

PURCHASE ORDER TERMS AND CONDITIONS

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

DEFINITIONS

As used in this instrument, "**Buyer**" means the purchasing entity identified in the purchase order or correspondence or, if none is listed, then Calumet Operating, LLC, "**Buyer's Representative**" means the person or persons authorized by Buyer to alter, modify or change the provisions of this Purchase Order. "**Seller**" means the party with whom Buyer is contracting and includes any reference to "**vendor**," "**subcontractor**," "**contractor**," or "**supplier**." "**Purchase Order**" ("**Order**") means this instrument, including all documents, exhibits, schedules, and attachments referenced herein. "**Terms and Conditions**" means the terms and conditions set forth in this instrument. "**FAR**" means Federal Acquisition Regulation and "**DFARS**" means Department of Defense Federal Acquisition Regulation Supplement, with both FAR and DFAR being those in effect on the date of this Order.

1. ACCEPTANCE

Seller has read and understands this Purchase Order to be the exclusive agreement between Buyer and Seller. Seller's written acceptance or acknowledgment of this Order or Seller's shipment of goods, performance of services, or commencement of work under this Order shall be solely upon the Terms and Conditions contained in this instrument. In no event shall payment or transfer of title constitute acceptance. Any and all terms and conditions proposed by Seller which are different from or in addition to the Terms and Conditions of Buyer's Order are deemed to be material alterations and shall not become a part of this Order or binding upon Buyer. Any modifications or changes to this Order shall be made only in accordance with Section 5 and 31 below.

2. SHIPPING, BILLING, TAXES AND PAYMENT

Seller agrees: (a) to properly load, pack, mark and ship goods in accordance with the requirements of Buyer and involved carriers in a manner to secure the lowest transportation cost and meet delivery times; (b) to route shipments in accordance with instructions from Buyer's Representative; (c) to make no charges for handling, packaging, storage, transportation or drayage of goods unless otherwise stated in this Order, (d) to provide contemporaneous with each shipment packing slips or other identifying documentation in form approved by Buyer with Buyer's Order number marked or otherwise designated; (e) to properly mark each package with Buyer's Order number, the terminal or facility and dock number, and, where multiple packages comprise a single shipment, to consecutively number each package with any rail tank car deliveries to be identified in accordance with applicable federal railway standards; (f) to promptly forward the original bill of lading or other shipping receipt for each shipment in accordance with Buyer's instructions and carrier's requirements; and (g) to deliver goods during Buyer's regular business hours or at a pre-arranged time agreed upon by Buyer. The packaging, labeling and shipping of all materials, including HAZARDOUS SUBSTANCES, DANGEROUS OR EXPLOSIVE MATERIALS, must conform to all applicable international, federal, state and local laws and regulations. The marks on each package and identification of the goods on packing slips, bills of lading and invoices shall be sufficient to enable Buyer to easily identify the goods purchased.

Seller further agrees to promptly render, as soon as practicable after delivery of goods or performance of services, correct and complete invoices to Buyer. Seller shall format and submit all invoices in accordance with Buyer's accounts payable procedure. Seller shall accept payment by check or, at Buyer's discretion, other cash equivalent including electronic transfer of funds. Payment for material and/or services and provision of required documentation shall be in accordance with the payment terms of this Order. The time for payment articulated in this Order shall not begin until after goods are received and correct and complete invoices are received, and Seller's cash discount privileges to Buyer shall be extended until such time as payment is due. Buyer may withhold payment pending receipt of evidence, in such form and detail as Buyer may direct, of the absence of any liens, encumbrances and claims on the goods or services for which this Order applies.

Except for certain state and municipal sales taxes levied on purchases under the Order that are legally required to be collected by Seller, Buyer will not be liable for any sales, use, excise, ad valorem, value added and other taxes, impositions or governmental charges, international shipping charges, customs charges, forwarding agent's or broker's fees, consular fees, document fees and import duties (collectively referred to as "Taxes") unless otherwise specified in the Order. Seller shall provide Buyer with an invoice that specifically and separately identifies all Taxes payable by Buyer.

