
**GENERAL TERMS FOR
SALES AGREEMENT FOR AXIALL, LLC**

- 1.0 **Default/Termination:** Each delivery under this Agreement is a separate transaction, without reference to any other shipment. If either Party is in default with respect to any of the terms or conditions of this Agreement including, without limitation, Buyer's failure to pay any invoice in accordance with the terms of this Agreement, the other Party may, at its option, defer further performance until the default is remedied, and, without prejudice to any other legal remedy, may terminate this Agreement if the default is not remedied within twenty (20) (five (5) for nonpayment of invoices) working days after written notice is provided to the Party in default, specifying the thing or matter in default. Any termination of this Agreement shall not release either Party from any liability or obligation which has already accrued at the effective time of termination, nor affect in any way the survival of any right, duty or obligation of either Party which is expressly stated in this Agreement to survive termination of this Agreement. The provisions of this Section shall survive any termination or expiration of this Agreement.
- 2.0 **Warranty and Limitation of Remedy:**
- 2.1 All claims relating to quality, quantity, weight, condition and loss of or damage to the Product contained in any delivery will be waived by Buyer unless made in writing to Seller within thirty (30) days after the earlier to occur of either: (1) tender of delivery to, and refusal to accept delivery by Buyer; or (2) acceptance of delivery by Buyer; or (3) the dates specified for delivery.
- 2.2 Any technical information or assistance that Seller gives Buyer is provided at Buyer's risk and is not a warranty or specification. Except as stated in Section 4.0 hereof titled "Patents," Seller warrants only its title to the Product and that the Product shall conform to the Specifications expressly referred to in the Agreement, or if no Specifications are referred to, Seller's then-current, standard, written specifications for the Product, at the time of shipment of the Product (the "**Specifications**"). THESE ARE THE ONLY REPRESENTATIONS OR WARRANTIES SELLER MAKES AND ALL OTHER EXPRESS OR IMPLIED WARRANTIES, UNDER STATUTE OR ARISING OTHERWISE IN LAW FROM A COURSE OF DEALING OR USAGE OF TRADE, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE, ARE DISCLAIMED BY SELLER. IN THE EVENT ANY OF THE PRODUCT FAILS TO CONFORM TO THE WARRANTIES EXPRESSLY SET FORTH IN THIS SECTION 2.2 SELLER'S EXCLUSIVE OBLIGATION AND BUYER'S EXCLUSIVE REMEDY SHALL BE LIMITED TO, AT SELLER'S OPTION: REPLACEMENT OF THE NONCONFORMING PRODUCT AT SELLER'S EXPENSE, OR A REFUND OF THE PURCHASE PRICE ATTRIBUTABLE TO A SPECIFIC DELIVERY AS TO WHICH A CLAIM IS MADE AND TRANSPORTATION COSTS FOR SUCH SPECIFIC DELIVERY. EXCEPT AS PROVIDED IN THE IMMEDIATELY PRECEDING SENTENCE, IN NO EVENT WILL SELLER BE LIABLE UNDER ANY THEORY OF RECOVERY (WHETHER BASED ON NEGLIGENCE OF ANY KIND, STRICT LIABILITY, TORT OF ANY KIND, CONTRACT OR WARRANTY) FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO, ARISING FROM OR RESULTING FROM THE DELIVERY OF THE PRODUCT BY THE CARRIER HEREUNDER, OR ANY USE MADE OF THE PRODUCT, OR ANY SERVICES PROVIDED BY SELLER WHICH ARE RELATED TO THE PRODUCT, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- 2.3 Recommendation of Seller for use of the Product is based upon tests believed to be reliable, but Seller makes no warranty of the results to be obtained. Buyer assumes all responsibility and risk and liability arising from: (1) the transportation, unloading, discharge, storage, handling and use of the Product, including use thereof alone or in combination with other substances; (2) the improper functioning or failure of unloading, discharge, transportation or storage systems equipment used by Buyer or any of Buyer's employees, agents, contractors, subcontractors, third-party service providers or representatives, whether furnished or recommended by Seller or not; and, (3) the failure by Buyer or any of Buyer's employees, agents, contractors, subcontractors, third-party service providers or representatives to comply with federal, state and municipal laws, rules, and regulations governing unloading, discharge, storage, handling and use of the Product. Except to the extent of Seller's negligence, Buyer assumes the risk of all damage, loss, costs and expense, and agrees to indemnify, defend and hold harmless Seller, and all of Seller's parent, subsidiary and affiliated companies and Seller's and all of those companies' officers, directors, managers, agents and employees (collectively, the "**Indemnified Parties**") from and against any and all liability, damage, loss, cost and expense ("**Claims**") which may accrue to or be sustained by any one or more of the Indemnified Parties on account of any claim, suit or action made or brought against Seller, its officers, agents or employees, including without limitation for the death of or injury to persons or damage or destruction of property arising out of, or in any way connected to, or alleged to arise out of, or be connected to, the loading, unloading, use, possession, storage, disposal or transportation of the Product or any product made

