

For clients of Covestro, S.A. de C.V. (in Mexico) you can scroll down to see the applicable Terms and Conditions.

Para clientes de Covestro S.A. de C.V. en México, diríjase hasta la sección titulada "Covestro S.A. de C.V. - TÉRMINOS Y CONDICIONES", donde podrá consultar las condiciones correspondientes.

May 4, 2022

## **Covestro LLC**

# **CONDITIONS OF SALE**

### **1. AGREEMENT**

1.1 The conditions on the front page of this AGREEMENT shall supersede any conflicting terms in these Conditions. Terms defined herein are capitalized. Except as otherwise specified in this AGREEMENT, no other conditions shall be applicable to this AGREEMENT or otherwise accepted by SELLER. All other terms and conditions are hereby expressly rejected. SELLER'S acceptance of BUYER'S offer to purchase or BUYER'S purchase order is expressly made conditional on BUYER'S assent to SELLER'S terms and conditions as set forth herein and the rejection of any other terms.

1.2 Acceptance by BUYER of PRODUCT(S) or payment for same shall constitute unequivocal acceptance of the terms and conditions contained herein. None of any past practice, industry standards, course of dealing or usage of trade shall constitute a modification of any term or condition contained herein, nor shall same add any term not contained herein.

### **2. DELIVERY**

2.1. BUYER will provide to SELLER written, detailed shipping instructions within a reasonable time prior to shipment. BUYER will be responsible for any increased costs or delays in delivery resulting from BUYER'S failure to supply such instructions in a timely manner.

2.2. BUYER may not withhold payment in the event of delay caused by BUYER.

2.3. SELLER shall not be required to deliver in any month more than the monthly QUANTITY specified, or if no monthly QUANTITY is specified, more than the monthly pro rata amount of the annual QUANTITY specified.

2.4. All shipments of PRODUCT(S) shall be made CPT (as defined by Incoterms® 2020) BUYER-specified destination, export clearance when applicable arranged by SELLER and import clearance when applicable arranged by BUYER, unless otherwise stated in this AGREEMENT.

2.5. All specified delivery dates refer to the completion of manufacture and availability for shipment of PRODUCT(S) and are SELLER'S good faith estimates only. SELLER reserves the right to modify the delivery dates with notice to BUYER. In the event BUYER requests a change in the scheduled delivery date within three (3) business days of the scheduled shipping date, and such change is accepted by SELLER, a fee of \$500 will be applied to the order.

2.6. Title shall pass to BUYER upon delivery to carrier.

2.7. In the event BUYER is unable to take delivery of any shipment or refuses delivery of a scheduled shipment, SELLER will store the shipment at BUYER'S sole risk and expense and payment for such delayed shipment shall immediately become due.

2.8. In instances of bulk carload, tank truck or tank car shipments, shipper's weights, certified to by sworn weighmaster, shall govern. Unless otherwise specified, PACKING shall be SELLER'S standard packing.

2.9. If SELLER'S railcars are utilized, each customer will be allowed a maximum free time of ten (10) consecutive calendar days for each tank car. If the railcar(s) are constructively placed after 7 a.m., free time begins the next calendar day. (Constructive placement of car is defined by the point in time which the railroad notifies the consignee the railcar is available for delivery into consignee facility). After the ten (10) free days allotted, BUYER will pay a daily rental charge per railcar of \$90 for each day until the car is released to the railroad. This charge will be in addition to any other charges levied by any third party company such as, but not limited to, railroad railcar storage or demurrage charges. Payment will be due and payable upon receipt of an invoice specifying such car, period and charges. BUYER agrees to deliver the railcars in a safe condition, in good repair, in the same condition as when first received, and completely evacuated. BUYER shall return every railcar to the railroad at BUYER'S facilities or to reasonable location(s) designated in writing by SELLER. BUYER shall report to SELLER promptly in writing all loss or damage that may be sustained by any railcar or its tanks. BUYER shall visually inspect the railcars' exterior(s) before return. BUYER is not responsible for any damages to railcars unless such damage results from BUYER'S acts or omissions. If BUYER is responsible, all railcar repairs shall be for BUYER'S account. BUYER will facilitate such repairs upon mutual agreement. BUYER agrees that in the event any railcar is ordered by BUYER to be loaded at less than a volume of 180,000 pounds, BUYER shall be required to pay dead freight at the actual rate charged by the carrier.

### **3. FORCE MAJEURE**

3.1. Neither party shall be held responsible for any loss, damage, delay or lack of delivery, or any other contractual obligation except the obligation to pay monies when due, to the extent arising from fire; strikes, lockouts, injunction or other labor troubles; governmental intervention including prohibition or extraordinary taxation upon import or export; war; riots; acts of terrorism; explosion; weather; flood; acts of God or nature; epidemic; pandemic; inability to obtain on financial terms acceptable to SELLER, or a shortage of, fuel, power, raw materials, labor, containers or transportation; accident; failure or breakage of machinery or other apparatus; disruption, including but not limited to declarations of force majeure, of normal supplier channels of purchase or distribution; or any other event or act, whether foreseen or unforeseen, beyond the affected party's reasonable control.

