

**GENERAL TERMS AND CONDITIONS FOR
SALES OF SOLVENTS (CANADA)**

1. DEFINITIONS

- (a) "Business Day" means a day on which U.S. Federal Reserve member banks in New York City are open for business.
- (b) "Delivery Location" and "Delivery Period" each means the location or period specified for delivery of the Solvents in a sales agreement ("Sales Agreement").
- (c) "Parties" shall mean "Buyer" and "Seller" collectively. "Seller" means "Phillips 66 Canada Ltd." and Buyer means the other Party to a Sales Agreement. The term "Party" or "Parties" includes all others for whose actions a Party may be held accountable.
- (d) The terms "Free on Board" or "FOB," "Free Carrier" or "FCA", "Cost and Freight" or "CFR," or "C&F," "Cost, Insurance and Freight", "CIF", "Delivered At Place" and "DAP" shall all have the meaning ascribed to such terms in Incoterms-2010 edition for purchases and sales.

2. TITLE, RISK OF LOSS AND DELIVERY

- 2.1 As of the date of each Sales Agreement, Seller represents and warrants that it has good title free and clear of any liens or encumbrances to the Solvents sold and delivered hereunder, and that Seller has full right and authority to transfer such title and effect delivery of such Solvents to Buyer.
- 2.2 For deliveries FOB Seller's facility, title and risk of loss shall pass to Buyer upon delivery to Buyer's transport.
- 2.3 For deliveries FOB Buyer's facility, title and risk of loss shall pass to Buyer upon delivery to Buyer's facility. Seller shall ship goods within a reasonable period of time after confirmation of Buyer's order. Seller reserves the right to ship, and Buyer agrees to accept and pay for quantity within 10% plus or minus of the quantity ordered. Seller's weights and/or measurements taken at the shipping point shall control. Product measurement shall be determined by weighing, metering, or other recognized gauging method selected by Seller.
- 2.4 For deliveries by rail, Buyer shall promptly unload all railcars furnished or arranged for by Seller and shall bill and route the empty railcars as Seller may direct. In the event Buyer shall fail to unload and release to the carrier any railcar within the seven (7) free days allowed, Buyer shall pay to Seller a flat rate per day in accordance with Seller's policy in effect at the time. Computations for the free days and detention charges will be based on the number of calendar days starting when the carrier places the car (either constructive or actual placement) and ending when Buyer releases the car.
- 2.5 For deliveries by truck, Buyer shall promptly unload all trucks and release them within two (2) hours of the truck's arrival. In the event Buyer shall fail to unload and release a truck within two (2) hours of arrival, Buyer shall pay to Seller detention charges in accordance with Seller's policy in effect at the time.
- 2.6 For deliveries by vessels or barges, Seller's Company Marine Provisions (in effect at the time of order located at www.phillips66.com/EN/products/Documents/Phillips%2066%20NonCrude%20Oil%20Products%20Marine%20Provisions.pdf) ("P66 Marine Provisions") shall be applicable.
- 2.7 Buyer assumes full responsibility for use and condition of railcars, trucks or barges while in Buyer's possession and agrees to (a) compensate Seller for all loss or damage to Seller's property, and (b) indemnify and save Seller harmless from any loss or damage to property other than Seller's and from any injuries to persons relating in any way to the use of such railcar, truck, or barge while such are in Buyer's possession. Buyer further agrees to report to Seller promptly any damage which may be sustained by the railcar, truck or barge in Buyer's possession.

3. QUANTITY AND QUALITY DETERMINATION

- 3.1 Seller does not warrant that any particular Solvent will have the physical characteristics identified in these GTCs or any Sales Agreement as "typical." SELLER MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE WARRANTIES OF MERCHANTABILITY OR FITNESS OF THE SOLVENTS FOR ANY PARTICULAR PURPOSE, EVEN IF SUCH PURPOSE IS KNOWN TO SELLER.
- 3.2 The quantity and quality of Solvents delivered hereunder shall be determined from measurements and samples taken at the point and time of loading. All measurements & sampling equipment, procedures, calculations, and practices shall be performed according to the most current International measurement, sampling and analysis standards (API Manual of Petroleum Measurement Standards (MPMS), The Energy Institute Hydrocarbon Management (HM), ISO, NIST and ASTM). Each Party shall have the right to witness the measurement, testing, and sampling processes, provided adequate notification is given to interested parties. The quantity of Solvents delivered shall be determined by a mutually appointed Independent Inspection Company ("IIC") (i) by the following methods in order of preference for shipments by vessel, a) meters b) static shore tank c) vessel; (ii) by certified truck weigh scales for shipments by truck; and (iii) by certified railroad weigh scales for shipments by railcars. Unless otherwise provided in a Sales Agreement, the Parties shall equally share the costs of an IIC. Seller shall bear the cost of weighing the Solvents delivered into Buyer's railcars and trucks.
- 3.3 Quality testing shall be performed by a certified laboratory in accordance with latest published ASTM methods. Testing reports shall be made available to Buyer.

