

GENERAL TERMS AND CONDITIONS OF SALES

1. These General Terms and Conditions of Sales herein (hereinafter - Terms and Conditions of Sales) shall apply to all UAB "NEO GROUP"'s (Seller's) sales of production – polyethylene terephthalate, polyol or mixture of polyol – (hereinafter – the Product). The Terms and Conditions of Sales with Sales Contract or Supply Agreement shall draw together this Contract (hereinafter – the Contract), on the grounds of which the Product is sold by the Seller and bought by the Buyer. Unless such provisions are expressly agreed to by the Seller in a written form, any additional or conflicting terms and conditions contained on, attached to or referenced by any declarations of the Buyer when concluding the Contract, or other prior or later communication from the Buyer to the Seller, shall have no effect on the purchase of any such Product and are expressly rejected by the Seller.
2. The Seller may provide the Buyer with the signed Contract by electronic means (email or fax) and shall send the original by post. The Buyer shall sign the printouts of the received electronic copy and send it to the Seller by electronic means and by post. The Contract shall become binding for the Party from the moment the other Party receives undersigned copy of the Contract. Nevertheless, the Contract shall become binding for the Party if it has not returned undersigned copy, but had received the undersigned copy from another Party and starts to fulfill it, thus accepting the conditions of the Contract provided by the other Party.
3. The Seller warrants the Product sold is not arrested, mortgaged or burdened in any other manner, and it is free from any claims of third parties whatsoever.
4. The Seller claims and warrants the Product sold complies with the criteria of quality, specified in a technical data sheet, applicable at the moment of conclusion of the Contract. The Buyer warrants to the Seller that the Buyer has sufficient experience in the use and handling of the Product. The whole responsibility in connection to the usage of the Product for a particular purpose shall be applicable to the Buyer, as the Seller provides only recommendations regarding the usage of the Product and only subject to information presented by the Buyer. The Seller shall give no warranties for suitability of the Product for any particular purpose of sales or usage whatsoever. Any descriptions, drawings, photos, illustrations, presentation or technical data, presented in the advertising or technical materials published by the Seller, shall be subject to change without further notice, thus they shall not be considered as the specification of sales or any part or supplement thereof. Any other warranty as to the quality of the Product or fitness for any particular purpose, whether arising under laws or otherwise, is excluded, if not directly stated otherwise in the Contract.
5. Delivery terms of the Contract shall be the subject of the explanation of the conditions of INCOTERMS 2010. If not indicated otherwise in the Contract, the Seller shall deliver the Product at minimal costs, with minimal obligations. In any case, customs clearance shall be arranged by the Party domiciled in the country where such clearance should take place.
6. In case delivery terms EXW, FCA, FAS or FOB shall be applicable to the Contract and the Product is designated to be exported out of Lithuania, the Buyer shall provide the Seller with all necessary documents, evidencing that the sold Product have been exported out from Lithuania, immediately, but not later than 7 days from request of the Seller. In case the Buyer failed to provide the requested documents in time, or provided wrong or incomplete information, the Seller shall have the right to request the Buyer to pay applicable value added tax (VAT) in addition to the price, payable for the sold Product, and to reimburse to the Seller all related loss (e.g. fines and interests applicable by tax authorities, etc.).
7. The Seller shall pack the Product in such a manner as it is required for the transport, but only to the extent that the circumstances relating to the transport are made known to him before the Contract is concluded. If the Product is delivered to the Buyer in the multi-usage packaging, then then Buyer shall return it to the Seller and bear responsibility for any damages and losses of the packaging and equipment in its possession. The Buyer agrees that if the Buyer fails to return such packaging within one hundred twenty days (120) days from its receipt, the Seller shall have the right to sell packaging to the Buyer, by invoicing the Buyer at the prices, equal to the purchase prices of them. The Buyer shall pay such invoice within seven (7) days from its receipt. Big bags, IBC containers, barrels, and wooden pallets shall not be considered as the multi-usage packaging.
8. Partial shipment or delivery and/or transshipment shall be permitted. The deviance of the ordered and delivered Product shall be up to ten (10) percent of the contractual quantity and that will not be treated as a default of the Seller.
