

NOBLE

T H E B I O M A T E R I A L A D V A N T A G E

Purchase Order Terms & Conditions

Purchase Orders

Customer shall submit Purchase Orders for Products to Supplier, which shall set forth specific quantities needed, delivery dates and shipping instructions. If Supplier does not provide Customer written rejection within seven (7) days of receipt of a Purchase Order, the Purchase Order shall be deemed accepted. Once accepted, the Purchase Order shall become binding upon Supplier, and Supplier will not cancel or modify such order without Customer's written consent. All prices will be as set forth in the Purchase Order. All Products delivered under any Purchase Order will be subject to the Quality Agreement. No other Supplier terms and conditions, even if included in any paperwork provided shall apply. All capitalized terms not defined herein will be used in the same manner as in the Agreement of which this is a part.

Invoices; Payment

Supplier shall invoice Customer upon shipment for Product delivered pursuant to Customer's Purchase Orders. Customer will remit payment for all deliveries accepted by Noble. Supplier's invoices are due for payment sixty (60) days after Customer's receipt of Supplier's invoice. Should an invoice payment otherwise fall due on a Saturday, Sunday, or public holiday, then such payment shall be due on the following business day. Invoices will be submitted in an electronic or other format, as directed by Noble. If any portion of an invoice is disputed, then Customer shall pay the undisputed amount and the Parties shall use good faith efforts to reconcile the disputed amount as soon as practicable. If Supplier anticipates a shortage of Product for any reason that impacts Noble, Supplier will advise Customer in writing immediately of such issue and take reasonable commercial steps to safeguard the delivery of product.

Delivery

All Products sold by Supplier to Customer shall be delivered in accordance with the destination and delivery schedule specified in the applicable Purchase Order. If Supplier does not meet such schedule, Customer may, in addition to other remedies available, require that Supplier pay for and ship Product via expedited routing to comply with such Purchase Order. If Products have not been delivered within thirty (30) days after the delivery date specified in a Purchase Order, then Noble, in its sole discretion, may cancel the Purchase Order, and Supplier will reimburse Customer the total cost differential incurred by Customer in purchasing substitutable products, provided that Customer uses commercially reasonable efforts to mitigate such costs. In addition, Supplier shall reimburse Customer for all commercially reasonable, documented and actually incurred costs and expenses incurred by Customer as a result of late delivery of Product, including the costs, fees and penalties payable by Customer as a result thereof. Supplier shall bear the risk of loss or damage to Products until they are delivered and accepted by Noble. Supplier shall transfer good and marketable title to the Product, free and clear of any and all liens and encumbrances. Supplier shall provide to Customer all information and documents to determine the correct country of origin under the import regulations of each country into which Customer may import the Products.

Inspection

Product shipped to Customer is subject to reasonable inspection and testing at Customer's destination. Customer reserves the right to reject Product which is not manufactured in accordance with the requirements of this Agreement or is otherwise defective or adulterated through no fault of Noble. Customer will return any rejected Product to Supplier, at Supplier's expense, and Supplier shall, within thirty (30) days and, at Customer's option, either: (i) ship replacement Product free of charge, or (ii) reimburse Customer or grant customer full credit, as applicable, equal to the purchase price of such Product. In addition, Supplier shall reimburse Customer for commercially reasonable, documented, direct costs and expenses resulting from rejected Product. Payment for any Product shall not be deemed acceptance.

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Limitation on Liability.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED BELOW, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, OR DAMAGES FOR LOSS OF PROFITS, REVENUE, WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE LIABILITY LIMITATION SET FORTH ABOVE SHALL NOT APPLY TO: (A) LOSSES SUBJECT TO INDEMNIFICATION BY THE PARTIES; OR; (B) A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT; OR (C) LOSSES OR DAMAGES ARISING FROM VIOLATIONS OF APPLICABLE LAW.

Supplier Indemnity.

Subject to the limitations set forth in Section 6, Supplier shall indemnify, defend and hold harmless Noble, its affiliates, successors, assigns, and any of their respective directors, officers, employees, subcontractors, and agents from any claims, losses, liabilities, damages, penalties, or expenses, including, without limitation, reasonable attorneys' fees and court costs arising out of or in connection with: (a) Supplier's breach of its representations, covenants, or warranties under the Quality Agreement or the terms of any Purchase Order; (b) any other breach of this Agreement by Supplier; (c) Supplier's negligence, gross negligence, or willful misconduct; and (d) Supplier's violation of Applicable Law.

Termination.

Customer may terminate this Agreement with immediate effect in the event of Supplier's breach of this Agreement, unless within ten (10) days following written notice thereof, such breach is cured (or action to cure is undertaken if cure within ten (10) days is not reasonably possible) to the reasonable satisfaction of Noble. In the event that substantially the same breach occurs three (3) times in a twelve (12) month period, Customer may terminate the Agreement immediately upon written notice. Customer may terminate this Agreement at any time for its convenience upon ninety (90) days' written notice to Supplier. Any termination of this Agreement shall not release the Parties from obligations arising under this Agreement prior to the effective date of such termination. Supplier shall continue to honor Customer's Purchase Orders up to the effective date of termination and for a period of sixty (60) days thereafter pursuant to the terms set forth in this Agreement.

