

Omya Inc. Invoice Terms & Conditions (U.S. and Canada)

1. SALES TERMS AND CONDITIONS

By order, receipt and acceptance of the goods sold by Omya Inc. (hereinafter “Omya”), Purchaser accepts and shall be deemed to have accepted the following terms and conditions. Notwithstanding any other terms, conditions, or provisions on purchase orders, confirmation orders, acknowledgements, vouchers or other documents relating to the purchase or sale of goods by Omya, the following terms and conditions specifically shall prevail and govern the rights and duties of Omya and Purchaser. Neither the sale of any goods, performance of any work or services nor any statements, claims or representations made by or on behalf of Omya shall alter the following terms and conditions or the rights and duties of Omya and Purchaser.

2. DELIVERY TERMS

Products purchased hereunder shall be shipped to Purchaser by one of the following: EXW, CIP, or FCA (Incoterms 2010).

3. PAYMENT

The purchase price invoiced for the sale of goods by Omya shall be paid in full by Purchaser net cash thirty (30) days from the date of invoice. If at any time the financial responsibility or condition of Purchaser becomes impaired or unsatisfactory to Omya or, in Omya’s good faith and reasonable opinion inadequate to meet the obligations hereunder, the terms of credit may, at Omya’s option, be changed or withdrawn. If the terms of credit are withdrawn, Omya at its option may require cash or satisfactory security before making shipments or deliveries under this Agreement. The exercise by Omya of its rights under this paragraph shall not be deemed a default or material default of this agreement on the part of Omya.

4. FORCE MAJEURE

If, by reason of unavoidable accident, acts of God, fire, sabotage, riots, insurrection, governmental action, plant closing, strike, lockout or labor difficulty or other cause beyond the control of the affected party, either Omya or Purchaser shall be unable to comply with its obligations hereunder, the affected party may suspend its performance during the term of such disability; provided, however, in the event either party fails by the reason of force majeure to perform for a period in excess of three (3) months, the other party may cancel the agreement between Omya and Purchaser upon sixty (60) days written notice; provided further that Purchaser shall not be excused from the obligation to make payment for goods delivered to Purchaser by Omya in accordance with the terms hereof.

5. WARRANTY

Omya warrants that the products sold by Omya shall be of like grade and quality to and in accordance with Omya’s published Data Sheet for such products, and Omya makes no other warranties, express or implied, and specifically EXCLUDES without limitation any and all WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE AND MAKES NO WARRANTIES BEYOND THOSE CONTAINED HEREIN. If any of the products in any shipment does not conform to the warranty contained herein, Purchaser’s sole remedy will be to notify Omya of such nonconformity within fourteen (14) days of the receipt of such product and Omya will, at its option, either promptly replace the nonconforming product with a product which conforms to the warranty, or refund the purchase price of the nonconforming product. Omya shall not be liable for special, indirect, incidental or

consequential damages, nor shall Omya be liable for damages of any kind arising from the presence or use of the products delivered whether used singly or in combination with other substances. No claim of any kind arising hereunder shall be greater than, nor shall Omya in any event be liable for an amount in excess of the amount of the purchase price of products in respect of which such claim is made.

6. TAXES

Any federal, provincial, state or local taxes on the sale, use or severance of the products sold by Omya shall be borne by Purchaser.

7. ASSIGNMENT

The rights and obligations of the parties hereto shall inure to and be binding upon the permitted successors and assigns of the parties hereto, including successors and assigns by operation of law. This agreement may not be transferred or assigned by either party without the prior written consent of the other party.

8. DEFAULT

Purchaser shall be in default of this agreement if Purchaser makes any assignment for the benefit of creditors or shall be adjudicated bankrupt; or any proceeding shall be commenced by Purchaser under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt or liquidation law, or statute of federal or any state government, whether now or hereafter in effect, or any such proceedings shall be instituted against Purchaser and an order approving the petition is entered or such proceeding shall remain undismissed for a period of sixty (60) days; or Purchaser, by any action, shall indicate its approval or consent to or acquiescence in any such proceeding or in the appointment of a trustee or receiver of Purchaser of all or substantially all of the assets of Purchaser, or any such trustee or receiver shall not be discharged within a period of ninety (90) days after the appointment thereof. In such event, Omya shall be enabled to exercise any or all rights or remedies it may have under this agreement or at law.

9. GOVERNING LAW

The laws of the state or province in which the product is manufactured shall govern the interpretation and enforcement of the sales agreement.