

General Terms and Conditions of Sale

THESE GENERAL TERMS AND CONDITIONS OF SALE, TOGETHER WITH ANY ADDITIONAL TERMS WHICH MAY SEPARATELY BE MADE APPLICABLE IN WRITING BY FUJIFILM WAKO CHEMICALS U.S.A. CORPORATION ("VENDOR") TO PARTICULAR PRODUCTS AND/OR SERVICES, GOVERN THE SALE BY VENDOR OF ITS PRODUCTS ("PRODUCTS") AND/OR SERVICES ("SERVICES"). NOTWITHSTANDING ANY DIFFERENT, CONFLICTING OR ADDITIONAL TERMS OR CONDITIONS WHICH APPEAR ON ANY PURCHASE ORDER OR OTHER BUSINESS FORM SUBMITTED BY A CUSTOMER ("BUYER"), SUCH DIFFERENT, CONFLICTING OR ADDITIONAL TERMS WILL NOT BECOME A PART OF THE CONTRACT OF SALE BETWEEN VENDOR AND BUYER. **PRODUCTS ARE NOT FOR RESALE WITHOUT THE EXPRESS PRIOR WRITTEN APPROVAL OF VENDOR.**

1. FORMATION OF CONTRACT. A contract for the sale of Products and/or Services will be formed only if and when purchase orders from Buyer are accepted in writing by an authorized representative of Vendor, an invoice is issued for Products and/or Services, or Vendor ships Products or undertakes performance of Services ordered.

2. SHIPPING, PACKAGING, CREDIT AND PAYMENT TERMS. Unless otherwise provided by Vendor in writing, all prices are stated in U.S. dollars. Prices are subject to change without notice. Standard payment terms are NET 30 DAYS. Vendor reserves the right to change specifications, package and/or design etc. in its sole discretion.

Obligations of Vendor to perform hereunder are subject to the strict observance of Buyer of the credit or payment terms established by Vendor in its sole discretion. Vendor reserves the right to change its credit, payment and shipping terms upon advance notice to Buyer and may require payment in advance as a condition of shipment and/or performance of Services. Vendor reserves the right, among other remedies, to terminate any contract with Buyer for Products or Services, suspend deliveries of Products or performance of Services and/or to recall Products in transit, retake the same and/or repossess all Products which may be stored with Vendor for Buyer's account if at any time in Vendor's sole discretion Buyer's credit worthiness is impaired or in the event Buyer fails to pay for any payment when due.

Any claims for prices, trade allowances, cash discounts, sales and use taxes, or other benefits pertaining to any sales contract between Vendor and Buyer will be deemed waived unless submitted along with appropriate proof of performance within one (1) year from date of invoice.

Title to Products and risk of loss shall pass to Buyer when Products are made available to Buyer or the carrier at Vendor's facility or Vendor's other designated shipping point. Buyer shall be responsible for arranging and paying for all freight and transportation from Vendor's facility or Vendor's other designated shipping point and any related insurance. In the event the Products are shipped outside of the United States, the terms of delivery for such Products shall be Ex Works (INCOTERMS 2000).

Vendor may, in its sole discretion, agree to store the Products at the request of Buyer. Buyer shall be responsible for all related storage charges.

3. INSPECTION AND ACCEPTANCE. If any fault or defect is found in the Products, Buyer shall notify Vendor of such fault or defect in writing supported by documentation satisfactory to Vendor within thirty (30) days after the date on which such Product is delivered and passes the acceptance inspection. If Vendor reviews such notice and documentation and determines that there is a fault or defect in the Products caused by the Product's failure to meet Vendor's required standard of material and workmanship, Vendor will send to Buyer replacement parts required for the remedy of such fault or defect free of charge. The shipping costs and/or technician labor costs for such repair will be paid by Vendor, provided that, in Vendor's discretion, the unit to be repaired does not conform to the applicable Products specifications. Buyer will be deemed to have irrevocably accepted any and all units with respect to which Buyer has failed to give Vendor written notice of fault or defect by registered or certified mail within the applicable period. Buyer's inspection and/or acceptance tests shall be at Buyer's expense. Vendor may charge to Buyer any costs resulting from the testing, handling, and disposition of any Products Buyer claims is nonconforming and that Vendor determines not to be nonconforming. Detailed terms and conditions of warranty, if any, are set forth in the delivery document delivered from Vendor to the Buyer with the Product.

