

## TERMS AND CONDITIONS OF SALE

Potsdam Specialty Paper, Inc.  
547A Sissonville Road, Potsdam, NY 13676, USA

**1. Parties.** Potsdam Specialty Paper, Inc. (or PSPI) shall be referred to as "Seller" and the person or company purchasing as indicated on the quote, acknowledgement or invoice will be referred to as "Buyer".

**2. Price Adjustments.** The prices stated herein do not include any sales, use or other taxes unless so stated specifically. Such taxes will be added to invoice prices in those instances in which Seller is required to collect them from Buyer; provided, however, that if seller does not collect any such taxes and is later asked by or required to pay such by any taxing authority, Buyer will make such payment to Seller or, if requested by Seller, directly to such taxing authority. At Seller's option, prices may be adjusted to reflect any increase in the costs of Seller resulting from state, federal or local legislation, or any change in the rate charge or classification of any carrier. Seller further reserves the right to increase the prices stated herein at any time prior to the date of shipment; provided, however, that Seller shall give Buyer not less than 15 days advance notice of any such increase. Buyer shall thereupon have the opportunity to request shipment of any products which are being held in inventory for the Buyer, such shipment to be made prior to the effective date of the price increase.

**3. Payment, Title and Risk; Shipment.** Unless otherwise specified by Seller, all prices are F.O.B. Seller's factory or warehouse from which shipment is made, and payment will be cash in advance or net/cash 30 days from date of invoice. Invoices unpaid and past due will be subject to a service charge on the unpaid balance at an interest rate equal to the lesser of eighteen (18%) percent per annum or the maximum allowable interest rate under applicable law and Buyer shall be responsible and liable for all expenses incurred by Seller in collection including reasonable attorney's fees.

All delivery dates are approximate and Seller shall not be responsible for any damages of any kind resulting from any delay. Regardless of the manner of shipment, title to any products described on the front hereof and risk of loss or damage thereto shall pass to the Buyer upon tender to the carrier at the factory or warehouse of the Seller, except in those instances in which delivery is made by Seller's vehicles. Upon request of Buyer, and if Seller so agrees, Seller may manufacture the products described on the transmitted Order Acknowledgment and hold such products in inventory for delivery to Buyer upon Buyer's instructions. All such goods shall be identified hereto upon manufacture. Notwithstanding the foregoing, no deferral of shipment at Buyer's request beyond the respective date indicated will be made except on terms that will indemnify Seller against all loss and additional expense, including, but not limited to, demurrage, handling, storage and insurance charges.

**4. Warranty and Limitations of Liability.** Seller warrants its products to be free from defects in material and workmanship, under normal and proper use in accordance with instructions of Seller, for a period of one year from the date of delivery to Buyer. Seller's liability under such warranty or in connection with any other claim relating to the products shall be limited to the repair, or at Seller's option, the replacement or refund of the purchase price, or of any products or parts or components thereof which are returned to Seller freight prepaid and which are defective in material or workmanship. Products or parts are components thereof which are repaired or replaced by Seller will be returned to Buyer freight collect. This warranty is not intended to cover consumer products, as defined in the Magnuson-Mass Warranty-Federal Trade Commission Improvement Act, 15 U.S.C. §§ 2301-12, which are purchased by Buyer for purposes other than resale. If Buyer is not intending to resell the products, and if the products are consumer products as defined by the Magnuson-Mass Act, the foregoing warranty, but not the limitations of Seller's liability, shall be null and void. EXCEPT AS EXPRESSLY STATED ABOVE, SELLER MAKES NO WARRANTY, EXPRESS OR IMPLIED, WHETHER OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR USE OR OTHERWISE ON THE PRODUCTS OR ON ANY PARTS OR LABOR FURNISHED DURING THE SALE, DELIVERY OR SERVICING OF THE PRODUCTS. IN NO EVENT SHALL SELLER BE LIABLE TO BUYER OR TO ANY PERSON PURCHASING OR ACQUIRING ANY PRODUCTS FROM BUYER FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF, OR AS A RESULT OF, THE SALE, DELIVERY, SERVICING, USE OR LOSS OF USE OF THE PRODUCTS OR ANY PART THEREOF, OR FOR ANY CHARGES OR EXPENSES OF ANY NATURE INCURRED WITHOUT SELLER'S WRITTEN CONSENT, EVEN THOUGH SELLER MAY HAVE BEEN NEGLIGENT.

**5. Claims; Commencement of Actions:** No claims for shortages will be allowed unless such shortages are reported to Seller within 10 days after delivery. No other claims against Seller will be allowed unless asserted in writing within 30 days after delivery or, in the case of an alleged breach of warranty, within 30 days after the date within the warranty period on which the defect is or should have been discovered by the Buyer. Any lawsuit or other action based upon breach of this contract or upon any other claim arising out of this sale (other than an action by Seller for the purchase price) must be commenced within one year from the date of the tender of delivery by Seller or, in the case of a cause of action based upon an alleged breach of warranty, within one year from the date within the warranty period on which the defect is or should have been discovered by Buyer.

**6. Contingencies.** Seller shall not be liable for any default or delay in performance if caused, directly or indirectly, by acts of God; war; force of arms; fire; the elements; riot; labor disputes; picketing or other labor controversies; sabotage; civil commotion; accidents; any governmental action, prohibition or regulation; delay in transportation facilities; shortage or breakdown of or inability to obtain or non-arrival of any labor, material or equipment used in the manufacture of the products covered hereby; the failure of any party to perform any contract with Seller relative to the production of such products; or from any cause whatsoever beyond the Seller's control, whether or not such cause be similar or dissimilar to those enumerated. Seller shall promptly notify Buyer of the happening of any such contingency and of the contemplated effect thereof on the manufacture and delivery of the products.

