



Silver Fern Chemical, Inc.
2226 Queen Anne Ave N.
Seattle, WA 98109, USA
Ph (866) 282-3384
Fax (206) 282-0105
www.silverfernchemical.com

STANDARD TERMS AND CONDITIONS OF SALE

1. These Standard Terms and Conditions of Sale (along with any Commercial Credit Agreement or Cash Sale Customer Agreement as applicable) constitute the entire and exclusive contract (“Terms”) between Silver Fern Chemical, Inc. and/or its affiliates, subsidiaries, successors and assignees (“Silver Fern”) and Customer. These Terms supersede and replace all other terms, understandings, agreements and representations other than stated herein and applies to every sale whether or not the Terms are enclosed with the goods. **Without limitation, the Terms take precedence over and supersede all terms, conditions and other language set forth by Customer’s existing or future purchase order(s) or any other Customer prepared or provided contract-related document.**
2. The price payable for goods shall be as quoted in writing by Silver Fern. In addition to the price, and unless otherwise agreed in writing by Silver Fern, Customer shall pay all taxes, excises, fees or other charges relating to the production, sale, use and/or transportation of the goods. If Silver Fern agrees in writing to shipping responsibility to a particular destination, then title and all risk of loss for the goods transfers to Customer when the vehicle first enters Customer’s real property. If Silver Fern agrees to FOB Shipping Point, then title and all risk of loss for the goods transfers to Customer when the goods are placed in the delivery vehicle.
3. **For all goods sold, Silver Fern warrants that as of the time of delivery the goods will conform to the Certificate of Analysis (“COA”) provided to Customer with the goods, subject to any and all COA remarks and qualifications. SILVER FERN EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES OR GUARANTEES, EITHER EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT – SILVER FERN BEARS NO RESPONSIBILITY AS TO THE HANDLING, APPLICATION, STORAGE, USE, MISUSE, DISPOSAL, RE-SELLING OR OTHER DISPOSITION OF ANY GOODS SOLD. CUSTOMER AGREES TO DEFEND, INDEMNIFY AND HOLD SILVER FERN AND ITS OWNERS, EMPLOYEES OR AGENTS FULLY HARMLESS FROM ANY CLAIMS OR LIABILITY FOR INJURY OR DAMAGES ARISING OUT OF, OR IN ANY WAY RELATING TO, THE SALE, HANDLING, APPLICATION, STORAGE, USE, MISUSE, DISPOSAL, RE-SELLING OR OTHER DISPOSITION OF ANY GOODS SOLD TO CUSTOMER. Silver Fern makes no warranty or representation that the use or sale of the goods, whether alone or in combination with other products, will not infringe the claims of any letters patent, trademarks, registered designs or other proprietary rights of any party and Customer assumes all risks and liabilities associated therewith. In no circumstance shall Silver Fern and its owners, employees or agents be liable for SPECIAL, INDIRECT, EXEMPLARY, PUNITIVE OR ANY CONSEQUENTIAL DAMAGES (including lost profits) of Customer or such claims or damages of any third party involving Silver Fern WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, STRICT LIABILITY, OR ANY OTHER LEGAL THEORY OR FORM OF ACTION. IN NO EVENT WILL THE LIABILITY OF SILVER FERN OR ITS OWNERS, EMPLOYEES OR AGENTS TO CUSTOMER EVER EXCEED THE TOTAL AMOUNT OF THE PURCHASE PRICE FOR THE APPLICABLE GOODS PURCHASED. All Customer claims relating to alleged (1) quantity, leakage or delivery errors, (2) pricing errors, and/or (3) defective, non-conforming and/or unacceptable goods shall be WAIVED by Customer unless made in detailed writing to Silver Fern within forty-five (45) days after delivery (or pickup as applicable) of the goods. Customer assumes all risks and liabilities with respect to results obtained by the use of the goods, whether used alone or in combination with other materials.**
4. Under no circumstance shall Silver Fern be liable to Customer and/or any third party for non-performance, delays or defaults in providing goods due to war, labor dispute, accident, fire, flood, government action, shortage of labor, inability of Silver Fern’s suppliers to timely furnish materials, shortage or failure of usual transportation mode, shortage of equipment, machinery breakage, or any other circumstance beyond Silver Fern’s direct control. Any delivery so delayed or suspended may be cancelled without liability to Silver Fern, but these Terms shall otherwise remain unaffected.
5. Unless otherwise expressly provided herein, all sales are final. Any returned goods which Silver Fern elects to accept in its sole discretion shall be subject to a minimum 25% restocking charge. Silver Fern will not accept returned special ordered (non-inventory) goods. All shipping charges are non-refundable. Silver Fern may cancel a sale in its sole discretion if (a) Customer is in default of its material obligations hereunder, or (b) Silver Fern has a reason to doubt the ability or willingness of Customer to pay for the goods. Unless otherwise expressly provided herein, Customer may not withdraw or cancel an order for goods without Silver Fern’s consent in writing.
6. All goods should be handled only by properly trained/experienced personnel who are familiar with all handling and use procedures and all potential associated hazards. Customer assumes sole responsibility (i) to learn and understand all hazards and risks associated with the goods, and (ii) for instructing its employees, agents, customers and any other persons who might reasonably be expected to come into contact with the goods, in all appropriate procedures and techniques for the safe and lawful handling, storage, use and disposal of the goods, and of any potential risks to person and property in any way related to the goods. Customer shall forward any Silver Fern labeling and literature (including SDS’s) regarding the goods to its employees, agents and customers. Customer assumes sole responsibility for the safe handling, storage, use and disposal of all goods in full and strict accordance with all applicable domestic and foreign laws, rules, regulations and other domestic and foreign environmental, health and safety standards (collectively “Laws.”) Further, if Customer is a reseller, then Customer agrees to fully and strictly comply (and ensure its customer’s full compliance) with all Laws related to the sale, import, export, shipping, handling, storage, use and disposal of goods purchased from Silver Fern.