4. CANCELLATION/RETURNS. Vendor will not accept returns, cancellations or reschedule of the initial or any subsequent order under Vendor's quotation, other than for default of Vendor. VENDOR'S LIABILITY AND RESPONSIBILITY IN CONNECTION WITH ANY FAULT OR DEFECT IN THE PRODUCTS AND SPARE PARTS ARE LIMITED TO THOSE MENTIONED IN SECTION 3 HEREOF AND BUYER HEREBY EXPRESSLY WAIVES ANY RIGHTS AGAINST VENDOR RESULTING FROM OR IN

CONNECTION WITH THE PRODUCTS OR SPARE PARTS SOLD TO BUYER FOR ANY DAMAGES, LOSSES, EXPENSES OR COSTS, OTHER THAN THOSE MENTIONED IN SECTION 3 HEREOF.

5. TAXES AND OTHER CHARGES. The price of Products and/or Services does not include any taxes which may apply to the sale or use of Products and/or Services, including sales, use, privilege, excise or property taxes, and Vendor will invoice Buyer for such applicable taxes. Buyer is solely responsible for the payment of all such taxes, whether or not invoiced. Unless otherwise provided by Vendor in writing, prices are also exclusive of installation, packaging, crating, handling and other similar charges, payment of which shall be the sole responsibility of Buyer. If Vendor pays any such tax or charge, Buyer will promptly reimburse the same.

6. DISCONTINUANCE. Vendor may, at its option, discontinue any Product or Service; however, Vendor will make an effort to give Buyer reasonable notice regarding any planned discontinuance.

7. BUYER'S MATERIALS. Buyer represents and warrants that any designs, drawings, instructions or other materials furnished or given by Buyer to Vendor (collectively, the "Buyer's Materials") and used by Vendor in executing Buyer's order will not cause Vendor to infringe on, or otherwise contribute to any infringement of, any patents, trade secrets, trade names, copyrights, logos, service marks or trademarks or other intellectual property right of a third party, and Buyer agrees to defend, indemnify and hold harmless Vendor and its affiliates from and against any and all claims (including third party claims), liabilities, and costs (including reasonable attorneys' fees) resulting from any actual or claimed infringement of any such rights. Vendor shall not be liable for any loss which Buyer or the owner of any of the Buyer's Materials may suffer by reason of loss of, or destruction or damage to, any Buyer's Material, however caused, while in the possession or under the control of Vendor, and Vendor shall not be required to repair or replace any Buyer's Material or copies thereof.

8. LIMITATION OF LIABILITY AND ACTIONS. Vendor warrants to Buyer that, to the best of Vendor's knowledge, the Products(s) do not infringe the patent, copyright, trademark, trade secret or other intellectual property right of any third party. Vendor warrants to the Buyer that the Products(s) will be free from defects in workmanship and materials for a period of twelve (12) months from date the Products pass the acceptance inspection. If defects in workmanship or materials are found within that period, Vendor will determine in its sole discretion whether to repair or replace the Products or its parts at no charge and any part or Products replaced becomes Vendor's property. Vendor reserves the right to replace discontinued Products with equivalent current generation Products. When a no-charge replacement Products is provided within the first twelve (12) months of service, the replacement Products' warranty will not exceed the remaining warranty term of the original Products. VENDOR MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, ORAL OR WRITTEN, ARISING BY LAW, CONTRACT OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, INTEROPERABILITY OR NON-INFRINGEMENT, ALL OF WHICH ARE SPECIFICALLY EXCLUDED TO THE FULLEST EXTENT PERMITTED BY LAW. VENDOR MAKES NO WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, REGARDING ANY SERVICES.