3. DELIVERY SCHEDULES

A. Time is of the essence in the performance of this Order. Seller shall make deliveries at such times and places and of such items and quantities as specified in the Buyer's delivery schedules. Strict adherence to Buyer's stated schedules is a material condition or element of this Order. Seller shall not, unless otherwise agreed in writing by Buyer, manufacture or procure materials to which this Order applies in excess of the amount described in the delivery schedules of this Order or in advance of the time necessary to meet Buyer's delivery schedule(s). Buyer shall have no obligation to pay for goods delivered to Buyer which are in excess or delivered in advance of Buyer's delivery schedule. Buyer may, and at Seller's direction shall, return such excess goods at Seller's risk, and all transportation charges, both to and from the original destination, shall be paid by Seller. Buyer reserves the right to change the rate of scheduled shipments (increase or decrease quantity) or direct the temporary suspension of scheduled shipments, neither of which shall be a breach or repudiation of this Order nor entitle Seller to a modification of the price for goods or services covered by this Order. For

Orders where quantities and/or delivery schedules are not specified, Seller shall deliver goods in such quantities and at such times as Buyer may direct in subsequent releases.

- B. Unless otherwise provided for on the face of this instrument, goods covered by this Order shall be delivered to Buyer FOB delivery point at the address specified on the face of this instrument, and title to goods covered by it shall pass to Buyer upon acceptance of such goods delivered to Buyer's designated facility. Seller shall be wholly responsible for all risk of loss or damage until such passage of title.
- C. If at any time it appears to Seller that any delivery schedule cannot be met, Seller shall notify Buyer as soon as possible as to the cause(s) of delay or non-delivery, the action being taken to mitigate such cause(s) of delay or non-delivery and when on-schedule status will be regained. Seller shall take, at its expense, whatever reasonable action is necessary, with or without Buyer's request, to meet such schedules as set forth in these Terms and Conditions or to recover to the maximum extent possible any delay in meeting such schedules. Such reasonable action by Seller shall include, but not be limited to, expedited shipment. Seller shall be liable for damages caused by Seller's by delaying delivery beyond the agreed upon terms. Seller agrees that if Seller in any manner delays the progress of the work so as to cause any damage for which Buyer becomes liable (including, but not limited to, liquidated damages) or so as to cause any increased cost or expense to Buyer, Seller will be responsible for an pay to Buyer any such damage, cost, or expense.

4. PREMIUM SHIPMENTS

If Seller's acts or omissions result in Seller's failure to meet Buyer's delivery requirements, Seller shall, at Buyer's option, (a) promptly reimburse Buyer the difference in cost between the more expeditious method of delivery and the original method of delivery, (b) allow Buyer to reduce its payment of Seller's invoices by such difference, or (c) ship the goods as expeditiously as possible at Seller's expense and invoice Buyer for the amount which Buyer would have paid for normal shipment.

5. CHANGES

Buyer reserves the right at any time and from time to time to direct Seller to make changes in any one or more of the following:

- (a) drawings, designs or specifications
- (b) place of inspection, delivery or acceptance
- (c) testing or quality control

Seller agrees to promptly make such changes and other changes as provided for in Section 3 and elsewhere and to avoid unnecessary related costs; any difference in price or time of performance resulting from such changes shall be equitably adjusted by Buyer after receipt of documentation in such form and detail as Buyer may direct. This Order, including this provision, may only be changed or modified by a written Purchase Order Amendment issued by Buyer. **Any attempted oral modifications to this Order shall not be binding upon Buyer.** Seller acknowledges and agrees that certain changes in delivery schedule are market dependent and are normal and anticipated in the course of business. No adjustment of any kind shall be afforded to Seller with respect to changes made necessary by reason of defects or Seller's inability to meet stated specification requirements of any item for which Seller would be liable under the terms of this Order.

