

KAO SPECIALTIES AMERICAS LLC
TERMS AND CONDITIONS OF SALE

1. Acceptance. Products (hereinafter referred to as the "Goods") sold by Kao Specialties Americas LLC ("Seller") shall be governed by these terms and conditions. Issuance of a customer purchase order for the Goods described in this document (this "Document") constitutes acceptance of these terms and conditions. No conditions that may be printed on Buyer's written inquiries, orders, responses to this Document, or other documentation from Buyer replace or supersede the terms and conditions of this Document. Unless specified to the contrary, any price quote set forth on the face hereof shall expire within thirty (30) days of the date stated on the face hereof. Price quotes made by Seller are subject to change without notice, unless otherwise noted. Price extensions, when made are for Buyer's convenience only, and they as well as any mathematical or clerical errors by Seller are subject to correction. Any change in quantities or destination may result in a price adjustment by Seller.

2. Payment and Shipping Terms. Unless specified to the contrary, any prices quoted on the face hereof do not include shipping and handling charges. Shipping terms are FCA Seller's facility or warehouse where the Goods are stored, and Buyer is responsible for the carrier's transportation charges. Title and risk of loss of Goods shall pass to Buyer upon the Good's departure from Seller's facility. If specified on the face hereof, freight charges may be paid by Seller and then billed to Buyer by Seller ("freight prepaid and add"). Unless specified to the contrary, payment for Goods by Buyer shall be made in full within thirty (30) days after receipt of invoice from Seller (which shall be delivered by Seller after shipment of the Goods). Interest will be added to all amounts over thirty (30) days past due and will be computed at a monthly rate of one and one-half percent (1.5%).

3. Delivery Schedule. Seller will use its commercially reasonable best efforts to deliver the Goods by the scheduled delivery date. However, Buyer acknowledges that delivery schedules are subject to change. Seller will notify Buyer of any anticipated delay in delivery of the Goods.

4. Force Majeure. Seller shall not be liable for delay or default in delivery for any cause beyond Seller's reasonable control including but not limited to governmental action, strikes and other labor troubles, fire, damage or destruction of goods, inability to obtain materials, fuel, or supplies, acts of God or any other cause whatsoever beyond Seller's control.

5. Cancellation. If Buyer fails to comply with these terms and conditions or if Buyer's credit becomes unsatisfactory in the sole discretion of Seller, Seller reserves the right to terminate any order upon written notice to Buyer. Charges for cancellations by Buyer include but are not limited to charges for work in progress or work already completed under this Document and are immediately due and payable upon cancellation. If Buyer cancels any purchase order less than two (2) weeks before the scheduled delivery date, Buyer shall be responsible for the purchase price or prices stated on the face of this Document.

6. Ownership of New Developments. Seller shall retain ownership of, and Buyer shall claim no interest in, Seller's existing proprietary technology or in any technology, design, process sequence, or know-how arising from work performed by Seller for Buyer.

7. No Replication or Resale. Buyer agrees not to replicate or reverse engineer for any reason any Goods or any element or component of the Goods provided to Buyer by Seller pursuant to this Document. Buyer further agrees not to resell any Goods or any element or component of the Goods unless such Goods, element or component of the Goods provided to Buyer hereunder are further incorporated into a final product for resale by Buyer.

8. Intellectual Property Rights. Buyer shall have no rights to copyrights, patents, trademarks, trade names or other intellectual property rights in or used in connection with the Goods.

9. Taxes. Buyer shall pay all foreign, federal, state, and local taxes, as well as duties and government fees payable in connection with the sale of the Goods. Any taxes now and hereafter imposed upon sales or shipments will be added to the purchase price. Buyer agrees to reimburse Seller for any such tax or to provide Seller with an acceptable tax exemption certificate.

10. Representations, Warranties, and Remedies. Seller warrants that title to all Goods delivered to Buyer under this Document will be free and clear of all liens, encumbrances, security interests or other claims. Seller also warrants that the Goods will be free of defects in design, material and workmanship, and at the time and place of delivery shall conform to the specifications set forth by Seller.

