

General Terms and Conditions of Purchase

1. Scope

1.1 These General Terms and Conditions of Purchase (the "Agreement") shall govern the relationship between any party offering or selling goods and/or services (the "Supplier") to Folien Fischer USA, Inc. (the "Purchaser"). Supplier agrees to sell and Purchaser agrees to buy the goods and/or services described in and furnished under purchase orders that may be issued from time to time for the price and on the terms of payment shown therein. Purchaser objects to all additions, exceptions or changes to these terms, whether contained in any printed form of Supplier or elsewhere, unless approved by Purchaser in writing. Electronic commerce transactions between Purchaser and Supplier will be solely governed by this Agreement, and any terms and conditions on Supplier's internet site will be null and void and of no legal effect on Purchaser.

1.2 Supplier's costs and expenses which arise in connection with the establishing of offers shall not be reimbursed by the Purchaser, neither shall such an offer give rise to any claim of Supplier for the placing of an order by Purchaser.

2. Purchase Orders

2.1 Purchase orders need to be issued in writing. Oral orders are not binding unless confirmed in writing by Purchaser not later than the following working day.

2.2 The agreed pricing as stated in the purchase order is binding and cannot be adjusted by one party alone. The price for ordered materials includes packaging, full costs for transportation to the plant designated in the purchase order by Purchaser, transport insurance, customs duties, taxes and any and all other levies. The price for ordered services includes procurement and usage of appropriate working and safety equipment and materials, authorizations and insurances of any kind, taxes and other levies, travelling expenses, board and lodging.

2.3 Purchaser retains ownership and copyrights to illustrations, drawings, calculations and other data made available to Supplier. Supplier shall use the data exclusively for fulfillment of purchase order and is not allowed to make such data available to third parties without the prior written consent of Purchaser. Supplier shall keep such data in strict confidence and return them to Purchaser after completion of the applicable purchase order and Supplier, upon request, shall certify to Purchaser in writing that Supplier has deleted all such data from all electronic storage media on which it was placed by Supplier. The foregoing obligations shall not apply to any data which (i) is publicly known or becomes publicly known through no fault of or disclosure by Supplier; (ii) is given to Supplier by someone other than Purchaser as a matter of right and without restriction of disclosure; (iii) was known to the Supplier prior to the day the Agreement is signed; or, (iv) is legally compelled to be disclosed. If Supplier receives a subpoena, order, notice, process or other legal process seeking disclosure of Purchaser's Information, Supplier shall immediately notify Purchaser in order to allow Purchaser the opportunity to oppose the order, notice, or process, or seek a protective order. If requested by Purchaser, Supplier shall cooperate fully with Purchaser in contesting such disclosure. Except as such demand shall have been timely limited, quashed or extended, Supplier may thereafter comply with such demand, but only to the extent required by law.

3. Delivery

3.1 Supplier acknowledges that the date(s) of delivery specified herein are critical and time is of the essence of the Agreement for the avoidance of substantial loss to Purchaser. Supplier's failure to meet any delivery date without Purchaser's written consent may constitute a breach of Agreement or default hereunder. In the event of delay, or anticipated delay, from any cause, Supplier will immediately notify Purchaser in writing of the delay or anticipated delay, and its approximate duration, and Supplier will undertake to shorten or make up the delay by all reasonable and expeditious means. In the event that Purchaser reasonably determines that Supplier will be unable to meet any delivery date(s), Purchaser may pursue the remedies set forth in Paragraph 6, Default and Termination for Cause, without the necessity of providing Supplier a cure period.

3.2 For each delivery, Supplier shall provide a bill of delivery containing order and article numbers, specification of materials and/or services, quantities, gross and net weight and a certificate of delivery (incl. safety data sheet) according to EN ISO 9001.

3.3 Supplier is obliged to immediately notify Purchaser of every even minor change in quality, manufacturing procedures, materials and subcontractors. Irrespective of such notification, Supplier guarantees consistent quality.

