

1. AGREEMENT

These Terms and Conditions, coupled with the commercial or other terms on the front of this document, constitute an offer to the BUYER for the sale of goods. This offer expressly limits acceptance to the terms stated herein. SELLER expressly objects to and rejects any additional or different terms in any response to this offer. Upon BUYERS acceptance, the terms and conditions stated in this offer shall become the agreement of the parties for the matters stated herein ("Agreement"). No past practice, industry standard, course of dealing or usage of trade shall be deemed or construed to explain, qualify, supplement, alter or modify (collectively, "Modifications") any term or condition contained herein. Moreover, no modifications of these Terms and Conditions shall be valid unless it or they are made in writing and signed by the parties hereto.

2. DELIVERY

2.1 BUYER will provide to SELLER written, detailed shipping instructions within a reasonable time prior to shipment. BUYER will be responsible for any increased costs or delays in delivery resulting from BUYERS failure to supply such instructions in a timely manner.
 2.2 BUYER may not withhold payment in the event of delay caused by BUYER.
 2.3 Unless otherwise stated herein, SELLER shall not be required to deliver in any month more than the monthly QUANTITY specified, or if no monthly QUANTITY is specified, more than the monthly pro rata amount of the maximum annual QUANTITY specified.
 2.4 All shipments of PRODUCT(S) shall be made EXW (as defined by Incoterms 2000) unless otherwise stated in the AGREEMENT.
 2.5 All specified delivery dates refer to the completion of manufacture and availability for shipment of PRODUCT(S) and are SELLERS best estimates. SELLER reserves the right to modify the delivery dates with notice to BUYER.

2.6 Title shall pass to BUYER upon delivery to carrier.

2.7 The event BUYER is unable to take delivery of any shipment or refuses delivery of a scheduled shipment, SELLER will store the shipment at BUYERS sole risk and expense and payment for such delayed shipment shall immediately become due.

2.8 BUYER warrants there will be no diversion of any shipment that is a) contrary to any applicable law; b) for resale and/or transfer to any party not a party to the AGREEMENT unless approved in writing by SELLER; or c) for shipment or use outside of the U.S., unless approved by SELLER in writing, and if so approved, BUYER warrants it will comply with all applicable laws, restrictions and regulations of the U.S. and other governments, including without limitation, the Export Administration Regulations, as amended, the U.S. Foreign Corrupt Practices Act of 1977, as amended, and the Office of Foreign Asset Control Regulations.

2.9 In instances of bulk carload, tank truck or tank car shipments, shippers weights, certified to by sworn weighmaster, shall govern. Unless otherwise specified, packing shall be Sellers standard packing.

2.10 If SELLERS railcars are utilized, BUYER shall use railcars only for transport of PRODUCT(S) from SELLER to BUYERS facilities and/or transfer and discharge of PRODUCT(S) at BUYERS facilities ("DESTINATION"). BUYER is allowed maximum free time of fifteen (15) consecutive days for each railcar following the first 7:00 a.m. after the agreed to and scheduled date of arrival of the loaded railcar at the DESTINATION ("MFT"). Unless there is a delay caused by SELLER, BUYER will pay SELLER a daily rental charge per railcar of \$35 for each full day in excess of MFT until BUYER returns the railcar to the railroad. Such charge will be in addition to any demurrage charge levied by any third party transportation company such as, but not limited to, railroad railcar storage charge. Payment will be due and payable upon receipt of an invoice specifying such car, period and charges. BUYER agrees to deliver the railcars in a safe condition, in good repair, in the same condition as when first received, and completely evacuated. BUYER shall return every railcar to the railroad at DESTINATION or to reasonable location(s) designated in writing by SELLER. BUYER shall report to SELLER promptly in writing all loss or damage that may be sustained by any railcar or its tanks. BUYER shall visually inspect the railcars exterior(s) before return. BUYER shall be responsible for any damages or loss to railcars except to the extent such damage is proximately caused by SELLERS acts or omissions. If BUYER is responsible, all railcar repairs shall be for BUYERS account. BUYER agrees that in the event any railcar is ordered by BUYER to be loaded at less than a volume of 180,000 pounds, BUYER shall be required to pay deadfreight at the actual rate charged by the carrier.

