

**PMC SPECIALTIES GROUP, INC. ("PMC SPECIALTIES GROUP, INC.")**

**TERMS AND CONDITIONS OF SALE**

1. **TERMS OF SALE.** These Terms and Conditions of Sale ("Terms") shall apply to the Sales Agreement to which these Terms are attached (the "Sales Agreement", together with these Terms, the "Agreement"). All purchases by Buyer of Product described in the Agreement ("Product") are expressly limited to and conditioned upon acceptance of these Terms, regardless of the means or media of Buyer's purchases of Product, including without limitation, written purchase orders, electronic orders via EDI, acknowledgements, confirmations, or other writings from Buyer to PMC SPECIALTIES GROUP, INC. (collectively, "Purchase Orders"). Unless such provisions are expressly agreed to by PMC SPECIALTIES GROUP, INC. in a writing signed by PMC SPECIALTIES GROUP, INC., any additional or conflicting terms and conditions contained on, attached to or referenced by Buyer's Purchase Orders, or other prior or later communication from Buyer to PMC SPECIALTIES GROUP, INC., shall have no effect on the purchase of any such Product by Buyer from PMC SPECIALTIES GROUP, INC. and are expressly rejected by PMC SPECIALTIES GROUP, INC.. These Terms along with the Sales Agreement are deemed an offer for sale by PMC SPECIALTIES GROUP, INC.. Buyer's commencement of performance (including ordering, purchasing or taking delivery of Product) shall in all cases constitute Buyer's unqualified and unconditional acceptance of the Agreement.
2. **TITLE AND RISK OF LOSS.** Unless otherwise stated in the Sales Agreement, all Product shall be shipped Ex Works PMC SPECIALTIES GROUP, INC.'s designated shipping point (in accordance with Incoterms 2010). Unless otherwise stated in the Sales Agreement, title to Product and risk of loss, damage and contamination of Product passes to Buyer when the Product is delivered in accordance with the applicable Incoterm delivery term. After passage of title of the Product to Buyer, Buyer assumes all risk and liability, and PMC SPECIALTIES GROUP, INC. shall not be liable to Buyer for any loss or damage to persons, property or the environment arising out of or related to the Product. PMC SPECIALTIES GROUP, INC. will not place a valuation upon Product shipments unless specifically required in writing by Buyer or required for export purposes.
3. **TAXES AND DUTIES.** Notwithstanding anything to the contrary in the Agreement, all taxes, duties, tariffs, consular fees, levies, penalties and other charges now or hereafter imposed by any governmental authority with respect to the Agreement or the production, processing, manufacture, sale, delivery, transportation, importation, exportation or proceeds of Product hereunder or on remittance of funds in payment for Product shall be paid by Buyer. If paid, or required to be paid by PMC SPECIALTIES GROUP, INC., Buyer shall reimburse PMC SPECIALTIES GROUP, INC. for such amounts within ten (10) days of receipt of written notice from PMC SPECIALTIES GROUP, INC.. If any Product is rejected, Buyer shall pay all taxes, duties, tariffs, consular fees, levies, penalties or other charges resulting from failure to re-export Product from the country of destination within such time limits as may be prescribed by Law. PMC SPECIALTIES GROUP, INC. reserves to itself all applicable duty drawback allowances and Buyer shall provide assistance in connection with PMC SPECIALTIES GROUP, INC.'s application for the same.
4. **PRODUCT STEWARDSHIP.** Buyer acknowledges the hazards associated with the handling, unloading, discharge, storage, transportation, use, disposition, processing, admixture or reaction (the "Use") of Product supplied under the Agreement and assumes the responsibility of advising those of its employees, agents, contractors, and customers in connection with such Use of the hazards to human health or human or environmental safety, whether such Product is used singly or in combination with other substances or in any processes or otherwise. If Buyer is provided a Material Safety Data Sheet ("MSDS") by PMC SPECIALTIES GROUP, INC. for Product, Buyer specifically agrees that it shall advise all of its employees, agents, contractors and customers who will Use the Product of the MSDS, and any supplementary MSDS or written warnings that it may receive from PMC SPECIALTIES GROUP, INC. from time-to-time. In addition, if Buyer believes or has reason to believe the MSDS or other information provided to Buyer by PMC SPECIALTIES GROUP, INC. is inaccurate or in any way insufficient for any purpose, Buyer will immediately notify PMC SPECIALTIES GROUP, INC. of the same, and provide PMC SPECIALTIES GROUP, INC. a reasonable opportunity to supplement or correct the information. Failure of Buyer to timely provide such notice shall be deemed a waiver by Buyer of any and all claims, demands or causes of action for personal injury, damage to the environment or property arising from or attributable to the Use of Product. To the fullest extent permitted by Law, Buyer shall defend, indemnify and hold PMC SPECIALTIES GROUP, INC., its affiliates and their respective employees, officers, directors and stockholders (collectively "Indemnitees") harmless from and against any and all claims, demands, lawsuits, causes of action, strict liability claims, penalties, fines, administrative law actions and orders, expenses (including attorneys' fees and expenses) and costs and liabilities of every kind and character ("Claims") which may arise for any reason whatsoever, including personal injuries, death, damage to property or to the environment, regardless of whether based on negligence, strict liability, contract, or breach of warranty, arising out of or related to a breach of its obligations under this Agreement or the sale or Use of Product or material made in whole or in part from Product sold hereunder. Buyer's duty under this Agreement shall survive the termination, cancellation or expiration of the order contemplated by the Agreement and the cessation of any business transactions between Buyer and PMC SPECIALTIES GROUP, INC., and Buyer's obligations herein shall remain in full force and effect as necessary for the purposes of compliance with the terms of this Section.
