

TERMS AND CONDITIONS

These Terms and Conditions apply to the sale of Products

条款和条件

下列条款和条件适用于产品的销售

1. **Limited Warranty.** Seller warrants good and free title in the Product and that the Product will conform to Seller's published specifications, if any exist, or to such other quality standards and/or measurements the parties have attached to this document or subsequently have agreed upon in writing. Seller has based any recommendations to Buyer for the use of the Product upon information that Seller considers reliable, but Seller makes no warranty as to any results Buyer might obtain in Buyer's use(s) for the Product. These warranties extend only to Buyer. Seller makes no representation or warranty of any kind with respect to Product, express or implied, respecting merchantability or fitness for any particular purpose. **Seller makes no other warranties extending beyond the description of the Product, whether used alone or in combination with any other substance or in any process.**

2. **Limitation of Liability.** Buyer will examine Product promptly after receipt for damage, defects, short weight and non-conformance. Buyer must give Seller written notice of the existence of each claim involving Product (whether based in contract, breach of warranty, negligence, strict liability, other tort or otherwise) within the earlier of thirty (30) days after receipt of the quantity of Product forming the basis for the claim or applicable shelf-life expiration, if any. A failure by Buyer to give such notice within the applicable time constraint will constitute an absolute and unconditional waiver of all such claims. Buyer assumes all risk of patent infringement by reason of any use Buyer makes of the Product in combination with other substances or in the operation of any process. **Seller's entire liability to Buyer for damages, whether under breach of warranty or any other cause whatsoever, and whether under this contract or otherwise, shall in no event exceed that part of the purchase price applicable to the portion of Product giving rise to Buyer's claim for such damages. In no event will either party have liability to the other for any incidental, consequential, exemplary or special damages.**

3. **Ordering & Limits.** Seller may discontinue any Product sold hereunder at any time, unless Buyer and Seller have otherwise agreed in writing.

4. **Payment & Credit.** Buyer will make all payments hereunder in cash, or in negotiable paper collectible at face value in the funds and at the location indicated on Seller's invoice; late payments will bear interest at 1.5%/month. If Seller determines that Buyer's financial responsibility has become impaired or otherwise unsatisfactory to Seller, Seller may require advance cash payments, COD, shorter terms, and/or the posting of satisfactory security by Buyer, and may withhold shipments until Buyer complies.

5. **Governmental Constraints.** If a present or future law,

1、**有限质量保证。**卖方保证享有产品的自由和有效所有权，且产品均符合卖方公布的规格（如果存在）或双方附于本文档之后或随后以书面形式约定的其他质量标准 and / 或尺寸。卖方基于买方认为可靠的信息资料向买方提供相关的产品使用建议，然而对于买方因使用产品而招致的任何结果，卖方不予负责。该等保证仅适用于买方。卖方不会以明示或暗示的方式就产品本身及其对于特定用途的适销性或适用性进行任何种类的陈述或保证。**对于单独使用产品、与任何其他物质结合使用产品或处于任何工艺流程等情况，卖方不会就产品说明之外的事项作出其他保证。**

2、**责任限制。**在接收产品后，买方应及时查验是否存在损坏、缺陷、短重和不合规等情况。买方应自收到构成索赔或适用保质期到期的基础（如有）的产品数量之日起三十（30）天内尽快将涉及产品（基于合同、违反保证、疏忽、严格责任、侵权或其他情况）的各项索赔以书面通知形式发送给卖方。如买方未在适用时限内发送该等通知，则应被视为对所有该等索赔的绝对且无条件的放弃。因与其他物质结合使用或在任何工艺操作中使用产品而产生的任何专利侵权风险均由买方承担。**无论因违反保证或任何其他原因还是因本合同或其他内容，卖方对于买方的全部赔偿责任在任何情况下均不得超过引起买方对相关损失提出索赔的部分产品的购买价格范围。在任何情况下，任何一方均不对任何其他偶然、附带、典型或特别的损失承担责任。**

3、**订购及限制。**卖方可以在任何时候终止根据本合同出售任何产品，除非买方和卖方另有书面约定。

4、**付款及信贷。**买方应以现金或可于卖方发票中指定的场所以票面价值兑现的可转让票据支付本合同中的任何款项；逾期支付者将承担每月 1.5 % 的利息。如卖方认为买方的财务责任已对卖方构成损害或以其他方式引起卖方的不满，则卖方可要求现金预付款、货到付款（COD）、更短的期限和 / 或买方认可的证券过账，并可在买方遵守规定前暂停发货。