3. FORCE MAJEURE

3.1 Neither party shall be held responsible for any loss, damage, delay or lack of delivery arising from fire; strikes, lockouts, injunction or other labor troubles; governmental intervention; war; riots; acts of terrorism; explosion; weather; flood; acts of God or nature; inability to obtain on terms acceptable to SELLER or a shortage of fuel, power, raw materials, labor, containers or transportation; accident; breakage of machinery or other apparatus; disruption of normal supplier channels of distribution.

3.2 BUYER may cancel, without liability, deliveries suspended for at least ninety (90) days by SELLER for reasons stated in the previous section, but the AGREEMENT shall otherwise remain in effect.

3.3 SELLER reserves the right to allocate and fairly apportion PRODUCT(S) among its internal and external customers during force majeure events in any manner SELLER, in its sole discretion, deems appropriate.

3.4 SELLER shall have no obligation to acquire by purchase or otherwise any PRODUCT(S) that SELLER is unable to supply to BUYER due to force majeure events.

4. WARRANTY

4.1 SELLER warrants PRODUCT(S) will conform only to SELLERS standard specifications for same, unless otherwise expressly agreed to herein. This warranty applies only to the original purchaser of the PRODUCT(S).

4.2 BUYER shall inspect all PRODUCT(S) for conformance to this warranty BUYER shall notify SELLER of any non-conformance no later than the earlier of a) thirty (30) days from date of shipment by SELLER; or b) the date of use of the PRODUCT(S) by BUYER.

4.3 BUYERS sole remedy and SELLERS sole liability for claims of breach of warranty shall be SELLERS choice of either a) replacement by SELLER of conforming for non-conforming PRODUCT(S); or b) refund of monies paid by BUYER to SELLER for the non-conforming PRODUCT(S).

4.4 SELLER assumes no liability for any errors that are caused by the inaccuracy or incompleteness of BUYER-supplied data.

4.5 SELLER shall have the opportunity to inspect all PRODUCT(S) that BUYER claims are non-conforming. BUYER shall hold, at no cost to SELLER, the PRODUCT(S) pending such inspection. The conditions of any test of the PRODUCT(S) for conformance with any specification shall be mutually agreed upon and SELLER shall be notified of, and may be represented at, all tests that may be made by or for BUYER.

4.6 BUYER assumes all risk for misuse of the PRODUCT(S).

4.7 THIS WARRANTY IS GIVEN IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ORAL OR WRITTEN, STATUTORY OR OTHERWISE, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT WHICH ARE EXPRESSLY DISCLAIMED.

5. LIMITATION OF LIABILITY

5.1 NOTWITHSTANDING ANY PROVISION IN THIS AGREEMENT OR ELSEWHERE TO THE CONTRARY, A) SELLERS MAXIMUM LIABILITY HEREUNDER AT ANY TIME FOR ANY CAUSE WHATSOEVER SHALL NOT EXCEED THE PRICE PAID FOR THE PRODUCT(S) AT ISSUE; AND B) SELLER SHALL NOT BE LIABLE FOR ANY PUNITIVE, SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL LOSS OR DAMAGE OF ANY KIND OR NATURE, ARISING AT ANY TIME, FROM ANY CAUSE WHATSOEVER, INCLUDING LOSS OF REVENUE OR PROFIT.

5.2 These limitations of liability shall apply notwithstanding any finding that any remedy fails its essential purpose.

6. LAWS.

The AGREEMENT shall be construed, interpreted and controlled by the laws of the Commonwealth of Pennsylvania, and all claims arising out of or related to the parties relationship created by the AGREEMENT, whether in contract, tort or otherwise, shall be governed and decided pursuant to the laws of the Commonwealth of Pennsylvania, including Pennsylvania's statutes of limitations but not including its choice of laws rules. BUYER agrees to subject itself to the courts of said jurisdiction and that such venue shall be exclusive regarding disputes arising out of the AGREEMENT. The parties agree that, pursuant to Article 6 of the United Nations Convention on Contracts for the International Sale of Goods (CISG), CISG will not apply in any respect to this contract.

7. PRICES; PAYMENT TERMS

7.1 Unless otherwise stated herein, PAYMENT TERMS shall be Net 30 Days from the date of SELLERS invoice, and payments shall be made in U.S. dollars. All prices shown are exclusive of any applicable tax. Any tax that SELLER is required to collect pursuant to the sale of PRODUCT(S) hereunder shall be in addition to the price and shall be entirely for BUYERS account.