therefrom (whether by Buyer, any distributor, end-user, or governmental authority), and sounding in any legal theory whatsoever, and from any failure by Buyer to adhere to Export Controls or Export Requirements as defined and set forth below.

3.0 **Force Majeure:** Seller's failure or inability to make, or Buyer's failure or inability to take, any delivery or deliveries when due, or the failure or inability of either Party to timely perform any other obligation required of it under this Agreement, other than the payment of money, if caused by "**Force Majeure**," as hereinafter defined, shall not constitute a default of this Agreement or subject the Party affected by Force Majeure to any liability to the other; provided that the Party so affected promptly notifies the other of the existence of the Force Majeure, its expected duration and the anticipated effect of the Force Majeure on its ability to perform its obligations under this Agreement. The Party who has been unable to perform shall promptly notify the other Party when the Force Majeure circumstance no longer affects its ability to perform its obligations hereunder. The quantity of Product to be delivered shall be reduced by that quantity not delivered as a result of the Force Majeure circumstance, unless both Parties agree that the total quantity to be delivered under this Agreement should remain unchanged. For so long as Seller's ability to perform is affected by the Force Majeure circumstances: (i) Seller may, at its option, elect to allocate its total production of the Product among its various internal (if any) and/or external requirements for the Product (e.g., manufacturing and sales) in Seller's sole discretion; and (ii) Buyer may obtain the quantities of Product which Seller is unable to deliver from another source without any obligation to Seller. During the time that Seller is unable to make deliveries or otherwise perform, it shall not be obligated to procure, or to use any efforts to procure, any quantity of the Product to be sold to Buyer under this Agreement from any alternate producer or supplier. As used herein, the term "**Force Majeure**" means any act of God, nature or the public enemy, accident, explosion, fire, flood, drought, perils of the sea, strikes, lockouts, labor disputes, riots, sabotage, embargo, war (whether or not declared and whether or not the United States is a participant), terrorist attacks and threats of terrorist attacks, federal, state or municipal legal restriction or limitation or compliance therewith, failure or delay of transportation, shortage of, or inability to obtain, raw materials, supplies, equipment, fuel, power, labor, or other operational necessity (including, without limitation, the inability to produce the Product due to the unavailability or shortage of or interruption in the shipping or transportation of a co-product or necessary ingredient/material) interruption or curtailment of power supply, or any other circumstance of a similar or different nature which is beyond the reasonable control of the affected Party. A Party is not required to resolve labor disputes or disputes with suppliers of raw materials, supplies, equipment, fuel or power, or seek alternate sources thereof except in accordance with such Party's business judgment as to its best interest. Further and for avoidance of doubt, Seller shall not be required to repair and/or rebuild its production facilities for the Product or facilities related thereto that may be materially damaged or destroyed. In the event a Force Majeure circumstance affects either Party's performance under this Agreement for at least ninety (90) consecutive days, the Party who is able to perform may terminate this Agreement upon written notice to the affected Party.

4.0 **Patents:**

4.1 Seller warrants that the Product shall be delivered free of the rightful claim of any third person for infringement of any U.S. patent covering the manufacture of the Product. Seller does not warrant against infringement by, and assumes no responsibility by reason of, the use of the Product in combination with other materials or apparatus or in the operation of any process or apparatus or in any other manner or for any purpose whether or not specified by or disclosed to the Seller. Purchase of the Product does not grant any license, immunity or any other right to Buyer under any of Seller's patents or other intellectual property rights relating to the use of the Product in combination with other materials or apparatus or in the operation of any process or apparatus.