5、**政府约束。**如现行或将来的法律、政府法令、命令、法

governmental decree, order, regulation, or ruling under any existing or future legislation prevents Seller from increasing or revising the price as provided herein, or nullifies or reduces any price or price increase hereunder, upon written notice from one to the other Seller and Buyer will attempt to identify mutually agreeable changes to conform this contract with such law, decree, order, regulation, or ruling. If the parties cannot agree upon and implement such changes within sixty (60) days after such notice, Seller shall thereupon have a right to terminate this contract forthwith by written notice to Buyer.

6. Terms Adjustment. Seller may change the price and/or terms of delivery and shipment at any time up until shipment, except where a written alternative pricing mechanism exists in this contract. In addition, at any time prior to delivery, Seller may pass through increased fuel surcharges or taxes imposed upon Seller in connection with the sale/shipment of the Product after order acceptance.

7. Taxes. Buyer will reimburse Seller for all federal, state, local or other taxes (other than income taxes), excises or charges, including superfund taxes and fees, which Seller must pay in connection with the manufacture and supply of Product, but only those amounts not already included in the price at the commencement of this contract.

8. Title & Risk of Loss. Title and risk of loss to the Product shall pass to Buyer at Seller's point of shipment. Buyer assumes all risks and liabilities arising out of unloading, discharge, storage, handling and use of the Product, or arising out of compliance or non-compliance with federal, state, municipal or local laws and regulations governing or controlling such activity, except to the extent, if any, attributable to Seller's gross negligence or willful misconduct. Seller has no liability for the failure of discharge or unloading equipment or materials used by Buyer, whether or not supplied by Seller. Except to the extent attributable to the Product failing to meet the express warranties set forth in paragraph 1, Buyer will indemnify, defend and hold Seller harmless from all costs, expenses, damages, judgments or other loss, including costs of investigation, litigation and reasonable attorney's fees, arising out of Buyer's selection, use, sale and further processing of the Product.

9. Force Majeure. Either party may suspend performance hereunder (except to pay for Product already received) in the event of: (1) acts of God, fire, explosion, flood, hurricanes; (2) strikes, lockouts or other industrial disturbances or riots; (3) war, declared or undeclared, or acts of terrorism; (4) compliance with any Federal, state, provincial, municipal or military law, regulation, order, or rule, foreign or domestic, including priority, rationing, allocation or preemption orders or regulations, or cancellation of Seller's or Buyer's license to operate its plant; (5) catastrophic failure of facilities used to manufacture Product, interruption or shortage of transportation, labor, power, fuel or raw materials; (6) total or partial shutdown due to Seller's

规或根据任何现行或将来的立法作出的裁决限制卖方提高或修改价格, 或取消或降低任何相关价格或已提高的价格, 依照一方发给另一方的书面通知, 卖方和买方应努力作出双方同意的变更, 以使合同条款符合该等法律、法令、命令、法规或裁决的要求。如双方未能在该等通知之日起六十(60)天内达成一致并实施该等变更, 卖方有权在书面通知买方后立即终止本合同。

6、期限调整。卖方可于发货前的任何时间内变更发货价格和 / 或期限, 除非合同中另设有可替代的书面定价机制。此外, 卖方可于交货前的任何时间内转嫁增加的燃油附加费或卖方在接受订单后被征收的有关销售 / 发运产品的税费。

7、税费。买方向卖方偿还所有联邦税、州税、地方税或其他税费(所得税除外)、消费税或收费, 包括卖方应针对产品的制造和供应而支付的超级基金税费和费用, 然而应限于未列入本合同生效时价格的金额。

8、所有权及损失的风险。产品的所有权及损失的风险应在卖方的装运点转移至买方。买方应承担因产品的卸载、卸货、储存、处理和使用, 或因遵守或不遵守用于管理或控制相关活动的联邦、州、市或地方法律法规而引起的所有风险和和责任, 除非(如有)原因归结于卖方的疏忽或故意不当行为。如未能对买方使用过的设备或材料(无论是否由卖方提供)进行卸货或卸载, 卖方将不承担任何责任。除非产品不符合上述明确质量保证的第1条规定, 买方应采取补偿、防护和防止措施, 使卖方免于一切成本、费用、损害、判决或其他损失, 包括因买方对产品的选择、使用、销售和深加工而形成的调查费、诉讼费和合理的律师费。