4. CLAIMS

Claims as to shortage in quantity, defects in quality or any other issue (except for laytime or demurrage) must be made by written notice to Seller within seven (7) days after the delivery in question, along with written notification provided to Seller prior to unloading of goods from the carrier, or such claim shall be deemed waived. Seller shall have the right to inspect the goods prior to unloading if Buyer issues such notification. Upon verification, Seller shall resolve any such shortages exceeding 0.5% loss or replace legitimately defective Solvents without additional charges, or in lieu thereof, at Seller's option, Seller may refund the purchase price upon return of the Solvents at Seller's expense. IF NO FORMAL WRITTEN CLAIM HAS BEEN RECEIVED BY SELLER WITHIN SEVEN (7) DAYS AFTER DELIVERY OF THE SOLVENTS TO THE BUYER, ALL CLAIMS SHALL BE DEEMED TO HAVE BEEN WAIVED. Laytime and demurrage claims, if any, shall be submitted in reasonable detail in accordance with the timeframe(s) set forth in the P66 Marine Provisions.

5. PRICING/PAYMENT

- 5.1. Unless otherwise agreed in writing by the Parties, the price for the goods shall be Seller's current price in effect at the time of shipment. The price stated in a Sales Agreement may be increased, at Seller's option, to include any increase in Seller's transportation costs for the goods (if sold on a delivered basis) which occurs between the effect date of the Sales Agreement and the time of shipment.
- 5.2 In the event any governmental law, regulation or order prohibits Seller, in its opinion, from collecting from Buyer a price for the Solvents herein provided for, Seller may without liability to Buyer, cancel Buyer's order(s) as to future shipments by giving Buyer at least ten (10) days' prior written notice of cancellation.



5.3 Buyer shall pay Seller's invoices in full in the currency designated on Seller's invoice (which will be United States dollars ("USD")) in accordance with the payment terms designated on each invoice, within thirty (30) days from bill of lading date, without any adjustments, discounts or setoffs. Buyer shall include in its wire transfer details, the invoice number(s) and a statement that payment is for the purchase of Solvents.

5.4 Any invoice that is received after 12:00 pm Mountain Time shall be deemed to have been received on the following Business Day.

If the relevant payment date under a Sales Agreement falls on a Saturday or on a bank holiday other than a Monday during which U.S. Federal Reserve member banks in New York City ("US Banks") are closed for normal business transactions, then payment shall be due on the first previous day on which US Banks are open for normal business transactions. If the relevant payment date falls on a Sunday or a Monday bank holiday, then payment shall be due on the next day on which US Banks are open for normal business.

Any USD payment hereunder which is not paid when due shall bear interest from the due date until the date payment is received at an annual rate (based on a 360-day year) equal to the rate of two (2) percentage points above the prime rate of interest effective for the payment due date as published in the *Wall Street Journal*, but not more than the maximum rate of interest permitted under applicable law. Buyer shall pay such interest within five (5) Business Days following receipt of Seller's invoice for such amount. If Buyer, in good faith, disputes the accuracy of any amounts due in respect of a Sales Agreement, Buyer will timely pay the full amount and provide a written explanation of the nature of the dispute along with supporting documentation. Seller will work together with Buyer in good faith to resolve the dispute in a timely way.

6. CREDIT

6.1 Seller shall have the right where permitted by law to assess a delinquency charge on each invoice not timely paid. Any credit Seller may elect to extend to Buyer shall be upon Seller's credit terms in effect at the time of Seller's acceptance of order. If, in Seller's judgment, Buyer's credit is impaired or unsatisfactory, or if Buyer fails to make any payment Seller, Seller may suspend deliveries until such time as Buyer has satisfactory credit arrangements with Seller or require Buyer to pay cash in advance.

