

INVOICE TERMS AND CONDITIONS

THIS INVOICE IS ACCEPTED ON THE FOLLOWING TERMS AND CONDITIONS:

Modification, Merger, and Severability: Except as in conjunction with the Credit Application and the Credit Application Terms and Conditions (the “**Credit Application**”), which is enforceable separately or concurrently herewith, this invoice represents a fully enforceable written agreement between the purchaser (“**Buyer**”) and Ostara (“**Seller**”). These Invoice Terms and Conditions (the “**Terms and Conditions**”) may be modified only by a subsequent writing signed by authorized agents of the parties (no person or agent on behalf of Seller has any authority to make recommendations contrary to those on the label of the goods sold). If any provision of these Terms and Conditions is determined to be invalid, illegal, or unenforceable to any extent, the remaining provisions of these terms and conditions will remain in effect. These Terms and Conditions, together with the Credit Application (collectively, the “**Contract**”) contains all of the representations and agreements between Buyer or user and Seller, except those contained in any FIFRA or non-FIFRA labels on the goods. This Contract shall not be altered or amended, or deemed to be altered or amended, by any representation or statement of an agent or employee of Seller, nor by usage of trade, course of dealing, or course of performance.

Acceptance of Terms and Conditions: This Contract is subject to acceptance only on the terms and conditions stated herein. Any additional or different terms and conditions proposed by Buyer (including those contained in any purchase order) are hereby rejected and/or superseded, and shall be of no force or effect unless expressly assented to in writing by Seller. There shall be no agreement except on the terms and conditions provided in the Contract. In the event of a conflict between the terms of the Credit Application and these Terms and Conditions, the Terms and Conditions shall control. Buyer’s acceptance of this Contract can be indicated verbally; by tender of delivery of goods to Buyer, a carrier, or Buyer’s agent; by taking possession of the goods; or by any other method recognized by Missouri law. If this Contract is construed to be a confirmation of an existing verbal contract, Seller and Buyer agree the terms and conditions of this writing are the exclusive terms and conditions of the sale.

Payment Terms: Seller’s prices and terms in effect at time of shipment shall govern, unless otherwise agreed. Payments shall be in US dollars, net thirty (30) days from the date of this Contract, or as the parties otherwise agree in writing. Except as otherwise agreed in writing, Seller does not agree to sell or supply to Buyer any certain quantity or quality of goods, at any time, and Buyer agrees that this Contract, nor any series of contracts or sales and purchase arrangements, creates a course of dealing or course of performance, or expectation by Buyer to receive an offer for sale of goods by Seller.

Taxes and Additional Charges: In addition to the purchase price, except where otherwise agreed and where the law provides otherwise, Buyer shall pay to Seller all governmental taxes, excise tax, and/or other charges (except taxes on or measured by net income of Seller) that Seller may be required to pay with respect to the sale or transportation of any goods tendered for delivery hereunder.

Tender and Acceptance: Seller’s tender of delivery of goods hereunder shall be an unqualified acceptance and waiver of any and all claims with respect to the goods by Buyer, unless Buyer gives Seller written notice of a claim within thirty (30) days of tender. Unless otherwise agreed in writing by Seller, Buyer assumes all risks and liability for transportation, arrangement for disposal, and disposal of the goods and for the results obtained by the use of goods delivered, whether or not used in combination with similar or dissimilar products. Goods will be shipped only on instruction from Buyer. If Buyer has two or more Contracts in effect at the same time, shipping instructions will be treated as relating to the earlier Contract.

Allocation of Payment and Security: Seller may allocate the purchase price to Buyer’s account as Seller deems appropriate. As collateral security for the prompt and complete payment and performance when due of all the obligations of this Contract, and to induce Seller to enter into this Contract, Buyer hereby assigns, grants, and pledges to Seller a first priority security interest in and to all Buyer’s rights, title and interest in and to the goods and proceeds therefrom as collateral.

Transfer of Ownership: Title and risk of ownership shall pass to Buyer at shipping point.

