

ZOTEFOAMS INC.
TERMS AND CONDITIONS FOR THE SALE OF GOODS AND SERVICES

(Governed by the law of the State of Delaware, USA)

1. INTERPRETATION

1.1 Definitions:

Business Day: any day other than a Saturday, Sunday, or U.S. federal public holiday.

Conditions: these terms and conditions of sale.

Contract: the contract between Zotefoams and the Customer for the sale of Products and/or Services, formed under clause 2.

Customer: the person or entity that purchases Products and/or Services from Zotefoams.

Customer Indemnitees: Customer and its officers, directors, and employees.

Deliverables: any documents, materials, or items developed by Zotefoams as part of the Services and identified as deliverables in the Order Confirmation.

Intellectual Property Rights: all patents, copyrights, trademarks, design rights, database rights, trade secrets, and all other intellectual property rights, whether registered or unregistered, anywhere in the world.

Losses: any claims, demands, actions, suits, proceedings, losses, liabilities, damages, judgments, settlements, penalties, fines, costs, and expenses, including reasonable lawyers' fees and costs of investigation and defense.

Order: the Customer's order for Products and/or Services.

Order Confirmation: Zotefoams' written acceptance or confirmation of an Order.

Price: the price for the Products and/or the charges for the Services set out in the Order Confirmation or, if none is stated, Zotefoams' price list in force at the date of the Order Confirmation, in each case exclusive of Taxes and, unless stated otherwise, exclusive of carriage.

Products: the goods to be sold by Zotefoams under the Contract, being "goods" under Article 2 of the Delaware Uniform Commercial Code (the "UCC").

Services: the services to be provided by Zotefoams under the Contract.

Specification: Zotefoams' published specification or data sheet for the Products current at the date of the Order Confirmation, or any specification expressly agreed by Zotefoams in writing.

Taxes: all applicable sales, use, excise, and similar transaction taxes, duties, and charges, but excluding taxes on a party's net income.

Zotefoams: Zotefoams Inc., a Delaware corporation with its principal place of business at 55 Precision Drive, Walton, Kentucky 41005, USA.

Zotefoams Indemnitees: Zotefoams, its affiliates, and each of their respective officers, directors, employees, agents, representatives, successors, and assigns

1.2 In these Conditions: a reference to a statute includes any amendment or replacement of it; "writing" includes email; "including" means "including without limitation"; and headings do not affect interpretation.

2. BASIS OF CONTRACT

2.1 The Order is an offer by the Customer to purchase Products and/or Services on these Conditions. A Contract is formed only when Zotefoams issues an Order Confirmation or delivers the Products or performs the Services, whichever occurs first. Quotations are invitations only, do not constitute offers, and are valid for 30 days unless stated otherwise or withdrawn earlier.

2.2 These Conditions govern the Contract and **expressly exclude and reject** any different or additional terms in the Customer's Order, purchase conditions, or other document (except for Order Confirmations provided by Zotefoams), or implied by trade or course of dealing, even if Zotefoams delivers or accepts payment without further objection. Zotefoams' acceptance of any Order is expressly conditional on the Customer's assent to these Conditions (UCC § 2-207).

2.3 These Conditions apply to both Products and Services except where stated otherwise. If the Order Confirmation and these Conditions conflict, the Order Confirmation prevails to the extent of the conflict. The Customer may not

cancel or reschedule a confirmed Order without Zotefoams' written consent, and Zotefoams may condition consent on payment of costs incurred and a reasonable cancellation charge.