3.2. BUYER may cancel, without liability, deliveries suspended for at least thirty (30) days by SELLER for reasons stated in the previous section, but the AGREEMENT shall otherwise remain in effect.

3.3. SELLER reserves the right to allocate and fairly apportion PRODUCT(S) among its internal and external customers during force majeure events in any manner SELLER, in its sole discretion, deems appropriate. SELLER further has the right to allocate PRODUCT(S) among its internal and external customers in a fair and reasonable manner during periods in which SELLER experiences a shortage in its ability to supply PRODUCT(S), whether or not such shortage is caused by a force majeure event.

3.4. SELLER shall have no obligation to acquire, by purchase or otherwise, any PRODUCT(S) that SELLER is unable to supply to BUYER due to force majeure events.

### **4. WARRANTY**

4.1. SELLER warrants PRODUCT(S) will conform only to SELLER'S standard specifications for same existing at the time of shipment, unless otherwise agreed to herein. This warranty applies only to the original purchaser of the PRODUCT(S).

4.2. BUYER shall inspect all PRODUCT(S) for conformance to this warranty. BUYER shall notify SELLER of any non-conformance no later than the earlier of a) thirty (30) days from date of shipment by SELLER; or b) the date of use of the PRODUCT(S) by BUYER.

4.3. BUYER'S sole remedy and SELLER'S sole liability for claims of breach of warranty shall be SELLER'S choice of either a) replacement by SELLER of conforming for non-conforming PRODUCT(S); or b) refund of monies paid by BUYER to SELLER for the non-conforming PRODUCT(S).

4.4. SELLER assumes no liability for any errors that are caused by the inaccuracy or incompleteness of BUYER-supplied data.

4.5. SELLER shall have the opportunity to inspect all PRODUCT(S) that BUYER claims are non-conforming. BUYER shall hold, at no cost to SELLER, the PRODUCT(S) pending such inspection. The conditions of any test of the PRODUCT(S) for conformance with any specification shall be mutually agreed upon and SELLER shall be notified of, and may be represented at, all tests that may be made by or for BUYER.

4.6. BUYER assumes all risk for misuse of the PRODUCT(S).

4.7. **THIS WARRANTY IS GIVEN IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ORAL OR WRITTEN, STATUTORY OR OTHERWISE, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE WHICH ARE EXPRESSLY DISCLAIMED. To the extent permitted by law, this limited warranty is intended to be the exclusive remedy of BUYER with respect to any claims relating to the PRODUCT(S), whether arising at law or in equity.**

4.8. The Parties hereby agree that SELLER does not represent or warrant that the importation, use or sale of the PRODUCT(S) is/are free from infringement of any third party patent(s), trademark(s), or copyright(s).

### **5. TERMINATION**

SELLER may terminate this AGREEMENT by written notice to BUYER at any time if BUYER: (a) commits a non-monetary breach of this AGREEMENT and, in case of such a non-monetary breach that is capable of being remedied, BUYER fails to remedy the breach within 30 days of being required to do so in writing; (b) files for bankruptcy, is adjudged as bankrupt, makes a general assignment for the benefit of creditors, has a receiver appointed or becomes insolvent; or (c) fails to make any payment required to be made by BUYER under this AGREEMENT within five (5) days after the due date. If BUYER is in default, SELLER may suspend shipments during such cure period without liability. Termination of this AGREEMENT pursuant to this Article 5 does not terminate, limit or restrict the rights and remedies of SELLER.

### **6. LIMITATION OF LIABILITY**

6.1. NOTWITHSTANDING ANY PROVISION IN THIS AGREEMENT OR ELSEWHERE TO THE CONTRARY: (A) SELLER'S MAXIMUM LIABILITY HEREUNDER AT ANY TIME FOR ANY CAUSE WHATSOEVER, INCLUDING THIRD PARTY CLAIMS, SHALL NOT EXCEED THE PRICE PAID FOR THE PRODUCT(S) AT ISSUE; AND (B) SELLER SHALL NOT BE LIABLE FOR ANY SPECIAL,

**INTERNAL**

PUNITIVE, INCIDENTAL, INDIRECT OR CONSEQUENTIAL LOSS OR DAMAGE OF ANY KIND OR NATURE, ARISING AT ANY TIME, FROM ANY CAUSE WHATSOEVER, INCLUDING, REGARDLESS OF WHETHER CHARACTERIZED AS DIRECT OR CONSEQUENTIAL DAMAGES, LOSS OF REVENUE OR PROFIT OR ANY NEGLIGENCE CLAIMS.

6.2. These limitations of liability shall apply notwithstanding any finding that any remedy fails its essential purpose.

## **7. GOVERNING LAW AND VENUE**

This AGREEMENT shall be construed, interpreted and controlled by the laws of the Commonwealth of Pennsylvania, and all claims arising out of or related to the parties' relationship created by this AGREEMENT, whether in contract, tort or otherwise, shall be governed and decided pursuant to the laws of the Commonwealth of Pennsylvania, including Pennsylvania's statutes of limitations but not including its choice of laws rules. BUYER agrees to subject itself to the courts of said jurisdiction and the United States District Court for the Western District of Pennsylvania or any court of the Commonwealth of Pennsylvania sitting in Allegheny County, Pennsylvania, shall be the exclusive venue for disputes arising out of this AGREEMENT. Each party knowingly, voluntarily and intentionally waives its right to a trial by jury in any legal proceeding, whether based in tort, contract or otherwise, arising out of or relating to this AGREEMENT, and the transactions it contemplates.