7. FORCE MAJEURE

7.1 Except as set forth below, neither Party shall be liable to the other for failure to perform any other obligations herein imposed for the time and to the extent such failure is occasioned by an event or circumstance which prevents one Party from performing its obligations under a Sales Agreement, which event or circumstance was not anticipated as of the date of such Sales Agreement, which is not within the reasonable control of, or the result of the negligence of, the claiming Party, and which, by the exercise of due diligence, the claiming Party is unable to overcome or avoid or cause to be avoided (each, a "Force Majeure Event").

7.2 The affected Party ("Affected Party") must give the other Party prompt written notice of the Force Majeure Event stating the nature of the condition and when the condition began and must make commercially reasonable attempts to ameliorate, avoid or remove the effects of the Force Majeure Event and continue performance under such Sales Agreement as soon as possible. During such Force Majeure Event, both Parties shall be excused from the performance of its obligations under such Sales Agreement (other than the obligation to make payments then due or becoming due with respect to performance prior to the Force Majeure Event). The Affected Party must notify the other Party when the Force Majeure Event no longer affects its ability to perform under such Sales Agreement. Notwithstanding any provision in such Sales Agreement to the contrary, in no event will a Force Majeure Event extend the term of such Sales Agreement beyond the then-effective Term. In the event of termination due to the Force Majeure Event, all undisputed amounts owing between the Parties prior to the Force Majeure Event shall be paid.

8. DEFAULT

8.1 If either Party (the "Defaulting Party") or any guarantor, as applicable, shall (a) with respect to any Sales Agreement between the Parties, fail to pay in accordance with the terms of such Sales Agreement or other agreement, and such failure is not cured within two Business Days after written notice; (b) breach of any other obligation contained herein or any other agreement between the Parties, other than either an obligation to deliver or receive Solvents, if not cured within two Business Days after written notice; (c) fail to provide Performance Assurances in accordance with the "Credit" Section herein; (d) fail to comply with any other credit requirement and such failure continues for two Business Days after written notice; (e) make an assignment or any general arrangement for the benefit of creditors; (f) become bankrupt or insolvent, however evidenced, or be unable to pay its debts as they fall due; (g) file a petition or otherwise commence a proceeding under any bankruptcy, insolvency or similar law, or have any such petition filed or proceeding commenced against it; and/or (h) have a liquidator, administrator, receiver or trustee appointed with respect to it or any substantial portion of its property or assets; (in each case, an "Event of Default") then the other Party (the "Non-Defaulting Party") may on written notice to the Defaulting Party (except in the case of default specified in clauses (e-h) above in which case no notice is required):

- (a) designate a day to terminate all Sales Agreements and calculate the Termination Payment, as defined in below, for each Sales Agreement;
- (b) if the Defaulting Party is Buyer and Seller has delivered Solvents to Buyer under a Sales Agreement, Seller may take possession of the Solvents and/or collect upon any security provided on behalf of Buyer; and/or
- (c) set off or aggregate as appropriate, all other amounts then owing between the Parties hereunder or otherwise, and at the election of the Non-Defaulting Party amounts, if any, owed by the Non-Defaulting Party and/or its Affiliates to the Defaulting Party or by the Defaulting Party to the Non-Defaulting Party and/or its Affiliates, so that all such amounts are aggregated and/or netted to a single liquidated amount payable by one Party to the other.

8.2 The net amount due after such liquidation shall be paid by the close of business on the next Business Day. The "Termination Payment" in respect of each Sales Agreement shall be (a) the amount owed on or before the termination date, whether or not then due, by each Party with respect to all Solvents delivered and received under the terminated Sales Agreements but not yet paid for, (b) the difference between the Market Value and the Contract Value for each terminated Sales Agreement, (c) any other amounts owed by the Parties, and (d) any other damages, costs or expenses incurred by the Non-Defaulting Party as a result of the early termination of each Sales Agreement being terminated, including, without duplication, any damages, losses and expenses incurred in connection with the liquidation of hedges related to such terminated Sales Agreements. "Market Value" means the amount of the Solvents remaining to be delivered or purchased under a Sales Agreement multiplied by the market price for an equivalent Sales Agreement at the Delivery Location as determined by the Non-Defaulting Party in a commercially reasonable manner. "Contract Value" means the amount of the Solvents remaining to be delivered or purchased under a Sales Agreement multiplied by the price specified in the Sales Agreement.