3. PRODUCTS AND LIMITED WARRANTY

- 3.1 Zotefoams warrants to the Customer that, for a period of 12 months from delivery, the Products will conform in all material respects with the Specification and be free from material defects in materials and workmanship, and that the Services will be performed with reasonable skill and care. Zotefoams may make changes to the Specification that do not materially affect the quality or performance of the Products, or that are required by law.
- 3.2 This warranty does not apply to any defect arising from: fair wear and tear; willful damage, misuse, or abnormal storage or working conditions; failure to follow Zotefoams' instructions or data sheets; alteration, processing, or repair not carried out by Zotefoams; or the Customer's designs, specifications, or materials. The Customer is solely responsible for determining the suitability of the Products for the Customer's application, product, or process, and for its own testing and qualification.
- 3.3 If the Customer gives written notice of a warranty claim within the warranty period (and, for apparent defects or short delivery, within 14 days of delivery), and Zotefoams is given a reasonable opportunity to examine the Products, Zotefoams will, at its option, repair or replace the non-conforming Products or re-perform the Services, or refund the Price of the non-conforming Products or Services. **ZOTEFOAMS' SOLE RESPONSIBILITY IS AS SET FORTH IN THIS WARRANTY, THIS IS THE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR ANY NON-CONFORMITY, DEFECT OR BREACH OF THE LIMITED WARRANTY PROVIDED IN THIS SECTION 3, AND, TO THE FULLEST EXTENT PERMITTED BY LAW, ZOTEFOAMS WILL NOT BE RESPONSIBLE FOR INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES.**
- 3.4 **EXCEPT AS EXPRESSLY STATED IN CLAUSE 3.1, ZOTEFOAMS MAKES NO OTHER WARRANTY OF ANY KIND, AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT, AND ANY WARRANTY ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, ARE DISCLAIMED TO THE FULLEST EXTENT PERMITTED BY LAW (UCC §§ 2-314, 2-315, 2-316). EACH PROVISION OF THESE CONDITIONS THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS TO ALLOCATE THE RISKS OF THESE CONDITIONS BETWEEN THE PARTIES. THIS ALLOCATION IS REFLECTED IN THE PRICING OFFERED BY ZOTEFOAMS TO CUSTOMER AND IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THESE CONDITIONS. THE LIMITATIONS IN THIS SECTION 3 WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY IN THESE CONDITIONS AND NO MATTER THE CAUSE OF THE LOSS OR DAMAGE OR OTHER CONSEQUENCE, EVEN IF DUE TO ZOTEFOAMS' PERFORMANCE OR NON-PERFORMANCE UNDER THESE CONDITIONS, NEGLIGENCE, ANY THEORY OF STRICT LIABILITY, VIOLATION OF CONSUMER PROTECTION LAW OR OTHER THEORY, OR FAULT OF ZOTEFOAMS' OR ITS EMPLOYEES OR AGENTS OR SUBCONTRACTORS.**

4. DELIVERY

- 4.1 Unless otherwise stated in the Order Confirmation, Zotefoams will deliver the Products F.O.B. Origin (Zotefoams' facility) (UCC § 2-319). Risk of loss passes to the Customer on delivery of the Products to the carrier, and carriage and insurance are Customer's responsibility. Delivery dates are estimates only, time is not of the essence, and Zotefoams is not liable for any delay in delivery. Zotefoams may deliver in installments, each invoiced and payable separately; delay or defect in one installment does not entitle the Customer to cancel any other installment.
- 4.2 If the Customer fails to take or accept delivery, (i) delivery is nonetheless deemed completed and Customer bears all risk as provided under Section 4.1, (ii) Zotefoams may store the Products at the Customer's cost, and (iii) after 30 days, Zotefoams may resell them and charge the Customer any shortfall. Claims for shortage or damage in transit visible on delivery must be noted with the carrier and notified to Zotefoams within 14 days of delivery.

5. TITLE AND SECURITY INTEREST

- 5.1 Title to the Products passes to the Customer on the later of accepted delivery and Zotefoams' receipt of payment in full for the Products. Until title passes, the Customer will hold the Products as bailee, store them so they remain identifiable as Zotefoams' property, and not encumber them. As security for payment of all sums owed, the Customer grants Zotefoams a purchase-money security interest in the Products and their proceeds, and authorizes Zotefoams to file such financing statements under Article 9 of the UCC as Zotefoams considers necessary to perfect

it. Delivery that is deemed completed under clause 4.2 does not constitute acceptance of the Products by the Customer for the purposes of this clause 5.1, and title does not pass on that deemed delivery. The Customer will give Zotefoams its exact legal name, entity type, and state of organization on request, and will notify Zotefoams at least 30 days before any change to any of them.

6. PRICE AND PAYMENT

- 6.1 The Price is exclusive of Taxes, which the Customer will pay in addition to the Price (or provide a valid exemption certificate). Zotefoams may increase the Price on written notice before delivery to reflect any increase in the cost of raw materials, energy, labor, carriage, duties, or tariffs, or any change in delivery dates, quantities, or specifications requested by the Customer.
- 6.2 Unless otherwise stated in the Order Confirmation, Zotefoams will invoice on or after dispatch (for Products) or performance (for Services), and the Customer will pay each invoice in full, in cleared funds, without set-off, counterclaim, deduction, or withholding, within 30 days of the invoice date. Time for payment is of the essence. Overdue sums bear interest at the lesser of 1.5% per month or the maximum rate permitted by law, and the Customer will reimburse Zotefoams' reasonable costs of collection (including attorneys' fees).
- 6.3 If the Customer fails to pay when due, or Zotefoams reasonably doubts the Customer's creditworthiness, Zotefoams may require payment in advance or adequate assurance of payment (UCC § 2-609), suspend further delivery or performance, and/or revoke any credit terms, in each case without liability.

7. SERVICES

- 7.1 Zotefoams, or its subcontractors, may perform certain Services as set forth in an Order Confirmation. The Customer will cooperate with Zotefoams, provide access, information, and materials reasonably required, and obtain any consents needed for the Services. Zotefoams is not liable for any delay or non-performance caused by the Customer's failure to do so, and any agreed dates, including those in the applicable Order Confirmation, will be extended accordingly.