## **8. PRICES: PAYMENT TERMS**

8.1. Unless otherwise stated herein, PAYMENT TERMS shall be Net 30 Days from the date of SELLER'S invoice, and payments shall be made electronically, and not in the form of cash, credit card or check, in U. S. dollars. All PRICES shown are exclusive of any applicable tax. Any tax that SELLER is required to collect pursuant to the sale of PRODUCT(S) hereunder shall be in addition to the PRICE and shall be entirely for BUYER'S account.

8.2. SELLER may revise the PRICE, PAYMENT TERMS or SHIPPING TERMS at any time by written notice to BUYER. Such changes shall be effective beginning with the next shipment.

8.3. If, in the sole judgment of SELLER, BUYER'S financial ability to perform hereunder is altered, SELLER reserves the right, among any other right or remedy, to change PAYMENT TERMS, require full or partial advance payment or to cancel any outstanding order without liability.

8.4. Any discount or rebate provided for in this AGREEMENT shall be accounted for exclusively on the basis of sales made to BUYER.

8.5. Notwithstanding any other provision in this AGREEMENT or elsewhere to the contrary, SELLER shall have the unilateral right to levy surcharges on price of PRODUCT(S) based on fuel, freight, energy and/or similar charges.

8.6. Should BUYER at any time any shipment is due under this AGREEMENT receive a bona fide offer from another domestic producer at a lower price on equivalent or substitutable material of equal quality, in like quantity as the shipment involved, BUYER shall first provide written proof (reasonably satisfactory to SELLER) of same and SELLER shall then either supply such shipment at the lower price, or (if applicable) permit BUYER to purchase the specified quantity elsewhere, and the quantity so purchased elsewhere will be deducted from the minimum QUANTITY that BUYER is required to purchase under this AGREEMENT, however, this AGREEMENT shall otherwise remain unaffected. Adjustments resulting from the SELLER'S having met a good-faith offer from another supplier will be made with BUYER within thirty (30) days.

8.7. All PRICES in this AGREEMENT are exclusively for PRODUCT(S) sold directly to BUYER or BUYER'S agent by SELLER.

8.8. SELLER shall retain a purchase money security interest in the PRODUCT(S) sold hereunder until all payments (including deferred payments, whether evidenced by notes or otherwise) shall have been received in full by SELLER and, if requested in writing to do so, BUYER agrees to do all acts necessary to perfect and maintain such security interest in SELLER.

8.9. SELLER shall not be required to provide any rebates or refunds of any kind otherwise due hereunder unless BUYER'S account is Current. "Current" shall be defined as when the sum of the average number of days outstanding (the number of days between each invoice date and each payment receipt date) for each month of the defined rebate or refund period divided by the number of months in the defined rebate or refund period is less than or equal to the Payment Terms, and shall also mean that no past due amounts exist at the time of the required rebate or refund payment. SELLER reserves the right to apply any rebate or refund otherwise due hereunder to the outstanding balance on BUYER'S account.

8.10. If weights are to be billed in pounds or kilograms, then all weights shipped shall be rounded to the nearest whole unit for billing purposes.

8.11. SELLER is entitled to recover from BUYER all collection costs, including reasonable attorneys' fees, incurred by SELLER in enforcing this AGREEMENT.

## **9. PROPRIETARY INFORMATION**

9.1. Any information disclosed by SELLER to BUYER incident to the performance of this AGREEMENT, including but not limited to information related to pricing, volumes or the financial terms of this AGREEMENT and the existence of the AGREEMENT itself, is disclosed in confidence for the sole and exclusive use of BUYER. BUYER shall not publish or otherwise disclose such information to others without the express written consent of SELLER.

9.2. Nothing herein shall limit the BUYER'S right to disclose any information provided by the SELLER hereunder which (a) was furnished by the SELLER prior to this AGREEMENT without restriction; (b) legitimately becomes knowledge available within the public domain; or (c) is received by BUYER from a third party without restriction and without breach of this or any other AGREEMENT.

9.3. In the absence of a signed agreement to the contrary, no information disclosed by BUYER to SELLER shall be considered confidential.

9.4. In the event BUYER competes with SELLER in sales of PRODUCT(S), the parties shall enter into a separate non-disclosure agreement to control the exchange and use of Proprietary Information. The separate non-disclosure agreement shall include a definition of Proprietary Information and the following provisions: (a) the parties shall restrict access to Proprietary Information disclosed thereunder, particularly that related to pricing, volumes or the financial terms of this AGREEMENT and the existence of this AGREEMENT, solely to those individuals within their respective organizations with a need to know; (b) each of those recipients shall be contractually or otherwise bound by obligations regarding confidentiality and restriction of use of information at least as restrictive as those contained in the non-disclosure agreement; (c) the parties shall treat the Proprietary Information as absolutely confidential and shall not disclose it or make it otherwise available to any third party; (d) the parties shall only use the Proprietary Information to fulfill the purpose of this AGREEMENT according to the terms and conditions of this AGREEMENT; and (e) the parties shall not exploit the Proprietary Information for any other commercial purpose.