ALL OTHER WARRANTIES ARE EXCLUDED WHETHER EXPRESSED OR IMPLIED BY OPERATION OF LAW OR OTHERWISE, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. SELLER SHALL NOT BE LIABLE (DIRECTLY OR INDIRECTLY) UNDER ANY CIRCUMSTANCES FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO ANY DAMAGES FOR LOST PROFITS OR BUSINESS OPPORTUNITIES OR DAMAGE TO REPUTATION ARISING OR RESULTING FROM A BREACH OF WARRANTY UNDER THE SALE, HANDLING OR USE OF THE GOODS SOLD. SELLER'S LIABILITY HEREUNDER AND BUYER'S EXCLUSIVE REMEDIES HEREUNDER EITHER FOR BREACH OF WARRANTY OR FOR NEGLIGENCE ARE EXPRESSLY LIMITED TO THE GIVING OF CREDIT EQUAL TO THE PURCHASE PRICE PAID FOR THE DEFECTIVE GOODS OR REPLACEMENT OF SUCH GOODS. SELLER MUST BE GIVEN WRITTEN NOTICE BY BUYER IDENTIFYING THE DEFECTIVE GOODS AND SPECIFYING THE DEFECT WITHIN FOURTEEN (14) DAYS AFTER DELIVERY OF THE GOODS TO THE BUYER'S FACILITY. SELLER MUST ALSO BE GIVEN THE OPPORTUNITY TO INSPECT THE ALLEGEDLY DEFECTIVE GOODS, AND IF REQUESTED BY SELLER, THE ALLEGEDLY DEFECTIVE GOODS MUST BE RETURNED TO SELLER. FAILURE TO GIVE A REQUIRED NOTICE WITHIN THE TIME PROVIDED, OR FAILURE TO RETURN ALLEGEDLY DEFECTIVE GOODS TO SELLER FOLLOWING SELLER'S REQUEST, CONSTITUTES A WAIVER OF A CLAIM FOR REPLACEMENT OF GOODS OR A CREDIT EQUAL TO THE PURCHASE PRICE OF THE GOODS. NO CREDIT FOR GOODS RETURNED BY BUYER SHALL BE GIVEN WITHOUT SELLER'S WRITTEN RETURN AUTHORIZATION. Oral statements made by Seller's employees and agents do not constitute warranties, shall not be relied upon as such by Buyer, and are not part of this Document. Buyer is solely responsible for notifying the freight carrier of any damage or loss to Goods that occurred in transit. Claims for shortages or damage of Goods shall not be accepted by Seller unless claims are received by Seller in writing within fourteen (14) days of receipt of Goods by Buyer fully describing the shortage or damage alleged. Seller shall be given a reasonable opportunity to inspect any shipment claimed by Buyer to contain any shortage or damage.

11. Indemnification: Limitations of Liability. Seller shall indemnify Buyer, its subsidiaries, and the successors and assigns, officers, employees and agents of each from and against any claims for personal injury or property damage caused by Seller's negligent act, omission or willful misconduct. Buyer shall promptly notify Seller of any such claim, and cooperate fully with Seller. Seller shall have control of the defense against such claim, except that Buyer shall have the right to retain counsel and participate in the defense or settlement at Buyer's expense. Buyer shall indemnify, defend and hold harmless Seller, its subsidiaries and the successors and assigns, officers, employees and agents of each from and against all damages, costs or expenses incurred as a result of 1) a claim that any modification of the Goods by Buyer infringes a patent, copyright or trademark, or 2) for personal injury, property or environmental damage caused by Buyer's negligent act, omission or willful misconduct. Seller shall promptly notify Buyer of any such claim, and cooperate fully with Buyer. Buyer shall have control of the defense against such claim, except that Seller shall have the right to retain counsel and participate in the defense or settlement at Seller's expense.

12. Intellectual Property Indemnity. Buyer agrees to indemnify Seller against any liability whatsoever for patent, trademark, or trade name infringement that in any way arises out of the Seller's preparation or manufacture of any Goods in accordance with Buyer's specifications.

13. Confidentiality. All material and information provided by Buyer to Seller shall be considered non-confidential unless it is expressly identified by Buyer as "confidential."

14. Mediation. In the event that a dispute arises out of or relates to this sale, or the breach thereof, which cannot be settled through negotiation between the parties, Seller and Buyer agree to try in good faith to settle the dispute by mediation administered by the American Arbitration Association and under its Commercial Mediation Rules before resorting to litigation. Seller and Buyer expressly waive any right they may have to a jury trial.

15. General Provisions. This Document shall be construed and interpreted solely in accordance with the laws of Delaware. Any delay or omission in exercising any right hereunder, or any waiver of any single breach or default hereunder, shall not be deemed to be a waiver of such right or of any other right, breach, or default. This Document and any attachments hereto contain the full understanding of the parties with respect to the subject matter hereof.