4.2 In the event of the commencement of any suit or proceeding against Buyer for infringement covered by the above warranty of Seller, Seller will indemnify, hold harmless and defend Buyer against direct damages including court costs and reasonable attorneys' fees incidental thereto, provided Buyer: notifies Seller promptly (but no later than five (5) business days after Buyer receives notice of any such suit or proceeding), in writing, of the commencement of such suit or proceeding; allows Seller to take sole control of the defense of such suit or proceeding in Buyer's name; renders to Seller, at Seller's cost, all reasonable assistance for the defense or settlement thereof; and, does not settle or compromise any such suit or proceeding without the prior written consent of Seller. Buyer will have the right to be represented in the defense thereof by counsel of its own selection and at its own expense.

4.3 Except as expressly set forth in Section 4.2 immediately preceding, Buyer will indemnify, hold harmless and defend Seller from and against any claim, suit, damage, cost, expense, fine, liability or cause of action whatsoever, including reasonable attorneys' fees, on account of, relating to, or arising out of any claimed infringement of the rights of any third party due to the use of the Product by Buyer, or any toll producer of Buyer, or the use, distribution or sale of any product made therefrom.

5.0 **No Liens:** Buyer hereby represents, warrants, covenants and agrees that it shall neither permit nor suffer any liens or other security interests to be filed against or attach to the Product shipments or any other goods sold to Buyer until Buyer has paid Seller for them in full. Seller reserves the right to condition any and all sales of goods to Buyer upon

a waiver of liens on same by any of Buyer's secured creditors with record liens against Buyer's assets. In the event that a petition for relief under the Bankruptcy Code is filed by or against the Buyer, Buyer acknowledges Seller's right of reclamation with respect to any goods delivered to Buyer within forty-five (45) days prior to the filing of such bankruptcy petition, and hereby waives the right to assert as a defense to Seller's reclamation claims that any of Buyer's secured creditors have a lien on such goods.

- 6.0 **Taxes:** Any tax, or other governmental charge, or increase in any such tax or governmental charge, on the production, sale and/or shipment of the Product sold under this Agreement (other than taxes based upon Seller's net income), or entering into the costs thereof, whether by federal, state, provincial or municipal/local authorities, imposed, or becoming effective, on or after the date of this Agreement, will be added to the price then in effect for the Product and will be paid to Seller by Buyer.
- 7.0 **Waiver:** The failure of either Party to enforce at any time any of the provisions of this Agreement shall not constitute a waiver of that or any other provision of this Agreement, nor later affect the validity of this Agreement or any provision of this Agreement or the right of such Party to later enforce each and every provision of this Agreement. No waiver of any provision or breach of this Agreement will constitute a waiver of any other provision or breach.
- 8.0 **Governing Law:** This Agreement and the relations of the Parties under this Agreement shall be governed by the local laws of the Commonwealth of Pennsylvania (without giving effect to the conflict of law principles thereof), and in the previous regard Buyer and Seller mutually agree that the United Nations Conventions on Contracts for the International Sale of Goods does not apply to the Agreement or the sale by Seller to Buyer of the Product.
- 9.0 **Notice:** All documents, notices and communications to be given hereunder or in connection herewith shall be in writing, signed (signing may be by an electronic signature) by the Party giving or making the notice or communication and shall be deemed given when: (i) (x) delivered in person or by messenger or (y) sent by facsimile or electronic mail on the date of receipt of a facsimile or electronic mail, provided that the sender can and does provide evidence of successful transmission and that such day is a business day (and if it is not, then on the next succeeding business day) or (z) three (3) business days after being deposited in the United States mail in a sealed envelope with sufficient postage affixed, registered or certified, return receipt requested or deposited with a nationally recognized next-day delivery service, such as Federal Express or United Parcel Service, and (ii) addressed as set forth below, or to such other addresses or designee(s) as may be hereafter designated by a Party after providing written notice thereof to the other Party.

To Seller:
Axiall, LLC
11 Stanwix Street, Suite 1900
Pittsburgh, PA 15222
Attention: Vice President, Chemicals Sales
Facsimile: 412-456-7952
Email: ChemicalsContracts@Axiall.com

To Buyer:

Attention: _____
Facsimile: _____
Email: _____

or to such other address or person as either Party may later specify by notice, in writing, to the other.