## **10. INDEMNIFICATION**

To the fullest extent permitted by law, BUYER shall indemnify, defend and hold harmless SELLER and SELLER'S employees, agents and AFFILIATES (as defined in Article 11.1) from and against any claims and damages incurred by, asserted against or awarded against SELLER or SELLER'S employees, agents and AFFILIATES to the extent such claims or damages arise, directly or indirectly, from, or are related in any way to, (a) BUYER'S acts or omissions; (b) BUYER'S use of PRODUCT(S); (c) failure of BUYER to comply with all federal, state and local laws, regulations and ordinances in connection with BUYER'S performance hereunder; (d) any breach by BUYER of any term or condition of this AGREEMENT; or (e) any contamination of or damage to the environment or any property or damage to natural resources at a facility owned or operated by BUYER or its customers, or a facility/location chosen by BUYER for its disposal of wastes. SELLER has the right to control the defense, compromise and settlement of any third party claims to which BUYER'S indemnity obligations apply pursuant to this Article 10. This Article will apply regardless of the type of assertion being made including, without limitation, any legal, equitable, or admiralty causes of action or rights (including, without limitation, negligence, strict liability in tort, other tort, express or implied warranty, indemnity, contract, contribution or subrogation), whether the assertion is made by a party to this AGREEMENT or any third party.

## **11. ADDITIONAL TERMS**

11.1. This AGREEMENT may not be assigned by either party to any other party without the prior written consent of the other party hereto; provided, however, that SELLER may without the consent of BUYER (a) assign any or all of its rights and obligations hereunder to any AFFILIATE of SELLER by written notice to BUYER; and (b) assign its rights and obligations hereunder, by written notice to BUYER, to a third party successor or transferee (whether by merger, consolidation, purchase or otherwise) of either (1) all or substantially all of the assets of SELLER; or (2) all or substantially all of the assets of the particular division of SELLER to which this AGREEMENT pertains. "AFFILIATE" shall mean, with respect to a party, any individual, corporation or other business entity that, either directly or indirectly, controls such party, is controlled by such party or is under common control with such party. "Control" means possession of the power to direct, or cause the direction of the management and policies of a corporation or other entity whether through the ownership of voting securities, by contract or otherwise. This AGREEMENT shall be binding upon and inure to the benefit of the parties and their respective legal representatives, successors and permitted assigns. Any attempted assignment in violation of this Article 11.1 is null and void.

11.2. Return of PRODUCT for any reason whatsoever shall require prior written approval of SELLER.

11.3. BUYER warrants that it has no knowledge that any PRODUCT, or part of any PRODUCT, will be utilized in any type of (a) nuclear use whatsoever; (b) weapons, including but not limited to military or police applications; (c) medical, food processing or FDA regulated use or any adjuvants to same; (d) any insecticide, fungicide, or rodenticide or FIFRA regulated use or any adjuvant to same (e) isocyanate or polyaspartic PRODUCT(S) sold by BUYER in an unreacted state, or into any "do-it-yourself" or domestic consumer markets; all-inclusive (a) through (e) unless otherwise explicitly stated in this AGREEMENT; otherwise BUYER will immediately notify SELLER in writing upon obtaining such knowledge and indemnify and hold SELLER harmless for any damage, penalty or other claim arising out of such use(s); and regardless of whether or not explicitly stated in this AGREEMENT, shall abide by all U.S. and any other applicable law(s) regarding such use(s). Breach by BUYER of this Article 11.3 shall be considered a material breach of this AGREEMENT. If SELLER does not explicitly agree in writing with such use after notification from BUYER, BUYER will immediately ensure such use is terminated, or will terminate its arrangement(s) with its down-stream customer if such use originates there.

11.4. BUYER represents and warrants that (a) it understands the nature and characteristics of the PRODUCT(S) and any hazards associated with its use; and (b) it will adequately instruct, train and warn all persons, including all third parties, who may come in contact with, or will be in the vicinity of, the PRODUCT(S) in the proper safe use, handling, and disposal of the PRODUCT(S). Appropriate literature has been assembled which provides information concerning the health and safety precautions that must be observed when handling PRODUCT(S). Before working with PRODUCT(S), BUYER acknowledges it has read and is familiar with the available information on PRODUCT hazards, proper use, handling, and disposal. Breach by BUYER of this Article 11.4 shall be considered a material breach of this AGREEMENT.

11.5. All information and technical assistance is given without warranty or guarantee and is subject to change without notice. BUYER represents and warrants (a) it is not relying upon any representation, statement or other assertion made by SELLER or its representatives or agents, with respect to the suitability of the PRODUCT(S) for any purpose and that BUYER has made its own independent inquiry and testing and has formed an independent opinion concerning the suitability of the PRODUCT(S) for the end use, conversion or application intended; and (b) it will not assert any claim against SELLER or hold SELLER liable, with respect to any information, testing or design furnished, or failure to be furnished, by SELLER, including, without limitation, technical advice or recommendations.