7. At Silver Fern's sole discretion, jurisdiction and venue of any lawsuit relating to these Terms and/or the sale of goods may be laid in King County Superior Court, Seattle, Washington. The validity, interpretation, performance and enforcement of these Terms shall be governed by the laws of the State of Washington. These Terms are severable and the invalidity or illegality of any term shall not affect the others. **Customer expressly and knowingly WAIVES the right to a jury trial for any claims involving Silver Fern relating to its goods and/or these Terms.** The prevailing party to any lawsuit relating to these Terms and/or the sale of goods shall be entitled to recover from the other party all pre-judgment and post-judgment attorneys' fees, costs, collection agency costs/fees and expenses incurred. Silver Fern's failure to strictly enforce any term or condition herein shall not constitute a waiver of Silver Fern's right to strictly enforce such terms or conditions at any time in the future. Customer may not assign or transfer its interest in the Terms or purchase of goods without Silver Fern's prior written consent. The Terms may not be amended, modified or supplemented except in a writing signed by Silver Fern. Customer agrees that (i) all sales herein are commercial, non-consumer, sales, and (ii) all goods purchased are for lawful purposes.

8. Customer agrees that all drawings, prints, other technical material and/or pricing information which Silver Fern provides to Customer, whether prepared by Silver Fern or by third parties under contract to Silver Fern, contain data which embody trade secrets and confidential know-how of commercial value to Silver Fern or third parties under contract to Silver Fern. Accordingly, except as otherwise required by applicable law or judicial process, Customer agrees (a) to keep such information strictly confidential; (b) that it will not disclose such information to any other person, corporate division or entity; (c) that it will not use such information except in direct connection with the goods sold hereunder; and (d) that it will not sell, lease, loan or permit any other person, corporate division or entity to use such information for any purpose, without Silver Fern's prior written consent. Nothing herein shall restrict the sharing or use of information generally available to the public.