



PRESSURE

CHEMICAL CO.

**3419 Smallman Street
Pittsburgh PA 15201**

**Phone: 412-682-5882
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TERMS AND CONDITIONS

NOTICE

Products manufactured by Pressure Chemical Co. (PCC) may or may not be regulated by the Toxic Substance Control Act (TSCA), and therefore, may or may not meet the requirements set forth by the above mentioned act. As such, they may only be used under the supervision of a technically qualified individual.

Read Material Safety Data Sheet (MSDS) before use.

The following terms and conditions apply to any sale of products or services by PRESSURE CHEMICAL CO. ("PCC"):

- 1. GENERAL; OFFER AND ACCEPTANCE.** PCC's quotation, proposal and/or invoice is an offer by PCC to sell products or services to Purchaser, and acceptance of such offer is expressly limited to these terms and conditions. Any definite and/or reasonable expression of Purchaser's acceptance of PCC's offer, including acceptance of the Products sold to Purchaser, constitutes an acceptance of all of these terms and conditions, which shall govern in any instance where they conflict with the provisions of any forms (including purchase orders) used by Purchaser, unless those provisions are accepted in writing by PCC. **PURCHASER IS HEREBY NOTIFIED IN ADVANCE THAT PCC OBJECTS TO ANY DIFFERENT TERMS OR CONDITIONS.** PCC's invoice, together with these terms and conditions, is the final written expression of agreement between PCC and Purchaser which supersedes all previous communications and which may be waived, varied, modified or amended only by a writing signed by an authorized representative of PCC.
- 2. SHIPMENT; DELIVERY; CLAIMS.** Unless otherwise agreed in writing by the parties, the costs for shipment of the Products shall be F.O.B. the PCC plant in Pittsburgh, Pennsylvania. Delivery of the Products to the first carrier shall constitute delivery to Purchaser. Any delivery information (including time for shipment) is approximate. PCC will use its best efforts to make delivery as scheduled; however, PCC will not be liable for any loss or damage resulting from a failure to deliver or delays in delivery caused by a labor dispute (including a strike, slowdown or lockout), fire, flood, or governmental act or regulation, riot, inability to obtain supplies, materials or shipping space, plant breakdown, power failure, delay or interruption of carriers, accident, acts of God, demands for the Products which exceeds PCC's ability to supply them, or other causes beyond PCC's control. Furthermore, PCC shall not be liable for any incidental, special or consequential damages resulting from PCC's failure to meet delivery schedules for the foregoing or for any other causes. **ALL RISK OF LOSS OR DAMAGE IN TRANSIT SHALL BE ON THE PURCHASER AND ALL CLAIMS FOR LOSS OR DAMAGE IN TRANSIT OR FOR NON-DELIVERY SHALL BE MADE BY PURCHASER AGAINST THE CARRIER.**
- 3. INSPECTION.** Within five days of receipt of the Products, Purchaser shall inspect the Products to check for shortages, loss or damage in transit and any other nonconformity. Purchaser shall thereafter notify PCC of any nonconformity (other than that relating to loss or damage in transit, which claims shall be made in accordance with the terms of Section 2 herein) within ten business days of inspection. The failure to provide PCC with written notice within this time period shall constitute an unqualified acceptance of the Products and a waiver by Purchaser of all claims for shortages, incorrect material and other similar nonconformities, including a waiver of any right of revocation of acceptance.
- 4. CANCELLATION.** The Contract is not subject to cancellation by Purchaser unless Purchaser obtains specific written approval from PCC in advance of shipment. If the Contract is cancelled, Purchaser shall pay PCC's reasonable cancellation charges, as invoiced by PCC, for expenses already incurred by PCC in performing or preparing to perform the work required by the Contract Cancellation costs and PCC's anticipated profit.
- 5. WARRANTY.** Products manufactured by PCC are of high purity; however, since PCC is without any information or knowledge with respect to the intended uses or conditions of use for the Products, **PCC MAKES NO WARRANTY, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY IMPLIED WARRANTY OF MERCHANT ABILITY AND/OR FITNESS FOR ANY PARTICULAR PURPOSE.** PCC reserves the right to replace the Products or to refund the price paid for the Products by the

Purchaser in the event that PCC determines, in its sole discretion, that the Products are not of high purity and/or do not meet the purity requirements of the Purchaser known by PCC at the time of the sale.

