

TERMS AND CONDITIONS OF SALE

- FORCE MAJEURE** (1) Performance by Seller under this order shall be extended or excused to the extent failure to perform is the direct or indirect result of any occurrence beyond Seller's control including, but not limited to, strikes, labor troubles, riots, floods, fires, earthquakes, storms and other natural disasters, accidents, shortage of cars, failure of production, supply, transportation or delivery of raw materials or the materials covered by this agreement.
- PERFORMANCE** (2) Each shipment hereunder shall constitute a separate agreement subject to the terms, prices and conditions hereof. Seller may, without prejudice to other lawful remedies, defer or refuse to make further shipments unless all terms of this agreement are complied with by Buyer.
- DELIVERY/FREIGHT** (3) Delivery of shipments in good order to transportation company properly consigned shall constitute delivery to Buyer. When the price of material specified in this original invoice is made on the basis of Seller allowing credit to Buyer for freight to destination, the existing freight rate shall govern. Any adjustment made for any increase or decrease therein must be documented by original paid (receipted) freight bills forwarded to Seller for credit to the account of the Buyer.
- TANK CARS** (4) When materials are shipped in Seller's tank cars, Buyer agrees to unload and release Seller's cars within seven (7) days time after their arrival at destination. Failing to do so, Buyer agrees to pay Seller detention for cars delayed beyond this seven (7) day free time period at the rate of twenty-five dollars (\$25) per day per 10,000 gal. tank car and \$50.00 per day per 20,000 gal. tank car.
- CREDIT** (5) If in the judgement of the Seller, the credit of the Buyer shall at any time become impaired, the Seller shall have the right to demand and receive adequate security, including prepayment, before making further shipments.
- TAXES** (6) Buyer agrees to assume payment of all taxes, tariffs and duties, now or hereafter levied by any Government on the sale of materials covered by this agreement.
- WARRANTIES AND REMEDIES** (7) Seller warrants title to all products delivered under this invoice. With this exception, there are no warranties which extend beyond the description on the face hereof, and Seller makes no warranty, express or implied, of merchantability or fitness for a particular purpose or otherwise with respect to the products, whether used singly or in combination with other substances or in any process. Should any product shipped hereunder prove to be defective in quality, Buyer is limited to the following remedies, which constitute the return policy of the Seller.
- (a) With authorization, and notice given Seller as described in Paragraph eight (8) below, and within sixty (60) days from date of shipment, any of Seller's product found to be defective or not meeting specifications can be returned for full credit or refund of the purchase price, plus Buyer's transportation costs.
 - (b) At the option of Buyer, such returned defective goods can be replaced by the Seller with goods which are not defective.
 - (c) Return of nondefective goods from Buyer for any reason must be authorized by Seller, and will be limited to sixty (60) days from date of shipment. Transportation charges connected with returning nondefective goods will be paid by the Buyer. A credit of 75% of the purchase price will be given to Buyer upon satisfactory receipt of material acceptable in quantity and package condition.
 - (d) No returns will be acceptable to Seller after sixty (60) days from date of shipment.
- INSPECTION AND LIMITATION OF LIABILITY** (8) Buyer shall inspect and test the products delivered hereunder for damage, defect or shortage immediately upon receipt at Buyer's plant of such other location as determined by Buyer and provide Seller notice of any such damage, defect or shortage within ten (10) days of receipt. All claims for any cause whatsoever, whether based in contract, negligence or other tort, strict liability, breach of warranty or otherwise, shall be deemed waived unconditionally and absolutely unless Seller receives written notice of such claim not later than sixty (60) days from date of shipment of the products for which said claim is made.
- NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH SEVEN (7) ABOVE AND REGARDLESS OF THE CIRCUMSTANCES, SELLER'S TOTAL LIABILITY TO BUYER FOR ANY AND ALL CLAIMS, LOSSES OR DAMAGES ARISING OUT OF ANY CAUSE WHATSOEVER, WHETHER BASED IN CONTRACT, NEGLIGENCE OR OTHER TORT, STRICT LIABILITY, BREACH OF WARRANTY OR OTHERWISE, SHALL IN NO EVENT EXCEED THE INVOICE VALUE OF THE PRODUCTS IN RESPECT TO WHICH SUCH CAUSE AROSE. IN NO EVENT SHALL SELLER BE LIABLE FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES. Any cause of action that Buyer may have against Seller and which may arise under this agreement must be commenced within one year after the date of shipment of the products for which said cause of action has been commenced.
- ENTIRE AGREEMENT** (9) This Agreement constitutes the entire agreement between the parties hereto, and there are no understandings, representations or warranties of any kind, expressed or implied, not expressly set forth herein.
- (10) This Agreement shall be binding upon the parties hereto and their successors in interest and shall be interpreted in accordance with the laws of the Commonwealth of Pennsylvania.