

## PURCHASE TERMS AND CONDITIONS OF HARCROS CHEMICALS INC.

(1) **GENERAL CONDITIONS:** Seller shall sell to Buyer the materials, equipment, goods and any other articles purchased in connection with the Purchase Order (herein referred to as the "Materials"). By acceptance of the Purchase Order or performance hereunder, Seller agrees to comply fully with the terms and conditions hereof. Acceptance of the Purchase Order is expressly limited to the terms of the offer contained on the face of the Purchase Order, these Terms and Conditions, and in any other document(s) fully identified on the face of the Purchase Order (or in these Terms and Conditions) and specifically incorporated in the Purchase Order by reference thereto. No additional or different terms in Seller's acknowledgment or acceptance of the Purchase Order shall apply and acceptance by Buyer of the Materials, services or work delivered under the Purchase Order shall not constitute acceptance of Seller's additional or different terms. Changes, modifications, waivers, additions or amendments to the terms and conditions of the Purchase Order shall be binding on Buyer only if such changes, modifications, waivers, additions or amendments are in writing signed by either an officer or duly authorized representative of Buyer. In the event of a conflict between specifications, samples, designated type, or description, the specifications shall govern over the sample, whether or not approved by Buyer, and samples shall govern over designated type or description. In cases of ambiguity in the specifications, drawings, or other requirements of the Purchase Order, Seller must, before proceeding, consult Buyer, whose written interpretation shall govern. Mistakes in prices, discounts, specifications, delivery schedules or other terms and any noticeable discrepancies in quantities or sizes are to be reported immediately by Seller to Buyer and Seller shall immediately remedy such mistakes by refunding incorrect charges to Buyer or correcting such other discrepancies, unless otherwise directed by Buyer. Buyer hereby rejects any and all conditions which Seller may attach to its acceptance of the Purchase Order, and Seller hereby acknowledges the foregoing rejection of Buyer. Furthermore, Seller and Buyer agree that if Seller commences performance of the Purchase Order, the terms and conditions of the contract between Buyer and Seller shall include only the terms and conditions set forth in the Purchase Order. In the event that the Purchase Order operates as an acceptance, acceptance is expressly limited to acceptance of the terms and conditions hereof.

(2) **PACKING AND SHIPPING:** Unless otherwise specified, all Materials to be delivered hereunder shall be boxed, crated, carted and stored without charge and shall be packed and packaged (1) to insure safe arrival at their ultimate destination, (2) to secure the lowest transportation costs, (3) to enable shipper to obtain adequate insurance where necessary, and (4) to comply with requirements of common carriers. Buyer's Purchase Order numbers and Department number must be plainly marked on all invoices, packages, bills of lading and shipping orders. Shipping memos or packing lists must accompany all Materials. Bills of lading or shipping receipts shall accompany each invoice. Buyer's count or weight shall be final and conclusive on shipments not accompanied by packing lists. Materials must be routed in accordance with Buyer's instructions.

(3) **DELIVERY:** TIME IS AND SHALL REMAIN OF THE ESSENCE OF THE PURCHASE ORDER AND NO ACT OF BUYER, INCLUDING WITHOUT LIMITATION, ACCEPTANCE OF LATE DELIVERIES, SHALL CONSTITUTE A WAIVER OF THIS PROVISION. Buyer shall have the right to refuse or return, at Seller's risk and expense, shipments made in excess of the quantities contained herein or made in advance of delivery schedule. Seller shall notify Buyer immediately of any actual or potential labor disputes or other cause which is delaying or threatens to delay the timely performance of the Purchase Order. Seller shall be responsible for the payment of all taxes covering the Materials, including the payment of all applicable taxes covering its employees. Unless otherwise agreed by the parties on the face of the Purchase Order, payment terms are net forty-five (45) days from Buyer's receipt of proper invoice or receipt of Materials and completed services, whichever occurs later.