8. INTELLECTUAL PROPERTY

- 8.1 Zotefoams and its licensors retain all Intellectual Property Rights in the Products, the Services, the Deliverables, and all designs, processes, know-how, and materials used in or arising from them. Zotefoams grants the Customer a non-exclusive, non-sublicensable, non-transferable license to use the Deliverables solely for the Customer's own internal business purposes in connection with the Products or Services for which they are supplied. That license ends on termination of the Contract for the Customer's material breach. No trademark license is granted, and the Customer will not remove or alter any markings on the Products. Where Products are made to the Customer's designs or specifications, the Customer warrants that their manufacture and sale will not infringe any third party's rights and will indemnify Zotefoams against any claim that they do.

9. LIMITATION OF LIABILITY, INDEMNITY, INSURANCE

- 9.1 **TO THE FULLEST EXTENT PERMITTED BY LAW: (A) ZOTEFOAMS' TOTAL AGGREGATE LIABILITY UNDER OR IN CONNECTION WITH THE CONTRACT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, WILL NOT EXCEED THE PRICE PAID FOR THE PRODUCTS OR SERVICES GIVING RISE TO THE CLAIM; AND (B) ZOTEFOAMS WILL NOT BE LIABLE FOR ANY LOSS OF PROFIT, REVENUE, BUSINESS, PRODUCTION, DATA, OR GOODWILL, COST OF SUBSTITUTE GOODS, OR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES, EVEN IF ADVISED OF THEIR POSSIBILITY AND EVEN IF A LIMITED REMEDY FAILS OF ITS ESSENTIAL PURPOSE (UCC § 2-719).**
- 9.2 Nothing in these Conditions limits liability for death or bodily injury caused by negligence, fraud, gross negligence or willful misconduct, or any liability that cannot be limited by law. Any action by the Customer arising out of the Contract must be commenced within one (1) year after the cause of action accrues (UCC § 2-725).
- 9.3 The Customer shall defend, indemnify, and hold harmless the Zotefoams Indemnitees from and against any and all Losses including without limitation claims alleging bodily injury, death, property damage, environmental harm, product liability, failure to warn, breach of warranty, or infringement or misappropriation of intellectual property rights, arising out of or relating to any third-party claim to the extent resulting from: (i) the Customer's, its affiliates', or its or their customers', distributors' or other downstream parties' possession, storage, handling, transportation, installation, integration, assembly, processing, modification, maintenance, use, misuse, or disposal

of any Products; (ii) any use of the Products in combination with any product, component, equipment, material, or process where such Losses would not arise but for such combination; (iii) any alteration, modification, repair, repackaging, or other change to the Products after delivery, including the removal or alteration of warnings, instructions, traceability information, safety features, or packaging; (iv) the Customer's specifications, designs, instructions, formulations, materials, trademarks, labels, packaging, marketing claims, or other items furnished, required, or approved by the Customer; (v) the Customer's, its affiliates', or its or their customers', distributors' or other downstream parties' failure to comply with applicable laws, regulations, industry requirements, safety standards, import or export requirements, or Zotefoams' written instructions, specifications, warnings, storage requirements, or use limitations; (vi) any recall, withdrawal, field correction, safety notice, retrofit, or similar action initiated by the Customer or required as a result of circumstances described in this section, (vii) the Customer's negligence, recklessness, willful misconduct, or breach of this Contract.