LIMITATION OF REMEDIES; LIMITATION OF LIABILITY: IN NO EVENT WILL SELLER BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES BASED ON BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY, TORT, OR ANY OTHER LEGAL OR EQUITABLE THEORY ARISING OUT OF THE USE OR MISUSE, OR FAILURE TO FOLLOW WARNINGS OR INSTRUCTIONS FOR USE, OF THE GOODS SOLD BY SELLER TO BUYER. DAMAGES FOR WHICH SELLER WILL NOT BE RESPONSIBLE INCLUDE BUT ARE NOT LIMITED TO: LOSS OF PROFITS; LOSS OF SAVINGS OR REVENUE; LOSS OF USE OF THE PRODUCT OR ANY ASSOCIATED EQUIPMENT, FACILITIES, OR SERVICES; DOWNTIME; THE CLAIMS OF THIRD PARTIES, INCLUDING CUSTOMERS; LOSS OF OR DAMAGE TO PRODUCTS (INCLUDING, BUT NOT LIMITED TO, DAMAGE TO CROPS); AND INJURY TO REAL OR PERSONAL PROPERTY. WITHOUT LIMITING THE FOREGOING, THE MAXIMUM CUMULATIVE LIABILITY OF SELLER AND ANY AND ALL OF ITS OWNERS, OFFICERS, DIRECTORS, AGENTS, AFFILIATES, OR EMPLOYEES REGARDING ANY AND ALL CLAIMS, ACTIONS, DEMANDS, LIENS, LOSSES, DAMAGES, JUDGMENTS, PENALTIES, SETTLEMENTS, COSTS AND EXPENSES AND LIABILITIES OF EVERY KIND AND CHARACTER WHATSOEVER ARISING OUT OF OR IN CONNECTION WITH THIS SALE, OR THE GOODS SOLD PURSUANT TO THIS CONTRACT, SHALL IN NO EVENT EXCEED THE AMOUNT PAID TO SELLER PURSUANT TO THIS CONTRACT.

ORAL AGREEMENTS: ORAL OR UNEXECUTED AGREEMENTS OR COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT INCLUDING PROMISES TO EXTEND OR RENEW SUCH DEBT ARE NOT ENFORCEABLE, REGARDLESS OF THE LEGAL THEORY UPON WHICH IT IS BASED THAT IS IN ANY WAY RELATED TO THIS AGREEMENT. TO PROTECT YOU (BORROWER(S)) AND US (CREDITOR) FROM MISUNDERSTANDING OR DISAPPOINTMENT, ANY AGREEMENTS WE REACH COVERING SUCH MATTERS ARE CONTAINED IN THIS WRITING, WHICH IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN US, EXCEPT AS WE MAY LATER AGREE IN WRITING TO MODIFY IT.

Disclaimer of Express and Implied Warranties: Seller warrants only that the goods are as described in this Contract. The goods are furnished "as is" by Seller. Except as specifically agreed in writing, Seller makes no warranties, guarantees, or representations of any kind to Buyer or user, or to any third party, either express or implied, orally or in writing, or by usage of trade, statutory or otherwise, with regard to the goods sold, including, but not limited to warranties of merchantability, fitness for a particular purpose, or use or eligibility of the goods for any particular trade usage.

Actions, Governing Law, and Venue: This Contract is entered into in the State of Missouri. Any action against Seller arising out of this Contract or by reason of any state or federal statutory provision relating thereto, shall be commenced within one (1) year from the date such cause of action arises, otherwise the same shall be barred notwithstanding any statutory period of limitations to the contrary. This Contract shall be governed by, and interpreted in accordance with, the laws of the State of Missouri. The parties consent to the exclusive venue of the State courts of St. Louis County, Missouri or the federal courts of the Eastern District of Missouri. This Contract shall not be governed by the provisions of the United Nations Convention on Contracts for the International Sale of Goods or the United Nations Convention on the Limitation Period in the International Sale of Goods.

Attorney Fees and Costs: In any litigation, arbitration, action or proceeding arising out of this Contract, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs to resolve the dispute and to enforce the final judgment.

Indemnity: Buyer agrees to indemnify, defend, and hold harmless Seller from any and all claims, damages, costs, and expenses (including reasonable attorneys' fees) arising out of injury to persons or property (including death or damage to real or personal property) in connection with Buyer's use or misuse or re-sale of the goods, or for Buyer's breach of this Contract, or any part thereof.

Contingencies: Should Seller's performance of its obligations pursuant to this Contract be prevented or delayed by an act of God, war, civil insurrection, fire, weather, strikes, unavailability of transportation, or by any other cause beyond Seller's control, Seller's performance, to the extent it is prevented or delayed, shall be excused.