

## **STANDARD TERMS AND CONDITIONS OF PURCHASE FOR GOODS**

**(Effective as of January 1, 2019)**

1. **APPLICATION:** These Standard Terms and Conditions of Purchase for Goods ("Ts & Cs") are part of and apply to the Contract (as defined herein) between BUYER and SUPPLIER for the supply of goods by SUPPLIER to BUYER, which is comprised of (i) a purchase order issued by Buyer ("Purchase Order"), (ii) a separate written agreement or contract between BUYER and SUPPLIER, and/or (iii) these Ts & Cs (collectively, the "Contract"). In the event of any conflict or inconsistency among the terms and conditions in the Contract, such conflict or inconsistency shall be resolved by giving precedence to the terms in the separate agreement or contract, the Purchase Order and the terms set forth herein, in such order. Otherwise, the Contract shall apply to the supply of goods by SUPPLIER.

2. **PRICES; TERMS OF PAYMENT:** The terms and conditions of the Contract apply to goods supplied under the Contract. BUYER shall have no obligation to honor invoices for goods at any increased price unless such increase shall have been confirmed in writing by BUYER to SUPPLIER. No charges or surcharges of any kind not stated in the Contract will be allowed unless specifically agreed to in advance by BUYER in writing. Damage to any goods because of packaging which fails to protect such goods will be charged to SUPPLIER. All payments are made conditional upon acceptance by BUYER of the goods called for under the Contract and shall be subject to adjustment for failure of SUPPLIER to meet the requirements of the Contract. If the supply of goods by SUPPLIER to BUYER under the Contract also includes the provision of services by SUPPLIER to BUYER, The Lubrizol Corporation's Standard Terms and Conditions of Purchase for Services in effect for the region in which BUYER is located, which are located at [www.lubrizol.com/supplier-terms](http://www.lubrizol.com/supplier-terms), will apply to the provision of such services to the extent not inconsistent with the terms of the Contract.

3. **COMPETITIVE PRICE ADJUSTMENTS:** If BUYER is offered goods of similar quality and like quantity at a price lower than that in effect under the Contract, upon satisfactory proof thereof and with fifteen (15) days prior written notice, SUPPLIER will either: (a) meet such lower price; or (b) release BUYER to purchase such quantities of goods as needed for that period during which SUPPLIER's price is not lower.

4. **DELIVERY:** The terms of delivery are stated in the Contract. The obligation of SUPPLIER to meet the delivery dates and specifications and quantities of the goods, as set forth in the Contract, is the essence of the Contract. Deliveries are to be made both in the quantities and at the times specified in the Contract, or if no such quantities or times are specified, pursuant to BUYER's written instruction. Shipments in greater or lesser quantity than ordered may be returned at SUPPLIER's expense, unless written authorization is issued by BUYER. If SUPPLIER's deliveries fail to meet any Buyer approved schedule, BUYER, without limiting its other rights or remedies, may either direct expedited routing and charge excess cost incurred thereby to SUPPLIER or cancel all or part of the order in accordance with the default provisions in the Contract. Goods which are delivered in advance of any Buyer approved schedule are delivered at the risk of SUPPLIER and may, at BUYER's option, be returned at SUPPLIER's expense for proper delivery and/or have payment thereof withheld by BUYER until the date that the goods are actually scheduled for delivery. SUPPLIER will comply with BUYER's billing and routing instructions, and SUPPLIER shall pay any redelivery or rerouting expense incurred by BUYER as a result of improperly marked or improperly routed goods.