- 9.4 Zotefoams shall defend the Customer Indemnitees from a third-party claim alleging that an unmodified Product, when used solely as authorized, directly infringes a third party's intellectual property right, and Zotefoams shall indemnify the Customer for final, nonappealable judgments and settlements approved in writing by Zotefoams arising from that claim. Zotefoams shall have no obligation under the preceding paragraph to the extent a claim arises from: (i) any modification of a Product not made by Zotefoams; (ii) any combination of a Product with products, components, equipment, materials, or processes not supplied by Zotefoams; (iii) any use of a Product outside its specifications, intended use, or applicable law; (iv) Customer-provided specifications, designs, instructions, materials, labels, packaging, trademarks, or content; any other Losses for which the Customer is required to indemnify a Zotefoams Indemnitee under this Contract. If a Product becomes, or in Zotefoams' reasonable judgment is likely to become, subject to a claim covered by Zotefoams' indemnity obligation, Zotefoams may, at its option and expense: (a) procure for the Customer the right to continue using the affected Product; (b) replace or modify the affected Product so that it is noninfringing without materially reducing its functionality; or (c) accept return of the affected Product and refund the purchase price paid to Zotefoams for that Product, less reasonable depreciation for the Customer's use. This section states Zotefoams' sole and exclusive obligation, and the Customer's sole and exclusive remedy, for actual or alleged infringement or misappropriation of intellectual property rights.
- 9.5 A party seeking indemnification under this Contract shall: (i) promptly notify the indemnifying party in writing of the applicable claim (provided that a delay in notice relieves the indemnifying party of its obligations only to the extent the delay materially prejudices its defense of the claim; (ii) give the indemnifying party sole control of the defense and settlement of the claim, using counsel reasonably acceptable to the indemnified party; (iii) give reasonable cooperation, information, and assistance in the defense of the claim at the indemnifying party's expense. The indemnifying party may not settle any claim in a manner that admits fault by, imposes liability on, requires payment by, or restricts the operations of the indemnified party without the indemnified party's prior written consent, not to be unreasonably withheld, conditioned, or delayed. The indemnified party may participate in the defense with counsel of its choosing at its own expense.
- 9.6 The Customer shall, at its expense, maintain commercially reasonable insurance coverage with reputable insurers sufficient to support its obligations under this Contract and the nature of the Customer's business and downstream uses of the Products. Such coverage shall include commercial general liability insurance, including products and completed operations coverage, and excess or umbrella liability insurance, in each case with limits appropriate for the Products and their intended applications. The Customer will provide certificates on request. Insurance does not limit the Customer's liability or indemnity obligations.

10. CONFIDENTIALITY

- 10.1 Each party will keep the other's confidential information protected and confidential, use such confidential information only to perform the Contract, and disclose it only to personnel who need it (and who are bound by like written obligations) or as required by law. These obligations do not apply to information that is public, already known or disclosed by a third party without breach, or independently developed without breach.

11. COMPLIANCE AND EXPORT CONTROL

- 11.1 Each party will comply with all applicable laws, including anti-bribery and anti-corruption laws (including the U.S. Foreign Corrupt Practices Act). The Customer will comply with all applicable export control, sanctions, and customs laws (including the U.S. Export Administration Regulations and OFAC sanctions), will not sell, export, or re-export

the Products, directly or indirectly, to any prohibited destination, person, or use, and will obtain any required licenses.

12. TERMINATION AND SUSPENSION

- 12.1 Without limiting its other rights, Zotefoams may terminate or suspend the Contract (in whole or part) immediately on written notice if the Customer: (a) commits a material breach and, where remediable, fails to cure it within 14 days of notice; (b) fails to pay any sum when due; or (c) becomes insolvent, is unable to pay its debts as they fall due, becomes subject to any bankruptcy or receivership proceeding, or makes an assignment for the benefit of creditors. On termination, all sums owed by the Customer become immediately due. Termination does not affect accrued rights, and clauses intended to survive (including clauses 3.3, 3.4, 5, 6, 8, 9, 10, 11, and 13) continue in force.

13. GENERAL

- 13.1 **Governing law and jurisdiction.** The Contract is governed by the law of the State of Delaware (excluding its conflict-of-laws rules and the UN Convention on Contracts for the International Sale of Goods). The parties submit to the exclusive jurisdiction of the state and federal courts located in New Castle County, Delaware.
- 13.2 **Jury waiver. EACH PARTY WAIVES ANY RIGHT TO A JURY TRIAL IN ANY PROCEEDING ARISING OUT OF THE CONTRACT.**
- 13.3 **Force majeure.** Zotefoams is not liable for any delay or failure to perform caused by events beyond its reasonable control, including acts of God, fire, flood, epidemic, war, terrorism, labor disputes, shortage of materials or energy, transport disruption, governmental action, or failure of suppliers. Zotefoams may allocate available supply among its customers as it considers fair. If such an event continues for 60 days, either party may terminate the affected supply without liability.
- 13.4 **Assignment.** The Customer may not assign any of its rights or obligations without Zotefoams' prior written consent; Zotefoams may assign or subcontract freely.
- 13.5 **Notices.** Notices must be in writing and delivered by hand, nationally recognized overnight courier, certified mail, or email (with confirmation), to the address in the Order Confirmation or, for Zotefoams, to Zotefoams Inc., 55 Precision Drive, Walton, Kentucky 41005, USA. Email is not valid for service of legal process.
- 13.6 **Other terms.** No variation or amendment is effective unless in writing and signed by both parties. A waiver is effective only if in writing and does not waive any later breach. If any provision is unenforceable it will be modified or severed and the rest of this Contract will continue. The Contract is the entire agreement between the parties and supersedes prior understandings of the subject matter herein. The Customer acknowledges it has not relied on any statement not set out in the Contract. The parties are independent contractors, not partners or agents. No one other than the parties has any right to enforce the Contract. Zotefoams' rights and remedies are cumulative, and Zotefoams may seek injunctive relief for breach. The Contract may be signed in counterparts, including electronically.