5. **DELIVERIES.** (a) If Buyer has not issued instructions as to the method of shipment by the time Product is ready for shipment, PMC SPECIALTIES GROUP, INC. may select any reasonable method of shipment without liability by reason of its selection. To the extent flexibility is allowed by the Agreement for time or size of deliveries, the parties will cooperate to the extent reasonable to coordinate periods and times for deliveries hereunder, and Buyer will give reasonable prior notice as to quantities and scheduling desired, all subject to the quantities set forth in the Agreement. Buyer shall be solely liable for any demurrage arising out of the transportation, delivery, loading or storage of the Product hereunder, and PMC SPECIALTIES GROUP, INC. shall not be liable to Buyer for damages or charges resulting from a delay in the delivery of Product. PMC SPECIALTIES GROUP, INC. reserves the right to assess additional charges for non-standard shipments, short lead time on orders, order changes, and order cancellations. Charges are subject to change without prior written notice at PMC SPECIALTIES GROUP, INC.'s sole discretion.
- (b) If and to the extent that Product sold hereunder is to be delivered from any PMC SPECIALTIES GROUP, INC. facility, PMC SPECIALTIES GROUP, INC. shall have the right to require the execution of an access agreement prior to granting Buyer, its carriers, contractors or agents, access to such facility. Buyer agrees that it, and its carriers, contractors and agents, will comply with all of PMC SPECIALTIES GROUP, INC.'s safety rules and regulations when they are at any of PMC SPECIALTIES GROUP, INC.'s facilities.
- (c) PMC SPECIALTIES GROUP, INC. may reject transports, containers or storage presented for loading/unloading/transfer or handling which, in PMC SPECIALTIES GROUP, INC.'s sole discretion, would present an unsafe or potentially unsafe situation.
- (d) PMC SPECIALTIES GROUP, INC. may refuse to load/unload, transfer or handle any Product under any conditions it deems, in its sole discretion, unsafe, including, but not limited to, conditions caused by drivers, personnel, equipment, procedures, and/or weather conditions.
- (e) If Buyer, or its contractors or agents, loads, unloads or ships "hazardous materials" (in the United States as listed in the Tables of 49 C.F.R. 172.101, 172.102 or 195.2 as amended or replaced from time to time) pursuant to the Agreement, then Buyer warrants that all hazardous materials will be prepared for shipment, loaded, shipped and unloaded in compliance with all applicable Laws regarding the handling and transportation of hazardous materials. To the fullest extent permitted by Law, Buyer will indemnify, defend and hold the Indemnitees harmless from and against all Claims of whatever nature arising out of or relating to Buyer's failure to comply therewith.
- (f) If a release of Product occurs after Product has been loaded at PMC SPECIALTIES GROUP, INC.'s shipping point, as between PMC SPECIALTIES GROUP, INC. and Buyer, Buyer will make all release notifications and reports that are required by Law and will provide PMC SPECIALTIES GROUP, INC. with written notice of such release notifications and reports within two (2) days of making the same. Further, as between PMC SPECIALTIES GROUP, INC. and Buyer, Buyer will be responsible for, and will promptly clean up, all such releases pursuant to applicable Laws.
- (g) For all deliveries under the Agreement, Buyer is solely responsible for offloading or unloading all Product. To the extent Buyer fails to offload or unload the entire quantity of Product from the transport or container utilized for shipment (i) any residual or remaining Product shall be deemed to have been abandoned by Buyer for the beneficial use or re-use by PMC SPECIALTIES GROUP, INC., and will become the property of PMC SPECIALTIES GROUP, INC. when received and accepted by PMC SPECIALTIES GROUP, INC. at the facility designated in writing by PMC SPECIALTIES GROUP, INC.; (ii) Buyer will not receive credit, payment or other consideration for any such residual or remaining Product; and (iii) Buyer is solely responsible for the transportation of such residual or remaining Product (including freight charges, shipping documents, and compliance with all Laws related thereto) until received and accepted by PMC SPECIALTIES GROUP, INC. at the facility designated in writing by PMC SPECIALTIES GROUP, INC..
6. **COMPLIANCE WITH LAW.** (a) The parties agree to comply with all applicable laws, treaties, conventions, directives, statutes, ordinances, rules, regulations, orders, writs, judgments, injunctions or decrees of any governmental authority having jurisdiction ("Laws") pertaining to the fulfillment of the Agreement.
- (b) Buyer will be responsible for compliance with all Laws applicable to Product once the Product has been delivered by PMC SPECIALTIES GROUP, INC. in accordance with this Agreement, including those related to operations, safety, maintenance, equipment, size and capacity and pollution prevention.
- (c) If any license or consent of any government or other authority is required for the acquisition, carriage or Use of Product by Buyer, Buyer will obtain the same at its expense, and if necessary, provide evidence of the same to PMC SPECIALTIES GROUP, INC. on request. Failure to do so will entitle PMC SPECIALTIES GROUP, INC. to withhold or delay shipment, but failure to do so will not entitle Buyer to withhold or delay payment of the price therefor. Any expenses or charges incurred by PMC SPECIALTIES GROUP, INC. resulting from such failure will be paid for by Buyer within ten (10) days of receipt of PMC SPECIALTIES GROUP, INC.'s written request.