5. **EXCUSABLE DELAY FOR NONPERFORMANCE:** BUYER may delay delivery and/or acceptance for causes or events beyond BUYER's reasonable control. SUPPLIER shall hold such goods at the direction of BUYER and shall deliver them when BUYER notifies SUPPLIER that the cause or event affecting the delay has been removed. BUYER shall be responsible only for SUPPLIER's direct additional costs resulting from holding goods or delaying performance of the Contract at BUYER's request. In the event that causes or events beyond SUPPLIER's reasonable control and without its fault or negligence prevent SUPPLIER from performing its obligations under the Contract, such obligations shall be temporarily suspended, subject to the conditions that **time is the essence of the Contract** and should SUPPLIER fail to comply with BUYER's delivery schedule, or otherwise fail to comply with its obligations under the Contract, BUYER may, while such excusable delay is pending, obtain alternative supply of goods from another supplier or terminate the Contract without liability under the Contract. If SUPPLIER provides BUYER a rebate for purchases of goods supplied in excess of threshold volumes, any volumes of alternative product purchased by BUYER pursuant to the foregoing sentence shall be applicable to determining whether such threshold volume has been met by BUYER. If SUPPLIER is unable for any reason to supply the agreed upon quantity of goods, SUPPLIER must distribute its available supply to BUYER on a percentage basis that is no less favorable than is provided to any other buyer or internal user of SUPPLIER's goods. If the failure to perform is caused by the default of a subcontractor and if such default arises out of causes beyond the control of both the SUPPLIER and the subcontractor and without the fault or negligence of either of them, SUPPLIER shall not be liable for any delay or failure to perform unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit SUPPLIER to meet the required delivery schedule.

6. **INSPECTION:** All goods provided under the Contract shall be subject to inspection and testing at the point of destination, notwithstanding prior payment thereof by the BUYER. If, in BUYER's judgment, any of the goods are defective or otherwise not in

conformity with the requirements of the Contract, BUYER, in additions to its other rights, may: (i) reject the same for full credit; (ii) retain the same and remedy any defects or nonconformity at SUPPLIER's expense; or (iii) require prompt correction or replacement of the same by SUPPLIER or BUYER's designee at SUPPLIER's expense. Any goods rejected by BUYER shall be at SUPPLIER's risk and expense and shall not thereafter be tendered by SUPPLIER for acceptance without BUYER's written consent. The packing, handling and transportation costs, charges and expenses incident to BUYER's exercise of its rights under the Contract will be charged to SUPPLIER's account. Nothing herein shall release SUPPLIER from the obligation to make full and adequate testing and inspection of goods sold to BUYER under the Contract.

7. **WARRANTY:** SUPPLIER expressly warrants that all goods ordered or provided under the Contract will conform in all respects to the specifications, drawings, samples and other descriptions upon which the Contract is based and will be merchantable and free from any defects in material, design or workmanship. If the Contract includes or the BUYER has furnished performance requirements for the goods purchased under the Contract, SUPPLIER further warrants that such goods shall be fit and sufficient for the purposes for which BUYER intends them. SUPPLIER also warrants that the goods provided for under the Contract shall be free and clear of any lien or other adverse claim against title. In addition to any other remedies BUYER may have, BUYER may reject goods not conforming to the foregoing warranties, whether or not such goods shall have been previously accepted by BUYER or any prior payments shall have been made thereon. SUPPLIER further warrants that no law, rule, regulation, ordinance or executive order of the United States, a state or local government, or any other government or any other governmental agency has been violated in the manufacture, transportation, delivery or sale of the goods covered by the Contract. SUPPLIER agrees that the foregoing warranties shall survive delivery, acceptance, inspection, test, use of and payment for, the goods and materials provided under the Contract and shall inure to the benefit of BUYER and its customers.

8. **CHANGES IN MANUFACTURING; STRATEGIC INVENTORY:** SUPPLIER acknowledges that any change to the components or composition of the goods, in whole or in part, including, without limitation by contamination, changing the concentrations of existing constituents or different raw materials, can have serious consequences for BUYER and/or its processes. In order to minimize the effects of such changes, SUPPLIER will notify BUYER of all changes to its manufacturing process that will, or may, cause a change in the goods. BUYER may either accept such goods, have the option to terminate the Contract, in whole or in part, or require SUPPLIER to supply the current Goods under the Contract until its expiration. SUPPLIER shall at all times maintain a minimum inventory of each of the goods covered by the Contract equal to three (3) months of BUYER'S average quarterly purchase over the preceding twelve (12) months.

