

# Dryden Fibre North America, LLC (“Seller”) Standard Terms of Sale

[July] 2023

EACH SALE TRANSACTION IS GOVERNED BY THESE STANDARD TERMS AND CONDITIONS OF SALE OF THE SELLER, UNLESS OTHERWISE STATED IN A WRITTEN AGREEMENT BETWEEN THE PARTIES (either signed contract or an alternative agreement between the parties).

## Order Acknowledgement

- ◆ All quotations and agreements are subject to Seller's written acknowledgment, which sets forth the order as Seller understands it and states the only obligations to which Seller is bound (“Order”). Unless Buyer objects promptly upon its receipt, such acknowledgment will be an integration of and the final and entire agreement between the parties, superseding and merging all prior communications. No subsequent modification will be binding unless similarly acknowledged by Seller. In the event of any conflict between these terms and conditions and the provisions of any other document included in this agreement, these terms and conditions will control unless explicitly otherwise agreed in writing by Seller in any such other document issued by Seller. Any proposal for additional or different terms or any attempt by Buyer to vary these terms and conditions including, without limitation, with reference to any sale of goods legislation, is hereby deemed material and is objected to and rejected unless otherwise agreed to in writing by the parties.

## Particular Application and End-Use Requests (if applicable)

- ◆ In the event that a customer requests a product for use in particular and expressly specified application or end-use, review and approval is required from Seller prior to purchase. Pending the review, Seller may either grant the approval and warrant the end-use in writing, grant the approval at the customer's own risk with no liability to Seller, or deny the request in writing.

## General Warranty and Limitations

- ◆ Seller makes every effort to supply products of the highest quality. Seller's products are carefully manufactured to meet specific warranted quality specifications. However, Seller gives no warranty of any kind, either expressed or implied, with respect to merchantability or fitness for particular uses. Should any product sold hereunder be found not to meet the foregoing warranted quality specifications, Seller will furnish a replacement product conforming to this warranty, or, at its election, make a fair allowance therefor; receipt of such replacement product or fair allowance therefor shall be Buyer's sole and exclusive remedy, and Seller's sole liability, for the product's failure to meet this warranty. However, written notice of any claim for failure to meet this warranty must be given to Seller within 30 days after delivery stating with particularity the shortage, defect or damage complained of, and Buyer must afford Seller a reasonable opportunity to inspect the products in unaltered condition and evaluate the claims in accordance with procedures customary in the industry. Failure of Seller to receive written notice of any such claim within the applicable time period will be deemed to be an absolute and unconditional waiver by Buyer of such claim.

