



## APPENDIX A – TERMS AND CONDITIONS OF SALE

The following terms and conditions of sale (“**Terms**”) apply to all transactions for the sale of goods (“**Goods**”) or services (“**Services**”) by Recochem Inc. or any of its Canadian affiliates and subsidiaries (“**Recochem**”).

- 1. Acceptance of Order.** All purchase orders submitted by Customer must be in writing and must respect the current Recochem Business Rules. Purchase orders submitted by Customer (a) assume acceptance of Recochem Business Rules and (b) are subject to order acceptance by Recochem. Such order acceptance may be done in writing, by electronic means, or by virtue of order fulfillment (“**Order Acceptance**”). These Terms shall automatically be incorporated into any Order Acceptance issued by Recochem. These Terms, the Order Acceptance and any documentation issued by Recochem with respect to the Goods or Services (collectively, the “**Order**”) constitute the full and complete agreement between the parties in relation to the purchase by Customer of the Goods and Services from Recochem. No terms and conditions of any offer to purchase, letter, contract, purchase order, invoice or other document submitted or issued by Customer in connection with this Order shall amend, add to, supersede, vary or modify these Terms. Any modification of the Terms will be deemed refused by Recochem unless there is a formal acceptance in writing by Recochem. Notwithstanding anything herein to the contrary, if a written agreement signed by both parties is in existence covering the supply of Goods and Services (“**Executed Agreement**”), the terms and conditions of the Executed Agreement shall prevail to the extent they are inconsistent with these Terms.
- 2. Prices and Changes.** All prices are in Canadian dollars unless otherwise indicated. Recochem may change its prices at any time by providing written notice and the new prices shall apply to new purchase orders received from Customer after notice is given. Recochem may make changes to or discontinue Goods or Services at any time but shall provide Customer with 30 days’ written notice if any such changes affect Goods or Services subject to a pre-existing and unfulfilled Order.
- 3. Taxes.** Prices are exclusive of, and Customer shall pay, all present and future taxes relating to its purchase of Goods and Services, but not limited to, federal, state, provincial and local sales, excise, value added, goods and services and harmonized sales taxes (“**Taxes**”). If Recochem is obliged to collect Taxes for which Customer is liable, such Taxes will be invoiced and paid by Customer.
- 4. Environmental Fees.** Unless otherwise indicated, prices are exclusive of, and Customer shall pay, all present and future environmental fees of any kind relating to its purchase of Goods and Services, including but not limited to, environmental fee, resource recovery fee, environmental handling fee, eco-fee and recycling fee (“**Environmental Fees**”). If Recochem is obliged to pay or collect Environmental Fees for which Customer is liable, such Environmental Fees will be invoiced and paid by Customer.
- 5. Payment.** Unless otherwise set out in the Order Acceptance, all invoices shall be payable in full within thirty (30) days of the invoice date by electronic funds transfer or cheque. Customer agrees to pay invoice pursuant to its terms without the benefit of setoff or deduction. If Customer is required by applicable law to withhold taxes or any other amounts from any payments due to Recochem under an Order, Customer shall: (i) deduct or withhold such taxes and other amounts from the amounts payable to Recochem and remit them to the appropriate government or taxing authorities; and (ii) gross up any payments made to Recochem, so that Recochem receives the full amount due to it under the applicable Order, as if such withholding had not been made. If applicable, Customer shall be responsible for any shipping or freight charges. In no event shall Recochem be liable for payment processing fees.
- 6. Interest.** Customer shall pay interest on all late payments at a rate of 2% per month (24% per annum), with interest on overdue interest accruing at the same rate. Interest continues to apply until invoice is paid in full. In addition, Recochem may, without waiving any other rights or remedies to which it may be entitled: (i) deduct or offset any unpaid amounts owing after the applicable due date against any payments owing from Recochem to Customer; (ii) refuse to ship ordered Goods or perform ordered Services; and/or (iii) seek collection from Customer of any unpaid amounts, including reasonable legal fees incurred and cost of collection.
