

**CALUMET SPECIALTY OILS DE MEXICO, S. DE R.L. DE C.V.  
GENERAL TERMS AND CONDITIONS OF SALE**

<http://www.calumetspecialty.com/customer-service/terms-of-sale>

- 1. DEFINITIONS.** “Terms” means these General Terms and Conditions of Sale named on the applicable purchase order, confirmation, invoice or other document referencing these “Terms. “Seller” means Calumet Specialty Oils de Mexico, S. de R.L. de C.V. providing Products under the Order. “Buyer” means any individual, corporation, government, or other entity who purchases Products pursuant to the Order. “Party” means Buyer or Seller individually, and “Parties” means Buyer and Seller collectively. “Purchase Order” means the purchase order submitted by Buyer to Seller. “Order Confirmation” means the written acceptance by Seller of the Purchase Order, which may be in whole or in part. “Order” means the Purchase Order as confirmed by the Order Confirmation, or, for those sales of Bulk Products where Seller does not require a Purchase Order from Buyer, the allocation of such Bulk Products by Seller to Buyer at the shipping facility pursuant to a Sales Agreement (defined below). “Products” means the goods or materials sold by Seller to Buyer, including any services or information provided by Seller. “Bulk Products” means Products provided in bulk under the Order, including but not limited to by tanker truck, iso tank container, flexi-bag, tank railcar, barge, and vessel (collectively, the “Bulk Containers”). “Packaged Products” means Products provided in packaged form, including but not limited to bottles, cans, pails, drums, totes, and bags in a box.
- 2. ORDERS.** Buyer shall be deemed to have unconditionally and expressly accepted the Terms by issuing a Purchase Order to Seller. A Purchase Order is accepted by Seller only upon Seller’s issuance of an Order Confirmation. Once an Order Confirmation is issued, the applicable Order cannot be cancelled or amended by Buyer without prior written approval from Seller. In the event Seller approves the cancellation or amendment of an Order, Seller may charge Buyer a fee for such cancellation or amendment.
- 3. PRICE.** Unless otherwise as set forth in writing by the Seller, Product price, freight charges, freight insurance, Taxes, and other fees will be invoiced based on current rates as of the date of shipment of the Product.
- 4. TAXES.** Any tax, excise, or governmental charge imposed upon the value added to or the production, sale, storage, use, or transportation of any Product (“Tax”) sold under an Order, which Seller may be required to pay, shall be paid by Buyer to Seller if not expressly listed in the Order as being included in the purchase price of the Product. Buyer shall provide Seller, upon request, with properly completed exemption certificates, or any other requested documentation to Seller’s satisfaction, for any Tax from which Buyer claims exemption. Seller may terminate an Order on ten (10) days notice to Buyer if Seller is prevented from passing through to Buyer any Tax. Buyer is liable for all Taxes under each Order and shall indemnify Seller and its affiliates from all Taxes.
- 5. PAYMENT.** Seller’s invoices will be dated as of the date Seller ship the Products. Buyer shall remit payment to Seller in U.S. currency, or its equivalent in Mexican pesos in accordance with the official exchange rate published in Mexican Federal Official Gazette. Buyer agrees to pay all invoices by the due date set forth on Seller’s invoice or Purchase Order. Buyer shall not withhold payment to Seller on any invoice unless such amount is disputed in good faith. In the event payment is not timely made, Buyer also agrees to pay a time-price difference charge (service charge) of the lesser of 1½% per month (18% per annum) or the maximum lawful rate on all overdue amounts commencing the day after the due date and to pay all collection costs incurred by Seller to collect the amount due, including court costs, reasonable attorney’s fees, and collection agency fees. In addition, in the event Buyer fails to make timely payment, Seller may withhold any or all future shipments of Product by Seller to Buyer without Seller waiving any right, power, remedy, or privilege of Seller. Buyer shall also be responsible to pay for any charges applied because of any check, debit, or electronic transfer not honored.
- 6. CREDIT AND SECURITY.** Notwithstanding any provision contained herein to the contrary, if in Seller’s reasonable judgment doubt exists as to Buyer’s financial responsibility to make payments when due, or if Buyer is past due in payment of any amount owing to Seller, Seller reserves the right to: (i) revoke any credit extended by Seller to Buyer; (ii) modify any and all terms and conditions of credit; (iii) require payment in advance; (iv) require a letter of credit or other security in an amount and type satisfactory to Seller; and/or (v) withhold Product shipments until receipt of such payment or letter of credit or other security. Seller may accomplish any or all of the foregoing at any time, in its sole discretion, by giving notice to Buyer.
- 7. DELIVERY TERMS; TITLE; RISK OF LOSS.** If an estimated delivery date is not specified in an Order Confirmation, Seller will set the delivery schedule for Products to be delivered. Seller may make partial shipments