(4) **INSPECTION AND WARRANTY:**

(a) Final inspection and acceptance of Materials by Buyer will be at the location to which delivery is to be made unless otherwise specified. The initial inspection performed by Buyer upon receipt of the Materials is a conditional acceptance and notwithstanding such acceptance or the subsequent use of or work on such Materials, Seller shall not be relieved of its responsibility for any defects which later appear.

(b) Notwithstanding that Buyer may have cooperated with Seller in the preparation of the specifications of the Materials, it is understood that Buyer is relying on the technical expertise of Seller with respect to the adequacy of the specifications and with respect to the proper manufacture of the Materials, including adequate quality control. Seller assumes full responsibility for the safety of the Materials.

(c) Without in any way limiting the foregoing, Seller represents, warrants and covenants that: (i) all Materials, services and work supplied under the Purchase Order shall strictly conform to the specifications, samples, designated type or other descriptions furnished or adopted by Buyer and shall be of good material and workmanship, merchantable and free from defects in design, material and workmanship; (ii) all Materials are new and not used or reconditioned (unless otherwise expressly specified in the Purchase Order) and shall be in all respects suitable for the particular purpose or use for which they are purchased by Buyer; (iii) title to all Materials, services and work supplied shall be unencumbered and all Materials and their use alone or in a combination according to Seller's specification or recommendation shall be free from any actual or claimed patent, copyright, trademark or other intellectual property infringement; (iv) it and its personnel are experienced, are qualified, and possess the skills to perform in accordance with the terms and conditions of the Purchase Order; (v) the Materials will be manufactured, produced, prepared, distributed, and transported in accordance with the highest professional standards; (vi) it has independent knowledge of and understands the harmful nature and characteristics (whether actual or alleged, present or potential, or toxic, flammable, corrosive, reactive, explosive or otherwise), and the currently known hazards which are presented to persons, property, and the environment from each of the Materials described in the Purchase Order; (vii) it will warn and advise all employees, subcontractors, and other agents of such harmful nature and characteristics of each of the Materials subject to the Purchase Order and of any other hazards associated with performance of the Purchase Order; (viii) it shall be bound by and fully implement the requirements of Executive Order 11246 and 11375, as amended, and any future Executive Orders or regulations, which prohibit discrimination based upon race, creed, color or national origin, as well as maintenance of non-segregated facilities pursuant to Executive Order 11246 and the provision of Part 60-2 of Title 41 of the Code of Federal Regulations, and further it and the Materials shall comply with the requirements of all federal and equivalent state and local laws, regulations, ordinances, orders, and rules, including, without limitation, the following which are incorporated herein and for which Seller agrees to submit reports, certificates and other documents

as may be required by Buyer or any such law: the Consumer Product Safety Act; the Walsh-Healey Public Contracts Act (if Purchase Order exceeds \$10,000); the Contract Work Hours and Safety Standards Act ("CWHSSA"); the Civil Rights Act of 1866, 42 U.S.C. § 1981; the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq., as amended by the Civil Rights Act of 1991; the Age Discrimination in Employment Act, 29 U.S.C. § 621 et seq. ("ADEA"); the Fair Labor Standards Act of 1938, 29 U.S.C. § 201 et seq. ("FLSA"), including the requirements as to records; the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq. ("ADA"); the Family and Medical Leave Act, 29 U.S.C. § 2601 et seq. ("FMLA"); Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000 et seq. ("Title VII"); the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001 et seq. ("ERISA") (excluding claims for vested benefits); the National Labor Relations Act, 29 U.S.C. § 151 et seq. ("NLRA"); the False Claims Act, 31 U.S.C. § 3729 et seq.; the Occupational Safety and Health Act, as amended; the Equal Pay Act, as amended; the Affirmative Action for Handicapped Workers Clause prescribed by the Rehabilitation Act of 1973, as amended; and the Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era Clause prescribed by the Vietnam Era Veterans Readjustment Assistance Act of 1972, as amended; (ix) it has all necessary local, state and federal permits and licenses to perform the Purchase Order, and the transportation subcontractor, if any, possesses all necessary permits and licenses to transport all Materials to and/or from Buyer's premises in full compliance with all governmental laws, rules, regulations, orders, and manifests; (x) it shall ensure that the handling, storage, transportation or other disposition of any waste generated by it will be performed in compliance with all federal, state and local laws and regulations and Seller shall be responsible to perform all requirements applicable to the generator of any wastes generated by Seller in connection with the Materials and/or services provided hereunder; (xi) each shipment or other delivery of any Materials will not be, at the time of such shipment or delivery, adulterated, misbranded, or otherwise prohibited within the meaning of the Federal Food, Drug and Cosmetic Act (the "Act") contained in Title 21 of the United States Code, as amended, and in effect at the time of said shipment or delivery or within the meaning of any applicable state or local law in which the definition of adulteration or misbranding are substantially the same as those contained in the Act; and (xii) all Materials are those which may be legally transported or sold under the provisions of any other applicable federal, state or local law, and Seller further warrants that only those chemicals or sprays approved by federal, state or local authorities have been used, and any residue in excess of the amount allowed by any such authorities has been removed therefrom.