If any court having jurisdiction finally holds that this limitation of remedies is void or unenforceable, Vendor's liability for any claim shall be limited to the invoice price of the Products and/or Services giving rise to the claim.

DETERMINATION OF THE SUITABILITY OF THE PRODUCTS AND SERVICES FOR BUYER'S INTENDED OR DESIRED USES IS THE SOLE RESPONSIBILITY OF BUYER, AND VENDOR SHALL HAVE NO RESPONSIBILITY IN CONNECTION THEREWITH.

IN NO EVENT VENDOR SHALL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS), WHETHER BASED IN CONTRACT, TORT OR ANY OTHER LEGAL THEORY, OR FOR THE COST OF SUBSTITUTE

PRODUCTS OR SERVICES, EVEN IF VENDOR HAS BEEN ADVISED BY BUYER OF SUCH DAMAGES IN ADVANCE. VENDOR'S MAXIMUM LIABILITY FOR ANY CLAIM ARISING OUT OF OR RELATED TO ANY SALES CONTRACT WITH BUYER SHALL NOT EXCEED, IN THE AGGREGATE, THE AMOUNTS RECEIVED BY VENDOR FROM BUYER FOR THE SPECIFIC PRODUCTS AND/OR SERVICES TO WHICH ANY SUCH CLAIM RELATES.

Buyer shall defend, indemnify and hold harmless Vendor and its affiliates from and against any third-party claims, liabilities and costs (including reasonable attorneys' fees) arising from representations by Buyer to the effect that Vendor has made any warranty, or will allow any remedy, with respect to Products and/or Services other than as expressly stated hereunder.

9. SECURITY TERMS / COSTS AND EXPENSES OF COLLECTION. For the purpose of securing payment of amounts due Vendor from Buyer hereunder, Buyer hereby grants to Vendor: (i) a continuing first purchase money security interest in all Products sold by Vendor to Buyer, and any and all accessories thereto and substitutions therefor; and (ii) a continuing purchase money security interest in all of the proceeds of the foregoing. Buyer shall, upon request by Vendor, execute financing statements and other documents to protect Vendor's security interest in Products, any and all accessories thereto and substitutions therefor, and all of the proceeds of the foregoing. If Buyer fails to make payment to Vendor of any invoice for any Product or Service within thirty (30) days of the date of such invoice, or should Buyer become insolvent or be a party to any bankruptcy or receivership proceeding prior to full payment of all amounts payable to Vendor, Vendor may, notwithstanding any other provisions herein set forth, exercise any or all of its rights as a secured creditor under applicable law.

In the event that Buyer fails to make full payment for the Products and/or Services, in the manner and within the time specified by Vendor in its payment terms, Buyer shall be liable to Vendor for payment of all costs and expenses incurred by Vendor or its affiliates in seeking collection of the amounts owed by Buyer, including, but not limited to, the costs of collection agencies and reasonable attorneys' fees incurred by Vendor or its affiliates.

10. PERMITS, LICENSES, TARIFFS, DUTIES AND TRANSFER LAWS. Buyer shall be responsible for and pay any and all applicable tariffs, duties and clearance charges imposed by any governmental entity upon Products, Services and/or any technology sold or otherwise transferred hereunder, and shall obtain and pay for any and all export and import licenses or permits necessary for shipment and/or delivery of such Products, Services and/or technology. Buyer acknowledges that Products, Services and/or any technology sold or otherwise transferred hereunder may be subject to U.S. and other governmental export and import control laws applicable to the purchase, sale, use, export, re-export, import or other transfer (collectively, "transfer") of such Products, Services and/or technology, in whole or in part, including, without limitation, Export Administration Regulations and Executive Orders and regulations administered by the Office of Foreign Assets Control of the U.S. Department of Treasury (referred to herein as the "Transfer Laws"). Buyer represents and warrants that it is familiar with the requirements and restrictions of all Transfer Laws, and shall comply with such laws at all times. Buyer will defend, indemnify and hold harmless Vendor and its affiliates from and against any and all claims (including third party claims), liabilities and costs (including reasonable attorneys' fees) arising out of or in connection with any violation of the Transfer Laws or otherwise in connection with any transfer of the Products, Services and/or technology, whether direct or indirect, by Buyer.