(d) Except as permitted under U.S. Laws, Product will not be sold, supplied or delivered by the Buyer directly or indirectly to any party or destination that, at the time of such sale, supply or delivery, is declared an embargoed/restricted party or destination by the government of the United States of America or by the United Nations. Within two (2) days after PMC SPECIALTIES GROUP, INC.'s request, Buyer will provide PMC SPECIALTIES GROUP, INC. with appropriate documentation to verify the final destination of any Product delivered hereunder.

7. **UNLOADING AND CONTAINERS.** Buyer will unload and release all transportation equipment promptly so that no demurrage or other expense or loss resulting from delay shall be incurred and will comply with all instructions, if any, that PMC SPECIALTIES GROUP, INC. may give for return of such equipment. Buyer shall return returnable containers or packaging, freight collect. Buyer shall assume all other liability, including demurrage, with respect to such returnable containers and equipment, including packaging. Buyer agrees that if Buyer fails to return such containers and equipment within 120 days from date of invoice, PMC SPECIALTIES GROUP, INC., at its option, shall have the right to transfer title to such unreturned containers or equipment to Buyer by invoicing Buyer for the same at PMC SPECIALTIES GROUP, INC.'s then established prices, and the purchase price for such containers and equipment shall be due from Buyer upon receipt of invoice.

8. **MEASUREMENT.** Product quantities will be determined by PMC SPECIALTIES GROUP, INC.'s measurement equipment at PMC SPECIALTIES GROUP, INC.'s designated shipping point, unless proven to be in error. No adjustments will be made for (i) any quantities delivered more than ten (10) days prior to the date of any proven measurement confirming such error, or (ii) any claims for less than three percent (3%) of the quantities measured by PMC SPECIALTIES GROUP, INC. at the shipping point. Product quality shall be governed by a sample of Product taken by PMC SPECIALTIES GROUP, INC. at PMC SPECIALTIES GROUP, INC.'s designated shipping point.

9. **CLAIMS.** Buyer shall, at its sole cost and expense, inspect Product delivered hereunder immediately after receipt. Within ten (10) days of Buyer's receipt of Product and before the use, disposition, processing, admixture, reaction or other change from the original condition of any part of the Product (except for reasonable test and inspection quantities), Buyer shall notify PMC SPECIALTIES GROUP, INC. in writing if Product is found defective or short in any respect. Buyer specifically acknowledges and agrees that it must test the compatibility of any fiber Products prior to any Use of fiber Products if the fiber merge number or other identifier differs from that designated in previous shipments. Any Use of any of Product (except for reasonable tests and inspection quantities) or Buyer's failure to give written notice to PMC SPECIALTIES GROUP, INC. of such defect or shortage within such ten (10) day period shall constitute an unqualified acceptance of the Product and a waiver by Buyer of all claims with respect thereto.