6. INSPECTION AND QUALITY CONTROL

Seller agrees that Buyer shall have the right to enter Seller's facility at reasonable times to inspect the facility, goods, materials and items covered by this Order. Buyer's inspection of the goods, whether during manufacture, prior to delivery or within a reasonable time after delivery, shall not constitute acceptance. If any inspection or test is made on the premises of Seller or its supplier, Seller, without additional charge, shall provide all reasonable facilities and assistance for the safety and convenience of the inspectors in the performance of their duties. All inspections and tests on the premises of Seller or its supplier shall be performed in such a manner as not to unduly delay the work described in this Order

7. NON-CONFORMING GOODS

- A. Buyer may reject and hold at Seller's risk and expense and subject to Seller's reasonable disposal instructions goods which do not conform to applicable specifications, samples or descriptions or which are defective in material, workmanship or design or fail to meet the warranties contained in Section 10. To the extent Buyer rejects goods as non-conforming, the quantities of such goods under this Order will automatically be reduced by the number of non-conforming items unless Buyer notifies Seller in writing otherwise. Seller shall not replace quantities so reduced without a new Order or schedule from Buyer, and Buyer is not responsible for payment to Seller for non-conforming goods. Payment by Buyer for non-conforming goods shall not constitute an acceptance thereof, limit or impair Buyer's right to assert any legal or equitable remedy, or relieve Seller's responsibility for latent defects.
- B. Without limiting any other rights Buyer may have, Buyer may, upon rejection and at its option, require Seller (i) to repair or replace at Seller's expense any goods or items which fail to meet the requirements of applicable specifications, samples, descriptions or other requirements of this Order; or (ii) to refund the price which may have been paid by Buyer for any such goods.

8. MANUFACTURING/PROCESSING CHANGES

Seller shall give Buyer advance written notice of all changes in specification or other identification, major changes in process procedure, and changes in the location of the manufacturing or processing plant or place of performance made by Seller applying to goods covered by this Order.

9. FORCE MAJEURE

Any delay or failure of either party to perform its obligations under the Order and these Terms and Conditions shall be excused if, and to the extent that, it is caused by an event or occurrence that was not reasonably foreseeable and beyond the reasonable control of the party and without its fault or negligence, such as, by way of example and not by way of limitation, acts of God, actions by any governmental authority (whether valid or invalid), fires, floods, windstorms, explosions, riots, natural disasters, wars, sabotage, labor problems (including lockouts, strikes and slowdowns), inability to obtain power, material, labor, equipment or transportation, or court injunction or order; provided that written notice of such delay (including the anticipated duration of the delay) shall be given by the affected party or the other party within ten (10) days. During the period of such delay or failure to perform by Seller and after prompt notice from Seller to Buyer of the occurrence of such an event, Buyer, at its option, may purchase goods from other sources and reduce its schedules to Seller by such quantities, without liability to Seller, or have Seller provide the goods from other sources in quantities and at times requested by Buyer and at the price set forth in this Order. If requested by the Buyer, Seller shall, within ten (10) days of such request, provide adequate assurances that the delay shall not exceed thirty (30) days. If the delay lasts more than thirty (30) days or Seller does not provide adequate assurance that the delay will cease within thirty (30) days, Buyer may immediately cancel this Order without liability.

10. WARRANTY

Seller expressly warrants that all goods or services covered by this Order will conform to the specifications, samples, examples, trials, demonstrations, representations, or descriptions furnished to or by Buyer, and will be merchantable, of good material and workmanship and free from defect. Seller further expressly warrants that it has good title to the goods, raw materials, and parts covered by this Order, free and clear of all liens or security interests. Seller warrants that all goods and services provided under the Order shall not violate or infringe any patent, copyright, trademark, or proprietary interest. In addition, Seller acknowledges that Seller knows of Buyer's intended use and expressly warrants that all goods covered by this Order which have been selected, designed, manufactured, or assembled by Seller, based upon Buyer's stated use, will be fit and sufficient for the particular purposes intended by Buyer.

