

# **AGILEX STANDARD CONDITIONS**

**1. APPLICABILITY.** These standard conditions of sale ("Conditions") are the only terms and conditions applicable to any sale by the Agilex entity named on the Order Confirmation ("Agilex") to any person or company ("Buyer") whom is deemed to have assented to these Conditions notwithstanding inconsistent or additional provisions on Buyer's Order (as defined below) or otherwise, which are expressly excluded hereunder. Differing or additional terms and conditions provided by Agilex under separate written contract, or under the provisions set forth in the Order Confirmation (as defined below), document or form, if any, to which these Conditions are attached, form one and part of the same contract ("Form"), but prevail only to the extent of any inconsistency or conflict with these Conditions.

**2. ACCEPTANCE.** All oral, written or EDI purchase orders ("Order(s)") placed by Buyer and pursuant to which Agilex supplies any goods denominated in the Form ("Goods") are subject to Agilex's confirmation either through written confirmation ("Order Confirmation") or through shipping the Goods. Any Order shall be deemed to be firm and may be modified, rescinded or cancelled, in whole or in part, only upon mutual written agreement of Agilex and Buyer.

**3. PRODUCTS DESCRIPTION AND QUANTITIES.** The description and quantities of Goods are set forth separately in the Form. Buyer may not reject or revoke acceptance of a bulk shipment the quantity of which is within 3% of the amount specified for such shipment and the price payable by Buyer for such shipment shall be appropriately adjusted to reflect any overage or underage. Information supplied with regard to the percentage content of the Goods are only to be regarded as approximate average value and Agilex shall not be liable for any variations in such content which are within the tolerances applicable to the particular Goods or not materially relevant.

**4. PRICES.** Prices are fixed on the base of prices valid on the date of invoice. Price changes communicated by Agilex to Buyer after placement of an Order and prior to shipment thereof shall be binding upon Buyer unless objected to in writing by Buyer within 7 (seven) working days from the date of such communication. Prices are net of all delivery charges including but not limited to VAT, custom duties, other taxes and cost of insurance, which shall be invoiced in addition to the price of the Goods, if not otherwise specified in the Form. Any prices appearing on Agilex's price list, booklets or offers are for general guidance only. Buyer shall pay additional transportation charges if Buyer requests Agilex to deliver the Goods earlier than the delivery window stipulated in the Order Confirmation.

**5. PAYMENT.** All payments for Goods shipped are invoiced on or immediately after shipment date and are due net 30 (thirty) days from the date of invoice, unless otherwise specified in the Form or, if contrary to applicable law, due within the minimum term permitted by law. For all payments made with a valid credit card, Buyer authorizes Agilex to charge an additional fee of three percent (3%) of the total charges for the related Order. Any amount not paid by Buyer when due will be subject to a finance charge equal to 1.5% (or such lower rate which is the highest rate as permissible by applicable law) of the amount not paid per month until such amount is paid in full. Without limiting any and all remedies available hereunder, Agilex may defer or cancel delivery of any subsequent instalments of the Goods or of any other goods adopted by Buyer from Agilex or any affiliated company thereof until all amounts due have been paid in full. Except with Agilex's consent, no set off will be permitted. At Buyer's written request, Agilex may sell Goods adopted by Buyer directly to third parties ("Sub-contractors") appointed by Buyer to manufacture consumer products. Buyer shall provide appropriate security for its Subcontractors' payment obligations if Agilex so requests. Buyer undertakes to indemnify and hold Agilex harmless from any and all claims, losses, costs and damages arising out of or caused by any Subcontractors' failure to make full and timely payment to Agilex of all amounts that such Subcontractors owe to Agilex.

**6. DELIVERY.** Incoterms 2020 or the then prevailing Incoterms in force at the time of the Order Confirmation shall apply, save that, to the extent there is any inconsistency or conflict between the applicable Incoterms and the Conditions, the Conditions shall prevail. Deliveries are made in accordance with Buyer's shipping instructions and Agilex's Order Confirmation to the extent permitted by the availability of the Goods or of the raw materials thereof. Agilex shall not be responsible for failure to meet the delivery date or period agreed between the parties, which are estimates only, and shall not be liable for any cost or damage due to early or late delivery. If Agilex is unable to serve total demand for the Goods, Agilex may allocate the available quantity of the Goods as it deems most fair in making partial shipments or shipments cancellation and may give preference to the earliest commitments. Buyer may cancel any Order for such partial or cancelled shipments under written notification to Agilex, no later than 48 (forty-eight) hours after confirmation by Agilex of such partial or cancelled shipment. Unless otherwise specified in writing, Buyer shall assume all risks of damage to or loss of the Goods upon delivery of the Goods. For Orders where delivery is to be made by collection by Buyer, such collection shall be at such premises of Agilex as it may designate to Buyer and delivery shall be deemed to have taken place when the Goods are made available for collection by Buyer at such premises. If Buyer does not collect the Goods from such premises of Agilex within 5 (five) days of delivery, Agilex may charge Buyer for storage at commercial rates and Buyer