9. To the extent flexibility is allowed by the Contract for time or size of deliveries, the Parties will cooperate to the extent reasonable to coordinate periods and times for deliveries hereunder, all subject to the quantities set forth in the Contract. The schedule of delivery should be arranged with one (1) day precision. Otherwise, the Seller shall deliver the Product during the delivery period at its own discretion. In case the Seller delivers the Product to the Buyer, the Buyer is obligated to organize its acceptance within all day prescribed by schedule of delivery, i.e. from 0 till 24 o'clock. Nevertheless, the Buyer shall unload and release transportation equipment promptly and in any case within: (1) six (6) hours in case the delivery was made by a standard truck; (2) two (2) hours in case of a sea container (bulk) or silo truck; (3) four (4) hours in case delivery was made by a tank container for transportation of liquid products; (4) free time period for unloading, according to local railway standards in case of a railway container.
10. The Seller may reject transports, containers or storage presented by the Buyer for loading/unloading/transfer or handling which, in the Seller's sole discretion, would present an unsafe or potentially unsafe situation.
11. The Buyer or its authorized shipper shall make statements in the shipment documents of any apparent, detected damages and faults occurred during the loading and transportation of the Product. In case of absence of the statements as indicated above, the damages and faults will be treated to be of a later date.
12. Before unloading the Product the Buyer shall inspect the packaging of the Product for absence of damage and that it is possible to unload the consignment safely. In case of any discrepancies that can impact the safety of unloading are found, the Buyer shall stop unloading and contact the Seller for instructions immediately. If the Product is already unloaded, the Buyer shall keep such Product and its packaging safely till the receipt of the Seller's further instructions. Nonobservance of the said rules shall deprive the Buyer of the right to claim damages.
13. The Buyer shall inspect the Product received as for its compliance with the requirements of quantity and quality during the course of unloading. If any discrepancy will be found, the Buyer shall inform the carrier, make statements in the shipment documents and inform the Seller immediately. If such discrepancy could not be found during the normal inspection, because it is not apparent, the Buyer shall check the Product thorough no later than seven (7) working days from the delivery moment, but no later then prior to reprocessing and immediately provide a claim in case discrepancies are found.
14. The Buyer must present its claims regarding hidden defects of the Product delivered no later then thirty (30) calendar days after the delivery of the Product.
15. In case of any discrepancies of Product or its packaging as listed above are found, the Buyer shall secure and provide the Seller with photos, samples of defected Product or its packaging, identifying data of packaging and Product labeling.
16. Either (1) failure to give written claim within specified terms, or (2) use of the Product without inspection carried out as it is specified in art. 11 and 12 shall constitute an unqualified acceptance of such Product by the Buyer and a waiver by the Buyer of all claims in respect of such Product.
17. Any claims must be presented to the Seller in writing and must contain the following information: (1) demands and (2) circumstances being the reason of such a claim. Documents, as indicated in art. 15 witnessing such indicated circumstances or the list of witnesses and documents of delivery of claimed Product must be included within the claim. Unjustified claims will not be regarded to be presented, and the Seller shall have the right to restrain from investigating such.
18. The Buyer shall keep the Product claimed for poor quality and damaged packaging safely till the Seller provides further instructions. The Buyer is not entitled to utilize the claimed Product or its packaging without the Seller's prior consent.
19. If the claim is found justified and timely, the Seller will either (1) return the amount paid for the delivered Product of poor quality, or (2) replace the Product of poor quality with the relevant amount of the Product of acceptable quality at its own discretion.
20. In the event of any liability by either Party, whether arising from breach of the Contract or from the laws, it is agreed that the maximum amount of damages recoverable shall be limited to the contract price for the Product or part of it with respect to which damages are claimed. In no event shall either the Seller or the Buyer be liable for indirect, consequential, special, punitive or exemplary damages in connection with or arising out of this Contract, unless expressly indicated in the Contract otherwise.