10. **PAYMENT TERMS/CREDIT.** (a) Buyer shall pay all invoices, without deduction, in US currency via wire transfer of immediately available funds into a U.S. bank account designated by PMC SPECIALTIES GROUP, INC. pursuant to the payment terms set forth in the Agreement. If the Agreement does not state payment terms, payment shall be received by PMC SPECIALTIES GROUP, INC. no later than thirty (30) days from the date of PMC SPECIALTIES GROUP, INC.'s invoice. Delay in payment will result in Buyer being responsible for interest at a rate of one and a half percent (1½%) per month compounded monthly (19.6% per annum), or the maximum rate allowed by Law, whichever is less, on the outstanding amount of any unpaid invoice beginning on the day after the payment due date. If the payment due date is a Saturday, Sunday or holiday where banks located in the State of Ohio are authorized or required to be closed, Buyer shall make such payment on the business day after such due date.

(b) PMC SPECIALTIES GROUP, INC. makes no assurance or guarantee regarding any amount of credit or the continuation of such credit to Buyer. If PMC SPECIALTIES GROUP, INC., in its sole discretion, provides Buyer with a line of credit to facilitate purchases of Product from PMC SPECIALTIES GROUP, INC. under the Agreement, such credit line may be amended, decreased or terminated at any time at PMC SPECIALTIES GROUP, INC.'s sole discretion.

(c) If any such credit provided to Buyer, or Performance Assurance is required by PMC SPECIALTIES GROUP, INC. of Buyer, Buyer will provide to PMC SPECIALTIES GROUP, INC. any or all annual reports containing Buyer's and/or the Buyer's Performance Assurance provider's audited consolidated financial statements for a particular fiscal year. In all cases, the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles.

(d) Notwithstanding the foregoing, if PMC SPECIALTIES GROUP, INC. determines, in its sole discretion, that the creditworthiness or future performance of Buyer is impaired or unsatisfactory, PMC SPECIALTIES GROUP, INC. may (i) suspend deliveries of Product, (ii) require prepayment by wire transfer of immediately available funds at least three (3) days prior to a scheduled shipment of Product, and/or (iii) require Performance Assurance at least three (3) days prior to a scheduled Product shipment. Buyer hereby waives written notice of any such action. "Performance Assurance" means collateral in the form of either cash, letter(s) of credit, guaranty, or other security acceptable to PMC SPECIALTIES GROUP, INC. in its sole discretion.

(e) PMC SPECIALTIES GROUP, INC. reserves the right, at any time, to Set-off against any amount that PMC SPECIALTIES GROUP, INC. owes to Buyer under the Agreement or any other agreement between such parties. "Set-off" means set-off, offset, combination of accounts, netting of dollar amounts of monetary obligations, right of retention or withholding or similar right to which PMC SPECIALTIES GROUP, INC. is entitled (whether arising under the Agreement, another agreement, applicable Law, or otherwise) that is exercised by PMC SPECIALTIES GROUP, INC..

11. **INDICES:** (a) For any components of a Product price under the Agreement that are based upon a published index or published quote, or are revised based upon a change to a published index or published quote, if such index or quote ceases to be published (either temporarily or permanently) or if one party believes, in good faith, that such published index or published quote does not accurately reflect changes in PMC SPECIALTIES GROUP, INC.'s actual monthly costs for the component reported, then it may provide written notice to the other party to meet to discuss an alternate means of ascertaining the appropriate adjustment to the price of Product. The parties shall meet promptly after the date of such notice (in any event not later than fifteen (15) days after the date of the notice) to discuss and attempt to agree upon such an alternative means of ascertaining the appropriate adjustment to Product price. If the parties fail to agree on the appropriate adjustment to Product price within thirty (30) days of the date of the original notice, then the price for Product sold thereafter will be calculated, effective as of the expiration of the thirty (30) day period, based upon PMC SPECIALTIES GROUP, INC.'s actual monthly costs as determined by PMC SPECIALTIES GROUP, INC. for the component covered by such published index unless and until an alternate means of adjustment is agreed upon in writing by the parties.