6. **DISCLAIMER OF LIABILITY.** Purchaser understands and agrees that PCC shall not be liable under any circumstances for any direct, indirect, special, consequential, incidental or other damages, including loss of use, income or profit, arising, directly or indirectly, out of or occasioned by the selection, use of exposure to the Products, whether such damages are based on a claim of breach of express, implied or statutory warranties, including the implied warranties of merchantability and fitness for a particular purpose, tortious conduct, including negligence and strict liability, or any other cause of action. The Products are sold only for laboratory and experimental use. Furthermore, although any description of the Products, including their physical characteristics and/or properties, toxicity data, hazard classifications and recommendations for handling and safety and/or for treatment of exposure to the Products (whether contained in PCC catalogs, brochures, material safety data sheets, or any other form of written or oral communication) is believed to be reliable and accurate, PCC assumes no responsibility for the completeness or accuracy of any such information. In many cases the Products are untested or incompletely tested. For these and other reasons, **PURCHASER SHALL TAKE SUCH PRECAUTIONS AS ARE APPROPRIATE FOR CHEMICALS OF UNKNOWN HAZARD AND TOXICITY, AND MUST ASSUME ALL RESPONSIBILITY FOR THE SAFE USE AND HANDLING OF THESE PRODUCTS.**

PURCHASER SPECIFICALLY UNDERSTANDS AND AGREES THAT ITS SOLE AND EXCLUSIVE REMEDY FOR BREACH OF WARRANTY, TORTIOUS CONDUCT OR ANY OTHER CAUSE OF ACTION AGAINST PCC SHALL BE THE REMEDY OF REPLACEMENT OR REFUND PROVIDED IN PARAGRAPH 5 ABOVE.

7. **INDEMNIFICATION.** Purchaser agrees to indemnify, hold harmless and defend PCC from and against any and all liability for any claim, damage, injury, loss, cost, expense and penalty of any kind or nature whatsoever, including attorney's fees, by reason of damage to property or injury (including death) to any person arising out of or in any manner resulting from the selection, purchase, use or handling of the Products by anyone, including Purchaser's employees, representatives, agents or customers, whether or not due in whole or in part to the nature or condition of the Products or any act, omission, or negligence at PCC, its officers, directors, employees, agents and/or representatives, including the sole, joint, concurrent or contributory negligence of PCC.

8. **TAXES** Purchaser shall pay, in addition to the sales price, all local, state or federal sales, use, excise, privilege, occupational, personal property, or other similar taxes, if any, (however designated, levied or based) on the manufacture, sale or shipment of the Products, now or hereafter imposed. In the event any such taxes are paid by PCC, Purchaser will reimburse PCC, therefore forthwith upon demand.

9. **PAYMENT.** PCC's standard payment terms are Net 30 days, but eligibility for trade credit is evaluated individually. Invoices sent by PCC are payable in accordance with the terms stated thereon. Purchaser shall neither retain payment on account of any claim nor shall Purchaser offset any claim against the purchase price. If Purchaser fails to fulfill the terms of payment or if PCC has any doubt at any time regarding Purchaser's financial responsibilities, PCC may decline to make further deliveries and may claim payment of all invoices, even if not yet due under their terms, for payment.

10. **DELINQUENT PAYMENTS; ATTORNEYS' FEES; INTEREST.** In the event Purchaser fails to make any payment when due, then Purchaser shall pay, in addition to all other sums payable hereunder, the reasonable costs and expenses incurred by PCC in connection with all actions taken to enforce collection or to preserve and protect its rights hereunder, whether by legal proceedings or otherwise, including without limitation reasonable attorney's fees and court costs. In addition, Purchaser shall be responsible for interest at a rate of one and one-half percent (1-1/2%) per month (but not in excess of the maximum rate allowed by law) on the amount of any unpaid payment.

11. **SEPARABILITY; INVALIDITY.** If any portion of the parties' agreement, including these terms and conditions, shall for any reason be held by a court of competent jurisdiction to be invalid and unenforceable, the valid and enforceable provisions will continue to be given effect and bind the parties hereto.

12. **GOVERNING LAW.** This instrument shall be deemed an agreement made under the laws of the Commonwealth of Pennsylvania, and for all purposes shall be construed and enforced in accordance with and governed by the laws of the Commonwealth of Pennsylvania.

13. **SUCCESSION.** The provisions of the Contract shall bind and inure to the benefit of the successors and assigns of the parties hereto.