21. The Seller shall issue an invoice for the Product to the Buyer based on the Product price indicated in the Contract and the quantity of the Product actually delivered and sends it to Buyer by email only. The Buyer shall settle the invoiced amount by the Seller within the period of as many calendar days, as indicated in the Contract, to the bank account, indicated in the invoice. The Seller shall have the right to discount any bank charges from the settled payments. In addition to the price of the Product, the Buyer shall pay all taxes, duties and other fiscal dues of any kind levied in respect of the sale of the Product including, but not limited to, Value Added Tax and customs duties. If the Seller receives reasoned data regarding the increase of the Buyer's credit risk or the amount payable by the Buyer to the Seller reaches or exceeds limit (credit limit) determined by the Seller, then the Seller shall have the right (1) to either ask for the advance payment (2) or to refuse to sell the Product. Regardless of indications within the payment transactions, the Seller from Buyers payments shall cover at first its losses, fines, interests, old debts, with overdue debts related costs, and only then settle main Buyer's liabilities without any notice.

22. The Seller may establish a credit limit to the Buyer on the basis of information received from a credit insurer or any other source of information, by informing the Buyer by electronic means. Nevertheless, the Seller makes no assurance or guarantee to the Buyer regarding any amount of a credit limit or its continuation and has the right to amend, decrease or terminate it by informing the Buyer by electronic means.
23. If the payment is settled via a letter of credit, then the Buyer has to open an irrevocable letter of credit governed by ICC UCP latest version in favour of the Seller in a bank suitable for the Seller immediately, but not later than (i) five (5) business days after signing the Contract in case of spot sales, or (ii) five (5) business days prior to shipment in case of long term agreement of supply, with the period of validity extending at least twenty (20) days after the last day of the period of the relative shipment of delivery. In case the Buyer fails to open the letter of credit within the period prescribed, the Seller is entitled to terminate the Contract at any time without prejudice to any other right or remedy available to the Seller (e.g. to request from the Buyer to pay the fine, indicated below).
24. Any new, additional or increased freight rates, surcharges, custom duties, taxes, or any other charges, incurred by the Seller with respect to the sale of the Product after the conclusion of the Contract, shall be for the account of the Buyer and shall be reimbursed by the Buyer on the Seller's demand.
25. In case of overdue payments of the Buyer, the Buyer shall pay to the Seller the annual interest in the amount of the rate of twelve percent (12%) and not including any other Seller's losses. Also, the Seller shall have the right either to (1) hold further deliveries until the full settlement, and/or to (2) demand advance payments for further deliveries of the Product. The Buyer hereby acknowledges it is informed about the possibility that the Seller has had insured the supply of the Product by credit insurance. In case the Buyer fails to make the payments to the Seller on time, the Seller will be obligated to pass the collection of debt to the credit insurer by issuing the proxy. The Buyer shall cover all Seller's costs related with the issue of the proxy to the credit insurer, even if the credit insurer takes no active debt collection actions. The conditions of the contract of credit insurance, specifying fees for the issue of proxy shall be provided to the Buyer upon its request.
26. In case the Buyer refuses to fulfill the Contract or does not start to fulfill it timely even after the Seller's prior notice, the Buyer shall pay to the Seller a fine equal to ten percent (10%) of the Contract price and the Seller obtains the right to cancel the Contract. In case it is impossible to calculate Contract price because monthly Product prices depends on Product or its raw material prices published by company PCI (Product prices) or PLATTS (raw material prices) or any adequate other, the Contract price shall be calculated using last published Product or raw material prices.
27. The title to the Product shall remain with the Seller until all amounts outstanding from the Buyer under any Contract between the Parties have been unconditionally and fully paid by the Buyer to the Seller. If the Product is reprocessed, the Seller shall obtain title to the new product. If during reprocessing the Product is mixed with the property of third parties, the Seller shall become a co-owner of such reprocessed/ mixed product. If the Product or reprocessed/ mixed Product is assigned to third party, the Buyer shall assign its claims with respect to third party to the Seller in the sum of the outstanding amount. The Seller shall be permitted to inspect its own Product at any time and may at any time repossess the same Product and may enter upon the Buyer's premises for these purposes.