agrees to pay such storage charges on demand. Agilex reserves the right to make delivery of Goods ordered by Buyer in instalments. Buyer shall comply with Agilex's Minimum Order Quantity ("MoQ") requirements and pay Agilex's small packaging surcharges, in each case as prescribed from time to time.

**7. WARRANTIES.** Agilex warrants it has title to the Goods and that the Goods shall comply with Agilex's standard specifications in effect on the date of shipment and to the description of the Goods contained in the Form. Agilex reserves the right at any time to change the specifications with or without advance notice. **AGILEX EXPRESSLY EXCLUDES, TO THE FULLEST EXTENT PERMISSIBLE BY APPLICABLE LAW, ANY AND ALL EXPRESS AND IMPLIED WARRANTIES, REPRESENTATIONS, CONDITIONS AND/OR GUARANTEES OTHER THAN AS PROVIDED ABOVE, INCLUDING WITHOUT LIMITATION, IN RESPECT OF NONINFRINGEMENT, MERCHANTABILITY, DESCRIPTION, CONDITION, PERFORMANCE OR FITNESS FOR A PARTICULAR PURPOSE RELATING TO THE USE OR PERFORMANCE OF THE GOODS.** Without limiting the foregoing, under no circumstances whatsoever shall Agilex have any liability or obligation to Buyer for any and all advice, assistance, recommendations or information provided by Agilex to Buyer with regard to the handling, storing, applying or using any Goods supplied by Agilex to Buyer. Any data provided by Agilex in certificate and datasheet such as but not limited to safety datasheet, technical datasheet and information on allergens are the result of internal verification based on Agilex methodologies, are accurate to the best of Agilex's knowledge at the date of the certificate or datasheet and are given for information purposes only. No warranty is expressed or implied as to the quality, accuracy, completeness and compliance of the data or the results to be obtained from the use of such data by Buyer.

**8. LIMITATION OF LIABILITY.** Buyer shall carefully check all Goods upon receipt at the shipping destination. Claims must be notified to Agilex in writing within 7 (seven) working days thereof and prior to the Goods' further processing or other use of such Goods. Any apparent defects must be duly reported on the proof of delivery documentation. Defects not reasonably detectable upon receipt of the Goods shall be notified within 10 (ten) working days of Buyer's detection of the defects but in any event no later than 6 (six) months after receipt of the Goods, or within the stipulated shelf life of the Goods, whichever shall first occur. Failure to give Agilex such notice shall constitute full waiver of such claims by Buyer. At Agilex's choice, a sample shall immediately be sent to Agilex, or Agilex shall be granted access to the Goods for which a claim is made. Agilex will, at its option, replace such Goods as determined to be defective upon Agilex's inspection at no cost to Buyer or refund the purchase price. Buyer may not send the Goods back to Agilex unless authorised in advance. Claims do not discharge Buyer from its obligation to (i) properly document its claim and (ii) mitigate any loss. To the extent permitted by law, Agilex shall not be liable for personal injury or property damage unless directly caused by Agilex's gross negligence. To the full extent permissible by law, in no event shall Agilex be liable for any loss of profit or anticipated profit, loss of revenue, loss of opportunity, loss of contract, loss of goodwill or loss arising from business interruption, losses resulting from failure to meet other contractual commitments, or any incidental, special, punitive or consequential losses or damages whatsoever arising out of or in connection with these Conditions, under statute, in tort (for negligence or otherwise) or any other basis in law or equity. To the full extent permissible by law, Buyer's exclusive remedy and Agilex's sole liability in connection with the Goods or these Conditions shall be limited to actual costs or charges directly related to the breach and shall not in any event exceed the price of the Goods as mentioned in the relevant invoice.

