

TERMS AND CONDITIONS OF SALE**1. Definitions: General.**

In these terms and conditions "Company" means Chemsil Silicones, Inc.; "Customer" means a person or entity who receives a Quote from, or places a written or verbal Order with, Company for the sale of Goods; "Goods" means the goods and/or services Ordered by Customer or delivered by Company to Customer; "Order" means an order for Goods placed by Customer with Company and accepted by Company; "Terms" means these standard terms and conditions and any special terms set forth on any invoice; and "Quote" means a written proposal made by Company to sell Goods to Customer for the price indicated, whether as part of a price quotation, part of a bid submission, or otherwise. Company may give or withhold any consent under these Terms in Company's sole discretion. Photocopies, digital or electronic copies, and facsimile transmissions of documents shall be effective as originals. Company shall not be liable to Customer for any breach or delay due to events beyond Company's reasonable control, including, but not limited to, acts of God; civil commotion, acts of war or terrorism, labor shortages or disputes; the unavailability of materials; or failures or delays in energy or transportation. No course of prior or current dealings between the parties and no usage of trade shall be relevant to supplement or explain any Terms. Whenever a term defined by the California Commercial Code §§1101-2801 (the "California UCC") is used in these Terms, the definition contained in the California UCC shall control unless otherwise defined in these Terms or otherwise required by the context in which the term is used.

2. Orders; Acceptance.

By signing an invoice or an open account; supply or other agreement with Company; asking for a Quote; placing an Order; accepting delivery of Goods; and/or paying Company for Goods, Customer shall be bound by these Terms. Customer assumes the risk if any verbal Order is transcribed incorrectly, unless the verbal order is promptly confirmed by a written Order. Any written confirming Order must be marked "Confirming Order—Do Not Duplicate." Any terms or conditions of sale proposed by Customer, whether in Customer's purchase order or otherwise, that are additional to or inconsistent with the Terms are hereby automatically refused and shall not be binding upon Company, whether or not Company or any of its employees accepts a purchase Order, ships Goods, or takes (or fails to take) any other action, unless separately agreed to by Company in writing. An Order by Customer shall not be binding until accepted by Company at its principal place of business. Each Order is a separate contract of sale between Company and Customer. After Company accepts an Order, Customer may not cancel or modify the Order in whole or in part without Company's prior written consent, which Company may condition upon an adjustment of prices and/or other terms and Customer's reimbursement of Company's costs, damages and/or a handling charge in connection with the Order. Customer must confirm any accepted cancellation in writing. Company is not responsible for typographical or clerical errors made in any orders, publications,

or quotes, or for quotes given by persons not authorized to bind the Company.

3. Prices.

Customer shall pay Company the standard price for Goods published by Company on the date Company accepts Customer's Order or any other price expressly Quoted by Company to Customer or as reflected on the Company's Order Acknowledgment. Company reserves the right to modify its standard prices at any time without notice. A Quote is valid only for an individual Order and for the time specified in the Quote (or if no time period is specified, then 60 days). The price Quoted by Company for any Goods is for supply of the Goods F.O.B. Company's facility and excludes sales, use, excise or other taxes, customs duties, insurance, and any other fees or charges imposed by any governmental authority, all of which will be paid by Customer in addition to the price Quoted. If Company is required to pay any such tax, fee, or charge, Company may invoice Customer for the amount paid or add them to the invoice price for reimbursement by the Customer. Customer shall pay any required withholdings on the purchase price, so that the net amount received by Company is the full purchase price Quoted.

4. Terms and Method of Payment; Credit.

For each Order, Goods shall be shipped by Company upon receipt by Company of advance payment of 40% of the price of the Goods to be shipped in the Order, with the remaining 60% of the price due no later than 30 days from the date of the invoice, whether or not Customer delays shipment or has inspected the Goods. Company may, in any given instance and in its sole discretion, ship Goods prior to receipt of such advance payment, however this or any other action or forbearance shall not constitute a waiver or modification of any Term hereof. Customer shall make all payments to Company at Company's address as set forth on the invoice. Customer shall not abate, set off, deduct any amount or damages from or reduce any amounts due under an invoice for any reasons without Company's prior written consent. Customer shall pay Company a charge at the rate of 1 ½ percent per month on any amounts past due more than 30 days net. Customer may place orders only for amounts up to the credit limit approved by Company in its discretion. By placing an Order, Customer hereby authorizes Company to investigate Customer's credit and financial standing, and at Company's request Customer shall provide Company with financial information and individual guarantees before, during, or after fulfillment of any Order. For each Order, Customer grants Company a security interest in the Goods to secure any unpaid amount of the purchase price of the Goods; a copy of a security agreement may be filed as a financing statement and Customer hereby agrees to execute any instrument that may be required to create, attach, or perfect such security interest. Customer hereby agrees to inform Company in advance of any default or bankruptcy to permit Company to protect its security interest. Company may change the credit terms at any time if, in Company's sole discretion, Customer's financial condition or record of previous payment history so warrant. For international sales, Customer shall provide a