28. The Seller shall not be liable for any failure or delay in performance under this Contract to the extent the said failures or delays are proximately caused by causes beyond that Seller's reasonable control and occurring without its fault or negligence (Force Majeure), including, without limitation, accident, mechanical breakdown of facilities, failure of computer systems to operate properly, destruction or loss of electronic records or data, failure of mechanical or chemical function or equipment normally used by the Seller for manufacturing, handling or delivery of the Product, plant shutdowns, any necessity to not operate, or to reduce operation of equipment in order to protect the safety of people or to protect the environment, fire, flood, strike, labour trouble, riot, revolt, war, acts of governmental authority, acts of God, failure of suppliers, subcontractors or carriers to substantially meet its performance obligations under this Contract, provided that, as a condition to the claim of non-liability, the Seller experiencing the difficulty shall give the Buyer prompt written notice, with full details following the occurrence of the cause relied upon. Quantities affected by force majeure will be deleted from the Contract, but the Contract will otherwise continue in full force and effect for the term set forth in the Agreement. During the period when due to *force majeure* there will be shortage of the Product, the Seller has right, but not an obligation, to allocate proportionally the remaining quantity of the Product between its customers. The Seller in no event shall have an obligation to procure the Product from third parties.
29. If there is a significant change in the current market conditions that make the performance of this Contract too onerous to either Party, then the Parties shall enter into good faith negotiations to amicably discuss the re-negotiation of the present conditions. If the Parties fail to reach an agreement in thirty (30) days from the moment of negotiations started, either Party shall have the right to apply to a respective court with request to change or terminate the Contract.
30. The Parties shall have no right to transfer their rights and liabilities in connection to this Contract to third parties without a prior written consent of the other Party. Nevertheless, the Buyer hereby gives its consent for the Seller: 1) to pass the right for remuneration to any third party; 2) to transfer its rights and obligations to its affiliates.
31. Waive to use any right provided by the Contract hereof shall not restrain the Party of engaging it in the future if not directly stated otherwise in the Contract.
32. To the extent it does not contradict the terms and conditions of the Contract hereof, this Contract shall be the subject of the law of Lithuania, unless explicitly provided differently by the Law. The Vienna Convention of the United Nations regarding the international sales (1980) shall not apply for this Contract.
33. Any dispute or claim arising between the Parties from the Contract or in connection with the Contract hereof and breaches, application or treatment shall be the subject to mutual amicable negotiation of the Parties. If such settlement is not reached within thirty (30) calendar days from the date such disagreement originated, then it shall be finally settled in competent court of Vilnius city. Nevertheless Seller reserves the right to apply to competitive court in accordance with general rules of jurisdiction applying to the Contract.
34. The Contract shall constitute an integral and final agreement of the Parties. But in case any provision of this Contract is void or illegal, it will not disturb the effect of all other provisions of this Contract thus considered separate able.
35. The Terms and Conditions of Sales hereof, hereby change any previous agreements between the Seller and the Buyer in regard of the same topic, unless strictly indicated differently by a separate agreement and the Parties thus express their intention to keep to that other agreement.
36. No salesperson is authorized to bind the Seller. Orders placed with a salesperson are not binding on the Seller until confirmed in writing by the Seller's authorised person.
37. All notices, consents and communication under the Agreement shall be in writing, and can be provided by electronic means (email or fax) and shall be deemed received on the next day from dispatch.
38. During the period of the Contract and for a period of two (2) years thereafter each Party shall treat as confidential and, except with the prior written agreement of the other Party, shall not disclose to any third party (other than affiliates having a need to know for execution of the Contract and which are obliged by the Parties to keep the same confidential) the content of this Contract including without limitation, the prices or price methodology, or any information (whether technical or otherwise) relating to the Product or its application, as the case may be, or to the other Party's business affairs or method of carrying on business made available to it pursuant to this Contract and shall not use such information except for the purpose of this Contract.
39. The Terms and Conditions of Sales are prepared in Lithuanian, English and Russian. The English version shall prevail if any distinctions are found between versions.