

PURCHASE ORDER TERMS AND CONDITIONS (Canadian entities)

The following terms and conditions apply to purchases of all goods and/or services purchased from you ("Seller") by Omya Canada Inc. and its affiliates (collectively, "Buyer").

1. **Terms.** The terms and conditions of this Purchase Order, including those on the face hereof and those set forth below or otherwise applicable to this Purchase Order, if any, represent the entire agreement between Seller and Buyer, and together are herein called "this Purchase Order". Acceptance is limited to the terms and conditions of this Purchase Order, and no purported revisions of, additions to, or deletions from this Purchase Order shall be effective, whether in any proposal, invoice, acknowledgment or bid from Seller or otherwise, and no local, general or trade custom or usage shall be of any force or effect or be deemed to result in any variation herein unless expressly agreed to in writing by Buyer's authorized representative. The delivery of any goods or the furnishing of any services contemplated by this Purchase Order shall constitute acceptance by Seller of this Purchase Order in strict accordance with all of the terms and conditions of this Purchase Order. To the extent that terms appearing on the face of this Purchase Order are inconsistent with those set forth herein, the terms on the face shall govern.
2. **Delivery; Inspection; Acceptance.** Time of delivery is of the essence. Buyer reserves the right to reject goods and to cancel all or any portion of this Purchase Order in the event of any failure to deliver in the quantity and at the time and place specified in this Purchase Order. Buyer's acceptance of any part of a shipment not delivered as specified herein shall not obligate Buyer to accept the remainder of that shipment or any future shipments. All goods shall be received subject to Buyer's inspection and acceptance, and subject to Buyer's right to reject or revoke acceptance and, unless otherwise specified, return at Seller's expense goods which fail to conform strictly to the specifications and requirements of this Purchase Order. Payment for or acceptance of delivery of nonconforming goods or services shall not constitute an acceptance thereof, limit or impair Buyer's right to assert any legal or equitable remedy, or relieve Seller's responsibility for defects, latent or otherwise. All goods are also subject to inspection and testing by Buyer at the manufacturer's plant. Any shipment made in advance of schedule, will be, at Buyer's option, either accepted but entry of invoice will be deferred until such time as shipment was scheduled to be made, or returned to Seller at Seller's expense.
3. **Force Majeure.** Buyer shall not be responsible for failure to receive delivery if occasioned by unforeseeable causes beyond the control and without the fault or negligence of Buyer. At Buyer's option, the total quantity covered by this Purchase Order may be reduced to the extent of shipments refused and/or the delivery period specified may be extended to the extent of the delay occasioned by any such circumstances, and each delivery so omitted shall be made during the period of such extension.
4. **Freight; Packing, Marking and Invoicing.** Unless otherwise agreed to by the parties, all goods shall be delivered DDP (Buyer's designated facility) with the INCOTERMS, latest edition, applying. Transportation charges are separate transactions covering services rendered and shall in no way affect the conditions of sale. Seller shall include an accurate packing list with each shipment. Individual invoices shall be issued for each separate shipment. All invoices, packing lists, bills of lading, and each separate package within each shipment shall clearly reference the item number, Buyer's Purchase Order number and Seller's packing slip number. All foreign invoices must be duly certified in accordance with the applicable Canadian customs regulations and requirements. Partial shipments must be identified as such on the shipping memoranda and invoices.
5. **Insurance.** If Seller performs services, constructs, erects, or inspects on Buyer's premises, Seller shall furnish evidence of Workers' Compensation and Public Liability Insurance coverage in amounts and on terms satisfactory to Buyer and present to Buyer in advance certificates of insurance naming Buyer as an insured thereunder. Seller shall at all times insure and keep itself insured, with a reputable insurance company, against (i) all risks under this Order or in respect of tile goods or services covered by this Order, including without limitation product liability insurance in respect of all actual and contingent obligations and liabilities of Seller and (ii) all risks in respect of any item owned by the Buyer which is in the custody, control or power of the Seller. Seller shall include Buyer as a named-insured under any such policy, and Seller shall provide Buyer with evidence of such insurance coverage and proof of payment of premiums in respect of such insurance policies upon Buyer's request.
6. **Payment Terms.** Unless otherwise stated, payment will be made forty five (45) days following receipt and acceptance of the goods and receipt, in proper form and substance, of all documentation required by this Purchase Order (payment terms are sixty (60) days for the purchase of distribution products). This Purchase Order shall not be filled at any price higher than last quoted or charged by Seller, except as expressly agreed to in writing by Buyer. Seller warrants and agrees that the price and terms provided for the goods and services covered by this purchase Order are no less favorable to Buyer than those offered to Seller's best customer under generally similar circumstances in terms of quantity and delivery schedule.
7. **Seller's Warranties.** Seller expressly warrants that all goods and services covered by this Purchase Order will: (a) conform to all specifications, drawings, samples and descriptions furnished to or by Buyer; (b) be of good materials and workmanship and free from defect; and (c) bear all warnings, labels and markings required by applicable laws and regulations. In addition, Seller warrants that none of the goods covered hereby, to the extent they are subject to laws prohibiting adulteration or misbranding, is adulterated or misbranded within the meaning of such laws as of the date of delivery to Buyer and that all goods covered hereby may be introduced into general commerce without violation of applicable laws and regulations. Seller warrants that each and every chemical substance, if any, sold or otherwise transferred to Buyer under this Purchase Order, as of the time of such sale or transfer, is sold or transferred in accordance with all applicable requirements of federal, provincial, municipal or local laws, regulations and ordinances, as the same may be amended from time to time. Seller's warranties shall survive acceptance and payment and shall run to Buyer and its affiliates and their respective successors, assigns, customers and users of the goods and shall not be deemed to be exclusive.
