

## XAMAX Standard Selling Terms and Conditions

1. Unless otherwise indicated on the face of this Agreement title, liability for and risk of loss to product sold hereunder (the "Product") passes to Buyer upon delivery of the Product to Buyer or loading on a carrier for shipment to Buyer.
2. Seller warrants only to Buyer that the Product delivered hereunder meets Seller's standard specifications as may have been expressly agreed to herein. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION AND SECTION 5 HEREOF, SELLER MAKES NO EXPRESS OR IMPLIED WARRANTY (INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OF FROM ANY COURSE OF DEALING OR TRADE USAGE) REGARDING THE PRODUCT. Buyer, having the expertise and knowledge in the intended use of the Product and any articles made therefrom, assume all risk and liability for results obtained by the use of the Product, whether used alone or in combination with other materials.
3. Failure to give notice of claim within ninety (90) days from date of delivery, or the date fixed for delivery (in case of non-delivery), shall constitute a waiver by Buyer of all claims in respect of the Product so delivered or not delivered, as the case may be. No Product shall be returned to Seller without Seller's prior written permission, and then only in the manner prescribed by Seller. No claim shall be allowed for Product that has been processed in any manner. Claims include, without limitation, claims of any kind, whether or not (a) for loss, damage, expense or injury, (b) with respect to the Product delivered or for non-delivery of the Product, or (c) based upon Seller's (d) breach of warranty, contract, statute or regulation or (ii) negligence, strict liability or any tort.
4. BUYER'S EXCLUSIVE AND SOLE REMEDY FOR ANY CLAIM SHALL BE A REFUND OF THE AMOUNT OF THE PURCHASE PRICE PAID FOR THE PRODUCT IN RESPECT OF WHICH DAMAGES ARE CLAIMED, AND IN NO EVENT SHALL SELLER'S LIABILITY FOR ANY CLAIM BE GREATER THAN THAT AMOUNT.
5. Seller warrants that the use or sale of the Product delivered hereunder will not infringe the claims of any validly issued United States patent covering the Product itself, but does not warrant against infringement due to; (a) the use of Products in combination with other products or materials or in the operation of any process, or (b) the compliance by Seller with any specifications provided to Seller by Buyer.
6. NEITHER PARTY SHALL BE LIABLE FOR SPECIAL INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION OR ANY OTHER LOSS) UNDER THIS AGREEMENT, WHETHER OR NOT CAUSED BY OR RESULTING FROM THE NEGLIGENCE OF SUCH PARTY EVEN IF SUCH PARTY HAS BEEN ADVISED FOR THE POSSIBILITY OF SUCH DAMAGES.
7. No liability shall result from delay in performance or nonperformance, directly or indirectly caused by circumstances beyond the control of the party affected, including, but not limited to, Act of God, fire, explosion, flood, war, act of or authorized by any Government, accident, labor trouble or shortage, inability to obtain material, equipment or transportation, failure of usual source of supply, or failure of usual transportation mode. Quantities so affected may be eliminated from the agreement without liability, but the agreement shall remain otherwise unaffected. Seller shall have no obligation to purchase supplies of the product specified herein to enable it to perform this agreement.
8. It is understood and agreed between Buyer and Seller that if this Agreement covers Products that must be manufactured especially for Buyer and is suspended or terminated for any reason, Buyer will take delivery of and make payment for such Products as have been completed and such Products as are in process on the date notice of suspension or termination is received by Seller. If Buyer for any reason cannot accept delivery of such Products, Buyer will make payment therefore as though delivery has been made and Seller will store such Products for Buyer's account and at Buyer's expense.
9. If for any reason, including Force Majeure, Seller is unable to supply the total demand for Products, Seller may distribute its available supply among any or all purchasers as well as other businesses of Seller, its business units, affiliates and subsidiaries, on such basis as Seller may deem fair and practical without liability for any failure of performance that may result therefrom. Seller shall have no obligation to purchase the Product to enable Seller to supply Buyer under this Agreement.
10. At buyer's request, Seller may, at its option, furnish such technical information as Seller has available with respect to the use of the Product. Unless otherwise agreed in writing, all such technical assistance and information will be provided gratis, and Buyer assumes sole responsibility for results obtained in reliance thereon.
11. Buyer acknowledges that it has received and is familiar with Seller's labeling and literature concerning the Product and its properties. Buyer will forward such information to Buyer's employees and any others, including Buyer's customers, who may handle, process or sell the Product and advise such parties to familiarize themselves with such information.
12. Buyer shall reimburse Seller for all taxes, licenses, or other charges, by whatever name, (other than taxes based upon Seller's income) which Seller may be required to pay to any Government (National, Foreign, State or Local) upon the sale, production, or transportation of the Product sold hereunder.
13. If Buyer fails to fulfill Seller's terms of payment completely, or in case Seller shall have any doubt at any time as to Buyer's financial responsibility, Seller, without advance notice and at Seller's sole option, may decline to make further deliveries, except upon payment of all arrearages and receipt of cash in advance or delivery of security satisfactory to Seller.
14. This Agreement is not assignable or transferable by Buyer, in whole or in part, except with the prior written consent of Seller.
15. Failure by either Party, at the time, to require performance by the other Party or to claim a breach of any provision of this Agreement shall not be construed as a waiver of any right arising under this Agreement, including the right to require subsequent performance or contest any subsequent breach.
16. In addition to the Conditions of Sale set forth herein, any Special Conditions of Sale set forth in the current price list for the Product or attached hereto shall apply and are incorporated by reference herein.
17. If any term or provision of this Agreement shall be found to be invalid, illegal or unenforceable, this Agreement shall remain in full force and effect and such term or provision shall be deemed stricken.
18. This Agreement is to be construed and the respective rights of Buyer and Seller are to be determined according to the laws of the State of Connecticut, U.S.A, without regard to choice of law or conflicts principles of any jurisdiction, including Connecticut, and the courts of Connecticut shall have exclusive jurisdiction over any disputes or issues arising under this Agreement. The United Nations Convention on Contracts for the International Sales of Goods shall not govern this Agreement or the performance thereof or any aspect of any dispute arising therefrom.
19. This Agreement contains all of the terms and conditions with respect to the purchase and sale of the Products sold hereunder. These terms and conditions supersede any of previous date and no modification thereof shall be binding on Seller unless separately contracted in writing and agreed to by a duly authorized representative of Seller. No modification shall be effected by the acknowledgement or acceptance of purchase order forms stipulating different conditions. Unless Buyer shall notify Seller in writing to the contrary as soon as practicable after receipt of this Agreement by Buyer, acceptance of the terms and conditions hereof by Buyer shall be indicated and, in the absence of such notification, Buyer's acceptance of the Product shall be equivalent to Buyer's assent to the terms and conditions hereof, Seller shall have the right to amend, modify, or change this Agreement in case of legislation, government regulation, or changes in circumstances beyond the control of Seller that might affect materially the relationship between Seller and Buyer.