9. **DISCONTINUED GOODS:** If SUPPLIER discontinues production or supply of any goods sold under the Contract, SUPPLIER shall first be obligated to supply the quantities required under the Contract. In addition, during the term of the Contract, if SUPPLIER decides to discontinue production, SUPPLIER shall be obligated to provide at least six (6) months' notice to BUYER. BUYER may request SUPPLIER, and SUPPLIER shall be obligated, to supply up to an additional six (6) months of quantities of goods, in addition to those quantities covered by the Contract.

10. **PATENTS:** SUPPLIER warrants that the goods covered by the Contract and their sale or use alone, or in combination according to SUPPLIER's specifications or recommendations, if any, will not infringe any United States or foreign patent, copyright, mask work or trademark. SUPPLIER further warrants that the goods specified herein and their sale or use alone, or in combination according to SUPPLIER's specifications or recommendations, will not infringe the trade secret of any person or entity. In case the goods constitute patent, copyright or trademark infringement, or violate an unfair competition right and their use is enjoined, BUYER may, at its sole option, pursue any remedy or remedies available at law or in equity, including, without limitation, requiring SUPPLIER to either procure for BUYER the right to continue using such goods, modify them so they become non-infringing or remove them and refund the total purchase price thereof.

11. **PATENT LICENSE:** SUPPLIER, as part consideration for the Contract and without further cost to BUYER, hereby grants to BUYER an irrevocable, non-exclusive, royalty-free right and license to use, sell, manufacture and cause to be manufactured products embodying any and all inventions and discoveries made, conceived or actually reduced to practice in connection with SUPPLIER's performance of the Contract, and SUPPLIER hereby grants to BUYER a license to repair, rebuild, or relocate and have repaired, rebuilt or relocated the goods purchased by BUYER under the Contract. SUPPLIER further grants according to the terms of the Contract a royalty free license to use any software with the goods specified herein, or if the good is itself software. Moreover, BUYER shall have the right at any time after the execution of the Contract to require that SUPPLIER escrow a copy of any and all software sold under the Contract.

12. **TAXES:** SUPPLIER's prices shall be exclusive of all Federal, State or Local Sales, Use or Excise taxes levied upon, or measured by, the sale, the sales price or use of goods required in the performance of the Contract. SUPPLIER shall list separately on its invoice any such tax lawfully applicable to any such goods, and payable by BUYER, with respect to which BUYER does not furnish to SUPPLIER lawful evidence of exemption.

13. **LIENS:** Subject to timely payment of undisputed invoices by BUYER, SUPPLIER shall defend, indemnify and save BUYER harmless from any mechanic's or other liens that are associated with the goods (a "Lien"). SUPPLIER's promise of defense and indemnity applies whether the documents asserting a Lien are filed before or after the delivery of the goods, or before or after final payment to SUPPLIER has been made. SUPPLIER specifically agrees to assume, upon BUYER'S demand, the defense of any action brought upon any Lien, and agrees to pay all costs and expenses arising from such defense. Within ten (10) days after receiving notice that any document claiming any Lien has been filed, SUPPLIER shall either: (a) secure the release of the Lien; or (b) furnish a bond in an amount twice the amount claimed in connection with the Lien with such sureties as shall be reasonably satisfactory to BUYER for the purpose of discharging the Lien.