- 7. Cancellation.** Customer may not cancel or modify an Order without the written consent of Recochem. A restocking fee of 25% may be applied by Recochem. Recochem may cancel or terminate an Order at any time prior to delivery of the Goods or performance of the Services, including, without limitation, due to Customer’s breach of the Order.
- 8. Delivery.** Recochem will make reasonable efforts to meet delivery dates communicated by Customer to Recochem in writing. Notwithstanding the foregoing, Recochem is not obligated to make delivery by any communicated date, nor liable for damage due to delay in filling an Order. Specified delivery dates are estimates only and not guarantees. Recochem reserves the right to deliver any Order in parts, and such deliveries may be invoiced separately. Delay in delivery of an Order, or any part of an Order, shall not relieve Customer of its payment obligations for the Order or the remaining part thereof. Except as otherwise provided in the Order Acceptance, the delivery terms shall be Ex Works (Incoterms 2020) at Recochem’s warehouse or facility of choice.
- 9. Title and Security Interest.** Customer agrees that title in and to the Goods will not pass to Customer until: (i) Customer has paid Recochem all amounts owing for any Goods supplied by Recochem; and (ii) Customer has met all other obligations due by the Customer to Recochem in respect of all invoices and contracts as and between Recochem and Customer. As security for payment and performance of all obligations of Customer, Customer grants to Recochem a security interest (the “**Security Interest**”) in all of Customer’s right, title and/or interest in all Goods and in all proceeds thereof (the “**Collateral**”), whether or not paid for and regardless of whether or not title therein has passed to Customer. Customer will not create, assume, or permit to exist, except to Recochem, any charge, security interest, lien, or other encumbrances on or affecting any of the Collateral. Upon the occurrence of any default by Customer under the Order, Recochem may realize on the Security Interest and enforce its rights in the Collateral by any and all rights and remedies of a secured party under the *Personal Property Security Act* (Ontario), any other similar provincial legislation or at law or in equity, including enter upon Customer’s premises, take possession of the Collateral and remove it from Customer’s premises.
- 10. Acceptance.** All Goods shall be deemed accepted when made available at Recochem’s warehouse or facility of choice and all Services performed shall be deemed accepted upon performance. Goods and Services are non-refundable and delivered Goods cannot be returned to Recochem without Recochem’s written consent.
- 11. Obligations and Restrictions.** Customer shall: (i) comply with, and shall use and dispose of Goods and Services only in accordance with all applicable laws and regulations, including, without limitation, all export control laws and regulations; (ii) not make any modifications to the Goods, including, without limitation, any packaging or labelling thereof; (iii) ensure that the Goods are safe for sale, including by retail customers (if being sold thereto); (iv) without limiting the foregoing, if re-packaged by Customer, ensure the adequacy and safety of all packaging, labelling and warnings, safety devices, and instructions contained in, on or with the Goods; and (v) ensure the Goods are safely stored in accordance with applicable laws and regulations and monitor the storage conditions and any effects they may have on the specifications for the Goods set out in the documentation provided by Recochem. Customer shall not supply Goods to any person for any use other than their intended use. Without limiting the generality of the foregoing, Customer expressly warrants that it will not directly or indirectly export or re-export the Goods or Services, or any part thereof, in violation of any export laws or regulations of Canada, the United States or elsewhere.
- 12. Hazardous Materials.** Customer acknowledges that some Goods supplied by Recochem may be characterized as hazardous materials. Customer is responsible for, and shall comply with, all applicable laws and regulations pertaining to hazardous materials, including but not limited to the *Consumer Chemicals and Containers Regulations, 2001* under the *Canada Consumer Product Safety Act*. Customer warrants that it shall and it shall ensure that all of its retailers or other entities which supply the Goods to the public, sell the Goods strictly in accordance with applicable laws and regulations.