- ◆ Without limiting the generality of the foregoing, Buyer acknowledges that the product has not been tested by Seller for safety or efficacy in any particular application. Buyer further acknowledges its responsibility to test and effectively evaluate product to determine to Buyer's own satisfaction, whether the product and/or any technical assistance and information provided by Seller is suitable for Buyer's intended uses and applications. Buyer understands its application-specific analysis must at least include testing to determine suitability from a technical as well as health, safety, and environmental standpoint. Buyer assumes responsibility for compliance with regulatory requirements related to product handling, storage, transportation, sale, use and/or disposal. Buyer acknowledges receipt from Seller of manufacturers' technical and material safety data, in accordance with responsible distribution standards. BUYER EXPRESSLY RELEASES SELLER from all liability, in tort, contract or otherwise, incurred in connection with the sale, handling, storage, transportation, use and/or disposal of product, except to the extent any such liability arises from gross negligence or willful misconduct on the part of Seller.
- ◆ THESE ARE SELLER'S ONLY WARRANTIES. THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE AS WELL AS ANY WARRANTIES UNDER, WITHOUT LIMITATION, ANY SALE OF GOODS LEGISLATION, WHICH EXTEND BEYOND THE FOREGOING AND SELLER'S SOLE RESPONSIBILITY THEREUNDER IS AS STATED.
- ◆ NOTWITHSTANDING ANYTHING TO THE CONTRARY, IN NO EVENT WILL SELLER BE LIABLE FOR INCIDENTAL, SPECIAL OR CONSEQUENTIAL, INDIRECT, EXEMPLARY OR PUNITIVE DAMAGES FROM ANY CAUSE OR FOR ANY REASON WHATSOEVER, IRRESPECTIVE OF WHETHER THE CLAIM ARISES FROM ACTUAL OR ALLEGED BREACH OF WARRANTY, INDEMNIFICATION, BREACH OF CONTRACT, NEGLIGENCE, PRODUCT LIABILITY, CONTRIBUTION OR ANY OTHER LEGAL THEORY AND IN NO EVENT WILL SELLER BE LIABLE FOR LOST REVENUE, LOST PROFITS, OR FOR ANY EXPENSES ARISING DIRECTLY OR INDIRECTLY FROM THE SALE, HANDLING, OR USE OF THE PRODUCT SOLD HEREUNDER, INCLUDING WITHOUT LIMITATION TRANSPORTATION, HANDLING, INSTALLATION, PROCESSING OR FABRICATION CHARGES OR EXPENSES; FURTHERMORE, IN NO EVENT WILL SELLER'S LIABILITY UNDER OR IN CONNECTION WITH THIS AGREEMENT, THE ORDER, OR THE PRODUCT EXCEED THE APPLICABLE PRICE FOR THE SHIPMENT OF THE PRODUCT UNDER THE ORDER.

## Time and Place of Shipment

- ◆ Unless the indicated shipping date is expressly guaranteed in the Order, any advance information provided as to date of shipment is an approximation only based upon Seller's commercially reasonable judgment at the time.

## Quantity Tolerances and Shortages

- ◆ Unless the Order expressly requires the loading of exact quantities specified and agreed to by Seller, Seller reserves the right to increase or decrease the quantity called for on the Order by amounts not to exceed those allowed by applicable industry standards. When, in the opinion of Seller, there is a period of shortage of supply of said products for any reason, including in the event of any Force Majeure, Seller may allocate its available supply among any or all of its customers upon such basis as it will deem fair and practicable, with no liability on its part to

Buyer for failure to deliver the quantity or any portion therein specified.

## Title, Risk, Cost of Freight, Taxes

◆ **For all sales in US or Canada, unless agreed otherwise in writing;**

- **Carriage and Risk of loss:** Cost of carriage and risk of loss shall be governed by the designated INCOTERMS (pursuant to INCOTERMS 2020) unless otherwise specified (or agreed in writing).
  - All products are sold **CPT (destination)**, where:
    - **Carriage** of the products to the name place of destination is arranged by the Seller. Seller reserves the right to route all shipments.
    - **Risk** transfers from the Seller to the Buyer when the products have been delivered to the first carrier.
    - Seller may assist Buyer in processing claims against carriers without incurring liability thereof.
- **Title:** Irrespective of any provision concerning risk, freight or price, legal and beneficial title shall pass to Buyer to the extent of Buyer's payment of the price for the shipment involved.

◆ **For export sales outside of US and Canada, unless agreed otherwise in writing;**

- **Carriage and Risk of loss:** Cost of carriage and risk of loss shall be governed by the designated INCOTERMS (pursuant to INCOTERMS 2020) unless otherwise specified (or agreed in writing).
  - Buyer is the importer of record and responsible for customs clearance.
  - All products are sold on one of the following INCOTERMS;
    - CFR – Cost and Freight (*named port of destination*) or;
    - CPT – Carriage Paid To (*named terminal or port at destination*) or;
    - CIF\* – Cost, Insurance and Freight (*named port of destination*) or;
    - CIP\* - Carriage and Insurance Paid To (*agreed place of destination*)

where:

- **Carriage** of the products is arranged by the Seller. Seller reserves the right to route all shipments.
- **Risk** transfers from the Seller to the Buyer when the products have been delivered to the first carrier.
- \*Seller is responsible to obtain insurance in the name of the Buyer with minimum coverage.
- Buyer is responsible for any claim with insurance.
- **Title:** Irrespective of any provision concerning risk, freight or price, legal and beneficial title shall pass to Buyer to the extent of Buyer's payment of the price for the shipment involved.