irrevocable and confirmed Letter of Credit drawn on a US Bank for 100% of the price of the Order at the time of placing the Order; with 40% of such price payable upon presentation of the shipping documents to the U.S. Bank, and the remaining 60% of the price payable upon presentation of the invoice to the U.S. Bank no later than thirty (30) days after the date that the Order is received by Company. All costs and fees associated with the establishment and administration of a Letter of Credit will be borne by the Customer.

5. Rejected Goods.

It is agreed that Customer, on rejecting any Goods delivered hereunder, will hold such Goods at Customer's place of business until such time as Company has been notified in writing of such rejection and been afforded a reasonable opportunity to inspect the Goods. If requested by Company, Customer shall promptly return to Company's facility any rightfully rejected Goods and Company will pay freight thereon. Under no circumstances may Customer return any rejected Goods to Company without having received from Company an authorization to return the Goods.

6. Made To Order Goods.

If Customer desires to purchase customized or made to order Goods (the "MTO Goods") from Company (such as chemical formulations made to special specifications, and the like) and if Company, in its sole discretion is willing to consider the same, then Company shall prepare a Quote for such MTO Goods. Any change to specifications requires a new Quote. Company will not accept an Order for MTO Goods unless Company has issued a Quote for those Goods. Customer shall, and hereby does, agree to defend, indemnify and hold harmless the Company against any and all claims, damages and expenses (including Company's attorneys' fees in defending against claims and enforcing this indemnity) resulting from actual or alleged infringement of patents or other intellectual property rights of a third party, personal injury, property damage, product liability, or any other actual or alleged injury or damage arising from Company's compliance with Customer's special specifications or instructions concerning the MTO Goods.

7. Returns: Goods sold, unless otherwise approved, cannot be returned.

Company is not responsible for incorrect information provided by Customer. A return authorization (RA) must be requested by Customer and issued by Company before any return is made. (An RA may be requested only after payment in full has been made). The issuance of an RA does not imply that Company is accepting a permanent return or that a refund will be made. If at all returns are allowed, all returns must be made in original or comparable adequate packaging and be received at Company in good condition. Customer shall pay Company 25% of the sales price as a restocking and processing charge, and applicable freight charges. Company may, in its discretion, limit Customer's remedy to repair or replacement of any returned non-conforming Goods.

8. Delivery and Shipment.

All products will be tendered and shipped F.O.B. Company's facility in California, or at a location more convenient for Company, and may be so tendered in several lots. Company's title to Goods passes to Customer upon delivering the Goods to the carrier for shipment; provided that Company hereby reserves a purchase money security interest in the Goods. Customer hereby agrees to execute any security agreement, financing statement, application or related document necessary for the creation and/or filing of a security interest in Goods or to take any other action reasonably helpful or necessary in order to assist Company in perfecting the security interest created hereunder. Customer assumes the risk of loss for Goods after the Goods are delivered to the carrier for shipment. In the absence of specific instructions, Company will select the carrier and ship "collect", but shall not be deemed thereby to assume any liability in connection with the shipment nor shall the carrier be construed to be the agent of Company. Customer must provide its own insurance and must provide proof of such insurance to Company prior to shipment or upon Company's reasonable request. Title and risk of loss or damage to all products sold hereunder shall pass from Company to Customer upon delivery by Company to the possession of the carrier, Any claims for loss, damage or misdelivery thereafter shall be filed with the carrier. All shipment and delivery dates are approximate and depend in part upon prompt delivery of all necessary shipment information to Company from Customer, and shall be subject to review and revision by Company based upon its commitments at the time that such information is received.

9. Export Controls.

Buyer agrees and covenants to comply with all export control laws, restrictions, national security controls and regulations of the United States of America or other applicable foreign agency or authority, specifically including, but not limited to, the requirements of the Export Administration Act, 50 U.S.C. app. 2401-2420, including the Export Administration Regulations, 15 C.F.R. 730-774, and shall not export nor re-export any product to any proscribed country or citizen of a proscribed country unless properly approved by the relevant authority. If, at any time, Buyer knows or has reason to believe that the covenant set forth in the preceding sentence has not been, may not have been, or may not be, complied with by any party (a "Non Compliance Event"), Buyer shall have an affirmative obligation to give actual notice thereof to Innospec immediately and without delay. Buyer agrees and covenants further that Innospec may, in its sole discretion, terminate any and all of its obligations under the contract or hereunder because of any Non-Compliance Event (regardless of whether Buyer has given notice as required by this section), and that Innospec shall not be subject to any liability as a result of, or in connection with, any such termination.