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of Products to Buyer without liability or penalty. Each shipment will constitute a separate sale, and Buyer shall pay for the Products shipped whether such shipment is in whole or partial fulfillment of the Order. Except to the extent otherwise set forth on an Order Confirmation, delivery term, title, and risk of loss shall be as follows: (i) Products are delivered FCA Seller's shipping point when Buyer arranges transportation of the Products and CPT Buyer's named place of delivery when Seller arranges transportation of the Products, and (ii) title and risk of loss pass to Buyer either at the last permanent flange of Seller's facility for Bulk Products, or when made available to the carrier at Seller's shipping point for Packaged Products. For any other delivery term set forth on an Order Confirmation, risk of loss shall pass to Buyer in accordance with the applicable delivery term, with title passing simultaneously. Each Order is governed by Incoterms® 2020, unless Incoterms® 2020 conflict with the terms of an Order, in which case the terms of the Order shall control.

**8. SHIPMENTS**

- a. **SELECTION OF CARRIER; DUTIES.** If Seller arranges transportation of Products, the selection of carrier and routing of shipments shall be at Seller's option. If Buyer arranges transportation of Products, Buyer shall be responsible for the acts and omissions of the carrier. If Buyer arranges transportation of Products in Bulk Containers, Buyer is responsible for ensuring the Bulk Container is clean and appropriate for transporting the Product. Seller reserves the right to reject any Bulk Container that Seller determines is not in proper condition to transport the Product; however, Seller shall not be responsible to inspect, drain, or clean a Bulk Container arranged by Buyer. If required by Seller or the shipping facility, Buyer shall cause its carrier to execute a facility access agreement, provide a Certificate(s) of Insurance that meets the insurance requirements of the shipping facility, and complete any training required by the shipping facility. If Buyer's carrier is not party to a facility access agreement that includes an indemnity in favor of Seller and the shipping facility, Buyer shall indemnify, defend, and hold Seller, its affiliates and their officers, directors, employees, and agents harmless against any and all claims and liabilities at the shipping facility arising out of or in any way connected with the acts and omissions of Buyer's carrier, its employees and agents.
- b. **QUANTITIES; ALLOCATION.** The volume of Product sold to Buyer will be based on measurements taken at the shipping facility using the current API or ASTM standards, as applicable. "API" means American Petroleum Institute. "ASTM" means ASTM International. If applicable, the volume of Product will be temperature corrected to sixty degrees Fahrenheit (60°F) in accordance with the current API or ASTM standards at the shipping facility. The results of such measurements, in the absence of fraud or manifest error, are conclusive and binding as to the quantity of Product sold. Seller may supply an excess or deficiency of up to 5% of the quantity of Bulk Product set forth in an Order Confirmation, and Buyer agrees to accept and pay for the quantity supplied. Seller shall have the right to allocate Products among its customers and its own requirements in Seller's sole discretion. Seller shall not be required to make up any deliveries or quantities omitted pursuant to Seller's right to allocate Products, nor shall Seller be liable for any damages or losses in connection with such omitted deliveries or quantities.
- c. **UNLOADING.** Unless otherwise agreed to in writing by the Parties, Buyer agrees to unload conveyances provided by Seller within the free time as follows: trucks, iso tank containers, and flexi-bags within two (2) hours of receipt of conveyance; tank railcars within fifteen (15) days of receipt of conveyance; and barges and vessels within the time specified in an Order Confirmation. Buyer agrees to pay Seller, upon receipt of invoice, for any demurrage and detention charges beyond the agreed time, except to the extent such demurrage or detention is caused by Seller. Buyer assumes responsibility for use and condition of Bulk Containers while in Buyer's or its agents possession or control and agrees to indemnify, defend, and hold Seller, its affiliates and their officers, directors, employees, and agents harmless from any loss or damage to property and from any injuries to persons while such Bulk Containers are in Buyer's or its agents possession or control. Buyer further agrees to report to Seller promptly any damage which may be sustained by any Bulk Container in Buyer's or its agents possession or control.