9、不可抗力。在下列情况下, 任何一方均可暂停执行本合同(支付已收到产品的费用除外): (1) 天灾、火灾、爆炸、洪水、飓风; (2) 罢工、停工或其他工业骚乱或暴乱; (3) 战争(不论宣战与否)或恐怖主义行为; (4) 遵照任何联邦、州、省、市或军事法律、国外或国内的法规、命令或规则, 包括优先、配给、分配或抢占订单或规例, 或吊销卖方或买方工厂的经营许可证; (5) 产品制造用设施的灾难性故障, 运输、劳动力、电力、燃料或原料的中断或缺; (6) 因卖方工厂的正常周转而造成的全部或部分停工; 或(7) 任何其他种类或性质的超出任何违约一方合理控制范围的原因, 无论是否同上一列原因(以下简称“不可抗力”)相似。若一方因不可抗力而无法履行本合同项下的义务, 则

normal plant turnaround; or (7) any other cause or causes of any kind or character reasonably outside the control of the party failing to perform, whether similar or dissimilar from the enumerated causes (a “force majeure”). In the event a force majeure renders a party unable to perform its obligations under this contract, such party shall give written notice to the other party, with the full particulars including the expected duration of such force majeure promptly after the occurrence of the cause relied on, and upon the giving of such notice such party may suspend its obligations hereunder to the extent affected by such force majeure for the duration of the force majeure, but no longer, and so far as possible, such party will remedy the force majeure with reasonable dispatch. When a force majeure ends, performance shall resume, but such delay shall not, except by mutual agreement, operate to extend the term of this contract or obligate the Seller to make up deliveries or Buyer to purchase quantities so missed. Settlement of strikes or lockouts shall lie entirely within the discretion of the party having the difficulty; the above requirements for remedy of any force majeure with all reasonable dispatch shall not require the settlement of strikes or lockouts by acceding to the demands of the employees involved, when deemed inadvisable by the party having the labor difficulty. In the event of a force majeure, Seller has no obligation to purchase material for resale to Buyer, and no liability for cost to cover incurred by Buyer.

10. Safety & Health Indemnity. Buyer acknowledges that Seller has furnished to Buyer Material Safety Data sheets, which include warnings together with safety and health information concerning the Product and/or the containers for such Product. Buyer will disseminate such information so as to give warning of possible hazards to persons whom Buyer can reasonably foresee may receive exposure to such hazards, including, but not limited to, Buyer’s employees, agents, contractors and customers. Buyer will indemnify, defend and save Seller harmless against any and all liability arising out of or in any way connected with Buyer’s failure to disseminate such information, including without limitation, liability for injury, sickness, death and property damage, and costs of investigation, litigation and reasonable attorney’s fees.

11. Shortage of Product. During periods when demand for Product exceeds Seller’s available supply, whether due to a force majeure or otherwise, Seller may distribute Product among itself for its own manufacturing uses, its customers, and Buyer in such manner as Seller deems fair and practicable. Buyer will accept, as full and complete performance by Seller, deliveries in accordance with such determinations as Seller may make. Except in the case of a force majeure, if not satisfied with Seller’s determination, Buyer as its sole remedy shall have a right to terminate this contract without further obligation upon: (i) 10 days written notice; and (ii) payment for all Product received to date.

该方应在该等原因出现后及时书面通知另一方，其中应说明所有相关细节，包括该等不可抗力的预计持续时间；在发出该等通知后，该方可在不可抗力存续期间中止其合同项下受到不可抗力影响的相关义务，然而该方应尽一切努力通过合理调度对该等不可抗力进行补救。不可抗力结束后，应恢复履行相关义务；除非经双方同意，该等延迟不得超过合同期限或迫使卖方补发货物或买方购买如此错过的产品。罢工或停工应完全在有困难一方酌情权的范围内调解；在劳动力方面存在困难的一方认为不可取时，上述关于通过合理调度补救不可抗力的规定不得要求通过加入所涉雇员申请的方式调解罢工或停工。在发生不可抗力时，卖方没有义务购买材料并向买方转售，也没有责任支付因买方而产生的费用。

