

## GENERAL TERMS AND CONDITIONS

SELLER WARRANTS THAT THE GOODS ARE AS DESCRIBED ON THE FACE THEREOF, BUT THERE ARE NO WARRANTIES WHICH EXTEND BEYOND SUCH DESCRIPTION. SELLER HEREBY EXCLUDES ANY WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR ANY PARTICULAR PURPOSE AND ANY WARRANTY WHICH MIGHT OTHERWISE ARISE FROM THE COURSE OF DEALING BETWEEN THE PARTIES HERETO OR FROM ANY USAGE OF TRADE. THE GOODS SOLD HEREIN ARE NOT SOLD BY SAMPLE UNLESS THAT FACT IS SPECIFICALLY STATED.

### 1. Trade Definitions; Governing Law.

As used in the Contract and except as otherwise specifically provided herein, trade or shipping terms shall have the meanings contained in Incoterms®2010 (ICC rules for the use of domestic and international trade terms), as amended. Without limiting the applicability of the provisions of Incoterms®2010, and except as otherwise specifically provided in such Incoterms®2010 or in this Contract, the duties and obligations of buyer and seller shall be governed by the Uniform Commercial Code and other laws of the State of New York as effective and in force on the date of this Contract. It is understood, however, that this is a general form of contract, designed for use wherever seller may desire to sell goods, and that any provision herein, which in any way contravenes the laws of any appropriate state or jurisdiction, shall be deemed not to be a part of this Contract to the extent that it so contravenes. The United Nation Convention on Contracts for the International Sale of Goods shall not apply to this Contract.

### 2. Price Adjustment.

The price specified on the face of this Contract is subject to the extent of (a) any increase or decrease in import duties or surcharges, insurance or freight payable by seller after the date of this Contract, (b) any increase in the cost of manufacture or transportation of the goods substantially caused by a shortage or extraordinary increase in price of petroleum products including, without limitation, such a shortage created or a price increase imposed by any action of the government of any petroleum-producing country, and (c) any decrease at the time of payment in the value of the U.S. dollar (or any other currency with which payment of such price is to be made) in relation to the currency with which seller intends to purchase the goods from its supplier, as specified on the face of this Contract, from the exchange rate specified on the face of this Contract, such value to be determined on the basis of the spot selling price for bank transfers in the United States for payment abroad, as reported for the date of payment in THE WALL STREET JOURNAL, Eastern Edition, or, if no such price is reported for such day, for the first day thereafter for which such a price is so reported.

### 3. Taxes.

Buyer shall be liable for and agrees to pay (a) property and similar taxes associated with possession or ownership of goods from the time buyer takes delivery or should have taken delivery, and (b) excise, sales and similar taxes on transactions between seller and buyer.

### 4. Conditions When Certain Shipping Terms Are Used.

(a) FCA, FAS, FOB, CPT, CIP, CFR, CIF, DAT, DAP and DDP Terms. When goods are purchased on FCA, FAS, FOB, CPT, CIP, CFR, CIF, DAT, DAP or DDP terms, such purchase is made on a "no arrival, no sale" term.

(b) CPT, CIP, CFR or CIF Terms. When goods are purchased on CPT, CIP, CFR or CIF terms (i) the cost of (x) any certificate of origin, consular invoices and/or other documents issued in the country of origin or shipment, or both, which may be required for importation of the goods into the country of destination and, where necessary, for their passage through another country and (y) war risk insurance, if obtained by seller, are not a part of the selling price and shall be invoiced separately to buyer, (ii) buyer will provide to seller, at buyer's expense, any import licenses, permits or other documents required for the importation of goods into, or the passage of the goods through, any country (other than the country of origin or shipment) which seller may require in connection with the exportation of the goods from the country of origin or shipment and (iii) the cost of any measuring, weighing, counting or checking of quality of the goods shall be borne by the party requesting the same. When the goods are purchased on CIF terms, seller shall obtain marine insurance covering the amount of seller's invoice plus ten percent; seller will not insure with particular average or for war risk or any other special risks unless otherwise specifically provided in this Contract.

(c) FAS and FOB Vessel Terms. When goods are purchased FAS or FOB vessel named port of shipment, buyer shall obtain ocean freight space and marine and war risk insurance (including standard warehouse-to-warehouse coverage) unless otherwise specifically provided in this Contract. Buyer shall seasonably give seller notice of the loading berth of the vessel and (where appropriate) its name and sailing date. In the event of any failure to obtain such space and insurance or to give such notice and without limiting any other remedies seller may have, seller may (but shall not be obliged to) obtain ocean freight space and make shipment of the goods for buyer's account; in any such case, upon receiving a dock or ship's receipt covering such goods, seller will advise buyer in order that buyer may effect any desired insurance coverage but seller will not be liable for failure of such advice to reach buyer in time to effect such coverage.

### 5. Representation As To Solvency.

Buyer represents and warrants that it is solvent.

### 6. Delivery; Payment.

Seller shall have the right to make shipments and/or deliveries in separate lots. Unless otherwise specifically provided in this Contract, delivery of the goods shall be made by way of documents of title, and payment shall be made against tender of such documents.