(b) **Retroactive Changes to Indices:** If, within twelve (12) months from the date of any payment of the Product price under the terms of the Agreement that is based on a published index or published quote (a) such index or quote on which the Product price was based is retroactively revised by the person publishing such index or quote, or (b) such publishing person notes an error in the published index or quote used to calculate the Product price and corrects such error, then the party that would benefit from the revised or corrected index or quote shall have the right to provide written notice to the other party of such revision or correction and to recalculate the Product price based on the revised or corrected published index or quote. Following such notice and confirmation of the corrected published index or quote, the parties shall, within thirty (30) days, make the appropriate refund, credit, offset or payment of the difference between the Product price as originally calculated and the recalculated price based on the revised or corrected published index or quote.

12. **LIMITED WARRANTY.** PMC SPECIALTIES GROUP, INC. warrants only, at the time of delivery, that: (i) Product shall conform to PMC SPECIALTIES GROUP, INC.'s then current specifications for the specific Product sold hereunder; and (ii) PMC SPECIALTIES GROUP, INC. will deliver good title to the Product and that the Product shall be delivered free of liens or encumbrances. Buyer, having the expertise and knowledge in the intended Use of Product sold hereunder and any Use or other product or material made therefrom, assumes all risk and liability for results obtained by the Use of Product, whether Used singly or in combination with other substances or in any process. EXCEPT AS SET FORTH IN THIS SECTION, PMC SPECIALTIES GROUP, INC. SPECIFICALLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, WHETHER ARISING BY OPERATION OF LAW OR OTHERWISE, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS OF THE PRODUCT FOR A PARTICULAR PURPOSE, CONDITION OR QUALITY OF THE PRODUCT, ANY TRADE USAGE OR DEALING. ANY DETERMINATION OF THE SUITABILITY OF THE PRODUCT FOR THE USE CONTEMPLATED BY BUYER IS BUYER'S SOLE RESPONSIBILITY.

13. **LIMITATION OF LIABILITY AND LIMITED REMEDIES.** NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, IN NO EVENT WILL PMC SPECIALTIES GROUP, INC. BE LIABLE TO BUYER FOR ANY LOST OR PROSPECTIVE PROFITS, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST EARNINGS, LOST PROFITS OR BUSINESS INTERRUPTION, WHETHER OR NOT BASED UPON PMC SPECIALTIES GROUP, INC.'S NEGLIGENCE, BREACH OF WARRANTY, STRICT LIABILITY, IN TORT OR ANY OTHER CAUSE OF ACTION. FOR THE SAKE OF CLARITY, THE PRECEDING SENTENCE INCLUDES THOSE INCIDENTAL AND CONSEQUENTIAL DAMAGES REFERENCED IN §1302.89 OF THE OHIO UCC. Buyer's exclusive remedy against PMC SPECIALTIES GROUP, INC. for any cause of action under the Agreement, including without limitation for failure to deliver or delivery of non-conforming Product, is, at PMC SPECIALTIES GROUP, INC.'s option limited to (i) replacement of the non-conforming Product; or (ii) refund to Buyer of the portion of the purchase price paid by Buyer and attributable to such non-conforming or undelivered Product. In no event shall PMC SPECIALTIES GROUP, INC.'s cumulative liability exceed the price of Product sold which was the direct cause of the alleged loss, damage or injury. IN ANY EVENT, BUYER AGREES THAT THE RETURN OF THE FULL SALES PRICE FOR THAT PRODUCT SOLD WHICH WAS THE CAUSE OF THE ALLEGED LOSS, DAMAGE OR INJURY WILL PREVENT THE FOREGOING REMEDIES FROM FAILING OF THEIR ESSENTIAL PURPOSE, AND THAT SUCH REMEDY IS FAIR AND ADEQUATE.