3.4 All deliveries of Supplier shall be executed DDP (Delivery Duty Paid) at the place designated by Purchaser in the purchase order, Incoterms 2000. Supplier warrants clear title to the goods, free from any and all liens or other encumbrances. Supplier is responsible for properly packing the goods and loading these goods and safe and correct stowing of the goods on the Purchaser nominated carrier, at its expense, and will comply with any documentary instructions of Purchaser in the shipment process.

3.5 Delivery of goods and rendering of services are accepted during Purchaser normal business hours.

3.6 (a) With respect to goods furnished under this Agreement, Supplier warrants that the goods will (1) strictly conform to the drawings, specifications, and sample (if any), and other requirements referred to herein or provided by Purchaser to Supplier; (2) be of merchantable quality and suitable for the purpose(s) intended; (3) conform with all applicable laws, ordinances, codes and regulations, and (iv) be free from defects in materials, performance, operation, and workmanship for a period of 12 months after being placed in service by Purchaser, or 24 months from date of acceptance by Purchaser, whichever period expires earlier. In the event Supplier is not the manufacturer of the goods, Supplier will obtain assignable warranties for the goods from its vendors and suppliers, which it will pass-through or assign to Purchaser, and Supplier will cooperate with Purchaser in the enforcement of such warranties. If no pass-through or assignment is made, Supplier will assume the responsibility of the warranty. If required by Purchaser, Supplier will supply satisfactory evidence of the origin, composition, manufacture, kind and quality of the goods.

(b) With respect to services performed under this Agreement, Supplier warrants it will perform all services in a workmanlike manner in accordance with (1) any specifications or drawings provided by Purchaser; (2) any Purchaser site requirements communicated to Supplier; (3) generally accepted industry practices applicable to the services; (4) all applicable laws, statutes, ordinances, regulations, rules, standards (government and industry), and codes (government and industry); and (5) this Agreement.

(c) If Supplier breaches the warranty specified in Paragraphs 3.6(a) or (b), upon notice from Purchaser, Supplier will promptly repair, replace the goods or re-perform the work in question (including removal, reinstallation, access, shipping, and labor costs) at no cost to Purchaser. Such repair, replacement or re-performance will be warranted for a period of 12 months from its acceptance by Purchaser. If Supplier fails after reasonable notice to proceed promptly with and complete the repair, re-performance, or replacement of the defective goods or work, Purchaser may repair, re-perform, or replace the goods or work and charge all related costs (including labor and access costs) to Supplier without voiding the warranties herein, and without Purchaser waiving any other rights or remedies it may have under this Agreement. Such costs will be payable by Supplier upon demand.

3.7 All goods delivered hereunder will be subject to final inspection and acceptance by Purchaser at its facility notwithstanding prior payment or inspection at Supplier's facility. Acceptance of any goods will not alter or affect the warranties of Supplier set forth in Paragraph 3.6.

4. Invoice and Payment

Supplier shall issue an invoice not before full delivery is completed. Unless agreed otherwise in writing, Purchaser shall execute payment within 60 days after receipt of invoice. Any assignment of the invoiced debt from Supplier to a third party is prohibited. Purchaser has the right to offset the invoiced amounts with any claims deriving from delayed or faulty delivery (as stated under paragraph 3 above) and retains any other remedy at law or in equity available to Purchaser.

5. Place of Contract / Applicable law / Venue

5.1 The place of contract for any obligation between Supplier and Purchaser is at Purchaser's address at The Nemours Building, Suite 1414, 1007 Orange Street, Wilmington, Delaware 19801. This purchase will be governed by the laws of the State of Delaware, without regard to the United Nations Convention on the International Sale of Goods or other international treaty, rule or accord, and exclusive of conflict of laws principles.

5.2 Supplier must submit any claims or disputes arising under this Agreement to Purchaser in writing within 90 days after invoice date, and Supplier's failure to do so will constitute a waiver by Supplier of any legal or equitable rights with respect to the subject matter of the claim or dispute.