11. UNLOADING AND DEMURRAGE. Vendor's delivery equipment, if any, is furnished with the understanding that Buyer will use all reasonable efforts to unload and return same to the delivering carrier within the tariff or contracted period free of demurrage and extra detention charges. Any demurrage and extra detention charges on such equipment are for Buyer's account.

12. INDEMNITY AND INSURANCE. Buyer shall defend, indemnify and hold harmless Vendor and its affiliates from and against any and all claims (including third party claims), liabilities and costs (including reasonable attorneys' fees) in any way related to the use or resale of Products. Buyer shall be responsible for the actions and omissions of any re-seller as if they were the actions and omissions of Buyer. Buyer shall notify Vendor in writing immediately upon Buyer's receipt of knowledge of any incident involving Products or Services which result in personal injury or claim of any kind. Buyer agrees to fully cooperate with Vendor in the investigation and determination of the cause of such incident and shall make available to Vendor all statements, reports and tests made by Buyer or made available to Buyer by others. The furnishing of such information to Vendor and any investigation by Vendor of

such information or incident report shall not in any way constitute any assumption of any liability for such incident by Vendor.

Buyer shall maintain such third-party liability and property damage insurance, including general and product liability and worker's compensation insurance coverage, with such insurers and in such amounts as shall be commercially reasonable. Buyer shall, upon Vendor's request, provide Vendor with certificates evidencing such insurance.

13. COMPLIANCE. Buyer shall comply, and shall cause its agents to comply, with all federal, state, local, provincial and other governmental laws and regulations applicable to the use or resale of Products or Services.

14. CONFIDENTIALITY. Except to the extent expressly permitted otherwise by Vendor in writing, Buyer agrees not to disclose to any person outside of its employ, nor to use for any purpose other than for its procurement of Products and/or Services hereunder, any information which is disclosed to Buyer by or on behalf of Vendor or its affiliates and which relates to the Products or Services, or which is developed hereunder, until such information is made publicly available by Vendor or its affiliate. Any proprietary material in such information shall remain the property of Vendor or its affiliates.

15. INTELLECTUAL PROPERTY RIGHTS. No rights in or to patents, trade secrets, trade names, copyrights, logos, service marks or trademarks or other intellectual property are granted by Vendor or its affiliates under these General Terms and Conditions of Sale.

Buyer shall not, and agrees not to, use Vendor's or any of its affiliates' name, trademarks, logos or service marks, and Buyer shall not, and agrees not to, refer to Vendor or any of its affiliates directly or indirectly in any customer list, advertising, sales presentation, news release, release to any professional or trade publication or for any other purposes without Vendor's prior written approval of such use and of the form and substance of the reference.

16. SOFTWARE LICENSE. Any software and its documentation contained in or provided with the Products (such software and documentation, collectively, the "Software") are licensed, not sold, and are available for use only under the terms written herein (unless stated otherwise in a written agreement signed by authorized representatives of Vendor and Buyer). The term "Software" shall also include any modified versions or updates of the Software licensed to Buyer by Vendor. Subject to the terms herein, Vendor grants Buyer a non-exclusive and non-transferable license to use the Software, in accordance with any documentation supplied to Buyer by Vendor, and exclusively in conjunction with the Products for which the Software was designed. The Software, including without limitation, any images, photographs, video, audio, music and text incorporated into the Software, the accompanying printed materials, and any copies of the Software, are proprietary to Vendor and/or its licensor(s), and Vendor shall retain all right, title and interests in and to the Software. Buyer acknowledges such ownership and intellectual property rights and will not take any action to jeopardize, limit or interfere in any manner with Vendor's ownership of, or rights in or to, the Software.

