if requested, shall furnish evidence satisfactory to Seller of such compliance.

16 EXPENSES

All costs and expenses (including legal fees) incurred by a Party in connection with the preparation of this Contract shall be for the account of that Party.

17 ASSIGNMENT AND BINDING EFFECT

This Contract and the rights and obligations hereunder shall not be assignable or transferable by any Buyer without the prior written consent of Seller. This Contract shall be binding upon and shall inure to the benefit of each of the Parties and their respective successors.

18 WAIVER AND REMEDIES

Any waiver by a Party to this Contract of any condition, part, term, or provision of this Contract shall not be binding unless in writing and shall not be construed as a waiver of any condition, part, term, or provision of this Contract, nor shall such waiver be construed as such a waiver of such condition, part, term or provision respecting any future event or circumstance. The remedies of any Party hereunder shall be cumulative, and any waiver or forbearance by a Party in seeking a remedy for any breach by another shall not be deemed to be a waiver of any other right or remedy.

19 SEVERABILITY

Wherever possible, the terms and conditions set forth herein shall be construed and interpreted to be valid and enforceable under applicable law. If any provisions of this Contract or any other agreement or document contemplated hereby shall be determined to be invalid or unenforceable, such provision shall be invalid or unenforceable only to the minimum extent required, and the Parties shall promptly attempt in good faith to agree on a legally enforceable modification that gives effect to the commercial objectives of the invalid or unenforceable provision, and every other provision shall remain in full force and effect.

20 LANGUAGE

This Contract, including the terms and conditions set forth herein, has been written in both the English and Chinese languages. In the event of any conflict between the English and Chinese, the English version shall prevail. The parties agree that the activities between them and notices hereunder shall be conducted in both English and Chinese.  
These General Terms and Conditions, the Sales Agreement and any expressly identified exhibits constitute the entire agreement and understanding relating to the sale and purchase of the Products, all of which are incorporated herein by reference, and are collectively referred to as the “Contract”. Acceptance of this Contract is expressly limited to such terms and conditions, and none of Buyer’s terms and conditions in any purchase order, release order, shipping instructions, or other documents shall apply to this Contract. Seller shall not be bound by any change in, addition to, or waiver of any of the provisions of this Contract unless approved in writing by an authorized representative of Seller. Buyer shall be bound by and deemed to have assented to the provisions of this Contract by acceptance of Products delivered under this Contract, even if Buyer does not execute this Contract.