10、安全及健康赔偿。买方承认卖方已向买方提供材料安全数据表，其中包括警告信息以及有关产品和 / 或该等产品容器的安全及健康信息。买方应对该等资料进行发放传播，以向买方能够合理预见到的可能会接触到相关危害的人们（包括但不限于买方的雇员、代理人、承包商和客户）提醒可能发生的该等危害。买方应采取补偿、防护和保护措施，使卖方免于任何和一切因买方未能传播该等资料而引起的或以任何方式与之相关的责任，包括但不限于受伤、疾病、死亡和财产损失等责任，以及调查费、诉讼费和合理的律师费。

11、产品短缺。在产品需求超过卖方的供应量时，无论原因是否归结为不可抗力或其他，卖方可自行对产品进行分发，用于其生产、其客户以及在卖方认为公平且可行的情况下的买方。在由卖方全面和完全履行义务的情况下，买方应根据卖方可能作出的决定接收供货。除非在不可抗力的情况下，如不满足卖方决定的要求，作为唯一的补救办法，买方应有权解除合同，而无需进一步履行以下责任：（i）10天内的书面通知；和（ii）对迄今已接收所有产品的付款。

12. Assignment/Delegation. Buyer may assign/transfer rights and/or delegate duties/obligations hereunder only with the prior written consent of Seller, not unreasonably withheld. Seller may assign this contract and/or rights and delegate obligations under this contract without the consent of Buyer.

13. Integration. These Terms and Conditions apply to all sales by PolyOne Corporation and its affiliated companies. No statement of agreement, oral or written, made before or at the signing of this contract shall vary or modify the written terms hereof, and neither party shall claim any amendment, modification or release from any provision hereof unless such change occurs in a writing signed by the other party and specifically identifying it as an amendment to this contract. No modification or addition to this contract shall occur by the acknowledgment or acceptance by Seller of a purchase order, acknowledgment, release or other form submitted by Buyer containing additional or different terms or conditions, and Seller hereby gives Buyer notice of the rejection of such additional terms and conditions. A provision elsewhere in this contract that conflicts with a provision in these general terms and conditions will govern.

14. UN Convention. The United Nations Convention respecting Contracts for the International Sale of Goods shall not apply to transactions under this contract.

15. Severability. In the event of illegality or invalidity of a provision of this contract under the law of a particular jurisdiction, the parties shall deem that provision stricken in its entirety; the balance of this contract shall remain in full force and effect.

16. Applicable Law. The law of the jurisdiction from which Seller ships Product shall govern the interpretation and construction of this contract. All litigation concerning this contract shall occur only in the court of the jurisdiction from which Seller ships Product and each party consents to exclusive jurisdiction in such court.

17. Re-export. Buyer will comply with all U.S. law and regulation respecting the export and/or re-export of Product.

1 2、转让 / 委托。买方仅在取得卖方事先书面同意的情况下方可转让 / 转移本合同项下的未被无理限制的权利和 / 或委托本合同项下的未被无理限制的职责 / 义务。卖方无需通过买方同意便可转让本合同和 / 或权利以及委托本合同项下的义务。

1 3、整合。该等条款和条件适用于普立万公司及其附属公司的所有销售业务。任何在签署本合同之前或当时形成的口头或书面协议声明均不得变更或修改本合同中的书面条款，且任何一方不得要求对本合同中的任何条款进行任何修订、修改或免除，除非该等变更以书面方式进行且经过另一方签署，同时被明确视为本合同的修正内容。本合同的任何修改或增补均不得通过卖方确认或接收买方所提交的含有附加或不同的条款或条件的采购订单、确认书、弃权书或其他表格进行，同时卖方应向买方发出有关该等附加条款或条件的拒绝通知。如本合同中的任何规定与一般条款和条件中的相关规定发生冲突，应以本合同为准。

1 4、联合国公约。有关国际货物销售合同的联合国公约不适用于本合同项下的交易。

1 5、可分割性。如本合同中的任何条款在特定管辖区的法律规定中属于违法或无效，该等条款应被双方视为从整个合同中删除；本合同的其他规定仍具有十足的效力和作用。

1 6、适用法律。本合同的解释和构成应适用卖方发出产品时所在的司法管辖区法律。有关本合同的一切诉讼仅由卖方产品发出地法院管辖，合同双方同意该等法院具有专属管辖权。

1 7、转口。买方应遵照美国法律法规进行产品的出口和 / 或转口。