### 7. Shipment.

Shipment shall be by ocean vessel unless otherwise specifically provided in this Contract. The date of the bill of lading or air waybill shall be deemed to be the date of shipment.

### 8. Force Majeure.

This Contract is made on the basic assumption that performance by seller, any supplier of seller (including, without limitation, any manufacturer named on the face of this Contract) or any carrier of the goods will not be prevented, hindered, delayed or otherwise made impracticable by Act of God, peril of the sea, act of or restriction imposed by any government or instrumentality thereof or by the public enemy, fire, war, revolution, insurrection, riot or civil commotion, accident, epidemic, embargo, strike, lockout or other labor interruption, partial or total interruption, loss or shortage of transportation or loading facilities, power shortage, flood, drought or any other unforeseen supervening circumstances not within the contemplation of the parties at the date hereof. This paragraph 8 is not intended as an exhaustive expression of the contingencies the non-occurrence of which are a basic assumption on which this Contract is made and shall not be construed to impose upon seller a greater obligation than that imposed by the Uniform Commercial Code.

### 9. Default.

Without limiting seller's remedies as provided in the Uniform Commercial Code, seller may, by written notice to buyer, forthwith terminate this Contract and/or accelerate any installment or otherwise postponed or deferred payment for shipment already made under this Contract, therefore causing it to become immediately due and payable, if any one of the following events shall occur: (a) if buyer fails to perform any provision of this Contract (including, without limitation, the failure to pay any amount when due hereunder) which failure remains uncorrected for more than ten (10) days after written notice thereof by seller; or (b) if buyer shall become unable to pay its debts generally as they become due, or shall hold a meeting of its creditors, or shall make a general assignment for the benefit of creditors, or shall file a voluntary petition in bankruptcy, or shall be adjudicated or declared a bankrupt or insolvent, or shall file a petition or answer seeking, consenting to or acquiescing in any reorganization, arrangement, adjustment, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, or shall file an answer admitting or not contesting the material allegation of a petition or answer filed against it for or proposing any such relief; or if any proceeding against buyer, or if any such appointment, not so contested to or acquiesced in, shall remain unvacated or unstated or such trustee, receiver or liquidator shall not have been dismissed or discharged for an aggregate of sixty (60) days (whether or not consecutive); provided that seller may immediately upon the happening of any of such events, at its option, suspend deliveries hereunder. No failure by seller to give written notice of any failure by buyer to perform any provision of this Contract shall constitute a waiver thereof, nor shall any delay by seller in enforcing any of its rights hereunder or at law be deemed a waiver of such rights nor shall a waiver by seller of any default of buyer be deemed a waiver of any other of subsequent default.

### 10. Buyer's Damages.

In the event of a breach of this Contract by seller, buyer's exclusive remedy and seller's limit of liability shall be for buyer's actual damages which shall in no event exceed the price specified herein of the particular goods with respect to which the damages occurred. Seller shall in no event be liable to buyer (a) on account of any such breach unless buyer shall have commenced an action of such breach within one year after the cause of action accrued, or (b) for buyer's manufacturing costs, lost profits, good will or other incidental or consequential damages.

### 11. Arbitration.

Any controversy or claim arising out of or relating to this Contract, or the breach thereof, shall be settled by arbitration in New York City in accordance with the laws of the State of New York. Such arbitration shall be conducted in accordance with the Rules of the American Arbitration Association and judgment upon the award rendered by the Arbitrator(s) may be entered in any Court having jurisdiction thereof, provided that the Arbitrator(s) shall have no power to consider any arbitration initiated by buyer more than one year after the alleged cause of action accrued or to award damages to buyer in excess of the damages permitted by paragraph 10 of this Contract or grant any remedy to buyer other than such damages.

### 12. Entire Agreement; Modification.

This Contract constitutes the entire agreement between the parties with respect to the goods covered hereby and supersedes all prior or contemporaneous communications, representations or agreements with regard to the subject matter hereof. This Contract may not be modified or terminated nor may any right be waived except by a writing signed by the duly authorized representative of the party against whom enforcement of such modification, termination or waiver is sought. The parties waive any rights they may have, under the Uniform Commercial Code or otherwise, to satisfy any of their obligations hereunder by means of an accord and satisfaction without the prior written consent of the other party.

### 13. Successors and Assigns.

This Contract shall be binding on the parties hereto and their respective successors and assigns.

### 14. Attorney's Fees.

Buyer agrees to pay for all reasonable attorneys' fees and disbursements which are incurred by seller due to a breach of this Contract by buyer.

### 15. Late Payment.

Buyer shall pay a late charge on any overdue amount hereunder at a rate equal to the lesser of: (1) the Citibank, N.A. prime rate in effect as of the Saturday preceding the applicable invoice date (or if the Citibank, N.A. prime rate is not then available, the prime rate of another U.S. bank selected by seller) plus three percent (3%), or (2) the maximum rate permitted by applicable law.

### 16. Counterparts.

This Contract may be executed in any number of counterparts and by either party hereto on separate counterparts, each of which, when so executed and delivered, shall be an original, but all such counterparts shall together constitute one and the same instrument. One or more counterparts of this Contract may be delivered by facsimile or electronic mail, with the intention that delivery by such means shall have the same effect as delivery of an original counterpart.