11. TOXIC SUBSTANCES, MSDS, INGREDIENTS DISCLOSURE AND SPECIAL WARNINGS AND INSTRUCTIONS

- A. Seller warrants that each chemical substance delivered under this Order shall, at the time of sale, transfer or delivery, be on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Agency pursuant to Section 8 (B) of the Toxic Substance Control Act (Public law 94-469).
- B. Seller shall submit to Buyer prior to and with each shipment the relevant Material Safety Data Sheets, prepared in accordance with the OSHA Hazardous Communication Standard, 29 CFR 1919.1200.
- C. If requested by the Buyer, Seller shall promptly furnish to Buyer in such form and detail as Buyer may direct: (i) a list of all ingredients in the goods purchased under this Order; (ii) the amount of one or more of the ingredients; and (iii) information concerning any changes in or additions to such ingredients. Should Seller not have immediate access to this information, Seller shall delay shipment until such time as Seller has contacted the party that does have the information, and is able to obtain it and furnish it as requested to Buyer.
- D. Prior to and with the shipment of the goods purchased under this Order, Seller agrees to furnish to Buyer sufficient warning and notice in writing (including appropriate labels on goods, containers and packing) of any hazardous material which is an ingredient or a part of any of the goods, together with such special handling instructions as may be necessary to advise carriers, Buyer, and their respective employees of how to exercise that measure of care and precaution which will best prevent bodily injury or property damage in the handling, transportation, processing, use, or disposal of the goods, containers and packing shipped to Buyer.
- E. Seller shall comply with all laws, orders and regulations pertaining to the use, storage, and disposal of restricted toxic and hazardous materials.

12. CANCELLATION FOR DEFAULT

Buyer reserves the right to cancel this Order, in whole or in part, without liability to Buyer, if Seller (a) refuses or fails to deliver the goods or services or any installment strictly within the time specified or any extension granted by Buyer in writing, (b) fails to comply strictly with any provision of or repudiates this Order or so fails to make progress as to endanger performance of this Order in accordance with its terms, or (c) suspends its business or becomes insolvent or subject to any law relating to bankruptcy, insolvency or relief of debtors. If Buyer requests adequate assurance of performance, Seller shall provide same within ten (10) business days.

13. TERMINATION

Buyer may terminate this Order, in whole or in part, at any time for any reason by providing notice to Seller in writing. In such event, Seller shall immediately comply with Buyer's instructions, and to the extent specified therein, stop work and the placement of subcontracts hereunder, and take any and all action necessary to protect property in Seller's possession, in which Buyer has or may acquire an interest. Within thirty (30) days of receipt by Seller of such notice, Seller shall advise Buyer of the actions taken by Seller to comply with Buyer's instructions and Seller shall also notify Buyer of Seller's intent to file a termination claim. In the event Buyer terminates and Seller submits a termination claim, Buyer shall pay to Seller the following: (a) amounts due for supplies delivered and accepted or services completed in accordance herein, and not theretofore paid for prior to the effective date of termination, (b) actual work in process costs incurred by Seller if properly allocable, or apportionable under generally accepted accounting principles and practices to the terminated portion of the Order, including liabilities to subcontractors which are so allocable, excluding any and all costs of supplies which either can be diverted to other orders of Seller or retained by Seller for its own use or future Orders, and exclusive of any costs attributable to Seller's supplies paid or to be paid for under (a) above. Seller agrees that (a) and (b) are its sole and exclusive remedies and hereby waives the right to any consequential or incidental damages. The total termination amount shall not exceed the Purchase Order price and if it appears that the Seller would have sustained a loss on the entire contract, had it been completed, an appropriate adjustment shall be made reducing the amount of the claim to reflect the indicated percentage of loss. Should there be an overpayment by Buyer to Seller as determined in accordance with this Section 13, as the result of a termination, Seller shall promptly reimburse Buyer for all sums overpaid. Seller's termination claim shall be submitted within six (6) months after the effective date of the termination on forms provided by Buyer. Buyer shall not be required to make any determination on any late claim.