(d) The warranties set forth in the Purchase Order shall be in addition to any other warranties, express, implied or statutory, that may apply. All warranties shall survive inspection, test, acceptance, and/or any payment for Materials/services and shall run to Buyer, its successors, assigns and customers and subsequent owners of the Materials or the end products thereof. Upon notice of defect or non-conformity, Buyer may (in addition to all other remedies that Buyer may have under the Purchase Order, at law, or in equity) at its option, (i) without notice to Seller retain any defective or nonconforming Materials, make necessary repairs thereto and charge Seller for Buyer's cost of repairs including plant overhead at Buyer's standard rate; or (ii) allow Seller to repair the applicable Materials within a reasonable time; or (iii) (A) return any such Materials to Seller for credit at the price charged, or, at Buyer's option, for replacement within a reasonable time, and, at Buyer's option, (B) cancel any unshipped portion of the Purchase Order including or exclusive of the Materials so returned. Return to the Seller of any defective or nonconforming Materials and delivery to Buyer of any replacement Materials shall be at Seller's risk and expense. Replacement Materials shall be subject to the provisions of the Purchase Order in the same manner and to the same extent as Materials originally delivered hereunder.

(5) **TERMINATION:**

(a) **Orders Placed Under Government Contract or Subcontract:** If the Purchase Order is established under a U.S. government contract or subcontract and Buyer designates the applicable contract number on the face of the Purchase Order, Buyer may terminate work in whole or in part at any time by written (including e-mail) notice to Seller. Upon termination by Buyer, the respective rights and duties of Buyer and Seller shall be as provided in, and settlement shall be made in accordance with, the Termination for Convenience of the Government (Fixed-Price) Clause at § 52.249-2 of the Federal Acquisition Regulation in effect on the date of the Purchase Order, which clause is incorporated herein by reference.

(b) **Orders Not Placed Under Government Contract or Subcontract:** In the case of Orders not placed under a U.S. government contract or subcontract, Buyer may, by notice in writing (including email), terminate the Purchase Order and the work hereunder in whole or in part at any time, and such termination shall not constitute a default. Upon termination by Buyer, the respective rights and duties of Buyer and Seller shall be limited exclusively to settlement charges which will include expenses and commitments already incurred or made and a reasonable allowance for prorated expenses and profits according to generally accepted accounting principles and practices.