10. Orders for Indefinite Delivery.

Orders lacking a delivery date, or with an indefinite delivery date are accepted under the understanding that Company shall have

the right to fill the order if it sees fit in the course of its manufacturing schedules, or its supplier(s) manufacturing schedules and to hold the Goods for Customer's account, at Customer's expense and risk, pending receipt of definite shipping instructions and, where required, by government authorization.

11. Changes and Termination for Convenience.

Modifications other than as set forth in this contract may be made only in a writing signed by both parties. If Customer issues a change order causing a delivery delay, Customer is subject to a 5% charge based upon the list price of the affected Goods. If Customer wishes to terminate this contract, Customer may do so only after accepting for delivery the quantity previously scheduled for the following 12-week period. Such quantities shall be calculated based upon maximum quantities requested during the previous 60 day period, or outstanding orders, whichever is greater. Customer shall obtain approval from Company prior to implementation of a quantity-scheduled modification.

12. Remedies; Enforcement.

If Customer defaults under these Terms or under any other agreement with Company or if Company determines in good faith that Customer's financial condition is insecure, then so long as the default or insecurity remains outstanding: (a) Company may refuse to deliver Goods to Customer without being liable for breach (or in its sole discretion Company may condition any delivery upon cash payment); (b) Customer must immediately pay all amounts owed by Customer to Company; and (c) Company may exercise all other rights and remedies available to it under the California UCC, common law, equity or otherwise. Company's failure to promptly enforce any right under these Terms shall not waive that right, and Company's waiver of any default shall not constitute a waiver of any subsequent or other default. If there is a dispute concerning an invoice or the Terms or if Company seeks to enforce its rights hereunder, then Customer shall pay all costs and expenses, including reasonable attorneys' fees, that Company incurs in connection with the dispute or enforcement. Customer agrees that it transacts business in California by placing an Order. Both parties hereby consent to the jurisdiction of the substantive law of the State of California, excluding its choice of laws rules, but including the California UCC, which shall govern any dispute or matter of contract performance or interpretation. The parties also hereby consent to the venue for any action or proceeding to enforce any invoice or these Terms in Los Angeles County, California. Customer submits itself to the personal and subject matter jurisdiction of the California Courts, and agrees that the adverse judgment of a California court shall, as to Customer, be regarded as final and shall automatically be enforced in any jurisdiction or country in which Customer has assets. Notwithstanding the foregoing, nothing in these Terms shall prevent Company from bringing an action or proceeding to enforce an invoice or the Terms in any state or forum, U.S. or foreign, that Company, in its sole discretion, deems appropriate.

13. Limitation of Warranties; Defects.

Company warrants that Goods will conform to their description in the Order. THIS WARRANTY IS EXCLUSIVE. COMPANY EXCLUDES AND DISCLAIMS ALL OTHER WARRANTIES RELATED TO THE GOODS, THEIR USE OR FAILURE, INCLUDING, BUT NOT LIMITED TO, EXPRESS WARRANTIES AND IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHT. COMPANY SHALL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR INJURY TO BUSINESS REPUTATION OR GOODWILL, THAT ARE CAUSED BY, THAT RELATE TO, OR THAT ARISE OUT OF ANY OF THE GOODS, THEIR USE OR FAILURE. If any Goods are defective, then Customer's exclusive remedy shall be (a) Company's replacement of the Goods for no extra charge; or (b) a credit against Customer's outstanding account with Company, if any. In no event shall Company's liability for defective Goods exceed the price of the Goods. If Customer believes any Goods are defective or nonconforming, then Customer shall give Company prompt written notice of the alleged defect or nonconformity (not later than 10 days after becoming aware of the defect or nonconformity) and at Company's election either Customer shall return the Goods to Company (at Company's expense), make the Goods available for inspection by Company or its agents at Customer's place of business or destroy the Goods (before or after the date of any inspection). Company shall not be responsible for any defect or nonconformity in the Goods that are created after the Goods are shipped from Company. The Customer acknowledges that the Goods have not been tested nor are they represented to be suitable for medical or pharmaceutical use. Customer shall indemnify and hold Company harmless from and against any and all claims, damages, liabilities and costs (including attorneys' fees) that may arise in connection with an unintended use of the Goods. No employee, agent or representative of Company has authority to modify the provisions of this section or to make any representation or warranty concerning Goods, Customer must commence any action under this paragraph within one year after the cause of action accrues.