14. INTELLECTUAL PROPERTY OWNERSHIP AND PATENT INDEMNITY

Buyer shall have sole ownership of all right, title and interest in any items, materials or works of authorship produced or created by Seller as a result of the services performed by Seller for Buyer under this Order. Seller irrevocably assigns all copyrights in such items, materials or works of authorship to Buyer. Buyer shall have sole ownership of all right, title and interest in any inventions conceived by Seller as a result of the services performed by Seller for Buyer under this Order. Seller hereby irrevocably assigns all patent rights in such inventions to Buyer. All goods and services provided under this Order shall not violate or infringe on any patent, copyright, trademark, or proprietary interest. Notwithstanding the foregoing, if such intellectual property is deemed to infringe on the rights of others, Seller further agrees (a) to defend, hold harmless and indemnify Buyer, its successors, affiliates, parent company and customers against all claims, demands, proceedings, losses, suits, damages, liability and expenses (including reasonable attorney's fees) arising out of or based upon any claim for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark, trade secret, copyright or mask work right by reason of the manufacture, use or sale of the goods or services ordered from Seller, including infringement arising out of compliance with specifications furnished by Buyer, or for actual or alleged misuse or misappropriation of a trade secret resulting directly or indirectly from Seller's actions; (b) to waive any claim against Buyer under the Uniform Commercial Code or otherwise, in any way related to any claim described in (a) above; (c) to procure for Buyer the right to continue the use of such goods or services, or replace them with substantially equivalent non-infringing goods or services, or replace them with substantially equivalent non-infringing goods or services or modify the goods or services at Seller's expense so they no longer infringe should the manufacture, use or sale of the goods or services ordered be made the subject of any such suit or claim as described in (a) above; and (d) to grant to Buyer a worldwide, non-exclusive, royalty-free, irrevocable, paid up license to repair or have repaired the goods ordered hereunder. This section shall survive termination, cancellation or expiration of this Order.

15. TECHNICAL INFORMATION DISCLOSED

By Buyer:

- A. Unless otherwise provided in these Terms and Conditions or authorized by Buyer in writing, Seller shall protect as proprietary and keep confidential all proprietary information including, but not limited to, designs, processes, drawings, specifications, reports, data, and other technical or business information and the features of all items furnished or disclosed to Seller by Buyer. Seller shall use such disclosed proprietary information, documents or items only in the performance of this Order and shall not disclose such to any third party without Buyer's prior written consent. Upon completion or termination of this Order, Seller shall, at Seller's expense, make such disposition of all such proprietary information, documents or items as directed by Buyer.
- B. Seller agrees that all proprietary information, as described in (a) of this Section 15, including all rights to patents, trademarks, copyrights, trade secrets, and other related proprietary information, shall be the sole and exclusive property of Buyer.

By Seller:

- A. Notwithstanding any document marking to the contrary, any information which Seller may have disclosed or may disclose to Buyer incidental to the placing and filling of this Order shall not be deemed to be confidential or proprietary information unless otherwise specifically agreed upon in a written Nondisclosure Agreement between the parties and executed by them, and accordingly, Buyer shall not be liable for any use or disclosure thereof.
- B. Notwithstanding the terms of this Section 15, any items, specifications, information, data or computer programs which Seller discloses to Buyer in connection with this Order and which Seller has not marked with a limited rights legend, in accordance with the applicable clause in DFARS part 252.227, shall not be considered proprietary to Seller or in any way restrict Buyer's use of such data.

- C. Seller hereby waives any vicarious liability claim against Buyer for any intentional or reckless misappropriation of Seller's trade secret information by any agent of Buyer.