**9. PROPERTY.** The Goods remain the property of Agilex until complete payment of the price has been received by Agilex, and until such time as the property in the Goods passes to Buyer hereunder, Buyer shall hold the Goods in a fiduciary capacity. Buyer is however entitled to use the Goods as set out in these Conditions unless it becomes insolvent or proceedings are issued for bankruptcy or winding up of Buyer, in which situation Agilex shall be entitled to suspend deliveries, stop Goods in transit or take back possession of the Goods. Until the Goods have been fully paid for and without prejudice to any other remedies, Agilex or its agents shall be entitled to draw an inventory of such Goods and re-possess any Goods to which it has title hereunder. Nothing in this clause shall confer any right on Buyer to return Goods supplied hereunder or to refuse or delay payment thereof. Unless otherwise expressly authorised by Agilex in writing in advance, Buyer may not resell the Goods to any third party.

**10. INTELLECTUAL PROPERTY, CONFIDENTIALITY.** No licence, express or implied, under any patent, trademark, copyright or proprietary know-how on any Good shall be granted through any sale of the Goods hereunder, except to the extent necessary for Buyer's proper development and manufacturing of its own products incorporating such Good for which Buyer has selected such Good. Buyer is solely liable for any patent, trademark, copyright or proprietary know-how infringement in using the Goods in combination with other materials or operation of any process. Buyer understands and agrees that all intellectual property rights to the Goods and their formulae are and

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shall remain the sole property of Agilex, which has a proprietary interest in maintaining the confidentiality status of the Goods and formulae. Unless otherwise expressly authorised by Agilex in writing in advance, Buyer shall not disclose, resell or otherwise make available Agilex formulae, original creations, technologies, samples, Goods and proprietary information to any third party, or make use of them for any purpose other than as set out above. Buyer undertakes furthermore not to analyse, reverse engineer, match or counterfeit (in any case, either by itself or through another person) the Goods for its own account or for the account of any third party and not to use in its products similar goods from third parties which are the result of analysing, reverse engineering, matching or counterfeiting the Goods.

**11. FORCE MAJEURE.** Agilex shall not be liable in any way for any non-performance, loss or damage arising directly or indirectly, through or in consequence of production, delivery or holding stock of the Goods, being prevented or delayed by happenings or occurrences due to or by reason of any matters or things beyond the control of Agilex.

**12. ASSIGNMENT, SEVERANCE, WAIVER.** Buyer shall not assign, transfer or charge any Order or contract with Agilex without Agilex's prior written consent. Each of the provisions of these Conditions are severable and distinct from others and if at any time one or more of the provisions is or becomes invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions of these Conditions shall not in any way be affected or impaired by it. Except as agreed upon in these Conditions, no failure to exercise or delay in exercising of any rights hereunder shall operate as a waiver of that or any other right, nor shall any single, defective or partial exercise preclude any other or future exercise of that right. For the avoidance of doubt, each indemnity provided by Buyer under these Conditions is a continuing obligation separate and independent from the parties' other obligations and survives the expiry or earlier termination of these Conditions.

**13. EXPORT CONTROL.** Buyer shall comply with all applicable export control laws and shall not, directly or indirectly, export, reexport, ship or divert any Goods to customers or entities which it knows or reasonably should know will resell or export the Goods to parties and/or destinations currently subject to the Sanctions as defined in clause 14 below, or otherwise in violation of applicable national legislation. Buyer shall indemnify and hold Agilex harmless from and against any and all claims, losses, costs and damages arising from Buyer's failure, intentional or unintentional, to comply with this clause 13 and clause 14 below.

**14. TRADE COMPLIANCE.** Buyer represents, warrants and undertakes that neither it, its affiliates nor any of their respective directors, officers, agent, employees or any person or entity acting on behalf of any of them, is, or is directly or indirectly, owned or controlled, by a person or entity that is or will be designated on any economic sanctions or export controls list of any governmental authority, including the Office of Foreign Assets Control of the U.S. Department of the Treasury ("OFAC") Specially Designated Nationals and Blocked Persons List. Buyer promises that no action of Buyer or any of its affiliates, and its respective directors, officers, agents, employees or any person or entity acting on behalf of any of them, or any other transaction contemplated hereby or the fulfilment of the terms hereof, will result in a violation of any trade sanctions, foreign trade controls, export controls, non-proliferation, anti-terrorism and similar laws administered by OFAC, the U.S. Departments of State or Commerce in the United States, the European Union and its Member States, Switzerland, the United Nations Security Council ("UNSC"), or any other relevant sanctions authority which prohibit the sale, export or diversion of products, services and technology to sanctioned countries or nationals of those countries, as well as to persons or entities whose names appear on the List of Specially Designated Nationals and Blocked Persons maintained by OFAC (collectively, "Sanctions"). Neither party shall be obliged to perform any obligation otherwise required by these Conditions and the Form, including without limitation an obligation to (i) perform, deliver, accept, sell, purchase, pay or receive monies to, from, or through a person or entity, or (ii) engage in any other acts if this would be in violation of, inconsistent with, or expose such party, a parent company or affiliate of such party, or any other person related to that party to punitive measure under any Sanctions. If Buyer should learn that any of the representations made in this clause are no longer accurate or learns of any violation of Sanctions by Buyer that may involve Agilex products, services or technology, including the Goods, Buyer shall inform Agilex immediately in writing. Furthermore, Buyer shall provide all information, assistance and cooperation requested by Agilex in connection with Agilex's compliance efforts, including taking corrective or remedial action recommended by Agilex and/or by providing certifications of compliance with relevant Sanctions as requested by Agilex.