**INTERNAL**

11.6. BUYER acknowledges that PRODUCT(S) may not meet applicable government procurement requirements and that SELLER may not be able to provide information required by government procurement regulations; and SELLER shall have no liability whatsoever with respect to any requirements relating to, or arising from, any government procurement regulations, unless first agreed to in writing, signed by an authorized representative of SELLER.

11.7. No type of contractual obligation between BUYER and its customer(s) shall be applicable to, or create any liability with respect to, SELLER, whether via "pass-through", "flow-down" or otherwise, and BUYER shall not otherwise represent to its customer(s) such purported SELLER liability.

11.8. The rights and obligations under Articles 4, 6, 7, 9, 10 and 11 herein shall survive the cancellation, termination or expiration of this AGREEMENT.

11.9. Should any part of this AGREEMENT be deemed invalid by a court of law, the remaining provisions of this AGREEMENT remain in full force and effect if the economic and legal substance of the transactions this AGREEMENT contemplates are not affected in a manner materially adverse to a party.

11.10. The waiver of any failure to meet the requirements of any term or condition of this AGREEMENT shall not operate as a waiver of any subsequent failure to meet the requirements of such term or condition or as a waiver of any other rights in this AGREEMENT. Failure of SELLER to effect any available right or remedy shall not be construed to operate as a waiver of same.

11.11. This AGREEMENT constitutes the complete and final agreement between the parties. All prior agreements, negotiations, or understandings, whether oral or written, between BUYER and SELLER concerning the subject matter of this AGREEMENT are expressly merged into and superseded by this AGREEMENT. The parties intend this statement of their agreement to constitute the complete, exclusive, and fully integrated statement of their agreement. As such, it is the sole expression of their agreement, and they are not bound by any other agreements of whatsoever kind or nature. The parties also intend that this AGREEMENT may not be supplemented, explained, or interpreted by any evidence of trade usage or course of dealing. The parties did not rely upon statements or representations not contained within this AGREEMENT.

11.12 Any amendment or modification of this AGREEMENT or any term or condition herein shall be unenforceable unless it is evidenced by a writing signed by an authorized representative of each party.

11.13. BUYER and SELLER agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this AGREEMENT.

11.14. SELLER'S acceptance of (a) payment; or (b) specially endorsed checks shall not waive or limit any right or remedy of SELLER.

11.15. Nothing contained herein is intended nor shall be construed as creating a partnership, joint venture, agency, distributorship or any other relationship except buyer and seller; nor shall either party be construed as acting as an agent, distributor (in the absence of a separate, executed Distribution Agreement), or representative of the other party; nor shall the employees of one party be deemed to be employees of the other party. This Section shall apply notwithstanding any communications of any kind between the parties to the contrary.

11.16 BUYER shall not resell or distribute PRODUCT(S) except to its AFFILIATES, without a separate, concurrent Distribution Agreement with SELLER.

11.17 Each party giving or making any notice, request, demand or other communication (each, a "Notice") pursuant to this AGREEMENT shall give Notice in writing and use one of the following methods of delivery: personal delivery, Registered or Certified Mail (in each case, return receipt requested and postage prepaid), nationally recognized overnight courier (with all fees prepaid), facsimile or e-mail. Any party giving a Notice shall address the Notice to the appropriate person at the receiving party at the address listed on the signature page of this AGREEMENT or to another addressee or another address as designated by a party in a Notice pursuant to this Article.

11.18. All headings herein are for reference only and do not affect the interpretation or construction of this AGREEMENT.

11.19 BUYER warrants that it has a robust, effective compliance program in effect, including but not limited to what is required by applicable laws or regulations, the primary precepts of which are available for review by SELLER.

11.20 Counterparts shall be defined as any executed original, including electronic execution, of this Agreement, each of which shall constitute an original. All signatures, electronic or otherwise, need not be on the same executed original.

11.21 BUYER warrants that it will not use, return, dispose of, sell or give away any packaging of PRODUCTS, including but not limited to drums or totes, except as directed by SELLER and in accordance with all applicable regulations. If SELLER does not provide direction, BUYER shall dispose of all PRODUCT packaging in a safe, responsible and compliant manner and in accordance with all applicable regulations.

11.22 BUYER and SELLER each agree that they will not share any information that could be, and no information that is shared shall be, considered "private" under any applicable law or regulation, except as described elsewhere herein, or in a non-disclosure agreement executed by the BUYER and SELLER and referencing this AGREEMENT.

11.23 BUYER shall at all times during the TERM and afterwards, maintain ADEQUATE INSURANCE, defined as general liability insurance to cover product liability, acts of omission or commission, negligence, professional liability or other fault; environmental or pollution insurance, liability insurance pertaining to the operation of automobiles or other vehicles and workers' compensation insurance for employees who are engaged in any work pertaining to this AGREEMENT, all in amounts and coverages typical of companies engaging in contracts such as this AGREEMENT. Upon request of SELLER, BUYER shall provide a certificate of insurance indicating adherence to the foregoing.