8. **Intellectual Property.** To the fullest extent permitted by law, Seller shall indemnify and hold harmless Buyer, and its affiliates, and their respective officers, directors, agents, shareholders, successors and assigns, and all customers and users of any product or service of any of them ("Indemnified Parties") from and against any and all losses, liabilities, claims, demands, costs and expenses (including reasonable attorneys' fees) suffered or incurred by any of them in connection with any claim, demand, suit or judgement involving any actual or alleged infringement of any patent, copyright, trademark or other intellectual property in connection with the manufacture, use or disposition of any article, material or service supplied by Seller. Buyer shall notify Seller of any such claim, demand or suit with reasonable promptness.
9. **Indemnification.** To the fullest extent permitted by law, Seller shall indemnify and hold harmless Buyer, and its affiliates, and their respective officers, directors, agents, shareholders, successors and assigns, and all customers and users of any product or service of any of them ("Indemnified Parties") from and against any and all losses, liabilities, claims, demands, costs and expenses (including reasonable attorneys' fees) suffered or incurred by any of them in connection with any actual or alleged damage to property or injury (including death) to any person arising from or in connection with the Equipment or services provided by Seller or the use thereof, Seller's performance under this Purchase Order, or Seller's performance of work on Buyer's premises or use of Buyer's property, either on or off of Buyer's premises, except for such arising solely out of the gross negligence of Buyer.
10. **Laws and Regulations.** Seller shall at its own expense comply with all relevant federal, provincial, municipal and local laws and regulations, including but not limited to, employment, safety and health laws and regulations, and Seller assumes all liabilities and obligations imposed by any one or more such laws and regulations with respect to all matters contemplated by this Purchase Order.
11. **Termination.** Buyer may at any time, without cause, terminate this Purchase Order in whole or in part upon written notice to Seller. In such event, Seller shall be entitled to a reasonable termination fee consisting of a percentage of the Purchase Order price reflecting the percentage of the work, goods delivered, or services properly performed prior to termination. Payment of such termination fee shall be Seller's sole remedy. Upon Buyer's request, Seller shall preserve, protect and deliver to Buyer, at Buyer's expense, materials on hand, work in progress, and completed work, both in its own, and in any supplier's plant.
12. **Confidentiality.** Seller acknowledges that it may, in providing the Equipment and/or in the performance of its responsibilities under this Purchase Order, be exposed to or acquire proprietary confidential information of Buyer or any of its affiliates, including, without limitation, information or materials concerning any of Buyer's or any such affiliate's customers, organization, work, know-how, processes, manufacturing techniques or technology and products and product applications ("Confidential Information"). Seller agrees to hold the Confidential Information in strict confidence and not to copy, reproduce, sell, assign, license, market, transfer, or otherwise disclose to any person or entity any such Confidential Information or to use any of such Confidential Information for any purpose other than in the performance of Seller's obligations under this Purchase Order. Seller agrees to notify its agents, employees and subcontractors of this confidentiality requirement and to obligate them in writing to abide by it for the express benefit of Buyer and its affiliates.
13. **Use of Buyer's Name.** Seller shall hold the business relationship with the Buyer and any Buyer's affiliate in strict confidence and shall not publish any advertising, promotion or other printed material or show any presentations or participate in any other activity which would disclose that it had or has a business relationship with Buyer or its affiliates and/or any details of that relationship.
14. **Survival; Remedies Cumulative.** All agreements and representations of Seller herein (including without limitation those regarding confidentiality, indemnification and warranties) shall survive delivery and final payment, or an earlier termination of this Purchase Order. All of the rights and remedies available to Buyer under this Purchase Order are in addition to, and not in limitation of, the rights and remedies otherwise available at law or in equity.
15. **Severance Clause.** If one or more of the provisions contained in these Terms and Conditions shall for any reason be found to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any Other provision and those Terms and Conditions shall be construed as if the invalid, illegal, or unenforceable provision had never been contained in it.
16. **Modification and Rescission.** These Terms and Conditions can be modified or rescinded at any time by the Buyer.
17. **Governing Law and Venue.** This Purchase Order shall be governed by the laws of the state with the laws of the province in which the Buyer's facility is located, notwithstanding any choice of laws doctrines of such jurisdiction or any other jurisdiction which would cause the substantive law of another jurisdiction to apply, and expressly excluding the United Nations Convention on Contracts for the International Sale of Goods. Seller agrees that any and all disputes between Buyer and Seller shall be resolved by, and Seller consents to, the exclusive jurisdiction and venue of the local courts in the province in which the Buyer's facility is located. Seller hereby waives all objections to venue in such Courts. Buyer and Seller acknowledge that each may have the right to trial by jury, but that it may be waived. Each of Buyer and Seller, after consulting (or having the opportunity to consult) with counsel of its choice, knowingly voluntarily and intentionally waives any right to trial by jury in any action or other legal proceeding arising out of or relating to these terms and conditions, any purchase order or any other document pertaining to any transaction involving Buyer and Seller.
18. **Miscellaneous.** Headings are for convenience only and are not part of this purchase order. No waiver of any obligation of Seller shall be effective unless in a writing signed by Buyer and no waiver in any single instance shall be considered a waiver of any other or similar obligation. This Purchase Order shall inure to the benefit of Buyer and its successors and assigns, shall be binding upon Seller and its successors and assigns and may not be assigned or delegated by Seller without the express written consent of Buyer.