

# SALES INVOICE

## Terms and Conditions of Sale

Please read these terms and conditions carefully. They materially affect the parties' obligations. Graus Chemicals, LLC ("Seller") will accept orders from and do business with the buyer ("Buyer") only on the terms and conditions on this form.

## Acceptance of Terms

Acceptance of Buyer's order is expressly made conditional on Buyer's assent to the following terms and Conditions, and these Terms and Conditions shall supersede the terms and conditions of any purchase order or proposal by Buyer. Buyer shall be deemed to have assented to such Terms and Conditions if Buyer fails to object to Seller in writing within then days.

## Excuse from Performance; Allocation

Seller shall not be considered in default in the performance of its obligations hereunder or be liable in damages or otherwise for any failure or delay in performance which is due to strike, lockout or concerted act of workers or other industrial disturbance; fire, explosion, flood or other natural catastrophe; civil disturbance, or riot or armed conflict whether declared or undeclared; curtailment, shortage rationing or allocation of normal sources of supply of labor, materials, transportation, energy or utilities; mechanical breakdown or equipment failure; accident; act of God; delay of suppliers or subcontractors; effects of or voluntary compliance with acts of government and government regulations (whether or not valid); embargo; imposition of anti-dumping or countervailing duties increasing the price of the materials for the goods; or any other cause whether similar or dissimilar to any of the foregoing causes and which is beyond Seller's reasonable control. Promptly upon learning of such event and ascertaining that it has or will affect its performance hereunder, Seller shall give notice to Buyer stating the nature of the event, its anticipated duration and any action being taken to avoid or minimize its effect. If the event lasts or in Seller's judgment is expected to last more than 30 days, Seller may terminate the Agreement. In addition to the foregoing, if Seller determines that its ability to supply the goods, or obtain a sufficient quantity of any material used in the manufacture of the Goods, is hindered limited or made unpractical, seller may allocate its available supply of the Goods (without being obligated to acquire additional supplies of the Goods or materials) among itself and its purchasers in Seller's sole discretion.

## Warranties of Seller

Seller warrants to Buyer that the Goods sold hereunder will conform to the applicable specifications. If the Goods fail to conform to the applicable specifications, Seller will, at its option, replace such Goods, rework such Goods so that they conform to the applicable specifications (if practical), or give a credit therefor equal to the price paid by Buyer. Such replacement, rework or credit shall be Seller's sole obligation and Buyer's exclusive remedy hereunder for breach of this limited warranty, and shall be conditioned upon Seller receiving written notice of any alleged breach of this warranty within a reasonable time after discovery of such defect, but in no event later than 30 days from date of shipment. At Seller's request, Buyer shall return to Seller any Goods for which a warranty claim has been made, FOB seller's plant with freight prepaid. The foregoing warranty is exclusive and is in lieu of all other express and implied warranties whatsoever, including but not limited to implied warranties of merchantability and fitness for a particular purpose.

Seller shall not be liable for any loss or damage, directly or indirectly, arising from the use of such Goods or for consequential or special damages, and Seller's maximum liability for breach of its warranty, or the use of Seller's Goods, regardless of the form of action, shall not exceed the purchase price of the Goods.

## Risk of Loss; Shipment

Unless otherwise expressly stated in writing, all shipments are FOB Seller's plant. Shipping dates on any order are estimates only. Seller will use reasonable commercial efforts to meet the estimated shipping dates, subject to Buyer's prompt provision of all necessary, complete and correct specifications. Seller will not be liable for normal variations in dimensions, weights and quality. Weights, sizes and quantities as determined at Seller's plant or other source of supply will be conclusive in the absence of manifest error.

## Examination of Goods

(a) Buyer must examine the Goods upon delivery to him, and all errors or defects must be reported to Seller within 10 days; otherwise, it shall be conclusively presumed that said Goods have been delivered as ordered in this contract. (b) Buyer hereby authorizes delivery to be made at the point of delivery without Seller's obtaining evidence of such delivery and any loss occasioned by such delivery shall be at the peril of the Buyer.

(c) No claim for damages of any nature will be honored by the Seller unless written notice is received by Seller within 10 days from the delivery of said Goods by Seller, and it is mutually agreed and understood that in no case for any reason or from any cause will the liability of the Seller, as to any liability incurred hereunder by Seller, exceed the purchase price of the Goods.

### **Payment of Goods**

If Buyer fails to accept or fails to pay for the Goods in accordance with the terms hereof, Seller may declare all remaining unpaid portions of the purchase price immediately due and collectible. If in the opinion of Seller the financial ability of Buyer has been impaired and Seller deems himself insecure, then the Seller may at its option demand payment of the purchase price in full prior to shipment and in default thereof cancel this contract. If payments are not paid on the due date, Seller may without notice charge interest at the maximum Legal rate on the unpaid balance until fully paid. All costs of collection, including reasonable attorney's fees, will be assessed if a delinquency occurs.

### **Taxes and Fees**

All sales, excise and similar taxes that Seller may be required to pay or collect with respect to the Goods are for the account of the Buyer, except as otherwise provided by law. Except as otherwise expressly stated in the Agreement, Seller will not be responsible for freight, transportation, insurance, storage, handling, demurrage or similar charges. If the Agreement expressly states that such charges are included in the price, any increase in such charges effective after the date hereof will be for the account of Buyer.

Governing Law; Jurisdiction; Venue: This Agreement shall be covered by and construed in accordance with the laws of the State of Arizona without giving regard to its conflict of laws provisions. Buyer hereby consents to personal jurisdiction for purposes of this Agreement in the State of Arizona, and agrees that Maricopa County, Arizona shall be proper venue for any action brought under this agreement.

### **Contacting us**

If you have any questions about this Agreement, please contact us.

### **Graus Chemicals, LLC**

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This document was last updated on May 30, 2018