11.24 BUYER hereby acknowledges that it, as well as the PRODUCT(S) or services being provided hereunder, may be subject to export controls, embargoes, sanctions and similar laws, regulations and requirements. BUYER warrants and represents that it is not the subject of any trade or economic sanctions promulgated by the government of the United States (including any executive order of any branch or department) or any other jurisdiction in which it is located or operates, including but not limited to, United Kingdom, or the European Union (collectively, "Sanctions"). BUYER shall comply with the requirements of all laws, rules, regulations and orders of any jurisdiction in which it is located or doing business, or which are otherwise applicable to BUYER, including, without limitation, (a) all Sanctions, (b) all export control regulations and trade restrictions, (c) all laws and regulations that relate to money laundering, any predicate crime to money laundering, or any financial record keeping and reporting requirements related thereto, (d) the U.S. Foreign Corrupt Practices Act of 1977, as amended, and (e) any other applicable anti-bribery or anti-corruption laws and regulations. BUYER will not allow a Blocked Person to have an ownership interest in or control of the Product(s), nor shall BUYER divert shipment of Product(s) to a Blocked Person. "Blocked Person" means any person or entity that is now or at any time (a) on a list of Specially Designated Nationals issued by the Office of Foreign Assets Control ("OFAC") of the United States Department of the Treasury or any sectoral sanctions identification list, or (b) whose property or interests in property are blocked by OFAC or who is subject to Sanctions, or (c) otherwise designated by the United States or any regulator having jurisdiction or oversight over a party, to be a person with whom a party is not permitted to extend credit to or with regard to whom a business relationship may result in penalties against such party or limitations on such party's ability to enforce a transaction. BUYER shall promptly notify SELLER of any violations of any of the laws or regulations, including those described above described above. In addition, BUYER shall indemnify, defend and hold SELLER and all of its affiliates harmless from any cost, expense or loss related in any way to CUSTOMER's or its employees', subcontractors' or agents' breach of the warranty and representation contained herein. Any such breach by BUYER or its employees, subcontractors or agents shall be considered a material breach of this AGREEMENT and shall give SELLER the right to terminate this AGREEMENT upon notice to BUYER.

**12. AUTHORIZED MOLDERS [APPLICABLE ONLY IF ONE OR MORE AUTHORIZED MOLDERS ARE SPECIFICALLY LISTED HEREIN. IF NOT APPLICABLE, THIS PARAGRAPH SHALL BE OF NO EFFECT]**

AUTHORIZED MOLDER shall be defined as a third party entity, listed herein, designated solely by BUYER as authorized to purchase PRODUCT(S) from SELLER during the TERM, by and on behalf of BUYER pursuant to the conditions set forth herein. If SELLER, in its sole judgment, elects to sell PRODUCT(S) to an AUTHORIZED MOLDER, BUYER agrees to enter into a written agreement with such AUTHORIZED MOLDER that obligates AUTHORIZED MOLDER to (i) be bound by and comply with the Conditions of Sale set forth herein; and (ii) to use PRODUCT(S) purchased by AUTHORIZED MOLDER, and to permit any rebates otherwise owing under such purchase to be paid directly to BUYER.

## Covestro S.A. de C.V. **TÉRMINOS Y CONDICIONES**

1. - **ACEPTACIÓN DEL PEDIDO.** - Covestro, S.A. de C.V. (LA VENDEDORA) se reserva el derecho de aceptar o rechazar por cualquier motivo la presente operación. Los términos y condiciones descritos en este documento, constituyen un acuerdo completo de compraventa de productos, y aplicarán en caso de no existir contrato vigente celebrado con LA COMPRADORA respecto de los productos de que se trate, y están sujetos a la confirmación del pedido correspondiente por parte de la VENDEDORA. Por lo anterior, excepto en el caso de que exista un contrato específico respecto a la adquisición de determinados productos en cuyo caso dicho contrato aplicará, se entenderá que LA COMPRADORA acepta los términos y condiciones aquí establecidos (i) si solicita los productos a través del sistema de pedidos de la VENDEDORA, sin objetar su contenido de forma inmediata; (ii) si recibe estos términos y condiciones por escrito y confirma su recepción por escrito, y/o (iii) si recibe los PRODUCTOS que solicite. Los anexos e instrucciones que se adjunten forman parte integrante del mismo.

2.- **PRODUCTO.** - El o los productos, así como la cantidad del(los) mismo(s) objeto de compraventa son aquellos que solicite LA COMPRADORA a través del sistema de pedidos de la VENDEDORA, o por cualquier otro medio acordado por las partes.

3.- **FECHA DE ENTREGA.** - La fecha de entrega es aquella que acuerden ambas partes a través del pedido correspondiente conforme a los estimados de buena fe por parte de la VENDEDORA. La VENDEDORA se reserva el derecho de modificar las fechas de entrega señaladas mediante notificación a la COMPRADORA previa a la entrega.