(ii) **DATA PRIVACY.** If the performance of these Conditions and the Form requires Buyer to collect, receive, store, transmit, retransfer, dispose or otherwise use (collectively "process" or "processing") any information relating to an identified or identifiable natural person ("Personal Data"), Buyer undertakes to (i) process the Personal Data solely for the legitimate purposes of performing its obligations under these Conditions and the Form and for no other purpose, and only in accordance with the local law governing such processing; to provide the subject of the Personal Data with the same rights in relation to their Personal Data, including but not limited to rights of access, rectification or erasure available to such

individual as they would have in the country in which he or she resides; ensure that any persons it authorises to have access to the Personal Data will respect and maintain the confidentiality and security of the Personal Data; (iv) provide all necessary information to Agilex to demonstrate compliance with this clause and allow for and contribute to audits, including inspections, conducted by Agilex or another auditor mandated by Agilex; and (v) as soon as possible after delivery of the Goods or termination of Buyer's relationship with Agilex, delete all existing copies of Personal Data or return any Personal Data to Agilex, at Agilex's discretion. Buyer warrants that it has full legal authority to process the Personal Data as contemplated, it has in place appropriate technical and organisational measures to prevent unauthorised or unlawful processing or accidental loss or destruction of, or damage to, such Personal Data, and it has adequate security programs and procedures to ensure that unauthorised persons will not have access to the Personal Data. Buyer shall be responsible for, and remain fully liable to, Agilex for the actions and omissions of Buyer, all its affiliates and its respective employees, representatives and subcontractors concerning the treatment of Personal Data as if it were Buyer's own actions and omissions.

**15. GOVERNING LAW AND JURISDICTION.** These Conditions and the Form are governed by the laws of the place of incorporation of Agilex excluding the United Nations Convention on Contracts for the International Sale of Goods or any successor to it. Agilex and Buyer shall attempt to amicably resolve any dispute arising out of or in connection with these Conditions and the Form, including any question regarding their existence, application, validity or termination. Should they fail to do so within 60 (sixty) days from the date of first notice of any such dispute, then any such dispute shall be (1) submitted to the exclusive jurisdiction of the courts of the place of incorporation of Agilex, or (2) in Agilex's sole discretion and provided Agilex sends a notice to this effect within 90 (ninety) days of the date of first notice of any such dispute, resolved by way of arbitration in the following manner: (a) if Agilex is incorporated within the Asia-Pacific region, referred to and finally resolved by arbitration in Singapore administered by the Singapore International Arbitration Centre ("SIAC") in accordance with the Arbitration Rules of the Singapore International Arbitration Centre ("SIAC Rules") for the time being in force, which rules are deemed to be incorporated by reference in this clause; (b) if Agilex is incorporated within North America or South America, referred to and finally resolved by arbitration in New York, USA, administered by the American Arbitration Association in accordance with its International Arbitration Rules for the time being in force; (c) if Agilex is incorporated within Europe or within any other place not referred to in (a) or (b) above, referred to and finally resolved by arbitration in Geneva, Switzerland in accordance with the Swiss Rules of International Arbitration of the Swiss Chambers' Arbitration Institution in force on the date on which the Notice of Arbitration is submitted in accordance with these rules. Any such arbitration shall be adjudicated by a sole arbitrator and the language of the arbitration will be English. Notwithstanding any other term of these Conditions and the Form, Agilex may commence court proceedings relating to any dispute arising from these Conditions or the Form at any time where Agilex seeks urgent interlocutory relief.