**7. Loss to Buyer's Property; Patent, Copyright, or Trademark Infringement; Etc.** Seller shall not be liable for, and shall have no duty to provide insurance against, any damage or loss to any goods or materials of Buyer which are used by Seller in connection with this order. Where any product is manufactured from patterns, plans, drawings or specifications furnished by Buyer, Buyer shall indemnify Seller against and save harmless Seller from all loss, damage, and expense arising out of any suit or claim against Seller for infringement of any patent, copyright, or trademark because of Seller's manufacture of such product or because of the use or sale of such product by any person. At Seller's option, upon receipt from Seller of written notice of any such suit or claim, Buyer shall appear in and assume the defense of the litigation.

**8. Seller's Specifications, Technical Data, Etc.** Any specifications, drawings, plans, notes, instructions, engineering notices, or technical data of Seller furnished to Buyer shall be deemed to be incorporated herein by reference the same as if fully set forth. Seller shall at all times retain title to all such documents and Buyer shall not disclose such to any party other than Seller or any party duly authorized by Seller. Upon Seller's request or upon completion and delivery of the products or services, whichever first occurs, Buyer shall promptly return to Seller all such documents and copies thereof.

All tooling, dies, photographic materials, and other materials produced or used in connection with the manufacture of the products sold hereunder shall be and remain the property of Seller even though a separate charge is made for the production of such materials; provided, however, that if the products sold hereunder are photographic materials, Seller's rights as to such photographic materials shall only extend to those photographic materials produced prior to the final product.

**9. Buyer's Obligations; Rights of Seller.** If Seller shall at any time doubt Buyer's financial responsibility, Seller may decline to make shipments hereunder or to hold products in inventory for Buyer except upon receipt of cash payment in advance or security or other proof of responsibility satisfactory to Seller. If Buyer fails in any way to fulfill the terms and conditions of this agreement, Seller may defer further shipments until such default is corrected. Remedies provided herein shall be in addition to, and not in lieu of, other remedies.

**10. Cancellations.** After acceptance by Seller, orders shall not be subject to cancellation except with Seller's consent and upon terms that will indemnify Seller against all direct, incidental and consequential loss or damage.

**11. Limitation on Assignment.** Neither party may assign any of its rights hereunder without prior written consent of the other except that Seller shall have the right to assign any corporation into which it shall be merged, with which it shall be consolidated, or by which it, or all or substantially all of its assets, shall be acquired.

**12. Export.** If the products are to be exported, the order is subject to Seller's ability to obtain export licenses and other necessary papers within a reasonable period. Buyer will furnish all Consular and Custom declarations and will accept and bear all responsibility for penalties resulting from errors or omissions thereon.

**13. Entire Agreement.** Seller's "Terms of Sale", as published from time to time by Seller and as in effect on the date Buyer places its order, are specifically incorporated herein by reference. In the event of any inconsistency between the terms and conditions of this document and those set forth in such "Terms of Sale", the latter shall govern to the extent of the inconsistency. If the products covered hereby are being sold pursuant to a sales contract or a licensing, distributorship, or other agreement between Buyer and Seller, the terms and conditions of this document are intended to be in addition to, and not in lieu of, the terms and conditions set forth in such contract or agreement. In the event of any inconsistency between the terms and conditions and the sales contract or licensing, distributorship, or other such agreement, the sales contract or licensing, distributorship, or other such agreement shall govern to the extent of the inconsistency. This document together with Seller's "Terms of Sale" as in effect on the date Buyer places its order, contains the entire Agreement between Seller and Buyer and constitutes the final, complete and exclusive expression of the terms of the Agreement, all prior or contemporaneous written or oral agreements or negotiations with respect to such terms as are included herein or are the subject matter hereof being merged herein. By way of illustration and not limitation, Buyer's order shall be deemed to incorporate, without exception, all the terms and conditions of this document and of Seller's "Terms of Sale" as in effect on the date Buyer places its order, notwithstanding any order form of Buyer containing additional or contrary terms or conditions, unless Buyer shall have expressly advised Seller to the contrary in writing apart from the printed provisions of such order form, and no acknowledgment by Seller of, or reference by Seller to, or performance by Seller under an order of Buyer shall be deemed to be an acceptance by Seller of any such additional or contrary printed terms or conditions. In the event of a written request by Buyer for additional or contrary terms or conditions, then such modifications may only be made in these terms and conditions by a written instrument signed by one of the Seller's officers.

**14. Severability.** In the event that any provisions hereof shall violate any applicable statute, ordinance, or rule of law, such provisions shall be ineffective to the extent of such violation without invalidating any other provision hereof.

**15. Governing Law.** This document and the sale of any products hereunder shall be governed by and construed in accordance with the laws of the State of Delaware. Whenever there is a conflict of laws, the laws of the State of New York shall prevail.

**16. Quotations.** Any drawings, specifications, or other data attached to any Quotation furnished by Seller shall be deemed to be a part thereof. Quotations furnished by Seller are not intended as and shall not be construed as constituting an offer to Buyer. Any quotation of Seller is subject to, and shall not become binding upon Seller until (i) actual receipt by Seller of Buyer's written order based on all the terms and conditions stated herein, without qualification, within 30 days after the date hereof, and (ii) Seller's written acceptance of such order.