(c) **Default:** Buyer may terminate the Purchase Order for cause if Seller fails to make any delivery in accordance with the agreed delivery date or schedule or otherwise fails to observe or comply with any of the other instructions, terms, conditions or warranties applicable to this Order, or fails to make progress so as to endanger performance of the Purchase Order, or in the event of any proceedings by or against Seller in bankruptcy or insolvency or appointment of a receiver or trustee or an assignment for the benefit of creditors, or if Buyer otherwise has reasonable grounds of insecurity with respect to Seller's performance and Seller fails to provide adequate assurance of due performance. Buyer may, in addition to any other right or remedy provided by the Purchase Order or by law or in equity, terminate all or any part of the Purchase Order by written notice to Seller without any liability by Buyer to Seller on account thereof. Buyer may require a financial statement from Seller at any time during the term of the Purchase Order for the purpose of determining Seller's financial condition. In the event of termination for cause, in addition to any other rights that Buyer may have under the Purchase Order, at law or in equity, Seller agrees upon demand by Buyer to deliver the raw materials and work in process acquired to perform under the Purchase Order and Buyer may then complete the work deducting the cost of such completion from the price or, in the alternative, pay to the Seller the cost of such raw materials and work in process, or Buyer may produce or purchase or otherwise acquire Materials elsewhere on such terms or in such manner as Buyer may deem appropriate and Seller shall be liable to Buyer for any excess cost or other expenses incurred by Buyer.

(6) **CONFIDENTIALITY:** All specifications, samples, designs, designated types, description, customer information, pricing, or other information furnished by Buyer to Seller shall be maintained in confidence by the Seller, and shall not be reproduced, disclosed, duplicated or used,

except to the extent required for the purposes of carrying out its obligations under Purchase Order. Seller shall use all reasonable precautions to prevent any unauthorized reproduction or disclosure, without the prior written consent of Buyer. Upon completion of the Purchase Order, Seller shall promptly return to Buyer, unless otherwise provided in writing signed by an officer or duly authorized representative of Buyer, all specifications, drawings, samples and other data, furnished by Buyer in connection with the Purchase Order, together with all copies or reprints then in Seller's possession or control. The Seller shall thereafter make no further use, either directly or indirectly, of any such specifications, samples, data or any information derived therefrom without Buyer's prior written consent.

**(7) INDEMNIFICATION:**

(a) To the fullest extent permitted by applicable law, Seller agrees to indemnify and hold harmless Buyer from and against any and all claims, actions, demands, losses, damages, injuries, liabilities, penalties, forfeitures, suits, and the costs and expenses incident thereto (including cost of defense, settlement and reasonable attorneys', consultant or other professional fees) which Buyer may hereafter incur as a result of (i) Seller's breach of any term or provision of the Purchase Order, or (ii) the design, development, manufacture, distribution, sale, use, or repair of the Materials, whether the claim be based upon a theory of breach of contract or warranty, negligence, strict liability, other tort, or any other legal theory, except to the extent caused by the negligence of Buyer, or (iii) as a result of any suit, claim, or demand under any environmental, health, safety or other laws, rules, regulations or requirements, in connection with the manufacture, distribution, transportation, storage, use or disposal of the Materials or of raw materials by Seller, or (iv) any negligent or willful act or omission of Seller, its employees, agents, representatives or subcontractors in the performance of the Purchase Order or related to the Materials.

(b) If Seller's performance requires Seller, its employees, agents or representatives to perform services or labor in the plants or on the premises of Buyer or any other third party, Seller will, to the fullest extent permitted by applicable law, indemnify and hold harmless Buyer from and against any and all claims, actions, demands, losses, damages, injuries, liabilities, penalties, forfeitures, suits, and the costs and expenses incident thereto (including cost of defense, settlement and reasonable attorneys', consultant or other professional fees) which Buyer may hereafter incur as a result of injury or damage to person or property arising out of such performance, except to the extent caused solely and directly by the negligence of Buyer. Additionally, Seller expressly and specifically waives all immunity that may be afforded Seller under the workers' compensation laws of any state or jurisdiction.

