

Terms & Conditions

Nexo Solutions and its divisions (“Nexo”) provides the following Terms and Conditions (“Terms”) which shall apply to all quotations and sales made by NEXO. All equipment, chemicals, goods or products subject to any such quotation are hereinafter referred to as the “Product”. All purchases by Purchaser (“Buyer”) are expressly subject to and conditioned upon acceptance of the terms, conditions and provisions contained in these Terms. No order, or changes to terms or scope of order, shall be binding on NEXO until accepted in writing by NEXO.

1. QUOTATIONS. NEXO’s quotations are valid for the time indicated on the reverse, and shall automatically expire without further action by NEXO at the expiration of such time. A quotation shall supersede all previous quotations or correspondence concerning the same transaction or inquiry.

2. TAXES AND SHIPPING: All Products are Ex-works Factory in Houston, Texas unless otherwise noted. If shipping is required, a 15% fee will be added to the final invoice for shipping coordination. Risk of loss shall pass to Buyer at the time of shipment. NEXO will not be liable to the Buyer for any loss or delay caused by any act of the shipper. The price reflected in the quotation does not include: (a) any transportation, shipping, crating or packaging charges, (b) any applicable taxes, excises, duties, tariffs or other governmental charges which NEXO may be required to pay or collect under any existing or future law, or (c) costs of insurance. All such costs are in addition to the costs reflected in the quotation and shall be the sole responsibility of the Buyer.

3. PAYMENT AND CREDIT TERMS. NEXO has not agreed to any extension of credit to Buyer except as expressly set forth in written terms signed by a company officer of NEXO. Each shipment is a separate transaction and, unless otherwise agreed in writing, payment must be made accordingly. Unless otherwise agreed in writing by NEXO, payment for any Product shall be made at the time, and place of delivery. In the event Buyer fails to make payment as described above, NEXO, in its sole option, and without incurring any liability, may suspend its performance until such times as the overdue payment is made or NEXO receives assurances, adequate in NEXO’s sole discretion, to indicate that the payment shall be promptly made. In the event of such suspension, the delivery schedule and order price shall be equitably extended and increased, taking into account the delay and costs resulting from such suspension. Buyer shall promptly pay NEXO for all costs and related overhead costs arising from such suspensions.

4. LIMITED WARRANTY. NEXO, as seller, makes the following limited warranty. THIS LIMITED WARRANTY IS THE SOLE AND EXCLUSIVE WARRANT OF ANY KIND, EITHER EXPRESS OR IMPLIED, MADE BY NEXO WITH RESPECT TO ANY PRODUCT. THERE ARE NO OTHER WARRANTIES EITHER EXPRESS OR IMPLIED.

Subject to the terms and conditions below, NEXO hereby warrants to the original Buyer that: (i) The Product shall be free from defective workmanship and materials for a period equal to twelve (12) months after shipment (unless otherwise indicated as expiration date or other); and (ii) that the Product is manufactured in substantial compliance with the specifications provided by Buyer, and substantially conforms to the description contained in Buyer’s purchase order, but only to the extent such specifications and description are expressly accepted by NEXO. NEXO’s limited warranty is subject to and limited by the following:

(a) NEXO MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ALL SUCH WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED AND NEGATED. THE ABOVE LIMITED WARRANTY CONSTITUTES THE SOLE AND EXCLUSIVE WARRANTY BY NEXO. THERE ARE NO WARRANTIES, OTHER THAN THIS WARRANTY, WHICH EXTENDS BEYOND THE DESCRIPTION ON THE FACE OF THE DESCRIPTION OF THE PRODUCT. THERE ARE NO WARRANTIES BASED UPON COURSE OF DEALING OR USAGE OF THE TRADE, ALL OF WHICH ARE HEREBY EXPRESSLY DISCLAIMED AND NEGATED.

(b) The above limited warranty does not include or cover any of the following: (i) any defect caused in material part by corrosion, erosion or deterioration caused by acids, chemicals or their fumes; (ii) any abnormal or improper use of the Product as reflected in the purchase order; (iii) any malfunction or defect resulting from any installation or operation of the Product which is not consistent with accepted industry practice or any specific instructions provided by NEXO; and (iv) does not extend to used or second hand material or equipment or to any spare parts.

(c) Except as expressly set forth in writing, NEXO does not warrant or guarantee that the Product or the Buyer's specifications in respect thereof are in compliance with any standards, specifications, regulations, or requirements by any governmental entity (whether federal, state, local or foreign), regulatory body or commercial organization, including without limitation any such standards, specifications or requirements promulgated by Underwriters Laboratory, American Society of Mechanical Engineers, American Petroleum Institute or the American Standard's Association. It is the Buyer's sole responsibility to ensure that all specifications relating to the Product comply with any applicable requirements or standards, either governmental or otherwise.