16. INDEMNIFICATION

In the event Seller, its officers, employees, agents, suppliers or subcontractors at any tier enter Buyer's premises or utilizes the property of Buyer, whether on or off Buyer's premises, Seller shall defend, indemnify and hold Buyer, its officers, employees and agents, harmless from and against any claim, suit, loss, and expense (including reasonable attorney fees) or any liability whatsoever for any damage to the property or injuries (including death) to Buyer, its employees or any other person, including Seller's employees, arising from or as a result of the performance, actions or omissions of Seller, except for claims arising from the sole and exclusive negligence of Buyer. Seller shall take all precautions, special or otherwise, and shall be responsible for compliance with all local, state and federal safety laws in the performance of the work hereunder. Seller shall indemnify and save harmless Buyer from any product liability claim, whether in strict liability or negligence, alleging in defect in the design or manufacture of the goods to which this Order applies, except where the allegedly defective good was manufactured (a) by the Buyer, or (b) manufactured by Seller in full accordance with any specifications provided by Buyer to Seller. This section shall survive termination, cancellation or expiration of this Order. Seller shall indemnify and save harmless Buyer and its customers from and against all losses, liabilities, claims or demands whatsoever (including without limitation, all costs, expenses and attorney fees), arising out of any personal injury (death) or any damage to or loss or destruction of property, in any manner based upon, occasioned by, or attributable or related to performance under this Order whether by Seller, its subcontractors, any employee of Seller or its sub-contractors, (except where such injury to or death of persons or damage to or loss or destruction of property is due solely to the negligence of Buyer its officers, agents or employees).

17. INSURANCE

- A. Seller shall maintain insurance coverage in amounts not less than the following: (i) Workers' Compensation: statutory limits for the state or states in which this Order is to be performed (or evidence of authority to self-insure); (ii) Employer's Liability: \$1,000,000; (iii) Comprehensive General Liability: \$2,000,000; and (iv) Automobile Liability (including owned, non-owned and hired vehicles): \$1,000,000 combined single limit.
- B. At Buyer's request, Seller shall furnish to Buyer certificates of insurance setting forth the amount(s) of coverage, policy number(s) and date(s) of expiration of insurance maintained by Seller. Such certificates shall name Calumet Refining, LLC and its affiliates as additional insured, provide in favor of Calumet Refining, LLC and its affiliates a waiver of subrogation, and provide that Buyer shall receive thirty (30) days' prior written notification from the insurer of any termination or reduction in the amount or scope of coverage.
- C. Seller's purchase of appropriate insurance coverage or the furnishing of certificates of insurance shall not release Seller of its obligations or liabilities under this Order. Seller's insurance coverage shall not be Buyer's exclusive remedy; instead, Buyer shall be entitled to all remedies available to it under equity or the law. In the event of Seller's breach of this Section 17, Buyer shall have the right to cancel the undelivered portion of any goods or services covered by this Order and shall not be required to make further payments except for conforming goods delivered or services rendered prior to cancellation.
- D. If Seller is providing services to Buyer, Seller represents that either: (a) if Seller is a business or entity, that Seller has offered benefits to all employees and subcontractors who will perform services for Calumet that are sufficient to meet the minimum standards under the Patient Protection and Affordable Care Act of 2010 (the "ACA"), or (b) if Seller is an individual, that Seller has benefits that are sufficient to meet the minimum standards under the ACA and will maintain such benefits throughout the time services are provided to Calumet, or (c) that no employee or subcontractor of the Seller shall perform 130 hours or more of services related to Calumet in any given calendar month.