(c) Without limiting the generality of the foregoing, Seller agrees to indemnify and hold harmless Buyer from all loss, cost and expense which Buyer may sustain in connection with the Materials as a result of any product recall, repair, or modification program or other compliance program or effort, pursuant to any applicable statute or regulation of any governmental authority, whether same be voluntary on the part of the Buyer, or mutually agreed upon by the parties, or required by such governmental authority. Without limiting the generality of the foregoing, Seller will, in connection with any such product recall or compliance program or effort, cooperate fully with Buyer with the October 20, 2014 version purchase of any product returned, and pay any shipment or mailing costs and other incidental expenses of Buyer and its customers in connection therewith.

(d) The word "Buyer" as used in this Section 7 includes without limitation Buyer itself, its affiliates and their respective officers, directors, agents, employees, representatives and assigns, or any person or entity for whom or for which it is claimed Buyer is responsible.

**(8) INSURANCE:**

(a) Seller shall procure and maintain in full force and effect the following insurance with companies and on forms satisfactory to Buyer and require all of Seller's subcontractors to carry and maintain the same coverages and limits of insurance during the performance of the Purchase Order: (i) If Seller will have employees on site, then Seller shall provide Worker's Compensation Insurance, including coverage for occupational diseases, providing for the payment of statutory benefits as required by applicable law; (ii) If Seller will have employees on site, then Seller shall provide Employers' Liability Insurance with limits of \$1,000,000 each accident and each employee disease; (iii) Commercial General Liability Insurance with a minimum \$1,000,000 limit for each occurrence and \$2,000,000 aggregate for bodily injury, property damage, products liability, and such coverage shall include coverage for broad form contractual liability (including without limitation, Seller's liability pursuant to the indemnification obligations contained in the Purchase Order) and completed operations. Seller shall continue to provide the required products and completed operations coverage for a period of five (5) years after the sale of the Materials; (iv) If Seller will be driving on site, then Seller shall provide Comprehensive Automobile Liability Insurance with a minimum \$1,000,000 limit for each occurrence. If hauling of hazardous waste is part of the scope of the performance of the Purchase Order, Automobile Liability Insurance with a \$1,000,000 combined single limit per occurrence for bodily injury and property damage applicable to all hazardous waste hauling vehicles shall be maintained by Seller, and such coverage shall include MCS 90 endorsement and the ISO Form CA 9948 (Pollution Liability Broadened Coverage for Business Automobile); (v) If the scope of performance under the Purchase Order in any manner includes hazardous materials, then Seller shall provide and maintain Pollution Liability coverage with limits of not less than \$1,000,000 each occurrence and aggregate.

Pollution Liability policy must include contractual liability coverage aligned with indemnification obligations of the Purchase Order. The policy shall also include defense and clean-up costs. Seller shall continue to provide the required products and completed operations coverage for a period of five (5) years after the sale of the Materials; and (vi) All other coverage required by applicable laws and regulations including, in addition to insurance, any other form of financial protection.

(b) Seller shall have Buyer designated as an additional insured party under Seller's Commercial General Liability, Comprehensive Automobile Liability, and, if applicable, Pollution Liability policies and shall furnish Buyer with Certificates of Insurance evidencing such additional insured status. Additional insured status under the Commercial General Liability policy shall be for both ongoing and completed operations. If applicable, the additional insured endorsement shall be on a Vendor's form (CG 20 15 or its equivalent). All insurance required above shall be primary and non-contributory to insurance purchased by Buyer and shall contain a waiver of subrogation in favor of Buyer. All insurance required shall include the cost of defending Buyer, and such defense costs shall not apply against the coverage limits of the required insurance. Seller agrees to have the Certificates of Insurance forwarded to Buyer within thirty (30) days following the date of the Purchase Order, or, if earlier, prior to commencement of the Purchase Order. Seller shall provide, or to the extent commercially available policies shall provide, that the coverage shall not be decreased, otherwise materially altered, or terminated without thirty (30) days' prior written notice thereof being given to Buyer. The insurance described herein sets forth minimum amounts and types of coverage, and is not to be construed in any way as a limitation of Seller's liability under the Purchase Order.