14. **INDEMNIFICATION: SUPPLIER SHALL DEFEND AND INDEMNIFY BUYER FROM AND AGAINST ALL DAMAGES, LIABILITIES, CLAIMS, LOSSES, JUDGMENTS, SETTLEMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES) ARISING OUT OF, OR IN ANY WAY RELATED TO: (I) THE CONTRACT OR PERFORMANCE THEREUNDER; (II) ANY DEFECT IN THE GOODS; (III) THE BREACH OF ANY OBLIGATION OR WARRANTY UNDER THE CONTRACT; (IV) ANY ACTUAL OR ALLEGED INFRINGEMENT OF ANY PATENT, TRADEMARK, COPYRIGHT, MASK WORK, TRADE SECRET, OR ANY UNFAIR COMPETITION RIGHT, IN THE GOODS PURCHASED UNDER THE CONTRACT; (V) ANY ACT OR OMISSION OF SUPPLIER, ITS AGENTS, EMPLOYEES OR SUBCONTRACTORS; OR (VI) THE DELIVERY, CONDITION, USE OR OPERATION OF THE GOODS, WHETHER SUCH GOODS ARE IN THE SAME MODE AS WHEN DELIVERED UNDER THE CONTRACT OR WHETHER THEY HAVE BEEN USED IN THE MANUFACTURE OF, AND BECOME PART OF, EQUIPMENT, MACHINERY OR GOODS SOLD BY BUYER TO THIRD PARTIES AND SUPPLIER AGREES TO, AND WILL ASSUME ON BEHALF OF BUYER, UPON ITS DEMAND (WITHOUT REGARD TO THE REAL OR APPARENT MERITS OF SAID ACTION), THE DEFENSE OF ANY COURT OR AGENCY ACTION WHICH MAY BE BROUGHT AGAINST BUYER.**

15. **LIMITATIONS OF BUYER'S LIABILITY; STATUTE OF LIMITATIONS: IN NO EVENT SHALL BUYER BE LIABLE FOR ANTICIPATED PROFITS OR FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. BUYER'S LIABILITY ON ANY CLAIM OF ANY KIND FOR ANY LOSS OR DAMAGE ARISING OUT OF, CONNECTED WITH OR RESULTING FROM THE CONTRACT, OR FROM THE PERFORMANCE OR BREACH HEREOF, SHALL IN NO CASE EXCEED THE PRICE ALLOCABLE TO THE GOODS OR UNIT THEREOF WHICH GIVE RISE TO THE CLAIM. BUYER SHALL NOT BE LIABLE FOR PENALTIES OF ANY DESCRIPTION. ANY ACTION RESULTING FROM ANY BREACH ON THE PART OF BUYER AS TO THE GOODS DELIVERED UNDER THE CONTRACT MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION HAS ACCRUED.**

16. **INSURANCE:** SUPPLIER shall maintain insurance of the following types and amounts, all of which shall apply to claims for damages arising out of the Contract, and which shall be issued by insurance companies having an A.M. Best financial strength rating of A-/VIII or better.

- A. Workers' Compensation Insurance in compliance with all requirements of the laws of the State where the goods are manufactured and Employer's Liability Insurance providing coverage for death, bodily injury, sickness and disease, with limits of not less than \$1,000,000 per occurrence.
- B. General Liability Insurance providing coverage for death, bodily injury, property damage, contractual liability and products liability and completed operations, with limits of not less than \$5,000,000 per occurrence.
- C. Excess/Umbrella Liability Insurance in such amounts as may be set forth in other parts of the Contract.
- D. No policy of insurance required by the Contract shall contain a deductible or self-insured retention in excess of \$100,000. All deductibles and self-insured retentions carried by SUPPLIER under its insurance program are the sole responsibility of SUPPLIER and shall not be borne in any way by BUYER.
- E. To the fullest extent permitted by law, BUYER shall be made an additional insured on each policy of insurance required above up to the full limits of coverage provided by each policy (including limits greater than the minimum limits required herein). To the fullest extent permitted by law, each policy shall include language providing that such insurance: (i) applies separately to each insured or additional insured against whom a claim is made; (ii) shall respond as primary insurance and shall not contribute with any other valid and collectible other insurance (including any deductibles or self-insured retentions) or self-insurance that may be maintained by Lubrizol; and (iii) shall not contain any cross liability exception or exclusion that would bar claims made by or against an additional insured.
- F. SUPPLIER shall cause the insurance companies issuing the insurance described above to waive, or SUPPLIER shall waive on behalf of such insurance companies, all rights of subrogation in favor of BUYER in connection with such insurance.

17. **ASSIGNMENTS; DELEGATIONS:** No right or obligation under the Contract, including the right to receive monies due or to become due under the Contract, shall be assigned by SUPPLIER without the prior written consent of BUYER, and any purported assignment without such consent shall be void. SUPPLIER shall not subcontract or in any other manner delegate to any other party the performance of any work under the Contract without the prior written approval of BUYER.