LA VENDEDORA no será responsable en ningún caso por los daños o perjuicios causados por demora en la entrega de productos cuando la misma se deba a caso fortuito o fuerza mayor como pueden ser, entre otras, las mencionadas en el numeral 8, inciso c) del presente documento.

**INTERNAL**

4.- **EMPAQUE Y ENTREGA.**- La mercancía será suministrada en los empaques interiores y exteriores que LA VENDEDORA utiliza y su entrega se hará de acuerdo con las Condiciones de Entrega pactadas entre las partes. La VENDEDORA no será responsable del manejo y/o tratamiento de los Productos una vez entregados a la COMPRADORA.

5.- **PRECIOS.**- El precio fijado es el que haya acordado ambas partes directamente o a través de sus sociedades filiales o subsidiarias, ya sea de manera local (México), regional o global, ya sea por escrito o de manera electrónica.

No forman parte del precio: los descuentos, bonificaciones, rebajas e intereses. Por lo anterior, su otorgamiento no constituye una modificación al precio ni obligación de LA VENDEDORA para operaciones en las que no aparezcan expresamente concedidos. En consecuencia, dichos descuentos, bonificaciones, rebajas e intereses no serán un precedente válido para ser exigidos en futuras operaciones y podrán ser modificados o eliminados unilateralmente por parte de LA VENDEDORA, sin que ello se considere un aumento en los precios. Para la modificación de precios y descuentos bastará un simple aviso por escrito o de forma electrónica a LA COMPRADORA. Los nuevos precios y descuentos entrarán en vigor a partir de la fecha establecida en la notificación. Los precios establecidos por LA COMPRADORA en los pedidos deberán coincidir con el establecido en los avisos de modificaciones de precios enviados por LA VENDEDORA, de lo contrario ésta ajustará el precio correcto en dichos pedidos de manera automática y en caso de no ser aceptado por LA COMPRADORA, el Pedido será cancelado automáticamente.

6.- **RECLAMACIONES.**- Si en cualquier momento entre la fecha de recepción de la mercancía y hasta antes del momento de su utilización por parte de LA COMPRADORA, cualquier porción de la mercancía no cumple con las especificaciones de calidad acordadas, y establecidas en los certificados de calidad correspondientes, o presenta algún defecto derivado de su proceso de fabricación, mano de obra, falta de calidad de los materiales empleados para su manufactura, o cualquier otra situación disfuncional, que impida el uso normal de las mercancías en el proceso productivo de LA COMPRADORA y que no sea originado por mal manejo, negligencia o uso inadecuado del mismo atribuible directamente a LA COMPRADORA o su personal o subcontratistas, LA VENDEDORA es el único remedio disponible en favor de LA COMPRADORA, sustituirá el volumen de las mercancías que presente cualquier defecto sin costo alguno para LA COMPRADORA. Lo anterior siempre y cuando se cuente con el fallo técnico del Laboratorio de LA VENDEDORA en el que se establezca que en efecto la mercancía se encuentra defectuosa o no cumple con las especificaciones acordadas. No obstante lo anterior, en caso que el periodo de tiempo entre la recepción de la mercancía por parte de LA COMPRADORA y su utilización sea mayor a 30 (treinta) días, LA VENDEDORA no será responsable por el defecto o la falta de calidad o inconformidad con especificaciones de que se trate.

Será responsabilidad de LA COMPRADORA cualquier contaminación o degradación que sufra el producto en su transporte o instalaciones. LA COMPRADORA, antes de tener derecho a la sustitución de las mercancías defectuosas, deberá haber devuelto los productos o materiales objeto de su reclamación en los términos que acuerden las partes para tales efectos.

Ambas partes están de acuerdo en que no serán objeto de reclamación: la variación en el peso neto facturado, cuya tolerancia aceptada es de más / menos 1 % para los productos amparados por este documento.

7.- **FORMA Y PLAZO DE PAGO.**- Los pagos deberán efectuarse en la forma, lugar y tiempo en que se señalen en el Comprobante Fiscal Digital (la "Factura(s)") correspondiente. Cuando LA VENDEDORA facture en moneda extranjera, LA COMPRADORA deberá realizar el pago a su elección, ya sea en dicha moneda extranjera, o en moneda nacional al tipo de cambio publicado en el Diario Oficial de la Federación en la fecha en que se efectúe el pago. En caso de que LA COMPRADORA pague mediante cheque, y éste sea devuelto a LA VENDEDORA por causas imputables a LA COMPRADORA, se le cargará a esta una indemnización que en ningún caso será menor del veinte por ciento del importe del cheque de conformidad con lo dispuesto por el artículo 153 de la Ley General de Títulos y Operaciones de Crédito. Asimismo, LA COMPRADORA acepta que este documento pueda ser descontado ante una institución bancaria o de factoraje en los términos y condiciones que Covestro, S.A. de C.V. considere convenientes. El plazo de pago se establece en el anverso de la factura correspondiente a partir de la fecha de facturación y envío de la Factura Vía Electrónica a LA COMPRADORA.