9. **PACKAGING.** Unless agreed otherwise or required by law and except where packaging is provided on loan by Seller to Buyer, the costs of the usual and customary packaging of the Products shall be included in Seller's invoice, and Buyer shall acquire ownership of the packaging concurrently with the transfer of title to the Products to Buyer. Packaging provided by Seller shall be used exclusively as packaging material for the Products. Buyer shall comply with all applicable laws and regulations governing reuse or disposal of the packaging and shall ensure Seller's proprietary notices are removed prior to such reuse or disposal. If Buyer inappropriately uses or allows use of the packaging for other purposes or improperly disposes of the packaging, Buyer shall indemnify, defend and hold Seller, its affiliates and their officers, directors, employees, and agents harmless against all claims, losses and damages arising therefrom or related thereto. Seller shall not be obligated to take back, receive, or process

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any delivered packaging materials, unless required by law or agreed in writing by Seller.

**10. RETURNS.** Buyer shall not return Products to Seller without Seller's prior approval. Returned Products shall be subject to inspection and a restocking fee, except as permitted by Section 13.

**11. CLAIMS**

- a. **BULK PRODUCTS:** Any claim for deficiency in quantity or quality of any Bulk Products shall be conclusively waived unless Buyer gives written notice of such claim to Seller within thirty (30) days following the date of delivery of Bulk Products.
- b. **PACKAGED PRODUCTS:** For Packaged Products, Buyer shall give written notice to Seller of any (i) patent deficiencies in quantity or quality within thirty (30) days following the date of delivery of Packaged Products; and (ii) latent deficiencies in quality within thirty (30) days following the first discovery of the deficiency by Buyer or its agents. Notwithstanding the foregoing, any such notifications under this subsection shall be made no later than ninety (90) days following the date of delivery of the Packaged Products. Failure to timely notify Seller under this subsection shall result in Buyer conclusively waiving its claim.
- c. **NOTICES; PROCESS FOR RESOLUTION:** Written notices under subsections (a) and (b) shall provide details of Buyer's claim, and where practicable, Buyer shall give Seller and its agents a reasonable opportunity to inspect the Product at issue. For any dispute as to quantity, Buyer shall supply Seller with evidence satisfactory to Seller supporting Buyer's claim. Quality disputes will be resolved through the applicable API or ASTM sampling and testing methods, as reasonably determined by Seller.
- d. **DEADLINE TO FILE A CLAIM:** Notwithstanding any of the foregoing, any cause of action that Buyer may have against Seller arising out of or related to any Product or Order must be commenced no later than one (1) year after delivery of the Product to Buyer under that Order.

**12. LIMITED WARRANTY.** SELLER WARRANTS THAT IT HAS GOOD TITLE TO THE PRODUCTS SOLD HEREUNDER. IN ADDITION, SELLER WARRANTS THAT THE PRODUCTS SOLD HEREUNDER MEET SELLER'S CURRENT SPECIFICATIONS FOR THE PRODUCTS AT THE TIME OF DELIVERY BY SELLER. ANY OTHER WARRANTY OR GUARANTEE, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, IS EXPRESSLY DISCLAIMED. ANY WARRANTY OR GUARANTEE IS LIMITED TO THE REMEDIES SET FORTH IN SECTION 13.