18. **SUBSTITUTIONS; EXTRAS:** No substitution of materials or accessories may be made without BUYER's written consent. No charges for extras will be allowed unless such extras have been ordered in writing by BUYER and the price agreed upon.

19. **CONFIDENTIALITY OF INFORMATION:** SUPPLIER shall keep confidential all information, drawings, specifications and data furnished by BUYER, whether such information is transmitted in written form, orally, or electronic form, where such information is transmitted by BUYER through its employees, agents, contractors or other third parties at the request of the BUYER, or prepared by SUPPLIER specifically, in connection with the Contract.

20. **DEFAULT:** In the event SUPPLIER: (i) is insolvent;(ii) makes a general assignment for the benefit of creditors; (iii) admits in writing its inability to pay debts as they mature; (iv) has a trustee or receiver appointed by any court for it or any substantial part of SUPPLIER's assets; (v) has a proceeding instituted under any provision of the Bankruptcy Code or any state insolvency law by or against it which is acquiesced in, or is not dismissed within thirty (30) days, or results in an order for relief under the Bankruptcy Code or any adjudication of insolvency; or (vi) fails, or appears to be unable, to perform any of its obligations in accordance with the terms of the Contract, including the delivery schedule set forth therein, BUYER may cancel the Contract in whole or in part and/or pursue any further remedies available at law or in equity. No waiver by BUYER of a breach by SUPPLIER of any provision of the Contract shall constitute a waiver of any other breach of such provision. All of BUYER'S right and remedies under the Contract shall be cumulative and not exclusive.

21. **CANCELLATION:** In addition to any other provisions contained herein for the cancellation or termination of the Contract, BUYER may cancel the Contract, for any reason or no reason, in whole or in part, by written notice to SUPPLIER on the condition that BUYER pay to SUPPLIER the actual net cost SUPPLIER incurred in good faith prior to SUPPLIER's receipt of the cancellation notice in connection with the Contract; provided, however, that in no event shall BUYER be liable for SUPPLIER's commitments or production arrangements in excess of the amount, or in advance of the time, necessary to meet BUYER's delivery schedule.

22. **LAW AND DISPUTES; INVALIDITY:** The Contract (and all claims and disputes relating to or arising out of the Contract, or breach of the Contract, whether sounding in contract, tort or otherwise) will be governed by the Laws of the country of BUYER, without regard to its principles of conflict of laws. The parties to the Contract irrevocably consent and submit to the exclusive jurisdiction of the courts having jurisdiction within BUYER's registered office in connection with any litigation relating to or arising out of the Contract, and the parties to the Contract expressly waive any objection as to the venue of any such courts. The rights and obligations of the parties under the Contract shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods. If any provision of the Contract shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of the Contract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed and enforced as so limited.

23. **COMPLIANCE WITH APPLICABLE LAWS:** SUPPLIER agrees that in the performance of the Contract it will comply with all applicable federal, state, county and local laws, ordinances, regulations and codes.

24. **COMPLIANCE WITH CODE OF ETHICS:** It has been and continues to be the policy of BUYER, its affiliates, and the directors, officers, employees, agents and other representatives of each (collectively, the "LZ Entities"): (i) to comply with all Laws governing their operations; and (ii) to conduct their affairs in a manner consistent with high moral and ethical standards (with (i) and (ii) collectively referred to as the "Policy"). In furtherance of the Policy, LZ Entities require SUPPLIER to observe the Policy. Accordingly, SUPPLIER agrees that in the performance the Contract it shall comply with, and shall cause its employees, contractors and agents to comply with, the Policy. If SUPPLIER or its employees, contractors or agents engage any activities contrary to the Policy, SUPPLIER shall bear all the losses, costs, damages, expenses and liabilities arising therefrom. In addition, SUPPLIER shall comply with BUYER'S Code of Ethics located on Buyer's website at [www.lubrizol.com](http://www.lubrizol.com).