14. **DEFAULT.** Upon the occurrence of any of the following events (each an event of "Default" and the Party committing such Default, the "Defaulting Party" and the party claiming the Default, the "Non-Defaulting Party"): (i) the failure by Buyer to provide Performance Assurance when due; (ii) PMC SPECIALTIES GROUP, INC. shall not have received a payment due from Buyer hereunder by the date such payment is due under the Agreement, and such failure shall remain uncured for a period of two (2) days; (iii) the failure of a party to perform any other obligation in the Agreement and such failure is not excused or cured within ten (10) days after written notice thereof; (iv) the occurrence of a Bankruptcy Event; (v) the failure of Buyer to timely provide prepayment or Performance Assurance as set forth in Section 10(d) above; or (vi) the failure by any Performance Assurance provider of Buyer to perform any obligation of such Performance Assurance provider under any document executed and delivered in connection herewith, then the Non-Defaulting Party, in its sole discretion and without prior notice to Defaulting Party, may do any one or more of the following: (a) suspend performance under the Agreement or any other agreement between Buyer and PMC SPECIALTIES GROUP, INC.; (b) cancel the Agreement or any other agreement between Buyer and PMC SPECIALTIES GROUP, INC., whereby any and all obligations of the Defaulting Party, including payments or deliveries due, will, at the option of the Non-Defaulting Party, become immediately due and payable or deliverable, as applicable; and/or (c) Set-off against any amount that the Defaulting Party owes to the Non-Defaulting Party under the Agreement or any other agreement between such parties. If PMC SPECIALTIES GROUP, INC. suspends performance and withholds Product delivery as permitted above, PMC SPECIALTIES GROUP, INC. may sell the Product to a third party and deduct from the proceeds of such sale the purchase price and all reasonable costs resulting from Buyer's default as identified above, including, without limitation, all costs associated with the transportation (including demurrage and other vessel or shipping related charges), storage, and sale of the Product. The foregoing rights, which shall include, but not be limited to, specific performance, shall be cumulative and alternative and in addition to any other rights or remedies to which the Non-Defaulting Party may be entitled at Law or in equity. In addition, Non-Defaulting Party shall be entitled to recover from the Defaulting Party all court costs, attorneys' fees and expenses incurred by the Non-Defaulting Party in connection with the Defaulting Party's default, and interest on past due amounts at the rate specified in Section 10(a) hereof. "Bankruptcy Event" means the occurrence of any of the following events with respect to a party or any Performance Assurance provider for Buyer: (i) filing of a petition or otherwise commencing, authorizing or acquiescing in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar Law; (ii) making of an assignment or any general arrangement for the benefit of creditors; (iii) having a bankruptcy petition filed against it and such petition is not withdrawn or dismissed within thirty (30) days after such filing; (iv) otherwise becoming bankrupt or insolvent (however evidenced); (v) having a liquidator, administrator, custodian, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets; or (vi) being generally unable to pay its debts as they fall due.

15. **PATENT INFRINGEMENT ARISING FROM PRODUCT USE.** Buyer expressly assumes the risk of and agrees, to the fullest extent permitted by Law, to indemnify, defend, and hold the Indemnitees harmless from and against any and all Claims for patent infringement by reason of Buyer's Use of Product provided hereunder, whether used singly or in combination with other product or material, or in the operation of any process.

16. **SPECIALTY MANUFACTURED PRODUCT.** If the Agreement covers Products that must be manufactured especially for Buyer, and the Agreement is suspended, terminated or cancelled for any reason, Buyer will take delivery of and make payment for such Products as have been completed and such Products as are in process on the date notice of suspension, termination or cancellation is received by PMC SPECIALTIES GROUP, INC.. If Buyer for any reason cannot accept delivery of such Products, Buyer will make payment therefor as though delivery has been made and PMC SPECIALTIES GROUP, INC. will store such Products for Buyer's account and at Buyer's expense.

17. **EXCUSED PERFORMANCE.** (a) *Force Majeure:* The parties will be excused from their respective performances hereunder (except Buyer's payment obligations) if performance is prevented or delayed by any acts of God, fire, explosion, flood, unusually severe or abnormal weather, riots or other civil disturbances, wars, acts of terrorism, actions of governments, voluntary or involuntary compliance with any Law or request of any governmental authority, strikes, lockouts or other labor difficulties, failure of usual sources of raw materials or other sources of supply, failure of computer systems to operate properly, destruction or loss of electronic records or data, failure of mechanical or chemical function or equipment normally used by PMC SPECIALTIES GROUP, INC. for manufacturing, handling or delivering of Product, or internally produced intermediates used in manufacture of any of the Product, plant shutdowns, any necessity to not operate, or to reduce operation of, equipment in order to protect the safety of people or to protect the environment, or any circumstances beyond the reasonable control of the party seeking excuse from performance ("*force majeure*"). Promptly after a party determines a *force majeure* condition exists, that party will notify the other of the circumstances and consequences claimed and will use reasonable means to remove the cause(s) in question. Neither party will be obligated to settle any demands of, or disputes with, laborers; nor will Buyer be excused from paying monies due or complying with PMC SPECIALTIES GROUP, INC.'s credit terms. Quantities affected by *force majeure* will be deleted from the Agreement, but the Agreement will otherwise continue in full force and effect for the term set forth in the Agreement. In periods of shortage of Product due to *force majeure*, PMC SPECIALTIES GROUP, INC. may apportion any reduced quantity of Product among itself and its customers and affiliates in an equitable manner. PMC SPECIALTIES GROUP, INC. shall not be required to acquire Product to replenish any shortfall in Product arising as a result of a *force majeure*. Should PMC SPECIALTIES GROUP, INC. acquire any quantity of Product following a *force majeure*, PMC SPECIALTIES GROUP, INC. may use or distribute, without apportioning, such Product at its sole discretion. Notwithstanding the aforementioned, any quantity of Product PMC SPECIALTIES GROUP, INC. acquires and distributes to any non-affiliated customers shall be equitably apportioned to all of PMC SPECIALTIES GROUP, INC.'s non-affiliated customers. Under no circumstances will PMC SPECIALTIES GROUP, INC. be obligated to obtain Product for delivery hereunder except from its designated source(s) of supply, or if none is so designated by PMC SPECIALTIES GROUP, INC., from its usual, customary and/or most recent source(s) of supply.