**13. LIMITATION OF REMEDIES.** BUYER'S REMEDY FOR DEFECTIVE OR NONCONFORMING PRODUCTS IS LIMITED TO, AT SELLER'S OPTION, REPAIR OR REPLACEMENT OF THE DEFECTIVE OR NONCONFORMING PRODUCTS BY SELLER WITHOUT ADDITIONAL CHARGE TO BUYER, OR IN LIEU THEREOF, SELLER MAY REFUND THE PURCHASE PRICE UPON BUYER'S RETURN OF THE PRODUCTS AT SELLER'S EXPENSE (SUBJECT TO SELLER'S PRIOR WRITTEN APPROVAL, WHICH SHALL NOT BE UNREASONABLY WITHHELD). THE REMEDIES SET FORTH IN THIS SECTION ARE EXCLUSIVE AND NO OTHER REMEDY OR REMEDIES ARE AVAILABLE TO BUYER FOR DEFECTIVE OR NONCONFORMING PRODUCTS. THE PARTIES AGREE THAT THE REMEDIES CONTAINED HEREIN ARE ADEQUATE REMEDIES.

**14. LIMITATION OF LIABILITY.** NOTWITHSTANDING ANY OTHER PROVISIONS CONTAINED HEREIN 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, STATUTE, BREACH OF WARRANTY, OR OTHERWISE, SHALL IN NO EVENT EXCEED THE PURCHASE PRICE OF THE PRODUCTS IN RESPECT TO WHICH SUCH CLAIM, LOSS, OR DAMAGE AROSE. NOTWITHSTANDING ANY OTHER PROVISIONS CONTAINED HEREIN, IN NO EVENT SHALL EITHER PARTY BE RESPONSIBLE FOR ANY INCIDENTAL, INDIRECT, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES (INCLUDING LOSS OF PROFITS OR REVENUE) INCURRED BY THE OTHER OR ANY THIRD PARTY ARISING OUT OF OR IN CONNECTION WITH THE ORDER, WHETHER BASED IN CONTRACT, NEGLIGENCE OR OTHER TORT, STRICT LIABILITY, STATUTE, BREACH OF WARRANTY, OR OTHERWISE; PROVIDED THE FOREGOING SHALL NOT LIMIT THE SCOPE OF A PARTY'S INDEMNIFICATION OBLIGATIONS HEREUNDER.

**15. SAFETY AND HEALTH INDEMNITY.** Seller shall furnish to Buyer Safety Data Sheets, including warnings and safety and health information concerning the Products sold under the Order. Buyer agrees to effectively communicate such information as required by applicable law and to all persons Buyer can reasonably foresee

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may be exposed to or may handle such Products, including without limitation, Buyer's employees, agents, contractors, and customers. To the extent Buyer fails to meet this obligation, Buyer agrees to indemnify, defend, and hold Seller, its affiliates and their officers, directors, employees, and agents harmless against any and all claims and liabilities arising out of or in any way connected with such failure.