8.3 After an Event of Default, the Non-Defaulting Party (at its election) shall have a general right of setoff with respect to any or all amounts owing between the Parties (whether with respect to a Sales Agreement, any other transaction and whether or not then due). After an Event of Default, the Defaulting Party is also responsible for any other costs and expenses (including, without limitation, reasonable attorneys' fees and disbursements) incurred by the Non-Defaulting Party in connection with such Default.

8.4 In addition to the remedies set forth above, immediately upon the occurrence of any event that would give rise to an Event of Default with either or both the lapse of time or the giving of notice, the Non-Defaulting Party may suspend all performance under any or all Sales Agreements.

8.5 The Parties agree that each Sales Agreement constitutes an "Eligible Financial Contract" within the meaning of the *Bankruptcy and Insolvency Act (Canada)*, the *Companies' Creditors Arrangement Act (Canada)* and the *Winding-Up and Restructuring Act (Canada)* as each may be amended, restated, replaced or reenacted from time to time and is to be treated similarly in all proceedings related to any bankruptcy, insolvency or similar law regardless of the jurisdiction of application or competence of such law. Furthermore, each Sales Agreement constitutes a "Forward Contract" within the meaning of the United States Bankruptcy Code and Buyer and Seller are each "Forward Contract Merchants" within the meaning of the United States Bankruptcy Code.

8.6 The Non-Defaulting Party's rights under this Section shall be in addition to, and not in limitation or exclusion of, any other rights which the Non-Defaulting Party may have (whether by agreement, operation of law or otherwise).

9. GOVERNING LAW/VENUE

9.1 These GTCs and each Sales Agreement shall be governed by and construed in accordance with the laws of the Province of Alberta and the Parties hereto agree to submit to the exclusive jurisdiction of the courts of Alberta, and to service of process by certified mail.

9.2 The Parties agree that the United Nations Convention on Contracts for the International Sale of Goods shall not in any way apply to, or govern any Sales Agreement hereunder.

10. TAXES, DUTIES AND FEES

(i) Buyer's Responsibilities:

- (a) The amount of any taxes, duties, imposts, fees, charges and dues of every description imposed or levied by any government or local authority in respect of the Solvents supplied hereunder, or in respect of such Solvents' export, delivery, transportation, ownership, sale or use, in respect of any stage after risk in respect of such Solvents has passed to Buyer shall be for Buyer's account, notwithstanding such tax, duty, impost, fee, charge or dues may have been imposed or levied on Seller.
- (b) Buyer shall bear no responsibility for any income, franchise or other type of direct tax that may inure to Seller as a result of any transaction.
- (c) Seller will invoice Buyer for all applicable taxes for which Buyer is responsible and Buyer will pay Seller the invoiced amount for all such applicable taxes.
- (d) Buyer is responsible for the maintenance of all applicable documentation necessary to assure the appropriate government bodies of Buyer's compliance with export or import requirements.
- (e) If Seller is required under applicable law to collect and remit Buyer's taxes, Buyer agrees to make a payment to Seller in respect of such taxes that Seller is obligated to pay on behalf of Buyer, including those taxes of Buyer which Seller discovers subsequent to the time of sale to have been payable at the time of sale, including taxes that are discovered to have been payable as a result of an audit by any taxing authority.

(ii) Seller's Responsibilities: The amount of any taxes, duties, imposts, fees, charges and dues of every description imposed or levied by any governmental or local authority on the Solvents supplied hereunder, or on its export, delivery, transportation, ownership, sale or use, in respect of any stage prior to risk in such Solvents passing to Buyer shall be for Seller's account.

(iii) NAFTA Warranty: Except where Seller, in its sole discretion, provides a NAFTA Certificate of Origin: (a) Seller makes no representations or warranties for favorable treatment under NAFTA; and (b) If Buyer faces additional duties as a result of the Solvents not being considered eligible for NAFTA preferential duty treatment such costs shall be for Buyer's account.