18. BAILED PROPERTY

Unless otherwise agreed in writing, all items of any kind or description furnished to Seller by Buyer or specifically paid for by Buyer, and any replacement, or any materials affixed or attached to any tangible property, shall be and remain the personal property of Buyer or, if Buyer is not the owner, of the owner. Such property, and whenever practical each individual item thereof, shall be plainly marked or otherwise adequately identified by Seller as Buyer's property (or, if Buyer is not the owner, "Property of [the owner]") and shall be safely stored separate and apart from Seller's property. Seller shall not substitute any property for the property furnished to Seller by Buyer and shall not use such property except in filling Buyer's Orders. Such property while in Seller's custody or control shall be held at Seller's risk, shall be kept insured by Seller at Seller's expense in an amount equal to the replacement cost with insurance proceeds payable to Buyer. Such property shall be subject to removal at Buyer's written request, in which event Seller shall prepare such property for shipment and shall deliver it as directed by Buyer in the same condition as originally received by Seller, reasonable wear and tear excepted, all at Seller's expense. The foregoing shall not be deemed to affect the rights, if any, of the United States Government in such property.

Seller shall indemnify Buyer against any and all liability for damage to property or injury to or death of persons arising from or incidental to the presence or use of Buyer's Property, whether such damage, injury, or death be caused by defects in such property, negligence in use, strict liability or otherwise.

19. REMEDIES

The rights and remedies reserved to Buyer in this Order shall be cumulative and additional to all other or further remedies provided in law or equity.

20. DUTY DRAWBACK RIGHTS

This Order includes all related customs duty and import drawback rights, if any, (including rights developed by substitution and rights which may be acquired from Seller's suppliers) which Seller can transfer to Buyer. Seller agrees to inform Buyer of the existence of any such rights and upon request to supply such documents as may be required to obtain such drawback.

21. SETOFF

In addition to any right of setoff provided by law, all amounts due to Seller shall be considered net of indebtedness of Seller to Buyer and its affiliates; Buyer may deduct any amounts due or to become due from Seller to Buyer and its affiliates from any sums due or to become due from Buyer to Seller.

22. ADVERTISING, PUBLICITY

Seller shall not, without the prior written consent of Buyer, (a) in any manner advertise or publish the fact that Seller has contracted to furnish Buyer the goods or services herein ordered; (b) refer to or use any trademarks or trade names of Buyer, or Buyer's parent company or affiliates, in Seller's advertising or promotional materials; or (c) refer to or use the names or products of Buyer, or Buyer's parent company or affiliates, in connection with any publicity or promotional activities. In the event of Seller's breach of this provision, Buyer shall have the right to cancel the undelivered portion of any goods or services covered by this Order and shall not be required to make further payments except for conforming goods delivered prior to cancellation.

23. COMPLIANCE WITH LAWS

Seller will comply with the Fair Labor Standards Act of June 30, 1938 (USC 201-209) as amended. Seller agrees to comply with all Federal, state and local laws, executive orders, rules, regulations and ordinances which may be applicable to Seller's performance of its obligations under this Order.

24. EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION

The provisions set forth in Executive Order 11246 dated September 24, 1965 (as amended) are incorporated herein by reference except to the extent this contract may be exempt from the provisions of said Executive Order by the rules and regulations issued under said Executive Order, as such rules and regulations may be amended from time to time. Seller agrees to comply with all applicable contract clauses required by federal, state or local law, rule, or regulation which shall be part of this contract/purchase order, including but not limited to the following which are incorporated by reference herein: Equal Opportunity Clause; Affirmative Action Clause of Disabled Veterans and Veterans of the Vietnam Era; Affirmative Action Clause for Handicapped Workers; and the Certification of Non-segregated Facilities Clause. Seller also agrees and certifies, if applicable, that it has developed a written affirmative action compliance program and annually files Standard Form 100 (EEO-1). In addition, Seller agrees to comply with all applicable federal laws and regulations regarding the utilization of small business concerns and/or small disadvantaged business concerns, including, if applicable, any subcontracting plans thereunder. Whenever the word "Contractor" appears in said provisions, it shall mean Seller.

25. HUMAN RIGHTS

Seller represents and warrants that all of the materials that went into the products and the labor used in relation thereto were in compliance with all laws relating to human trafficking and slavery that are applicable to the products and labor.