- 16. SPECIFICATION CHANGES; PRODUCT DISCONTINUANCE.** Seller may at its discretion: (a) change the feedstocks and raw materials used in the production of any Products, (b) change or alter the quality or specifications of any Products, (c) change the production location of any Products, and (d) discontinue the production of any Products. If specifications for any Products offered are specifically agreed by the Parties in an Order or in a separate writing, Seller shall give Buyer prior notice of any change in such specification. If the change in specification would, in the reasonable opinion of Buyer, materially affect the performance of a Product, Buyer may terminate the Order as to such Product(s) by providing prompt written notice of termination to Seller. The termination shall only be effective for any Products not loaded for shipment to Buyer within two (2) business days after Seller's receipt of Buyer's notice of termination.
- 17. TECHNICAL INFORMATION; NO WARRANTY.** Any services, including technical information, formulations, recommendations, or assistance, furnished by Seller to Buyer, including with respect to the selection or use of a Product, is given and accepted at Buyer's sole risk. SELLER PROVIDES NO WARRANTY WITH RESPECT TO THE TECHNICAL INFORMATION, FORMULATIONS, RECOMMENDATIONS, OR ASSISTANCE PROVIDED TO BUYER. BUYER ACCEPTS SUCH INFORMATION "AS IS", AND SELLER SHALL HAVE NO LIABILITY WHATSOEVER FOR THE USE OF OR RESULTS OBTAINED FROM SUCH TECHNICAL INFORMATION OR ASSISTANCE.
- 18. FORCE MAJEURE.** Except for payment due hereunder, a Party shall not be in breach and shall be relieved from liability for failure to perform hereunder for the duration and to the extent such failure arises directly or indirectly from, or is caused by: war; riots; insurrections; fire; explosions; sabotage; strikes and other labor or industrial disturbances; acts of God or the elements; good faith compliance with governmental laws, regulations, executive orders, states of emergency, or requests (whether valid or invalid); disruption or breakdown of production or transportation facilities; delays of carrier in receiving or delivering feedstock or Products; infectious disease, quarantine restriction, epidemics, or pandemics; or by any other cause, whether similar or not, reasonably beyond the control of such Party (each, a "Force Majeure Event"). Any such failure to perform shall be remedied with commercially reasonable efforts, but Seller shall not be required to purchase or otherwise obtain other supplies of such Product, crude petroleum, other feedstock, or raw materials from which such Product is derived to make up inadequate supplies or to replace the supplies so curtailed or cut off. Seller shall not be obligated to make up deliveries omitted or curtailed under this Section and any such deficiencies in deliveries shall be canceled from the Order with no liability to either Party. Failure to perform due to a Force Majeure Event shall not extend the term of the Order. If any such delay in performance or inability to perform occurs, the Party claiming a Force Majeure Event shall provide prompt written notice to the other Party. Any suspension of performance due to a Force Majeure Event shall be of no greater scope and no longer duration than is necessitated by the Force Majeure Event. The Party claiming excuse from performance due to a Force Majeure Event will provide prompt written notice to the other Party of the cessation of the Force Majeure Event.
- 19. COMPLIANCE WITH LAWS AND REGULATIONS; EXPORT COMPLIANCE.** Each Party agrees to comply with all applicable international, federal, state, and local laws, ordinances, regulations, rules, and orders, including all applicable export control laws and all applicable anti-corruption laws, which may include without limitation, Foreign Corrupt Practices Act of 1977 (15 U.S.C. §§ 78dd-1 et seq.), UK Anti-Bribery Act 2010 and the anti-bribery laws in Mexico (collectively, the "Laws"). Each Party agrees to indemnify, defend, and hold the other Party, its officers, directors, employees, agents, and affiliates harmless against all losses, claims, causes of action, penalties, and liability arising out of the Party's failure to comply with any Laws. Unless otherwise agreed in writing by the Parties or Seller's Order Confirmation indicates delivery of Product by Seller outside of Mexico, the sale of Product under the Order constitutes a domestic sale within Mexico. In the event that Buyer exports Product, Buyer assumes sole responsibility to determine any export license requirements, to obtain any required export license or other official authorization and provide Seller a copy of any such export license or authorization, and to carry out any customs formalities for the export of such Product. Buyer shall be deemed the "Principal Party in Interest" or "Exporter" for all purposes under applicable law. For routed transactions, Buyer shall comply with Seller's requirements. In no event shall Buyer authorize any forwarder or agent to file export documentation for routed orders or to use Seller's Employer Identification Number.