Confidentiality.

All non-public information shared between the Parties during the Term of this Agreement that would be deemed confidential by a reasonable person, including, but not limited to, the terms of this Agreement and information relating to the Parties' purchases and purchasing strategy, business, products, technical know-how, processes, customers, companies, pricing programs, and strategies will be deemed "Confidential Information", and will not be disclosed to any third parties except in strictly in connection with fulfilling its obligations under this Agreement and for no other purpose. The receiving Party shall further ensure that each of its employees, agents, or contractors performing under this Agreement complies with the confidentiality obligations above for the disclosing Party's Confidential Information and shall be responsible for any breach of confidentiality by its employees, agents, or contractors. This undertaking to keep information confidential shall survive the termination of this Agreement. Supplier shall make no reference, advertisement, or promotion regarding Noble, Customer's purchase of Products or this Agreement without the prior written consent of Noble.

Miscellaneous.

If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. No amendment or modification to this Agreement shall be effective unless in writing and signed by the Parties. Supplier shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under this Agreement without the prior written consent of Customer. Failure by a Party to exercise any right or remedy provided under this Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. This Agreement shall be binding upon, and inure to the benefit of, the Parties hereto and their respective successors and permitted assigns. This Agreement is for the sole and exclusive benefit of the parties to this Agreement, Customer's affiliates, and all of their respective successors and permitted assigns. Other than as specifically set forth herein, this Agreement contains the entire agreement between the Parties as at the Effective Date and supersedes all prior agreements and understandings between the Parties whether oral

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or in writing in relation to the subject matter of this Agreement. Supplier shall keep during the Term and for a period of (7) years thereafter, such records so as to be able to document all aspects of the manufacture and sale of Products. Upon reasonable written notice and during normal business hours Customer may audit Supplier's manufacturing or storage facilities utilized and any relevant documents related to the Product and this Agreement to ensure Supplier's compliance with this Agreement and all Applicable Law.

Disputes.

In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement or the breach thereof, the Parties hereto shall attempt in good faith to settle the dispute, claim, question, or disagreement. To this effect, they shall consult and negotiate with each other in a manner that recognizes their mutual interests and attempts to reach a just and equitable solution satisfactory to both Parties. If they do not reach such solution within a period of sixty (60) days, then, upon notice by either Party to the other, all disputes, claims, questions, or differences shall be finally settled by arbitration administered by the American Arbitration Association in accordance with the provisions of its Commercial Arbitration Rules. Nothing herein contained shall bar the right of any of the parties to seek and obtain temporary injunctive relief from a court of competent jurisdiction in accordance with applicable law, and the prevailing party therein shall be entitled to an award of its reasonable attorneys' fees and costs. The award of the arbitrator shall be final and binding absent manifest error. If any arbitration, suit or legal proceeding is brought by either Party to enforce any of the terms of this Agreement or any of its rights hereunder, the prevailing party in such action or proceeding shall be entitled to recover all of its reasonable costs and expenses incurred, including reasonable attorneys' fees and the costs and fees associated with any arbitration.

If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. No amendment or modification to this Agreement shall be effective unless in writing and signed by the Parties. Supplier shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under this Agreement without the prior written consent of Customer. Failure by a Party to exercise any right or remedy provided under this Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. This Agreement shall be binding upon, and inure to the benefit of, the Parties hereto and their respective successors and permitted assigns. This Agreement is for the sole and exclusive benefit of the parties to this Agreement, Customer's affiliates, and all of their respective successors and permitted assigns. Nothing contained herein shall be construed to give any person not a party to this Agreement (other than Customer's affiliates) any legal or equitable right, remedy, interest, or claim under or with respect to this Agreement. Other than as specifically set forth herein, this Agreement contains the entire agreement between the Parties as at the Effective Date and supersedes all prior agreements and understandings between the Parties whether oral or in writing in relation to the subject matter of this Agreement.

(b) Disputes. In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement or the breach thereof, the Parties hereto shall attempt in good faith to settle the dispute, claim, question, or disagreement. To this effect, they shall consult and negotiate with each other in a manner that recognizes their mutual interests and attempts to reach a just and equitable solution satisfactory to both Parties. If they do not reach such solution within a period of sixty (60) days, then, upon notice by either Party to the other, all disputes, claims, questions, or differences shall be finally settled by arbitration administered by the American Arbitration Association in accordance with the provisions of its Commercial Arbitration Rules. Nothing herein contained shall bar the right of any of the parties to seek and obtain temporary injunctive relief from a court of competent jurisdiction in accordance with applicable law, and the prevailing party therein shall be entitled to an award of its reasonable attorneys' fees and costs. The award of the arbitrator shall be final and binding absent manifest error. If any arbitration, suit or legal proceeding is brought by either Party to enforce any of the terms of this Agreement or any of its rights hereunder, the prevailing party in such action or proceeding shall be entitled to recover all of its reasonable costs and expenses incurred, including reasonable attorneys' fees and the costs and fees associated with any arbitration.

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