7.2 SELLER may revise the price, payment terms, or shipping terms by written notice dispatched not less than thirty (30) days prior to the effective date of such change. Failure of BUYER to provide written objection to such change within fifteen (15) days of receipt of notice from SELLER shall be considered acceptance of such change. If BUYER provides written objection to such change within fifteen (15) days of receipt of notice from SELLER, SELLER may terminate the AGREEMENT.

7.3 If in the reasonable judgment of SELLER, BUYERS financial ability to perform hereunder is altered, SELLER reserves the right, among any other right or remedy, to change PAYMENT TERMS, require full or partial advance payment or to cancel any outstanding order, without liability.

7.4 Any discount or rebate provided for in the AGREEMENT shall be accounted for exclusively on the basis of sales made to BUYER.

7.5 Notwithstanding any other provision in the AGREEMENT or elsewhere to the contrary, SELLER shall have the unilateral right to pass on to BUYER all fuel, freight, energy and/or similar surcharges.

7.6 All PRICES in the AGREEMENT are exclusively for PRODUCTS sold directly to BUYER or BUYERS agent by SELLER.

7.7 SELLER shall retain a purchase money security interest in the PRODUCT(S) sold hereunder until all payments (including deferred payments, whether evidenced by notes or otherwise) shall have been received in full by SELLER and, if requested, in writing to do so, BUYER agrees to do all acts necessary to perfect and maintain such security interest in SELLER including but not limited to executing any financing statements or other documents. Upon and default by BUYER hereunder, SELLER shall have all rights and remedies of a secured party under the Uniform Commercial Code as enacted in Pennsylvania, which rights and remedies shall be cumulative and not exclusive.

8. PROPRIETARY INFORMATION

8.1 Any information disclosed by SELLER to BUYER incident to the performance of the AGREEMENT, including but not limited to information related to pricing, volumes or the financial terms of the AGREEMENT and the existence of the AGREEMENT itself is disclosed in confidence for the sole and exclusive use of BUYER. BUYER shall not publish or otherwise disclose such information to others without the express written consent of SELLER.

8.2 Nothing herein shall limit the BUYERS right to disclose any information provided by the SELLER hereunder which a) was furnished by the SELLER prior to the AGREEMENT without restriction; b) legitimately becomes knowledge available within the public domain; or c) is received by BUYER from a third party without restriction and without breach of this or any other AGREEMENT.

8.3 In the absence of a signed agreement to the contrary, no information disclosed by BUYER to SELLER shall be considered confidential. Buyer agrees not to analyze or have a third party analyze any PRODUCT(S) for chemical composition or content.

9. ADDITIONAL TERMS

9.1 Any attempt by either party to assign the rights or delegate the duties under this AGREEMENT shall be null and void absent the prior written permission of the other; provided, however, that (a) SELLER may assign its rights and obligations hereunder to any AFFILIATE of SELLER by written notice to BUYER; and (b) SELLER may assign its rights and obligations hereunder, by written notice to BUYER, to a third party successor or transferee (whether by merger, consideration, purchase or otherwise) of either (1) all or substantially all of the assets of SELLER or (2) all or substantially all of the assets of the particular division of SELLER identified with this AGREEMENT. "AFFILIATE" shall mean any individual, corporation or other business entity that either directly or indirectly and including through one or more intermediaries, controls SELLER, is controlled by SELLER, or is under common control with SELLER. "CONTROL" means possession of the power to direct, or cause the direction of the management and policies of a corporation or other entity through ownership of the voting securities, by contract or otherwise.

9.2 Return of PRODUCT for any reason whatsoever shall require written approval of SELLER.

9.3 BUYER warrants that no PRODUCT or part of any PRODUCT shall be utilized in any type of a) nuclear use whatsoever; b) weapons systems or other similar military use; or c) medical, food processing or FDA regulated use, unless otherwise agreed to in writing by SELLER.

9.4 BUYER represents and warrants that a) it understands the nature and characteristics of the PRODUCT(S) and any hazards associated with its use; b) it will adequately instruct and warn all persons, including all third parties, who may come in contact with, or be in the vicinity of, the PRODUCT(S) in the proper safe use and handling of the PRODUCT(S); c) it is not relying upon any representation, statement or other assertion made by SELLER or its representatives or agents with respect to the suitability of the PRODUCT(S) for any purpose and that the BUYER has made its own independent inquiry and testing and has formed an independent opinion concerning the suitability of the PRODUCT(S) for the use and conversion or application intended; and d) it will not assert claim against SELLER or hold SELLER liable, with respect to any information, testing or design furnished, or failure to be furnished, by SELLER, including, without limitation, technical advice or recommendations. SELLER assumes no obligation or liability for any technical assistance rendered incident to the AGREEMENT. Appropriate literature has been assembled which provides information concerning the health and safety precautions that must be observed when handling PRODUCT(S). Before working with PRODUCT(S), BUYER must read and become familiar with the available information on the PRODUCT(S) hazards, proper use, and handling.