10.0 **Dispute Resolution:**

- 10.1 Except to the extent of a claim to enforce intellectual property rights or confidentiality obligations (which nevertheless shall be subject to the choice of venue provision contained in the second sentence of Section 10.4), and as a precondition to instituting any legal action permitted by the provisions below, any controversy, claim or dispute between the Parties arising out of or relating to the provision of this Agreement or the breach, termination or a validity thereof shall, upon written request of either Party, immediately be referred jointly for resolution to senior executives of each of the Parties who have authority to settle the controversy and who are at a higher level of management than the person(s) with direct responsibility for day-to-day administration of this Agreement. Within fifteen (15) days after delivery of the written request of a Party, the receiving Party shall submit to the other a written response. The request notice and the response shall each include: (a) a statement of the respective Party's position and a summary of arguments supporting that position; and (b) the name and title of any other person who will accompany the senior executive. Within thirty (30) days after delivery of the disputing Party's request notice, the senior executives of both Parties

shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to attempt in good faith to resolve the controversy. The Parties agree to honor all reasonable requests for information. All negotiations pursuant to this provision are confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence.

10.2 If the controversy has not been resolved by negotiation within forty-five (45) days of the disputing Party's request notice, or if the Parties failed to meet within thirty (30) days of such request, the Parties agree to attempt to settle the dispute by mediation under any mediation rules mutually agreed upon by the Parties by one Party serving a written request on the other. Unless otherwise agreed, the Parties shall select a neutral mediator that is mutually agreed upon by the Parties. The mediation shall be held in a location in the United States mutually agreed to by the Parties. All mediation proceedings are non-binding.

10.3 This mediation must be concluded within any period mutually agreed upon by the Parties or if there is no such agreement, then within forty-five (45) days of the selection of the mediator. Unless the Parties expressly agree otherwise, each Party shall bear its own costs, legal and expert fees incurred in mediation, and evenly share the costs of the mediator. If after proceeding in good faith (i) the Parties are unable to agree on a neutral mediator within thirty (30) days of the failure of the senior executives to meet as required in Section 10.2 or the failure of the senior executives to resolve the dispute in accordance with Section 10.2, whichever is earlier; or (ii) with the assistance of a neutral mediator, the Parties do not resolve the dispute within the period prescribed in this Section 10.3, the Parties may proceed in accordance with Section 10.4 below.

10.4 After exhausting the procedures set forth above, either Party may initiate litigation to resolve the dispute. The litigation shall be commenced only in the state court or federal court located in Pittsburgh, Pennsylvania and each Party hereto submits to the jurisdiction of the court in which such litigation is commenced.

11.0 **Title and Delivery:** Unless otherwise mutually agreed to in writing by the Parties, the Products shall be delivered, and title and ownership of the Products shall transfer and pass to Buyer upon delivery of the Products by Seller to the first carrier (including in any transportation equipment owned, furnished or controlled by Seller) for shipment to Buyer. No reconsignment of transportation equipment owned, furnished or controlled by Seller shall be made and same shall be immediately returned to Seller after the Products have been removed therefrom in as good condition as received, reasonable wear and tear excepted. Demurrage or extra detention charges on such equipment of Seller are for Buyer's account in accordance with Seller's then standard policies with respect to allowed Free Time and detention charges.

12.0 **Reformation:** If any provision of this Agreement is determined to be illegal or unenforceable for any reason, that provision shall be reformed to the maximum extent permitted to preserve the Parties' original intent. If the provision cannot be reformed in a way that preserves the Parties' original intent, it will be deleted and severed from this Agreement with the balance of this Agreement continuing in full force and effect.

13.0 **Assignment:** This Agreement is not assignable by either Party, in whole or in part, without the prior written consent of the other (which consent shall not be unreasonably delayed, denied or withheld), and any attempted assignment without such consent whether by operation of law or otherwise, shall be void. For purposes of this Agreement, the term "**assignment**" shall be deemed to include any effective assumption or assignment of this Agreement through a merger or purchase by a third party of a controlling interest in the voting equity of a Party hereto. Subject to the preceding sentence, this Agreement shall bind and inure to the benefit of the successors and assigns of the respective Parties hereto, including without limitation, any purchaser of Buyer's or Seller's respective businesses or facilities as to which this Agreement relates.

14.0 **Responsible Care®:** Seller is committed to the principles set forth in the Responsible Care® initiative developed by and for members of the American Chemistry Council of the U.S.A. The goal of the initiative is to minimize adverse effects from chemical products on human health and the environment through adherence to safe and environmentally sound management practices. Seller has developed corporate guidelines to address these issues. Seller and Buyer agree to work together towards the goal of safe storage, handling, distribution, use and disposal of the Product. Seller and Buyer agree that they and their employees, agents and contractors will handle the Product in a safe and appropriate manner. Seller and Buyer will adequately train all of their employees, agents and contractors with respect to the use and handling of the Product, and Buyer promptly will notify Seller in the event of any reportable spills/releases of the Product.