11. SAFETY DATA SHEET/ PRODUCT DISCONTINUANCE/ SPECIFICATION CHANGES

11.1 Seller has provided or shall provide Buyer upon Buyer's request with Seller's Safety Data Sheets ("SDS") for the Solvents to be delivered hereunder. Nothing herein shall excuse Buyer from complying with all laws, regulations and decrees which may require Buyer to provide its employees, agents, contractors, users and customers who may come into contact with the Solvents with a copy of the SDS and any other safety information provided to it by Seller, and/or which require Buyer to ensure that the recommendations relating to the handling of the Solvents are followed. Compliance with any recommendation contained in the SDS or other safety information shall not excuse Buyer from complying with all laws, statutes, regulations or decrees of any state or territory having jurisdiction over Buyer.

11.2 SOLVENTS SOLD BY SELLER MAY BEAR OR CONTAIN HAZARDOUS CHEMICALS, RESIDUES, OR OTHER HAZARDOUS MATERIALS WHICH MAY BE, OR MAY BECOME BY CHEMICAL REACTION OR OTHERWISE, DIRECTLY OR INDIRECTLY HAZARDOUS TO LIFE, TO HEALTH, OR TO PROPERTY BY REASON OF TOXICITY, FLAMMABILITY, EXPLOSIVENESS, OR FOR OTHER SIMILAR OR DIFFERENT REASONS DURING TRANSPORTATION, USE, HANDLING, REMOVAL, REFINING, PROCESSING, CALCINING, CLEANING, RECONDITIONING, DISPOSAL OR OTHER SIMILAR EVENTS.

11.3 Any technical advice or assistance furnished by Seller to Buyer with respect to the selection or use of the Solvents sold to Buyer hereunder shall be given and accepted at Buyer's sole risk. Seller shall have no liability whatsoever for the use of, or results obtained from, such advice or assistance whether or not based on negligence.

12. INDEMNITY AND LIMITATION OF LIABILITY

12.1 Seller and Buyer mutually covenant to protect, defend, indemnify and hold each other harmless from and against any and all claims, demands, suits, losses, expenses (including without limitation, costs of defense, attorney's fees and interest), damages, fines, penalties, causes of action and liabilities of every type and character, including but not limited to personal injury or death to any person including employees of either Party or loss or damage to any personal or real property, caused by, arising out of or resulting from the acts or omissions of negligence or willful acts of such indemnifying Party, its officers, employees or agents with respect to the purchase and sale of Solvents hereunder. In the event the Parties are jointly and/or concurrently negligent, each Party shall indemnify the other Party to the extent of its negligent acts or omissions or willful acts. In the event the Parties are jointly and/or concurrently negligent, each Party shall indemnify the other Party to the extent of its negligent acts or omissions or willful acts.

12.2 Any cause of action that Buyer may have against Seller arising from the sale of Solvents hereunder must be commenced within one (1) year after the cause of action has accrued.

12.3 NOTWITHSTANDING ANY OTHER PROVISION HEREIN AND EXCEPT FOR CLAIMS ARISING FROM SELLER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, 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, BREACH OF WARRANTY OR OTHERWISE, SHALL IN NO EVENT EXCEED THE PURCHASE PRICE OF THE SOLVENTS IN RESPECT TO WHICH SUCH CASE AROSE. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES.

13. COMPLIANCE/ NEW OR CHANGED REGULATIONS

13.1 All Solvents sold hereunder shall be produced and delivered in full compliance with all applicable regulations.

13.2 It is understood by the Parties that Seller is entering into each Sales Agreement in reliance on the laws, rules, regulations, decrees, agreements, concessions and arrangements (hereinafter called "Regulations") in effect on the date hereof with governmental instrumentalities or public authorities affecting the Solvents sold hereunder including, but without limitation to the generality of the foregoing, those relating to the production, acquisition, gathering, manufacturing, transportation, storage, export, trading or delivery thereof, insofar as such regulations affect Seller or Seller's supplier(s).

13.3 In the event that at any time and from time to time any regulations are changed or new regulations become effective, whether by law, decree or regulation or by response to the insistence or request of any governmental or public authority or any person purporting to act therefore, and the material effect of such changed or new regulations (a) is not covered by any other provision hereunder, and (b) has a material adverse economic effect upon Seller that increases Seller's cost of production of Solvents, Seller



shall have the option to request negotiation of the prices or other pertinent terms in a Sales Agreement. Such option may be exercised by Seller at any time after such changed or new regulation is promulgated, by written notice of desire to re-negotiate, such notice to contain the new prices or terms desired by Seller.