◆ **Taxes:**

- All duties, taxes, (including value added taxes), and other official charges due upon importation are Buyer's responsibility; if Seller is determined to be responsible to

pay for any of such charges, Buyer shall promptly reimburse Seller for such charges.

## Anti-diversion

- ◆ Buyer expressly acknowledges and agrees not to export, re-export, or provide goods to any person, entity or destination prohibited under law, without obtaining prior government authorization.

## Transportation Costs and Partial Shipments

- ◆ When prices include any costs of transportation from point of manufacture, any increase or decrease in such costs becoming effective after the applicable price is quoted or established by Seller, and any costs for services beyond those provided by the carrier at no charge other than the applicable freight rate or tariff, shall be for Buyer's account. Any extra costs of utilizing substitute methods of delivery, when the intended type of carrier, vehicle or loading or unloading facilities become unavailable for any reason including Force Majeure, also shall be for Buyer's account.
- ◆ Unless otherwise specified, Seller will have the right to make partial shipments. Each partial shipment will be deemed a separate sale, and payment will become due therefor in accordance with the terms of payment contained in the Order.

## Late Payment

- ◆ The Buyer agrees to remit payment within the terms specified on each invoice.
- ◆ Unless otherwise specified, if payment of the price or any other amounts owed by Buyer to Seller hereunder is not made on time, then Seller, in addition to all other legal, equitable and contractual rights and remedies, will be entitled to interest on such overdue amount at a rate equal to the lesser of (a) one and one-half percent (1½%) per month and (b) the highest rate permitted by applicable law in regard to such obligation owed by Buyer.
- ◆ Should the account be placed in collection, the Buyer agrees to pay all costs and expenses incurred by the Seller in the collection of any past due amounts, including reasonable attorney's fees and expenses.
- ◆ Should Buyer fail to make payment when due, such nonpayment shall be deemed a default under this agreement and Seller will have all legal, equitable and contractual rights including, without liability, the right to withhold shipment of any portion of product and to terminate this agreement.

## Attorneys' Fees

- ◆ In the event of legal action to enforce this agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and expenses from the other party.

## Force Majeure

- ◆ Seller or Buyer, as the case may be, shall give prompt notice to the other party of the cause,

commencement and termination of any failure to supply, in the case of the Seller, or to take such product, in the case of the Buyer. In the event of curtailment of product in the plant(s) producing the product sold hereunder, or in the event of curtailment or process change in the plant(s) consuming the product or if, by reason of governmental or administrative prohibitions, strikes, labor difficulties, mill shutdowns, mill closure, acts of God, act of public enemies, fire, riot, accident, weather conditions, epidemic, pandemic, COVID-19 including variants thereof, supply chain disruptions, delivery interruptions or other causes beyond the control of the parties, either party shall be prevented from producing, furnishing, receiving, or shipping said product affected and upon written notice to the other party ("Force Majeure"), the affected party shall not be liable for any delay in or failure to perform its obligations hereunder, except for its payment obligations. In the event of Force Majeure, Seller shall be allowed an equitable adjustment in the schedule for such time as reasonably necessary to enable Seller to perform. Any delivery so suspended for more than 90 days may, at its sole option, be cancelled by Seller without liability to Buyer.