15.0 **Export Controls:** The Parties acknowledge that they as well as the Product sold or otherwise transferred under this Agreement may be subject to U.S. and Canadian export controls (including deemed export and re-export) requirements, laws and regulations and U.S. laws and regulations regarding embargoes, sanctions and similar laws, regulations and requirements applicable to exports ("**Export Requirements**"). The Parties agree that Seller's sale or supply of the Product as well as its use, transfer or resale by Buyer may be subject to one or more of these Export Requirements, and Buyer agrees to understand and to comply with any of these Export Requirements that are applicable to Buyer.

- 16.0 **REACH:** It is expressly understood by the Parties that pursuant to the terms of this Agreement, Seller is not the importer (as defined in and for the purposes of REACH) of the Product and Seller, as a legal entity incorporated in the United States of America, has no legal obligations under Regulation (EC) No. 1907/2006 ("**REACH**") or related European Union legislation. For the avoidance of doubt, this includes but is not limited to the Seller having no obligation under REACH or this Agreement to obtain either itself or through its affiliated companies or any Only Representative (as defined in REACH) any requested pre-registration, registration or authorization for any substance(s) in its Product or in any raw materials required for production of its Product, unless the Parties have agreed to specific compliance terms and conditions related to each substance.
- 17.0 **Acceptance:** Buyer's acceptance of this Agreement is expressly limited to the terms and conditions contained herein. If Buyer accepts any shipments of Product under this Agreement prior to Seller and Buyer's execution of this Agreement, those shipments shall be governed by the terms and conditions in this Agreement. Except for those prior shipments, this Agreement shall not bind Seller unless and until it is signed by an authorized representative of Seller.
- 18.0 **No Violation; Consents:** Buyer warrants that the execution, delivery and performance by Buyer of this Agreement and the consummation of the transactions contemplated hereby will not (with or without the giving of notice or the lapse of time, or both) conflict with, result in a breach of, constitute a default under, or accelerate or permit the acceleration of the performance required by, or require any consent, authorization or approval under any agreement, contract, commitment, indenture, lease or other instrument, document or undertaking to which Buyer is subject.
- 19.0 **Reproduction:** This Agreement, and all documents relating hereto and thereto, may be stored and/or reproduced by any means or process including electronic or mechanical means. Any reproduction shall be admissible into evidence as the original in any litigation without regard to whether the original is in existence. If a Party signs this Agreement and then transmits an electronic facsimile of the signature page (including, without limitation, in PDF format), the receiving Party may rely upon such electronic facsimile as an originally executed signature page without any modification or change to this Agreement, unless such modification or change is noted on such electronic facsimile by the transmitting Party.
- 20.0 **Effect of Title and Headings:** The title of this Agreement and the headings of its sections and subsections are included solely for convenience and shall not govern, limit or aid in the interpretation of any terms or provisions of this Agreement.
- 21.0 **Representations:** Buyer and Seller each represent to the other that the person signing this Agreement on behalf of said Party has the full right, power and authority to enter into this Agreement, to bind their respective companies by the terms of this Agreement and that all necessary corporate action has been taken in connection therewith.
- 22.0 **Translation:** This Agreement is executed in English. In the event this Agreement is translated into a language or languages other than English, this version in English shall be controlling on all questions or interpretations and performance.
- 23.0 **Survival:** The terms and provisions of this Agreement regarding payment and indemnity and any other terms and provisions, which by their nature are meant to survive, shall survive the termination of this Agreement for any reason.
- 24.0 **Entire Agreement:** This Agreement, including all of the documents referred to in the Agreement, is the entire agreement of the Parties with regard to the subject matter hereof and supersedes and cancels any prior communications, commitments, representations or warranties, and/or contracts between the Parties relating to the subject matter hereof. No modification of this Agreement shall be of any force or effect unless reduced to a writing which specifically references this Agreement and is signed by the Parties claimed to be bound thereby, and no modification shall be effected by any purchase order forms, acknowledgment forms, shipping documents, or other documents containing additional or different terms or conditions to those set forth in this Agreement.