**(9) INFRINGEMENT:**

(a) Seller shall defend, indemnify, and hold harmless Buyer, each of Buyer's affiliates, customers and users of the Materials, and each of the foregoing's directors, officers, members, managers, employees, agents, successors, and assigns from and against any and all loss, damage, or liability, including costs and expenses, which may be incurred on account of any suit, claim, judgment or demand, involving infringement, misuse, misappropriation or alleged infringement, misuse, or misappropriation of any patent, trademark, copyright, data rights, trade secrets, or any other intellectual property rights of any third party in the performance, design, manufacture, use, sale, development, delivery, or disposition of any Materials or services supplied hereunder (an "IP Claim"). Buyer shall notify Seller of any suit instituted against it and, to the fullest extent of its ability to do so, shall permit Seller to defend the same (with counsel reasonably acceptable to Buyer) or make settlement on terms acceptable to Buyer in respect thereof. Buyer does not grant indemnity to Seller for infringement of any patent, trademark, copyright, data rights, or any other intellectual property rights. Without abrogating or otherwise limiting Seller's defense and indemnity obligations, if an IP Claim has been or may be asserted against Seller and/or Buyer due to a Material/service provided hereunder, Seller must, at Seller's expense: (i) procure the right for Buyer to continue using the Material/service; (ii) replace or modify the Material/service to eliminate the alleged infringement while providing substantially equivalent quality and functionality; or (iii) if the performance under subsections (i) and (ii) are not possible and upon Buyer's written consent, refund all amounts paid by Buyer for the applicable Material/services.

(b) The Seller hereby grants to Buyer a license to repair, rebuild, and relocate and to have repaired, rebuilt, and relocated any and all Materials purchased by Buyer under the Purchase Order.

(10) **CHANGES:** Buyer shall have the right to make changes within the scope of the Purchase Order from time to time in any of the designs, specifications, packing, destination, delivery schedule (postponements only) or quantity of items ordered, or in the time or place of delivery and Seller shall comply therewith without delay. If such changes cause an increase or decrease in the cost of performance of the Purchase Order or in the time required for its performance, an equitable adjustment shall be negotiated promptly and the Purchase Order shall be modified in writing accordingly. Any claim by Seller for adjustment under this Section 10 must be asserted in writing within thirty (30) days from the date of receipt by Seller of the change and shall be followed as soon as practicable with a specification of the amount claimed and supporting cost figures.

(11) **BUYER MATERIAL:** Any material supplied by Buyer for use in the Purchase Order, on other than a charge basis, shall be held by Seller on consignment, separate from other material of Seller and marked as the property of Buyer. Seller agrees to use such material only for the performance of the Purchase Order and to pay for all such material that shall become spoiled or otherwise unaccounted for, and to keep such material insured at Seller's cost for the benefit of Buyer. **BUYER MAKES NO WARRANTIES OF ANY NATURE WITH RESPECT TO ANY SUCH MATERIAL SUPPLIED BY BUYER, WHICH SELLER AGREES IS FURNISHED TO SELLER "AS IS" AND WITHOUT ANY WARRANTY, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

(12) **TITLE AND RISK OF LOSS:** Title to and risk of loss of Materials shall remain with Seller until such Materials are delivered to the delivery location or such other point specified in the Purchase Order. If no such point is given herein, then, until the Materials are delivered to a public carrier consigned to Buyer or delivered to Buyer, whichever delivery shall occur first, title and risk of loss remain with Seller. For bulk deliveries, title and risk of loss remains with Seller until such Materials are delivered into Buyer's vessel.

(13) **BUYER'S LIMITATION OF LIABILITY:** IN NO EVENT SHALL BUYER BE LIABLE FOR ANY REASON OR ARISING FROM ANY CAUSE WHATSOEVER, FOR PUNITIVE, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES EVEN IF BUYER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**(14) GENERAL PROVISIONS:**

(a) Severability. If any provision of the Purchase Order shall be adjudged illegal, invalid or unenforceable, the validity and enforceability of the remaining provisions hereof shall not be impaired.