(d) This limited warranty extends only to the initial original Buyer of the Product, and does not inure to the benefit of, and may not be enforced by, any subsequent owner or purchaser of the Product or any assignee of the original Buyer, except with NEXO's prior written consent to any such assignment.

(e) The above limited warranty does not cover or extend to any consumables, O-rings or gaskets. Length or service of filter elements and gaskets will vary according to the nature of the application.

(f) To the extent that the Product incorporates goods not manufactured by NEXO, NEXO makes no warranty either expresses or implied except that NEXO's limited warranty extends to its workmanship in incorporating such goods into the Product manufactured by NEXO. NEXO hereby assigns to Buyer, without recourse against NEXO, to the extent NEXO is lawfully allowed to do so, any warranties made to NEXO without respect to such goods, although NEXO makes no warranty as to its rights to assign any such warranty by NEXO to the Buyer.

(g) The provisions of these Terms shall constitute Buyer's sole remedy in the event of any claim pursuant to NEXO's limited warranty. If the initial Buyer desires to make a claim on this limited warranty, Buyer shall promptly advise NEXO in writing of the claim and provide reasonable information to NEXO regarding the nature of the alleged defect, including any defect in workmanship or material. Buyer will so notify NEXO before making any repairs or alterations of any kind. If so instructed by NEXO, Buyer shall ship the part or product claimed to be defective to NEXO, under NEXO's shipping instructions, freight prepaid at Buyer's sole cost and sole risk. If the part is defective within the terms of the above limited warranty, NEXO's responsibility under the above express warranty is limited to repairing or replacing the defective part, at NEXO's sole election, and shipping the same, at Buyer's sole expense and risk, back to Buyer. NEXO shall have no liability or responsibility to Buyer under this limited warranty for any other or consequential damages, including lost profits.

(h) The above limited warranty covers only the chemical stability of chemicals within the 12-month shelf live or any other shelf life indicated is stored under NEXO guidelines. Effectiveness of chemicals vary according to the nature of the application. No performance warranty or guarantee is covered under these Terms and Conditions. Each chemical should be used only as specified by NEXO. Each chemical has a specific use, dosage, injection point, injection modes and results. Overdosing of chemicals and/or its use outside NEXO guidelines will cause negative effects on the process and should be avoided. NEXO makes no assurances on chemicals inventory availability, delivery dates or pricing. Each facility should familiarize itself with the SDS for each chemical prior to its handling, storage and/or use.

(i) Any legal proceeding for breach of the above limited warranty shall be commenced within one year after shipment, and shall be barred unless commenced within such one-year period.

(i) ALL WARRANTIES OR REPRESENTATIONS, OTHER THAN THE ABOVE LIMITED WARRANTIES, INCLUDING WITHOUT LIMITATION THOSE WITH RESPECT TO MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR

PURPOSE WHETHER EXPRESSED, IMPLIED, STATUTORY OR ARISING FROM A COURSE OF DEALING, USAGE OF THE TRADE OR OTHERWISE WITH RESPECT TO ANY EQUIPMENT OR ORDER, ARE EXPRESSLY EXCLUDED. NO EXPRESS OR IMPLIED WARRANTY IS GIVEN AS TO THE CAPACITY, EFFICIENCY OR PERFORMANCE OF ANY EQUIPMENT, EXCEPT AS MAY BE PROVIDED IN A WRITTEN AGREEMENT SIGNED BY NEXO.

5. NO REPRESENTATIONS. NEXO MAKES NO OTHER REPRESENTATIONS, EITHER EXPRESS OR IMPLIED, IN FACT OR IN LAW, EXCEPT AS EXPRESSLY SET FORTH HEREIN OR IN THE QUOTATION, AND ALL OTHER WARRANTIES OR REPRESENTATIONS, WHETHER EXPRESS OR IMPLIED, ARE HEREBY NEGATED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.

6. OBLIGATIONS OF BUYER. Following shipment, it is Buyer's responsibility to:

(a) protect the Product from corrosion, damage and debris; (b) install the Product in an environment consistent with accepted industrial practice or any specific instructions provided by NEXO; (c) start up, operate and shut down the unit in which the Product has been installed to assure that no foreign debris, catalyst, polymerized material or other material may form in the Product or enter the Product from any associated piping, heat exchangers, or other auxiliary equipment which may cause the fouling or corrosion of the Product; and (d) start up, operate and shut down the unit in which the Product has been installed in a manner that maintains the process or mechanical loadings within the design conditions.

7. WARRANTY VOID. NEXO's limited warranty will be voided if (a) the Product has not been stored, installed, maintained or operated in accordance with accepted industrial practice or any specific instructions provided by NEXO; (b) the Product has been subjected to any accident, misapplication, environmental contaminant, corrosion, improper passivation, abuse or misuse; (c) Buyer has modified the Product without NEXO's prior written consent; (d) Buyer has used or repaired the Product after discovery of the defect without NEXO's prior written consent; or (e) Buyer refuses to permit NEXO to examine the Product and operating data to determine the nature of the defect claimed.