- 13. Labelling.** If Recochem is private labelling Goods for Customer, Customer acknowledges that it has independently verified and confirmed that the labelling and packaging of the Goods are fit for Customer’s intended purpose and comply with all applicable laws and regulations, regardless of whether



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or not Recochem may have assisted in the creation or design thereof. In the event that Customer provides Recochem with label content and/or design, Customer shall be solely responsible (notwithstanding any review or approval by Recochem) for ensuring that same: (i) complies with all applicable laws and regulations; (ii) is accurate; (iii) contains all safety, use and other application warnings and notifications required, recommended and/or appropriate; and (iv) is properly affixed on the Goods. In the event that Customer provides Recochem with label stock, Customer shall not make any modifications thereto without Recochem's prior written consent.

14. **Representations and Warranties.** Recochem represents and warrants that the Goods supplied hereunder meet, at the time of delivery, Recochem's standard specifications for the Goods as set out in the documentation made available by Recochem. Except as expressly set out herein, Recochem makes no representations or warranties of any kind regarding the Goods or the performance of the Services and the Goods and Services are provided "as is" without any warranty or condition of any kind, either express or implied, statutory or otherwise, including, but not limited to, the following implied warranties or implied conditions: (i) merchantability; (ii) fitness for a particular purpose; (iii) free from defects; (iv) bulk Goods fully corresponding to the sample; (v) non-infringement; and (vi) arising out of a course of dealing or usage of trade.
15. **Intellectual Property.** Customer acknowledges that as between the parties, all intellectual property used on, embodied in, or related to the Goods or Services belong to and shall be the exclusive property of Recochem, and Customer shall not make use of any such intellectual property without the express written authorization of Recochem. Recochem shall own all intellectual property that has been prepared, created, written or recorded in association with the Services by: (i) Recochem, (ii) Customer; or (iii) Recochem and Customer jointly, together with all intellectual property rights therein. Customer agrees to assign all rights to, and obtain waivers of all rights in favour of, Recochem to give effect to the foregoing.
16. **Confidentiality.** During the term of the Order and thereafter, Customer shall maintain as confidential and secure all material and information that are the property of Recochem and made available to, or accessed by, Customer, not disclose such material or information to any third party and not use such material or information for any purpose other than performing the Order. Recochem reserves all rights in all material or information provided by Recochem to Customer under the Order and no right, title, license or other interest is granted to Customer unless expressly agreed to by the parties in writing.
17. **LIMITATION OF LIABILITY.** EXCEPT TO THE EXTENT PROHIBITED BY LAW, IN NO EVENT SHALL RECOCHEM OR ANY OF ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES, LICENSORS, SUBCONTRACTORS, RESELLERS OR DISTRIBUTORS HAVE ANY LIABILITY TO CUSTOMER OR ANY OTHER PERSON OR ENTITY FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES, OR ANY LOSS OF REVENUE OR PROFIT, LOSS OF DATA, OR ANY COMMERCIAL OR ECONOMIC LOSS, WHETHER ARISING IN CONTRACT (INCLUDING FUNDAMENTAL BREACH), EQUITY, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR ANY OTHER THEORY OF LIABILITY, EVEN IF RECOCHEM (INCLUDING ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES, LICENSORS, SUBCONTRACTORS, RESELLERS OR DISTRIBUTORS) HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR THEY ARE FORESEEABLE. RECOCHEM'S TOTAL CUMULATIVE LIABILITY (INCLUDING ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES, LICENSORS, SUBCONTRACTORS, RESELLERS AND DISTRIBUTORS) AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR ANY CLAIM ARISING OUT OR IN CONNECTION WITH THIS ORDER IS EXPRESSLY LIMITED TO, AT RECOCHEM'S OPTION, REPLACEMENT OF THE NONCONFORMING GOODS OR SERVICES OR A REFUND OF THE PURCHASE PRICE OF SUCH GOODS OR SERVICES. RECOCHEM (INCLUDING ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES, LICENSORS, SUBCONTRACTORS, RESELLERS AND DISTRIBUTORS) SHALL NOT BE RESPONSIBLE FOR CLAIMS BY A THIRD PARTY.