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- 20. BUSINESS STANDARDS.** Each Party shall prevent its employees, agents, and representatives from making, providing, or offering gifts, entertainment, payments, loans, or other consideration to employees, agents, and representatives of the other Party for the purpose of influencing those persons to act contrary to the best interests of the other Party. This obligation shall apply to the activities of the employees of the Party in its relations with the employees of the other Party, their families, and third parties. In addition, upon request, each Party shall make known to the other its current policies on ethics, conflicts of interest, and business conduct, and shall be expected to conduct its activities in compliance with its own policies.
- 21. INDEMNIFICATION.** BUYER AGREES TO RELEASE, INDEMNIFY, AND HOLD HARMLESS SELLER, ITS AFFILIATES AND AGENTS, AND THEIR OFFICERS, DIRECTORS, AND EMPLOYEES FROM ANY AND ALL CLAIMS AND LIABILITY ARISING FROM, OR ALLEGED TO HAVE ARISEN FROM, BUYER'S PURCHASE, USE, SALE, OR DISTRIBUTION OF THE PRODUCTS.
- 22. CONFIDENTIALITY.** The Parties agree to treat as confidential the contents of the Order and any Sales Agreement, and Buyer agrees to treat as confidential the pricing of the Product. The Parties agree that, except as necessary for the performance of the Order, as set forth in any Sales Agreement, or as required by law, they shall make no disclosures with respect to such matters without the express written consent of the other Party.
- 23. PUBLICITY.** Except with respect to internal business communications, communications with government agencies, or as required by law, Buyer shall not utilize the Order or its relationship with Seller for purposes of or in any manner which intentionally gives rise to advertising or publicity, unless Seller provides its prior written consent.
- 24. AMENDMENT.** Except as permitted herein, no modification of the Terms shall be binding unless made in writing and signed by both Parties; provided however, Seller may update these Terms at any time by posting revised Terms on Seller's website. Buyer agrees that it is responsible to review the then-current Terms prior to placing a Purchase Order, or, for those sales where Seller does not require a Purchase Order from Buyer, prior to delivery of the Products by Seller to Buyer. The revised Terms shall be effective for the sale of all Products under a Purchase Order submitted to Seller beginning on the day after the posting of the revised Terms on Seller's website and all future sales.
- 25. NOTICES.** All written notices required by the Terms shall be in writing and addressed to the Parties at the addresses for each Party set forth in the Sales Agreement (defined below), or if none, then at the addresses provided by the Parties in the most recent Purchase Order, as to Buyer, and in the Sales Agreement, or if none, then the most recent Order Confirmation, as to Seller. All notices shall be deemed delivered when (i) personally delivered (ii) upon delivery confirmation if sent by registered or certified mail, postage prepaid, return receipt requested; or (iii) upon delivery confirmation if sent by a nationally recognized courier service. A Party may notify the other Party in writing according to the requirements of this Section of another address to which notices may be sent.
- 26. GOVERNING LAW AND FORUM.** The Order, the Terms, and all matters arising out of or related thereto shall be governed by and construed under the applicable laws of Mexico, without regard to the conflicts of laws provisions thereof and excluding the United Nations Convention on Contracts for the International Sale of Goods. The Parties submit to the personal jurisdiction of the courts of Mexico City, Mexico, with respect to the Order, the Terms, and all matters arising out of or related thereto.
- 27. ARBITRATION.** If Buyer is incorporated or organized outside of Mexico and the courts of Mexico City cannot exercise jurisdiction over the Buyer, then any dispute arising in connection with the Order or the Terms which cannot be settled amicably between the Parties shall be finally settled by arbitration administered by the American Arbitration Association (AAA) in accordance with its International Arbitration Rules, and judgment upon the award entered by the arbitrator shall be conclusive and binding and any such award shall be enforceable and may be entered in any court having jurisdiction. Arbitration shall be conducted in English and by a single English-speaking arbitrator, except the arbitration award which must be in both English and Spanish. The arbitrator shall be selected by agreement of the Parties. In the event the Parties cannot agree, each Party shall select one arbitrator, and the two arbitrators so selected shall select a third arbitrator who shall act as the sole arbitrator. The arbitrator shall use the Mexican commercial laws of in construing and interpreting the Order or the Terms. Arbitration shall be