(b) Assignment and Subcontract; Liens. Seller shall not assign or subcontract the Purchase Order, its performance, or any monies due or to become due hereunder, and any attempt to so assign shall be void unless with the prior written consent of Buyer. Seller shall not permit the filing of any mechanic's, materialman's or other lien or claim of any kind against Buyer's lands or improvements on account of labor, materials, fixtures, tools, machinery, equipment or any other thing furnished in connection with the Purchase Order. Buyer shall have the right to withhold final payment to Seller until such time as Seller delivers to Buyer lien waivers or releases and proof of payment in such form and at such times as Buyer shall specify. Buyer shall have the right of set off against Seller for any amount owed by Buyer to Seller against any amount due or to become due to Buyer or any affiliate from Seller, whether under the Purchase Order or under any other Purchase Order between Buyer and Seller, whether now or hereinafter in effect.

(c) Survival. All sections of the Purchase Order or parts thereof that, by their nature, should continue to apply after the term of the Purchase Order will survive the expiration or termination hereof. The existence of language in certain sections to the effect that such sections will survive the termination or expiration of the Purchase Order does not imply that other sections not containing such language are not intended to survive the expiration or termination hereof.

(d) Applicable Law. The Purchase Order shall be governed by and interpreted in accordance with the laws of the State of Kansas, without regard to its conflict of laws provisions. The parties, to the fullest extent permitted by law, hereby knowingly, intentionally and voluntarily, (i) submit to personal, exclusive jurisdiction in the State of Kansas with respect to any suit, action or proceeding arising from, relating to or in connection with the Purchase Order, (ii) agree that any such suit, action or proceeding may be brought in any state court of competent jurisdiction sitting in Johnson County, Kansas, or in the United States District Court for the District of Kansas, at Kansas City, KS, (iii) submit to the jurisdiction of such courts, (iv) agree that the parties will not bring any action, suit or proceeding in any forum other than a state court of competent jurisdiction sitting in Johnson County, Kansas, or in the United States District Court for the District of Kansas, at Kansas City, KS, and (v) irrevocably agree not to assert any objection which any party may ever have to the laying of venue of any such suit, action or proceeding in any state court of competent jurisdiction sitting in Johnson County, Kansas, or in the United States District Court for the

District of Kansas, at Kansas City, KS, and any claim that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

(e) Price. Seller represents, warrants and covenants that (i) the price charged for the Materials is the lowest price charged by Seller to its customers in respect of a sale of Materials of like quality and quantity, (ii) the price of the Materials shall be subject to reduction to any lower price made or offered by Seller from the date of the Purchase Order to the date of payment to any other customer in respect of any such sale of Materials, and (iii) the price will comply with all applicable laws and regulations in effect at the time of quotation, sale and delivery of the Materials.

(f) Excusable Delays. Neither Buyer nor (unless the Materials were obtainable from other sources in sufficient time to permit due performance) Seller shall be liable for damages for delay or failure in the performance of any of its obligations hereunder arising out of causes beyond its reasonable control and without its fault or negligence, including, without limitation, any actual or potential labor disputes, provided, however, that such party shall notify the other promptly of the cause and extent of any actual or potential delay, and provided that if any such delay by Seller extends beyond a reasonable time, in any event not to exceed thirty (30) days, Buyer may, at its option, either further extend the time for performance or terminate the Purchase Order in whole or in part without penalty or liability of any kind.

(g) Miscellaneous. Buyer objects to and rejects any attempt by Seller to limit Seller's liability under the Purchase Order in any manner beyond any limitations as are required by applicable law. Section headings are for convenience only and shall have no legal or interpretive effect. In interpreting the Purchase Order, no presumption or inference shall be deemed to arise for or against either party due to the preparation of this document.