5.3 The parties hereby irrevocably submit to the exclusive jurisdiction of the federal and state courts located in New Castle County, Delaware for the resolution of any claim under this Agreement, and each party agrees not to assert any defense to any suit, action or proceeding initiated by the other within New Castle County based upon improper venue or inconvenient forum.

6. Default and Termination for Cause

In the event of Supplier's (a) actual or anticipated breach of or default under any provision of this Agreement and failure to cure such breach or default within ten (10) days after notice from Purchaser, or (b) bankruptcy, reorganization, receivership, insolvency, or making an assignment for the benefit of creditors, or (c) evidence of financial or organizational instability, Purchaser has the right, in addition to any rights or remedies it may have in law, in equity, or under this Agreement, to immediately cancel this Agreement for cause by written notice to Supplier. Upon termination by Purchaser as a result of Supplier's default hereunder, Supplier will be liable to and will immediately reimburse Purchaser for all costs of any nature in excess of the Agreement price which may be incurred by Purchaser to effect completion of performance of this Agreement.

7. Miscellaneous

(a) Compliance with Laws. Supplier warrants and represents that no law, regulation, order, or ordinance of the United States, any state, any governmental agency, or authority of any country, including, without limitation, laws and regulations pertaining to labor, wages, hours, equal opportunity and other conditions of employment, the environment, and safety, has been violated in supplying Purchaser the requested Work. Without limitation, Supplier agrees to hold Purchaser harmless from and indemnify Purchaser for any losses, expenses, costs and damages resulting from Supplier's breach of this warranty.

(b) Assignment and Subcontracting. Supplier will not sell, assign, or transfer this Agreement, or any part hereof, or any money due hereunder, without the prior written consent of Purchaser. Supplier agrees to obtain Purchaser's written approval before subcontracting performance of any portion of this Agreement. Purchaser's approval of any such subcontractor will not relieve Supplier from any obligations imposed by these terms.

(c) Changes. Purchaser may at any time by written order make changes or additions within the purchase order in or to specifications, instructions for work, method of shipment or packing, or place of delivery. Such changes must be made in writing by Purchaser. If any such change causes an increase or decrease in the cost of or the time required for performance of the work, an equitable adjustment will be made and the purchase order will be modified in writing accordingly. Any claim by Supplier for an adjustment must be asserted in writing by Supplier to Purchaser within 30 days after Supplier's receipt of notification of the change. Substitutions or changes in quantities or specifications by Supplier may not be made without Purchaser's prior written approval.

(d) Cancellation for Convenience. Purchaser has the right at any time, without cause, to cancel all or any separable part of this Agreement by written notice. In the event of such cancellation, Supplier will be entitled to payment in full for all goods or work satisfactorily provided prior to the date of the cancellation, less any money previously paid to Supplier, plus any reasonable expenses incurred by Supplier in terminating orders and work in progress, at which point Purchaser will have the right to take possession of such goods or work and any materials whose purchase price was paid by Purchaser. Supplier will not be entitled to any lost profit, lost revenue, lost business opportunity, or any incidental, indirect, economic, consequential or other damages because of cancellation.

(e) Indemnification. Supplier agrees to release, indemnify, defend and hold Purchaser, its officers, agents, and employees harmless from any loss, cost, damage or bodily injury (including death) of whatsoever kind or nature arising out of or incidental to the performance of any work under this Agreement regardless of cause and even if such is caused in whole or in part by the active or passive negligence, fault or strict liability of Purchaser.

(f) Insurance. Supplier will maintain worker's compensation insurance as prescribed by applicable law, employers liability, comprehensive general liability, including contractual liability and products liability, and automobile liability insurance in reasonable amounts covering the obligations of Supplier set forth in this Agreement and, upon request, it will provide Purchaser with a certificate of insurance indicating the amount of such insurance.

(g) Surviving Clauses. The provisions of this Agreement relating to warranty, warranty remedies, indemnity and confidentiality shall survive its termination.

Dated: June 22, 2011