(b) **Commercial Impracticability and Adverse Impact of Laws:** (i) PMC SPECIALTIES GROUP, INC. may suspend performance and/or terminate the Agreement, in whole or in part, without liability to Buyer, if for any reason, PMC SPECIALTIES GROUP, INC. shuts down the unit(s), or the manufacturing facility at which Product (or the feedstock for the Product) is made, or if a change in circumstances (whether foreseeable or unforeseeable) causes PMC SPECIALTIES GROUP, INC. to incur a loss on a full cost basis at any time on the sale of Product hereunder from the unit or the manufacturing facility. (ii) All of the terms and provisions of the Agreement are subject to applicable Laws (as defined herein), including all orders, rules and regulations, of all governmental authorities having or purporting to have jurisdiction. If, at any time after the Effective Date, any such Law should be amended or proposed to be amended or if new Laws are enacted or proposed to be enacted that would have an adverse economic impact upon PMC SPECIALTIES GROUP, INC. (including as examples and without limitation, Laws that would require PMC SPECIALTIES GROUP, INC. to install anti-pollution equipment, to purchase credits under any cap and trade program or regulations or in any way alter any manufacturing facility or any part of the facilities or the use of the facilities that are a part of the manufacturing facility) (an "Adverse Law Impact"). Buyer shall reimburse PMC SPECIALTIES GROUP, INC. for its proportionate part of PMC SPECIALTIES GROUP, INC.'s actual costs incurred as a result of the Adverse Law Impact.

(c) **Shortages:** If for any reason shortages occur in PMC SPECIALTIES GROUP, INC.'s supply of the goods or products necessary to produce Product, unless Buyer has provided PMC SPECIALTIES GROUP, INC. with written notice, and PMC SPECIALTIES GROUP, INC. agrees in writing, that each source of supply must be a qualified source of supply, PMC SPECIALTIES GROUP, INC. may, without obligation to Buyer, obtain similar products from other sources and allocate all such products produced among its customers, its own requirements and the requirements of its divisions, subsidiaries and affiliates, in a manner and amount that is fair and reasonable. PMC SPECIALTIES GROUP, INC. may deduct the quantity not shipped because of this allocation from the quantity under the Agreement without liability to Buyer for failure to deliver.

18. **CONFIDENTIALITY.** Buyer agrees to treat as confidential all information supplied by PMC SPECIALTIES GROUP, INC., and not in the public domain, in connection with the Agreement, including, but not limited to: specifications, drawings, blueprints, and other technical, business or sales data, including this Agreement and any of its terms, or statements of work (collectively referred to as the "Confidential Information"). Buyer agrees to (i) keep the Confidential Information confidential and not disclose it to any third party, (ii) use Confidential Information only as necessary for the performance of the Agreement, and (iii) limit the disclosure of the Confidential Information to those of its employees necessary for the performance of the Agreement, unless prior written consent has been granted by PMC SPECIALTIES GROUP, INC. to permit other use or disclosure. Buyer shall, upon request or upon expiration, termination or cancellation of the Agreement, promptly return all documents previously supplied, destroy any and all copies that were reproduced, and send written confirmation to PMC SPECIALTIES GROUP, INC. certifying such destruction.

19. **TRADEMARKS.** Except as may be contained in a separate trademark license, the sale of Product (even if accompanied by documents using a trademark or trade name) does not convey a license, express or implied, to use any trademark or trade name and Buyer shall not use a trademark or trade name of PMC SPECIALTIES GROUP, INC.'s in connection with the Product.