13.3 If the Parties do not agree upon new prices or terms satisfactory to both within thirty days after Seller gives such notice, Seller shall have the right to terminate the affected Sales Agreement at the end of the said thirty-day period. Any Solvents delivered during such thirty-day period shall be sold and purchased at the price and on the terms set forth in the applicable Sales Agreement without any adjustment in respect of the new or changed regulations concerned.

14. EXPORT COMPLIANCE, SANCTIONS, ANTI-CORRUPTION, & ANTI BOYCOTT COMPLIANCE

14.1 In the event that the commodity subject to a Sales Agreement is to be exported, each Party warrants to the other that it, and each other person or entity for whose actions such Party may be held accountable, will comply with all applicable laws, regulations, rules and requirements relating to export and re-export control and sanctions, including but not limited to the U.S. Export Administration Regulations, U.S. Treasury Department's Office of Foreign Assets Control regulations, the U.S. International Traffic in Arms Regulations (together, "Export and Sanctions Law"). Nothing shall be shipped to, transshipped through, or sourced from, directly or indirectly, any country, company or individual or for any end-use that is prohibited under Export and Sanctions Law. If either Party or any other person or entity for whose actions such Party may be held accountable, is or becomes identified on any government export denial, blocked, debarred, Specially Designated National, or other similar list, the other Party may terminate the Sales Agreement(s) upon written notice at any time. Each Party shall be excused from performance of any obligation under such Sales Agreement(s) if such performance is prohibited under applicable Export and Sanctions Law.

14.2 Each Party shall comply with all applicable anti-bribery and anti-money laundering laws, rules, and regulations of the United States, United Kingdom, European Union or any member state thereof, the Republic of Singapore, Canada, and any other similar laws in all applicable jurisdictions, including without limitation, the currently effective or successor versions of the U.S. Foreign Corrupt Practices Act, the UK Bribery Act 2010, UK anti-money laundering and anti-terrorism laws and regulations, the Canadian Corruption of Foreign Public Officials Act, and the Singapore Prevention of Corruption Act.

14.3 Nothing in these GTCs or any Sales Agreement(s) is intended to be, or shall be construed as, an agreement by either Party to take or refrain from taking any action that is or would be prohibited by or penalized under U.S. anti-boycott laws, rules, or regulations.

14.4 Neither Party shall, directly or indirectly, pay salaries, commissions or fees, or make payments or rebates to employees or officers of the other Party; or favor employees or officers of the other Party or their designees with gifts or entertainment of unreasonable cost or value or services or goods sold at less than full market value; or enter into business arrangements with employees or officers of the other Party unless such employees or officers are acting as representatives of the other Party. Seller and its subsidiaries are committed to the highest standard of business ethics and conduct. Expectations of business partners of Seller and its subsidiaries can be found in [the Phillips 66 Business Partner Principles of Conduct](#), available at www.Phillips66.com.

14.5 Either Party may terminate any Sales Agreement(s) immediately upon written notice to the other Party if the other Party is in breach of the above clauses or fails to cooperate by providing information demonstrating compliance herewith. Violation of any subsection of this Section 14 shall be deemed a material breach of these GTCs and any existing Sales Agreement. Each Party agrees to indemnify the other Party for any fines, penalties, claims, losses, damages, costs (including legal costs), expenses, and liabilities that may arise as a result of the indemnifying Party's breach of its obligations under this Section.

14.6 In the event of a conflict between this Section and any other provision hereof, the terms of this Section shall prevail.

15. TRADEMARKS

Buyer acknowledges that it does not acquire hereunder or as a result of performance of a Sales Agreement any right or interest in any trademark, patent or copyright of Seller or in the Solvents sold hereunder.

16. ALLOCATION

If at any time there is, in Seller's reasonable opinion, a shortage in materials which impedes Seller's ability to meet its internal requirements or ability to fulfill its Solvents sales obligations, Seller may allocate its Solvents sales in a fair and reasonable manner. No allocation pursuant to this Section shall operate to extend the term of any Sales Agreement. Seller shall not be obligated to sell or deliver and Buyer shall not be obligated to purchase or accept any Solvents withheld by Seller during a period of allocation or at any time following the allocation period.