9.5 BUYER acknowledges that PRODUCT(S) may not meet applicable government procurement requirements and that SELLER may not be able to provide information required by government procurement regulations; and SELLER shall have no liability whatsoever with respect to an requirements relating to, or arising from, any government procurement regulations, unless first agreed to in writing, signed by an authorized representative of SELLER.

9.6 No type of contractual obligation between BUYER and its customer(s) shall be applicable to, or create any liability with respect to, SELLER, whether via a "pass-through", "flow-down" or otherwise, and BUYER shall not otherwise represent to its customer(s) such purported liability.

9.7 The rights and obligations under Articles 4, 5, 6, 8 and 9 herein shall survive the cancellation, termination or expiration of the AGREEMENT

9.8 Should any part of the AGREEMENT be deemed invalid by a court of law, it shall not constitute an invalidation of any other part of the AGREEMENT, which shall otherwise remain in effect. Failure of SELLER to effect, or any delay by SELLER to effect, any available right or remedy shall not be construed to operate as a waiver of same except as otherwise expressly provided, the AGREEMENT supersedes all prior agreements, understandings or otherwise, whether oral or written, between BUYER and SELLER and constitutes the final, complete and exclusive terms of agreement concerning the subject matter of the AGREEMENT.

10. Returnable Semi-bulk Containers ("RSBC")

10.1 When available, SELLER will loan returnable semi-bulk containers ("RSBC") to BUYER for use solely in conjunction with BUYERS purchase of PRODUCT(S) from SELLER and use at BUYERS plant. BUYER shall have no right, title, or ownership interest in the RSBC by virtue of this loan as set forth below.

10.2 BUYER will return ship empty (as defined under RCRS 40 CFR Section 261) the RSBC to SELLERS designated facility within one hundred twenty (120) days of receipt by BUYER. In the event any RSBC is not returned to SELLERS designated cleaning facility within one hundred twenty (120) days of receipt, title will be deemed to have transferred to BUYER and BUYER hereby agrees to immediately pay SELLER the replacement cost of the RSBC upon receipt of a Bill of Sale. Cleaning and disposal of non-excess residue shall be accomplished only by the SELLERS designated cleaning facility. If more than one (1) inch of residue remains at the bottom of the returned RSBC, as measured at the center of the top manhole opening, it shall be deemed to constitute excess residue and the RSBC will be returned to BUYER for cleaning and residue disposal at BUYERS expense.

10.3. The RSBC shall be returned by BUYER to the facility designated by SELLER, freight collect, in the same condition received by BUYER, normal wear and tear excepted. BUYER shall not place, or cause the placement, of any matter in the RSBC, or use the RSBC for any purpose other than the transportation of the originally purchased SELLER PRODUCT(S) to BUYERS plant.

10.4. BUYER agrees to handle RSBC with the utmost care and in a safe manner to protect it from damage. BUYER, within thirty (30) days of invoice will promptly reimburse SELLER for the costs of repairs or replacement when damage or loss occurs during BUYERS possession or control of the RSBC. BUYER further agrees to maintain, use, and handle the RSBC in compliance with all applicable federal, state, and local laws and regulations.

10.5 SELLER DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE RSBC, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. SELLER ASSUMES NO LIABILITY OR RESPONSIBILITY FOR THE RSBC WHILE IN THE POSSESSION OR CONTROL OF BUYER, AND IN NO CASE SHALL SELLER BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES. Any RSBC sold pursuant to Section 10.2, above shall be sold "AS IS" and "WHERE IS". BUYER agrees to indemnify, defend and hold SELLER harmless from and against any claims of loss, damage, or expense, including reasonable attorney's fees and penalties, or any suit, including alleged property damage or bodily injury, resulting directly or indirectly from the shipment, handling, use or storage of the RSBC by BUYER, even if such loss, damage or expense is caused by the SELLERS negligence except to the extent caused by SELLERS sole negligence.