20. **SUCCESSOR AND ASSIGNS.** The Agreement binds and inures to the benefit of Buyer and PMC SPECIALTIES GROUP, INC. and their respective successors and permitted assigns. Buyer may not assign any interest in, nor delegate any obligation under the Agreement, by operation of Law or otherwise, without PMC SPECIALTIES GROUP, INC.'s prior written consent. Any assignment or attempted assignment in contravention of the foregoing shall be null and void, shall be considered a breach of the Agreement, and shall permit PMC SPECIALTIES GROUP, INC., in addition to any other rights that it may have, to terminate the Agreement.

21. **GOVERNING LAW/VENUE FOR DISPUTES.** The validity, performance, construction, and all matters arising out of or relating to the Agreement shall be interpreted in accordance with the Laws of the State of Ohio, without regard to its conflicts of law rules. The United Nations Convention on Contracts for the International Sale of Goods or any subsequently enacted treaty or convention shall not apply or govern the Agreement or the performance thereof or any aspect of any dispute arising

there from. Any action or proceeding between Buyer and PMC SPECIALTIES GROUP, INC. relating to the Agreement shall be commenced and maintained exclusively in the state or federal courts in Cincinnati, Ohio, and Buyer submits itself unconditionally and irrevocably to the personal jurisdiction of such courts. BUYER AND PMC SPECIALTIES GROUP, INC. EACH WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION, CLAIM OR PROCEEDING RELATING TO THE AGREEMENT.

22. **AMENDMENT.** No salesperson is authorized to bind PMC SPECIALTIES GROUP, INC.; orders placed with a salesperson are not binding on PMC SPECIALTIES GROUP, INC. until confirmed in writing by PMC SPECIALTIES GROUP, INC.'s authorized employee. All technical advice, services and recommendations by PMC SPECIALTIES GROUP, INC. are intended for use by persons having skill and know-how, and are accepted by Buyer at its own risk and PMC SPECIALTIES GROUP, INC. assumes no responsibility for results obtained or damages incurred from their use. No statements or agreements, oral or written, not contained herein or in a future amendment hereto executed by both parties will vary or modify the terms hereof. Neither party shall claim any amendment, modification or release of any provisions hereof unless the same is in writing and such writing: (i) specifically refers to the Agreement; (ii) specifically identifies the term amended; and (iii) is signed by duly authorized representatives of PMC SPECIALTIES GROUP, INC. and Buyer.

23. **NOTICES.** All notices, consents, communications or transmittals under the Agreement shall be in writing and shall be deemed received on the day of delivery if delivered by hand, by nationally recognized overnight courier or delivery service, or by facsimile (with written confirmation of the completed transmittal); or within three (3) business days if mailed by United States mail as certified or registered mail with return receipt, postage prepaid, addressed to the party to whom such notice is given at the address of such party stated in the Sales Agreement.

24. **INDEPENDENT CONTRACTORS.** PMC SPECIALTIES GROUP, INC. and Buyer are independent contractors only and are not partners, master/servant, principal/agent or involved herein as parties to any other similar legal relationship with respect to the transactions contemplated under the Agreement or otherwise, and no fiduciary, trust or advisor relationship, nor any other relationship, imposing vicarious liability shall exist between the parties under the Agreement or otherwise at Law.

25. **NO THIRD PARTY BENEFICIARIES.** The Agreement is solely for the benefit of PMC SPECIALTIES GROUP, INC. and Buyer and shall not be deemed to confer upon or give to any third party any right, claim, cause of action or interest herein.

26. **MISCELLANEOUS.** These Terms supersede any terms and conditions of previous dates, and if there is a conflict between these Terms and the specific provisions contained in the Sales Agreement, the specific provisions contained in such Sales Agreement shall control. Capitalized terms not defined herein shall have the meanings set forth in the Sales Agreement. The captions and section headings set forth in the Agreement are for convenience only and shall not be used in defining or construction of any of the terms and conditions of the Agreement. Waiver by either party of any breach of the terms and conditions contained herein will not be construed as a waiver of any other or continuing breach. The invalidity or unenforceability of any provision of the Agreement shall not affect the validity or enforceability of its other provisions. If the Agreement is a requirements contract or a partial requirements contract or a consignment agreement, or if rebates are to be paid, Buyer shall maintain books and records sufficient to document and verify Buyer's purchase obligations and history and shall permit Seller, during normal business hours, to audit those books and records. No course of dealing, course of performance, or usage of trade shall be considered in the interpretation or enforcement of the Agreement.

[END OF TERMS]