8. REMEDY EXCLUSIVE. BUYER'S REMEDY PURSUANT TO NEXO'S LIMITED WARRANTY ABOVE IS EXCLUSIVE OF ALL OTHERS AND LIMITED TO THE REPAIR OR REPLACEMENT OF THE PRODUCT. IF FOR ANY REASON IT IS EVER DETERMINED THAT SUCH EXCLUSIVE REMEDY FAILS OF ITS ESSENTIAL PURPOSE, THEN BUYER AGREES THAT THE REFUND OF THE FULL SALES ORDER PRICE TO IT BY NEXO SHALL CONSTITUTE THE SOLE AND EXCLUSIVE REMEDY. UNDER NO CIRCUMSTANCES SHALL NEXO'S LIABILITY TO BUYER EVER EXCEED THE PURCHASE PRICE OF THE PRODUCT.

9. LIMITATIONS ON DAMAGES. BUYER SHALL HAVE NO RIGHT TO THE RECOVERY OF PUNITIVE OR EXEMPLARY DAMAGES AGAINST NEXO. NEXO WILL HAVE NO LIABILITY UNDER ANY CIRCUMSTANCES FOR ANY INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION ANY AND ALL (a) LIABILITY FOR LOST PROFITS OR THE BENEFIT OF THE BARGAIN, EVEN IF NEXO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND (b) ANY LIABILITY OR RESPONSIBILITY FOR ANY LOSS OF OR TO ANY FLUIDS, GASES OR OTHER SUBSTANCES.

10. TECHNICAL ASSISTANCE. Any technical assistance or installation services furnished by NEXO will be addressed in a separate written agreement between the parties. In no event will any technical assistance or installation provided by NEXO constitute a waiver by it of any of these Terms or affect or expand NEXO's obligations as stated herein.

11. NO INDEMNITY. NEXO has not agreed to indemnify the Buyer from any claims, loss or liability except for the limited warranty set forth above.

12. NO OFFSET. Buyer shall have no right to offset or recoup any charges or claim against NEXO against the purchase price for the Product or any other sums owed to NEXO in relation to the quotation or the Product.

13. ASSIGNMENT; NO THIRD-PARTY BENEFICIARIES. A quotation may only be assigned with NEXO's prior written consent. There are no third-party beneficiaries of either the quotation or NEXO's limited warranty set forth above or these Terms and Conditions. Buyer agrees to indemnify and hold NEXO harmless from all damages, claims, loss and liability to any third parties claiming through Buyer regarding the Product.

14. CANCELLATION FEE. Buyer may not cancel any order except upon written notice and payment to NEXO of all reasonable costs arising from the cancellation, plus a cancellation fee equal to 20% of the purchase order price.

15. FORCE MAJEURE. NEXO or Buyer will be excused from their respective obligations in the event and to the extent that their respective performance is delayed or prevented (a) by any circumstance (except financial) reasonably

beyond their control or (b) by fire; explosion; breakdown of machinery or equipment; plant shutdown; strikes or other labor disputes; global pandemics; riots or other civil disturbances or voluntary or involuntary compliance with any law, order, regulation, recommendation or request of any governmental authority. In addition, NEXO will be excused in the event of its inability to obtain materials necessary for manufacture of the Product or for total or partial failure of any of its usual means of transportation of the Product.

16. SEVERABILITY. Invalidity of any of these Terms will not affect the validity of any other provision and the remaining provisions will remain in force and effect.

17. WAIVER. Failure to enforce any of these Terms in a particular instance will not constitute a waiver of or preclude subsequent enforcement of any of the provisions hereof.

18. APPLICABLE LAW. The agreement and transactions between NEXO and Buyer, including the quotation and the Terms, shall be construed and enforced in accordance with the laws of the State of Texas. Exclusive venue for any legal proceeding relating to any quotation, the Product subject thereto, or these Terms and Conditions shall be in the courts of proper jurisdiction in Palo Pinto County, Texas. All parties consent to the jurisdiction of Texas, and sole and exclusive venue in Palo Pinto County, Texas. Parties expressly agree to a change of venue for any suit filed in violation of this term.

19. NO ORAL AGREEMENTS OR REPRESENTATIONS. There are and shall be no oral representations or agreements between NEXO and Buyer relating to either the quotation or the Product. The complete agreement between the parties is set forth in the written documents relating to the transaction and the Product. Buyer may not rely upon any oral representation or promises by NEXO.

20. TIME; BENEFICIARIES OF TERM. Time shall not be of the essence in the performance by NEXO of any quotation or order from Buyer except as expressly agreed by NEXO in a writing signed by an authorized representative. The benefit of these Terms shall likewise extend to and include: (a) NEXO's successors in interest and assigns, and (b) NEXO's officers, directors, employees, agents, representatives and attorney.