26. NO IMPLIED WAIVER

The failure of either party at any time to require performance by the other party of any provision of this Order shall in no way affect the right to require such performance at any time thereafter, nor shall the waiver of either party of a breach of any provision of this Order constitute a waiver of any succeeding breach of the same or any other provision.

27. NON-ASSIGNMENT

Seller may not assign or delegate its obligations under this Order without Buyer's prior written consent and any effort to the contrary shall be void.

28. RELATIONSHIP OF PARTIES

Seller and Buyer are independent contracting parties in a vendor-vendee relationship and nothing in this Order shall make either party the agent or legal representative of the other in any purpose whatsoever, nor does it grant either party any authority to assume or to create any obligation on behalf of or in the name of the other.

29. GOVERNING LAW

This Order is to be construed and governed in accordance with the laws of the State of Indiana, United State of America, excluding its choice of law statutes. Seller consents to the jurisdiction of Indiana courts. Any action arising out of or relating to this Order, or the goods or services furnished hereunder, shall be brought in Marion County, Indiana, or the courts of the state

where the Seller's principal place of business is located, as Buyer may elect. Seller agrees that Indiana is not an inconvenient forum for any action arising from or relating to this Order. The United Nations Convention on the International Sale of Goods does not apply to this Order.

30. WAIVER OF JURY TRIAL

The Parties knowingly, voluntarily and intentionally waive any right they may have to a trial by jury in any litigation.

31. SEVERABILITY

If any term of this Order becomes invalid or unenforceable under any statute, regulation, ordinance, executive order or other rule of law, such term shall be deemed reformed or deleted, but only to the extent necessary to comply with such statute, regulation, ordinance, order or rule and all other provisions of this Order shall remain in full force and effect.

32. CONSTRUCTION PRESUMPTION

The section headings in this Order are inserted for convenience only and shall not affect in any way the meaning or interpretation of the Order. All parties hereto have participated substantially in the negotiation and drafting of this Order and each party hereby disclaims any defense or assertion that any ambiguity herein should be construed against the drafter of the Order.

33. RECALL CAMPAIGNS

Seller shall indemnify and hold Buyer harmless against all loss, liability, cost of expense incurred by Buyer if Buyer recalls from Buyer's customers or others any products furnished under this Order or an end product employing any such products as a part or component thereof or repairs replaces or refunds the purchase price of such products or end product. This indemnity shall apply only if the recall, repair, replacement or refund (a) is required pursuant to applicable statutes, laws, or regulations; or (b) in Buyer's reasonable commercial judgment is necessary to preserve Buyer's commercial reputation as a supplier of reliable, high quality products.

If Seller's product is not the sole cause for such action by Buyer, then Buyer shall apportion its costs, damages and expenses as it shall determine is reasonable and equitable.

Buyer shall use reasonable efforts to inform Seller promptly after Buyer learns of facts which may require a recall, or repair, replacement or refund pursuant to this section. Buyer shall have the right without the consent of Seller to report to administrative or regulatory body, any information which Buyer obtains indicating that the products furnished by Seller either fail to conform to any standard required by law, or constitute or create of themselves or within the end product of which they are a part or component a situation requiring recall or notice as defined by the applicable law.

Seller shall prepare, maintain and file with the appropriate agency those records and reports relating to the manufacture, sale, use and characteristics of the products furnished to Buyer under an Order which may be required by any federal, state, or local law or regulation concerning the manufacture, sale, or use of the products or the end products of which the products may be a part or component. Seller shall provide Buyer with copies of such records at Buyer's request and shall give Buyer access to Seller's records that allow Buyer to confirm Seller's compliance with this section.

34. ENTIRE AGREEMENT

This Order, together with the attachments, exhibits, or supplements specifically referenced in this Order, constitutes the entire agreement between Seller and Buyer with respect to the matter contained herein and supersedes all prior oral or written representations and agreements on this matter. This Order may only be modified by a written Purchase Order Amendment issued by Buyer.