17. REPRESENTATIONS AND WARRANTIES

Each Party represents and warrants to the other Party that: (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; (b) the execution, delivery and performance under each Sales Agreement is within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contract to which it is a party or any law, rule, regulation, order or the like applicable to it; (c) these GTCs and each Sales Agreement constitute its legally valid and binding obligation enforceable against it in accordance with its terms, subject, as to enforceability only, to applicable bankruptcy, moratorium, insolvency or similar laws affecting the rights of creditors generally and to general principles of equity; and (d) it is not bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming bankrupt.

18. MISCELLANEOUS

18.1 No Sales Agreement shall be assigned by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld. Each assigned Sales Agreement shall be binding upon and shall inure to the benefit of the Parties and their permitted successors and assigns. Notwithstanding the foregoing, Seller shall have the right to assign any Sales Agreements to a creditworthy affiliate without the necessity of obtaining the Buyer's consent thereto. Such assigned Sales Agreements shall be subject to GTCs that are identical to those set forth herein, except that references to Seller shall be to the assignee.

18.2 No waiver by either Party of any breach by the other Party of any of the covenants or conditions of these GTCs or any Sales Agreement shall be construed as a waiver of any succeeding breach of the same or of any other covenant or condition hereof.

18.3 No statement or agreement, oral or written, made prior to or at the time of entering into a Sales Agreement, shall vary or modify the written terms hereof, and neither Party shall claim any amendment to, modification of, or release from any provisions by mutual agreement unless such agreement is in writing, signed by the other Party. These GTCs integrate the entire understanding between the Parties with respect to the subject matter covered and supersedes all prior understandings, drafts, discussions, or statements, whether oral or in writing, expressed or implied, dealing with the same subject matter.

18.4 Except as provided in the next sentence, all notices, invoices and other communications by one Party to the other under these GTCs and any Sales Agreement shall be in writing and shall be delivered personally, by overnight courier, by certified mail, return receipt requested, by facsimile or e-mail to the Party's address set forth in a Sales Agreement or otherwise in the sending Party's records. Notwithstanding the foregoing, a notice of an Event of Default may not be sent e-mail. Notices will be deemed given when received, or in the case of notice sent by facsimile, at the time of transmission if sent during normal business hours, or the following Business Day if sent after normal business hours.

18.5 If any conflict exists between the terms and conditions of these GTCs and those of a Sales Agreement, the terms and conditions of the Sales Agreement shall



control. Section headings are for convenience only and shall not be interpreted in any way to limit or change the subject matter of these GTCs.

18.6 If any court of competent jurisdiction holds any terms or condition herein invalid or unenforceable, the remaining terms and conditions shall remain in full force and effect. The invalidity of any one or more covenants or provisions of these GTCs shall not affect the validity of any other provisions hereof or these GTCs, and the Sales Agreements thereunder as a whole, and in case of any such invalidity, these GTCs shall be construed to the maximum extent possible as if such invalid provision had not been included herein.

18.7 The Sales Agreement and any related documents, or recordings may be scanned and stored electronically, or stored on computer tapes and disks, as may be practicable (the "Imaged Agreement"). The Imaged Agreement, if introduced as evidence on paper, the Sales Agreement if introduced as evidence in automated facsimile form, any recording, if introduced as evidence in its original form and as transcribed onto paper, and all computer records of the foregoing, if introduced as evidence in printed format, in any judicial, arbitration, mediation or administrative proceedings, will be admissible as between the Parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither Party shall object to the admissibility of any Imaged Agreement (or photocopies of the transcription of such Imaged Agreement) on the basis that such were not originated or maintained in documentary form under the hearsay rule, the best evidence rule or any other rule of evidence. However, nothing herein shall be construed as a waiver of any other objection to the admissibility of such evidence.

18.9 During the term of a Sales Agreement and for one year thereafter, neither Party shall disclose the terms or conditions of any Sales Agreement to any third party (other than a Party's employees, lenders, counsel, accountants or advisors that have a need to know such information and have agreed to keep it confidential) except in order to comply with any applicable law, regulation, any exchange or in connection with any court or regulatory proceeding; provided, however each Party shall, to the extent practicable, use reasonable efforts to prevent or limit the disclosure. Notwithstanding the foregoing, a Party may elect to report a Sales Agreement to a price index publication in which case the product description, volume, price, delivery point and delivery date may be disclosed but the identity of the counterparty shall remain confidential. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with this confidentiality obligation.