17. RESTRICTIONS REGARDING SOFTWARE. Except as otherwise expressly permitted herein, Buyer may not: (i) reproduce or copy any of the Software; (ii) modify or create any derivative works of the Software, including translation or localization; (iii) decompile, disassemble, reverse engineer, or otherwise attempt to derive the source code for the Software; (iv) redistribute, encumber, sell, rent, lease, sublicense, or otherwise transfer rights to the Software; (v) remove or alter any trademark, logo, copyright or other proprietary notices, legends, symbols or labels in the Software; (vi) copy the printed materials accompanying the Software; (vii) use the Software to operate in or as a time-sharing, outsourcing, service bureau, application service provider environment; or (viii) use the Software as a standalone application or with applications other than with the Products.

18. FORCE MAJEURE. Vendor shall not be liable in any way for failure or delay in carrying out the terms of any contract for the sale of Products and/or Services resulting from any cause or circumstance beyond its reasonable control, including, but not limited to, any act of God, fire, flood, pandemic, war, explosion, labor difficulties, inability to obtain necessary labor or materials, interruption of transportation, civil commotion, and acts of any governmental authority. In no event will Vendor be required to purchase any products and/or services in the marketplace to meet its obligations hereunder or be required to purchase materials and/or services necessary upon unreasonable terms and/or at unreasonable prices. During any shortage of Products and/or Services, Vendor may apportion and allocate Products and/or Services among itself and its subsidiaries, affiliates and customers as Vendor deems fit in its sole discretion.

Vendor reserves the right to cancel, without liability, any order, the shipment of which is or may be delayed by reason of any cause or causes beyond its reasonable control as aforesaid.

19. AMENDMENT. No Amendment to these General Terms and Conditions of Sales shall be binding unless agreed to in a writing executed by both Vendor and Buyer.

20. CONFLICT. If any provision of these General Terms and Conditions of Sale conflicts with any other terms or conditions separately made applicable in writing by Vendor to particular Products and/or Services, such separately applicable terms and conditions shall govern with respect to such conflict.

21. INVALIDITY. If any provision of these General Terms and Conditions of Sale (as supplemented by any additional terms separately made applicable by Vendor to particular Products and/or Services) is finally determined to be invalid or unenforceable by any court of competent jurisdiction, such determination shall not affect any other provision hereof, and all such other provisions will remain in full force and effect.

22. ASSIGNMENT. Any sales contract formed between Buyer and Vendor may not be assigned by Buyer except with the prior written consent of Vendor.

23. ARBITRATION. Any dispute, claim or controversy arising out of or relating to these General Terms and Conditions of Sale or the breach, termination, enforcement, interpretation or validity thereof, including, without limitation, all issues or disputes regarding the existence, validity, scope or applicability of this agreement to arbitrate, the arbitrability of any claims, and the proper parties to the arbitration, shall be determined by arbitration in Los Angeles, California before three arbitrators. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures. Judgment on the award may be entered in any court having jurisdiction. This clause shall not preclude Vendor or Buyer from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

24. GOVERNING LAW. These General Terms and Conditions of Sale and any sales contract formed between Vendor and Buyer shall be construed and enforced in accordance with the laws of the State of California (without giving effect to its rules of conflict of laws). The United Nations Convention on Contracts for the International Sale of Goods shall not govern these General Terms and Conditions of Sale or any sales contract formed between Vendor and Buyer.

25. EQUAL OPPORTUNITY EMPLOYER. FUJIFILM Wako Chemicals U.S.A Corporation is an equal opportunity employer. FUJIFILM Wako Chemicals U.S.A Corporation does not discriminate, nor allow any employee to discriminate, against another employee or applicant for employment on the basis of race, color, age, religion, sex, national origin, disability, marital status, sexual orientation, citizenship status or military status, including disabled veterans and veterans of the Vietnam era, in any employment decisions.