

NEXEO SOLUTIONS CANADA CORP.
SALES TERMS AND CONDITIONS – CANADA

1. SELLER warrants that the Product will conform to the SELLER's specifications. SELLER MAKES NO OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, REGARDING THE PRODUCT, INCLUDING THE QUALITY OR PERFORMANCE OF THE PRODUCT. SELLER HEREBY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OR CONDITIONS THAT THE PRODUCT WILL BE MERCHANTABLE OR FIT FOR BUYER'S PARTICULAR PURPOSE AND ANY WARRANTIES OR CONDITIONS ARISING BY STATUTE OR OTHERWISE IN LAW, OR FROM A COURSE OF DEALING OR USAGE OF TRADE. BUYER represents that it has independently determined the suitability of the Product for BUYER's use.
2. SELLER's sole liability, and BUYER's exclusive remedy, for Product that does not conform to SELLER's warranties, shall be at SELLER's option, the replacement of the non-conforming Product, or refund of the purchase price of the non-conforming Product, including direct costs incurred by BUYER for shipping, storing, handling or disposing of non-conforming goods.
3. IN NO EVENT SHALL SELLER'S TOTAL LIABILITY FOR ANY AND ALL LOSSES AND DAMAGES ARISING OUT OF THIS CONTRACT, DUE TO ANY CAUSE WHATSOEVER (WHETHER SUCH CAUSE BE BASED ON NEGLIGENCE, STRICT LIABILITY OR OTHERWISE), EXCEED THE PURCHASE PRICE OF THE PRODUCT IN RESPECT TO WHICH SUCH CAUSE ARISES. IN NO EVENT SHALL THE SELLER BE LIABLE FOR DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY, SPECULATIVE OR CONSEQUENTIAL DAMAGES, EVEN IF SELLER IS ADVISED OF SUCH DAMAGES.
4. BUYER shall pay all taxes, excises, fees or charges with respect to the sale or transportation of the Product.
5. BUYER represents that it is not an "insolvent person," as that term is defined under the *Bankruptcy and Insolvency Act* (Canada).
6. BUYER acknowledges that it has received and is familiar with SELLER's labeling and literature concerning Product, and BUYER agrees to forward such information to its employees, independent contractors, and others who handle and use the Product for BUYER.
7. BUYER will comply with all laws, rules and regulations pertaining to handling of the Product, and BUYER assumes all risks and liability arising out of its use, storage, handling and resale of the Product.
8. BUYER agrees to defend, indemnify and hold SELLER harmless against claims by any third party (including BUYER's employees, independent contractors, and customers) arising out of BUYER's use, storage, handling or resale of the Product.
9. BUYER shall confirm the accuracy of all shipments, as to Product identity, quantity and quality upon receipt and BUYER waives all claims therefor unless made in writing and delivered to SELLER within ten (10) days after receipt of goods.
10. BUYER accepts SELLER'S point-of-shipment weights and measurements, unless proven incorrect. On sales made F.O.B. delivered basis, no allowances for shortage or damage will be made by SELLER unless BUYER furnishes acknowledgment from the carrier that same occurred in transit. On all sales

made F.O.B. SELLER's plant or warehouse, BUYER will, in the event of loss or damage in transit, file its own claim with carrier.

11. In no event shall BUYER be entitled to set off against any amount payable by BUYER in connection with the sale of Product hereunder any amount owed or allegedly owed by SELLER to BUYER arising from this transaction or any other transaction or agreement between BUYER and SELLER.
12. Neither BUYER nor SELLER shall be liable for any delay in performance or non-performance for any cause beyond the reasonable control of the party affected, whether or not foreseeable, by the party affected.
13. If at any time the financial responsibility of BUYER, or the credit risk involved, shall become unsatisfactory to SELLER, SELLER may require cash or satisfactory security prior to subsequent shipments or deliveries hereunder. The election by SELLER to require such cash or security shall not affect the obligation of BUYER to take and pay for the contracted Product. BUYER agrees to pay all costs and expenses, including reasonable attorneys' fees, incurred by SELLER in the collection of any sum payable by BUYER to SELLER hereunder.
14. These Terms and Conditions (Terms) apply whether or not they are attached to or enclosed with the Product. These Terms and SELLER's confirming order or acknowledgement constitute a final, complete, and exclusive statement of the entire contract related thereto, and no parol evidence, course of dealing, conduct, performance, or usage of the trade shall be relevant to supplement or explain it. Notwithstanding the terms set forth in BUYER's purchase order, these Terms constitute a counteroffer, acceptance of which is expressly limited to these Terms. These terms supersede and replace all terms of BUYER's purchase order, acknowledgement or other documents related to the sale of the Product.
15. Any action on behalf of BUYER for breach of the contract must be commenced within one year after the cause of action has accrued.
16. THIS CONTRACT SHALL BE GOVERNED BY AND CONSTRUED UNDER THE LAWS OF THE PROVINCE OF ONTARIO, WITHOUT REGARD TO ANY CONFLICT OF LAWS RULES OR PRINCIPLES WHICH MIGHT REFER SUCH CONSTRUCTION TO THE LAWS OF ANOTHER JURISDICTION.
17. Product may be subject to Canadian and/or U.S. government export control laws and regulations. BUYER will comply with such regulations whenever it exports or re-exports the Product or any technical data related thereto.
18. Interest/Service charges may be applied to overdue accounts at the highest rate allowable by law.
19. The parties confirm that it is their wish that this Agreement, as well as all other documents relating to this Agreement, including notices, be drawn up in English only. Les parties aux présentes confirment que c'est leur volonté que la présente convention de même que tous les documents, y compris les avis, s'y rattachant, soient rédigés en anglais seulement.