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conducted in Mexico City, Mexico and the award rendered, if any, in United States Dollars. The Parties specifically waive any challenges to the jurisdiction of the arbitrator in Mexico. Service of the petition to confirm arbitration and written notice of the time and place of hearing on the petition to confirm the award of the arbitration shall be made in the manner provided for in Section 25. The arbitrator may award any remedy allowed in law or at equity, except as limited herein. The Parties also agree that the AAA Optional Rules for Emergency Measures of Protection shall apply to the proceedings. The Parties agree to evenly share the administrative costs and expenses of the arbitration, including AAA and arbitrator fees.

- 28. PREVAILING PARTY.** Unless otherwise noted in Section 27 (if applicable), in any action to enforce the Order or the Terms, the prevailing party shall recover all of its costs incurred in the action, including, without limitation, court costs, appellate costs, and reasonable attorneys' fees.
- 29. ASSIGNMENT.** Neither Party shall assign any of its rights or delegate any of its obligations under an Order without the prior written consent of the other Party, except that Seller may assign its rights and delegate its obligations under the Order to a parent, subsidiary, affiliate, or any entity that acquires all or substantially all of the business or assets related to the performance of the Order without the prior written consent of the Buyer.
- 30. WAIVER.** No waiver by either Party of any Terms or any breach of any Terms shall be construed as a waiver of any succeeding rights or breach of the same or any other Terms.
- 31. SEVERABILITY AND PRIORITY.** Should any provision of the Terms be determined to be inconsistent with or contrary to applicable law, such provision will be deemed amended or omitted to conform with the law without affecting any other provision or the validity of the Terms.
- 32. REMEDIES.** Except for Buyer's exclusive remedies for defective or nonconforming Products set forth in Section 13: (i) no remedy referred to herein is intended to be exclusive, but each remedy shall to the maximum extent allowed by law be cumulative and in addition to any other remedy referred to herein or otherwise available to a Party; and (ii) all remedies of a Party shall, to the maximum extent allowed by law, survive any and all terminations of any agreements between the Parties; (iii) the exercise or beginning to exercise by a Party of any one or more remedies shall not preclude the simultaneous or later exercise by a Party of other remedies; (iv) to the maximum extent allowed by law, no delay or failure on the part of a Party in exercising any right, remedy, power, or privilege of a Party shall operate as a waiver thereof.
- 33. ELECTRONIC SIGNATURES.** Any document incorporating or otherwise accepting the Terms, whether signed manually or by electronic signature, and transmitted to Seller in electronic format by electronic transmission, shall be deemed to have the same legal effect as an original signed version.
- 34. ENTIRE AGREEMENT.** Except to the extent both Parties have signed a separate agreement governing the sales of Products from Seller to Buyer ("Sales Agreement"), the Order Confirmation, if applicable, and Seller's allocation of Products to Buyer is expressly conditioned on Buyer's acceptance of the Terms. The Sales Agreement, if applicable, the Order, and the Terms shall constitute the only binding terms and conditions between the Parties relating to the subject matter hereof. Except to the extent both Parties have signed a Sales Agreement, the Terms supersede all prior and contemporaneous communications, negotiations, proposals, inquiries, commitments, and agreements, whether written or oral, with respect to the subject matter hereof, except for any nondisclosure agreement entered into between Seller and Buyer, which shall remain in full force and effect. Any terms or conditions of a Purchase Order or any other document that are different from, conflict with, or in addition to the Order or the Terms shall be void and of no effect. The Terms supersede any of Buyer's general terms and conditions of purchase, regardless of whether or when Buyer has submitted its Purchase Order or such terms. If a Sales Agreement exists that is applicable to the sale of the Products and any of the provisions of the Terms are inconsistent with the provisions of that Sales Agreement, the provisions of that Sales Agreement shall govern with respect to such inconsistency.
- 35. LANGUAGE.** These Terms have been prepared in English and Spanish versions. In the event of a discrepancy between the versions, the Spanish version shall prevail.