## Termination

- ◆ Seller shall have the right to suspend or cease work or terminate this agreement or any Order in whole or in part, at any time, without liability, if: (a) Buyer breaches or defaults under these terms and conditions or any other agreement it has with Seller; (b) a petition under any applicable law relating to bankruptcy, insolvency, or reorganization is filed by or against Buyer; (c) Buyer executes an assignment for benefit of creditors; (d) a receiver is appointed for Buyer or any substantial part of its assets; or (e) Seller shall have any reasonable ground for insecurity with respect to Buyer's ability to perform and Buyer is unable to provide Seller with adequate assurance within ten (10) days after written request therefor by Seller. In all cases, Seller's rights are cumulative, non-exclusive, and are in addition to all other rights and remedies it may have at law or in equity. No termination shall affect any accrued rights or obligations of either party as of the effective date of such termination.

## Intellectual Property

- ◆ Nothing contained in this agreement, whether express or implied, will be deemed to confer any license or other rights upon Buyer to any trademark, patent, copyright, registered design, trade secret, or any other proprietary right owned by Seller, any of Seller's affiliates, or any other person or entity, whether associated with any product or otherwise, unless essential to Buyer's use of the product as intended by Seller, or explicitly agreed in writing between any such party(ies) and Buyer. Buyer warrants not to infringe any intellectual property right of Seller or any other person or entity by using, selling, or reproducing the product for purposes other than those intended by Seller in selling the product to Buyer as provided herein. When products are made or adapted by Seller in accordance with Buyer's specifications, Buyer will defend, indemnify, and hold Seller, and Seller's officers, employees, and agents, harmless against all costs, claims, and expenses incurred by Seller in respect of the infringement or alleged infringement by such products of any patents, registered designs, trademarks, copyrights, trade secrets, or other proprietary rights of any other person or entity and not licensed to Buyer. Seller will have the right to participate in the settlement of any such claim or action brought against Seller and defended by Buyer.

## Limitation on Claims and Actions

- ◆ ANY CLAIM, CAUSE OF ACTION, OR OTHER LEGAL ACTION AGAINST SELLER FOR BREACH OF THIS AGREEMENT, INCLUDING ANY WARRANTIES THEREUNDER, WILL BE DEEMED ABSOLUTELY AND UNCONDITIONALLY WAIVED BY BUYER UNLESS MADE

BY BUYER WITHIN THE EARLIER OF THE TIME PERIOD STATED FOR SUCH CLAIM, OR IF NO TIME PERIOD IS STATED THEN WITHIN ONE YEAR AFTER DELIVERY OF THE APPLICABLE PRODUCT.

## Severability

- ◆ In the event that any provision hereof shall be deemed illegal, invalid or unenforceable, it will not affect the legality, validity or enforceability of any other provision hereof and either the terms of the agreement (a) will be deemed modified to include provisions replacing those found not to be legal, valid or enforceable with legal, valid and enforceable provisions that are as similar as possible in content and purpose to such illegal, invalid, or unenforceable provision or (b) will be interpreted and modified by the parties so as to eliminate such illegality, invalidity and/or unenforceability.

## Binding Effect; Assignment

- ◆ This agreement will be binding upon and will enure to the benefit of the parties hereto and their respective successors and permitted assigns. Buyer may not assign any rights or claims, or delegate any duties under this agreement, in whole or in part, without the prior written consent of Seller, which may be withheld in Seller's sole discretion. Seller may assign its rights and obligations under this agreement, in whole or in part, in its sole discretion.

## Governing Law

- ◆ This agreement shall be governed by and interpreted in accordance with the laws of the State of Delaware. Buyer and Seller agree that any legal suit, action, or proceeding, whether to collect payment due hereunder from Buyer or otherwise arising out of or relating to the agreement may (and, if against Seller, must) be instituted in any United States District Court in the State of Delaware, or in the Court of Chancery of the State of Delaware, and the appellate courts to which orders and judgments thereof may be appealed, and Buyer waives any objection which it may have now or hereafter to the venue of any such suit, action or proceeding and hereby irrevocably submits to the jurisdiction of any such court in any such suit, action or proceeding. Both parties, to the full extent permitted by law, hereby waive any right to trial by jury in any action or proceeding involving the agreement or any product or transaction relating thereto.