8.- **CAUSAS DE RESCISIÓN O SUSPENSIÓN.**- LA VENDEDORA queda facultada para suspender la entrega de la mercancía amparada por este documento o a dar por rescindido el contrato, sin responsabilidad alguna de su parte, enunciativamente más no limitativamente, en los siguientes casos:

- a) En caso de incumplimiento de los términos de pago;
- b) En caso de que LA COMPRADORA no haya documentado, o esté remiso en el pago de facturas anteriores;
- c) Por otro lado, en caso de que ocurra un evento de caso fortuito o de fuerza mayor, mismos que sin limitar incluyen, eventos naturales, huelgas, paros, disturbios públicos, disposiciones gubernamentales, escasez generalizada de materia prima o producto terminado, etc., LA VENDEDORA podrá suspender la entrega de la mercancía correspondiente, y si el evento de caso fortuito o fuerza mayor se prolonga por un periodo mayor a 15 (quince) días, ésta podrá dar por terminada la compraventa de la mercancía de que se trate sin responsabilidad.
- d) LA VENDEDORA se reserva el derecho de distribuir y colocar de manera justa y racional los productos entre sus clientes internos y externos durante los periodos en los que experimente escasez para poder suministrar los productos, ya sea que dicha escasez sea causada por fuerza mayor o no.

9.- **MANEJO Y DISPOSICIÓN DEL PRODUCTO.**- LA COMPRADORA declara que conoce las características físicas y químicas de los productos objeto del presente documento, y en su caso, su peligrosidad, así como los riesgos de su manejo y conviene expresamente a cumplir con cualquier legislación o normatividad, así como cualquier instrucción de manejo y/o disposición por parte de LA VENDEDORA, aplicable al manejo y disposición de la mercancía y a hacerse responsable único de su transportación, uso o transformación a partir del momento en que la reciba, y por lo tanto, exige a LA VENDEDORA de cualquier responsabilidad al respecto. Asimismo, LA COMPRADORA se obliga a informar al transportista, en su caso, de las características, peligrosidad y medidas de seguridad que el producto requiera.

10.- **TRASLADO DE PROPIEDAD Y SEGURO.**- La propiedad de la mercancía se transmitirá a LA COMPRADORA en el momento de entrega de la misma, para lo cual ésta última deberá extender el recibo correspondiente. En virtud de lo anterior, incluso en el caso de que LA COMPRADORA recoja o mande recoger de la planta de LA VENDEDORA los productos materia de éste contrato, la propiedad de los mismos y por tanto los riesgos de pérdida o deterioro de los mismos serán para LA COMPRADORA desde su recepción, por sí o por subcontratistas, siendo además responsable totalmente del traslado y manejo de los productos. LA COMPRADORA se obliga a adquirir por su cuenta y riesgo un seguro que cubra tanto al producto, como los daños y perjuicios que éste pueda causar a terceros en sus bienes o personas, así como cualquier responsabilidad ecológica o por daños catastróficos, a partir de que ésta los reciba y a dar cumplimiento con las normas relativas al transporte de materiales y residuos peligrosos de así ser aplicable.

11.- **CALIDAD.**- LA VENDEDORA se obliga a que el producto cuente con las especificaciones que se establecen en los certificados de análisis que se acompañen a la entrega del Producto LA VENDEDORA, se compromete a efectuar los embarques de sus productos de conformidad con sus políticas y requerimientos de calidad.

12.- **JURISDICCIÓN Y LEY APLICABLE.**- Para la interpretación, cumplimiento y ejecución del presente pedido, las partes expresamente se someten a las leyes aplicables en la Ciudad de México, México y a la jurisdicción exclusiva de los tribunales civiles competentes en la Ciudad de México, renunciando expresamente a cualquier otro fuero o jurisdicción que por razón de domicilio, nacionalidad, por la ubicación de sus bienes o por cualquier otra causa pudiere corresponderles a cualquiera de las partes.

Las Partes reconocen y aceptan que las versiones digitales del presente pedido serán consideradas como las versiones originales del mismo con toda la fuerza y validez legal mismos que se mantendrán de manera íntegra y accesible para su ulterior consulta.

13.- **PATENTES Y MARCAS.**- LA COMPRADORA reconoce que LA VENDEDORA es la única propietaria, licenciataria o usuaria autorizada de todas las marcas, patentes, nombres comerciales, o cualquier otro derecho de propiedad intelectual que se utilice en relación con los productos. Por lo tanto, LA COMPRADORA reconoce y acepta que no adquiere derecho alguno en relación con tales marcas, patentes, nombres comerciales, o demás derechos de propiedad intelectual con motivo del presente acuerdo. En caso de que LA COMPRADORA tenga conocimiento de que algún tercero haya cometido alguna violación en contra de las marcas o nombres registrados o los derechos de propiedad intelectual de LA VENDEDORA, informará de inmediato de esta situación a LA VENDEDORA.

14.- **CESIÓN DE DERECHOS.**- LA COMPRADORA no podrá transferir o ceder los derechos y/u obligaciones derivadas de este Contrato, sin el consentimiento previo de LA VENDEDORA. Por otro lado, LA VENDEDORA podrá ceder o transmitir total o parcialmente los derechos derivados del presente pedido, así como los derechos de cobranza y administración nacidos del presente, notificando únicamente a LA COMPRADORA.