18. **Indemnification.** Customer agrees to indemnify, defend (at Recochem's option) and hold harmless Recochem, its affiliates and each of their officers, directors, employees, licensors, subcontractors, resellers or distributors from and against any losses, damages, liabilities, claims, actions, demands, suits, judgments and expenses, including investigation expenses and legal fees and costs, arising from or alleged to arise from: (i) any breach by Customer of any obligation, representation, warranty or undertaking under the Order; (ii) if Recochem is private labelling Goods for Customer, any claim that any Good and/or Service constitutes an infringement, violation or misappropriation of any third party's rights, including any intellectual property right; and (iii) any negligent, wilful act or omission of Customer or its representatives including, but not limited to, personal injury, product liability and property damage.
19. **Force Majeure.** Recochem shall not be liable to Customer for non-performance or delay in performance of any of its obligations under the Order due to causes reasonably beyond its control including, but not limited to: fire, flood, epidemic, natural disasters, strikes, lock-out, labour trouble, other industrial disturbances, lack of raw materials, unavoidable accidents, governmental regulations and insurrections. Upon the occurrence of a force majeure event, Recochem shall notify Customer with as much detail as practicable and shall inform Customer of any further developments. After the cause is removed, Recochem shall recommence performance of such obligation. Should any force majeure event continue for 90 days or more, either party may terminate an Order upon notice to the other party and Customer shall pay for portion of Order fulfilled to that point.
20. **Term and Survival.** The Order shall terminate upon receipt by Recochem of payment for all of the Goods and Services, unless cancelled or earlier terminated by Recochem in accordance with these Terms. The provisions of these Terms, which from their context or application are intended to survive the termination of the Order, shall so survive, including but not limited to Sections 14-18 and this Section 20.
21. **Assignment and Subcontracting.** Customer shall not assign the Order or any right or obligation hereunder without the prior written consent of Recochem. Recochem may subcontract and/or assign the Order (or any right or obligation hereunder) without Customer's consent and upon such assignment the assignee and Customer shall be the parties to the Order and Recochem will be released and forever discharged from any liabilities or obligations of the Order as though the assignee had been an original party hereto. The Order inures to the benefit of and is binding upon the parties and their respective successors and permitted assignees.
22. **Governing Law.** The Order shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein. Each of the parties irrevocably and unconditionally submits and attorns to the exclusive jurisdiction of the courts of the Province of Ontario to determine all issues arising from the Order. The *United Nations Convention on Contracts for the International Sale of Goods* (also called the Vienna Convention) will not be applicable to this Order.
23. **Amendment.** If Recochem amends these Terms and provides written notice to Customer of such amendment, these Terms are amended and incorporated into each and every new purchase order received from Customer after notice is given. Terms are available on [www.recochem.com](http://www.recochem.com) or upon request.
24. **Language.** The parties hereto have requested that the Order and all correspondence and documentation relating to the Order be written in the English language. Les parties aux présentes ont exigé que la présente commande de même que toute la correspondance et la documentation relative à cette commande, soient rédigées en anglais.
25. **Severability.** If any provision of the Order is found by a court of competent jurisdiction to be invalid, illegal or unenforceable, the other provisions of the Order shall not be affected or impaired, and the offending provision shall automatically be modified to the least extent necessary in order to be valid, legal and enforceable.
26. **Waiver.** No waiver of any provision of the Order shall bind a party unless consented to in writing by that party. No waiver of any provision of the Order shall be a waiver of any other provisions, nor shall any waiver be a continuing waiver, unless otherwise expressly provided in the waiver.



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27. **Relationship between the Parties.** Recochem and Customer are independent contractors. The Order does not constitute Recochem and Customer as agents, legal representatives, sales representatives, partners, employees, servants or joint venturers of each other for any purpose.