14. Indemnity; Consequential Damages; Limitation of Liability.

To the extent not otherwise specifically provided herein, as between the parties, each assumes full responsibility for its own acts performed pursuant to the terms and conditions of this agreement, and each such party shall indemnify and save harmless the other party, its directors, officers, employees, attorneys-in-fact, agents, and parent and affiliated companies, from any and all loss(es) (as defined below) which may result from injury to and death of persons or damage, loss or destruction of property, or losses of any other nature, arising from any act of the indemnifying party directly arising out of or in connection with this agreement, except to the extent any such liabilities are caused by the gross negligence or willful misconduct of the other party. In no event shall either party be liable to the other party for loss of income, revenue, or profits, or any incidental, consequential, special or punitive damages, no matter how

arising, whether in contract, tort or otherwise even if informed of the possibility of any such losses or damages in advance. No claim of any kind, whether as to goods delivered or for nondelivery of goods, and whether or not based on negligence, shall be greater in amount than the purchase price of the products in respect of which damages are claimed.

15. Proprietary Rights, Patent Marking.

Company retains all proprietary rights in and to the Goods, and in any modifications, improvements or inventions relating to the Goods that may result from suggestions or input from Customer, its employees or agents, including but not limited to rights under patent, copyright, trademark, service mark, and trade secret laws, in all jurisdictions. By accepting these Terms Customer hereby represents that it has obtained or will promptly obtain agreements from its employees or agents to assign all such modifications, improvements and inventions relating to the Goods. Unless Company and Customer have entered into a separate license agreement, Customer is hereby granted a non-exclusive license to use and sell the quantity of Company's proprietary Goods sold in a given Order; however, this license shall not extend beyond application to the specific Goods delivered according to a specific Order. Similarly, in the absence of a separate license agreement, in the event Goods are used to make a product, and/or in a method, covered by the claims of a Company patent or pending patent application, Customer must obtain Company's prior written consent to make or sell such product, or to practice such method, unless otherwise agreed between the parties in writing, this license shall not extend beyond application to the specific Goods delivered according to a specific Order. Customer hereby agrees and affirms that since Company has no control over Customer's use, processing, sale or other disposition of Goods sold pursuant to this contract, Customer assumes all liability and responsibility therefore, and agrees to defend, indemnify and hold harmless the Company from and against all claims arising out of or related to infringement of any third party's intellectual property rights, patents or methods or processes, or on patents on products made by Customer, and for all product liability concerning any products sold or processed by Customer. In all cases, Customer must label any product or product package either comprising, containing Goods comprising, or made according to a method comprising, subject matter encompassed by a claim of a pending Company patent application as "patent pending", or a claim of an issued Company patent as "covered by U.S. Patent No. ____", and remove any such marking from a product or product package upon becoming aware that such marking statement is no longer true, or when the referenced patent has expired, and shall assume all liability for failing to do so. Company and Customer hereby agree that the Seller's warranty pursuant to UCC §2-312(3), or any similar statutory provision of any state or nation, is inapplicable to this contract and without effect.

16. Assignment.

Customer may not assign this contract, in whole or in part, without the prior written consent of the Company, and any

attempt to assign or convey any interest in this contract shall be void and without effect.

17. Validity.

If any provision of this contract is held to be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining terms shall not be affected, and the contract shall be construed in a manner giving the contract a general meaning as close to the original agreement as possible.

18. Entire Agreement.

Except as may exist in a separate written contract existing between Company and Customer, the above terms and conditions represent the entire contract between Company and Customer with respect to the sale of the Goods supplied hereunder, and supersedes any prior or contemporaneous proposals, oral or written, and all other communications between the parties relating to the subject matter of this contract. Headings to the contract have been included for convenience only and shall not be used to affect the interpretation or construction of this contract. To the extent that any conflict or inconsistency may exist between the above terms and conditions and the provisions of any separate written contract existing between the Company and Customer, the separate written contract shall control.

This order is accepted subject to the attached Chemsil Silicones, Inc. – General Terms and Conditions of Sale (the "Terms") unless there is a written contract signed by Customer and Chemsil governing the sale and purchase of the products covered by this order in which case these Terms shall apply only to the extent that they do not conflict with such contract. The Terms or such contract, as applicable, and the commercial terms above constitute the entire agreement between the parties and any provisions or conditions (including without limitation those contained in any purchase order) which in any manner conflict with the Terms or such contract, as applicable, shall not be binding on either party unless such provisions or conditions are agreed to in writing and signed by the parties.