“Seller” means the supplier or vendor of the goods, materials, products and, as applicable, services (the “Products”) detailed in the purchase order or the Agreement. “Buyer” means Huntsman International LLC or its affiliate or subsidiary. All terms used in the purchase order or the Agreement, unless a contrary meaning is expressed or implied, shall mean the same whether or not the words “includes” or “including” are used or stated. No account shall mean any account or other entity, whether or not the words “includes” or “including” are used or stated. No account shall mean any entity shall mean any other entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such first entity, where “control” (including the terms “controlled by” and “under common control with”) means the direct or indirect power to direct or cause the direction of the management and policies of an entity, whether through the ownership of voting securities, by contract or otherwise.

1. ACCEPTANCE: Buyer’s offer to purchase Products from Seller, is strictly limited to acceptance of these terms and conditions. Any of the following acts by Seller shall constitute acceptance of these terms and conditions and the creation of a binding agreement (the “Agreement”) between Seller and Buyer, which will be subject to the terms hereof: (a) signing and returning a copy of this Agreement; (b) shipment or performance of all or any portion of the Products covered by this Agreement; (c) Seller’s written acknowledgment of these terms and conditions; and (d) Seller’s silence in objecting to the terms of this Agreement. Unless conflicting with the explicit terms of this Agreement, all sections of the Uniform Commercial Code adopted by the State of Texas (the “UCC”) that expressly or implicitly protect Buyer are hereby incorporated by reference into this Agreement, whether construed as an offer, acceptance or confirmation. Unless expressly agreed to in writing by Buyer, no additional or different term or provision (except any additional warranties given by Seller, which shall in no event reduce or limit the scope of any warranty given hereunder) of any quotation, acknowledgment, invoice or other form supplied by Seller, or changes to or strikeouts on this Agreement, shall become part of the Agreement, notwithstanding Buyer’s failure to expressly object to such term, provision, change or strikeout. These Purchase Terms and Conditions shall apply to all future sales of Products from Seller to Buyer unless a written agreement signed by both parties has been entered into for such future sales. In the event of a conflict, the following order of precedence shall prevail: a written agreement signed by both Parties for the Products covered by this Agreement, or the confirmation information sent in connection herewith, deli of one percent (0.1%) of the invoiced quantity. All charges for preparation, packing, crating and cartage are included in the price unless separately specified on the face of this Agreement or in the confirmation information sent in connection herewith. Where applicable, any containers or packaging that must be returned to Seller will be at Seller’s risk and expense and any such obligation to return them must be expressly agreed to in writing by Buyer.

5. PACKING LISTS: Each shipment must be accompanied by a packing list showing (a) the order number set forth on the face hereof or in the confirmation information sent in connection herewith and (b) the exact quantity and description of Products shipped. Seller shall mark all containers with necessary lifting, handling and shipping information.

6. TITLE AND RISK OF LOSS: Unless otherwise specified on the face of this Agreement or in the confirmation information sent in connection herewith, delivery of the Products shall be made D.D.P. (as defined in Incoterms 2010) Buyer’s location and Seller shall bear all risk of loss or damage to the Products, and title shall not shift to Buyer until delivery of the Products to Buyer’s location. Seller warrants that Seller has good and clear title to the Products and that the Products will be delivered free of liens and encumbrances.

7. ENTIRE AGREEMENT/AMENDMENTS: This Agreement supersedes all prior agreements, and constitutes the entire agreement and understanding between the parties, concerning the sale and purchase of Products. This Agreement shall not be modified or amended orally, by the terms of purchase orders or other documents issued unilaterally by either party or by any course of dealing or trade usage, but only in writing executed by both parties.

8. ASSIGNMENT: This Agreement shall not be assigned by either party without the written consent of the other, except to its successor-in-interest by operation of law or to the transferee of all or substantially all of the party’s assets to which this Agreement relates.

9. QUANTITY AND QUALITY TESTING: Seller’s weight and/or other measurements shall be conclusively binding, unless proved to be in error. Seller’s laboratory analysis and methods shall determine whether Product specifications have been met and are conclusively binding, unless Buyer proves to Seller’s reasonable satisfaction that Seller’s analysis report is conclusively erroneous or more than one-quarter of one percent (0.25%) of the invoiced quantity. All measurements and/or tests shall be made in accordance with the latest standards or guidelines or tests published by the ASTM or another applicable industry standard methods.

10. PARTIAL PERFORMANCE: If, prior to the execution of this document by both parties, Seller delivers Product to Buyer and Buyer receives Product from Seller at any time within the term of this Agreement, any such transactions will be governed by the terms and conditions hereof. The parties recognize and agree that neither shall be obligated by their course of conduct to perform any future transactions hereunder unless and until this document is fully executed.

11. CANCELLATION / TERMINATION: Buyer reserves the right, at any time and from time to time without fault or default by Seller or other cause, to cancel all or any part of the undelivered portion of this Agreement by notice to Seller. In the event of such cancellation, Buyer shall not be liable to Seller for loss of revenue, consequential, indirect, incidental, special, exemplary or punitive damages, lost profits, diminution in value, arising out of this Agreement, whether or not the possibility of such loss or damages has been disclosed from Seller to Buyer or whether such loss or damages were reasonably foreseeable. The provisions of this paragraph shall not limit or affect Buyer’s right to terminate the Agreement for fault or default by Seller. Except as stated herein nothing in this Agreement shall exclude or limit the liability of either Party.
12. INTELLECTUAL PROPERTY RIGHTS: If the Products or their documentation are subject to intellectual property rights, Seller hereby agrees that upon delivery Buyer acquires a non-exclusive, world-wide, royalty free, perpetual, irrevocable license to use such intellectual property rights as they relate to Buyer’s use, possession, sale or delivery of such Products.

13. INFRINGEMENT OF RIGHTS: Seller agrees to indemnify and hold harmless Buyer, from any suit, claims, losses, costs, expenses (including, without limitation, reasonable fees and disbursements of counsel) or other liability made against or suffered by Buyer, arising from any claim of, or infringement or other violation of any patent, copyright, trademark or other proprietary rights, or claim of unfair trade or of unfair competition, resulting from or occasioned by, Buyer’s use, possession, sale or delivery of the Products, provided that the foregoing shall not apply to any infringement resulting from Seller’s compliance with Buyer’s written instructions or specifications.

14. SELLER’S INDEMNITY TO BUYER: Seller agrees that Seller will assume Buyer’s defense and indemnify and hold Buyer harmless from any costs, damages (including damage to property or the environment), injuries (including injury to, illness or death of persons), liabilities, claims, settlements, demands, lawsuits, penalties, interest, taxes or liens which Buyer may incur, be found liable for or is required to pay (collectively, the “Claims”) arising out of or relating to any breach of any warranty, express or implied, or covenant or other representations made in connection with this Agreement or its formation, for any and all losses incurred by Buyer as a result of such breach. Seller shall reimburse Buyer for all reasonable costs, expenses (including reasonable fees and disbursements of counsel) or other liability arising out of or related to such breach.

15. WARRANTY: In addition to all other express or implied warranties, afforded to Buyer under the UCC, by law or equity, Seller warrants that all Products delivered under this Agreement shall be free from defects in design, material and workmanship, will conform to applicable specifications and drawings, blueprints, designs, samples, models, descriptions, instructions and other items referred to in this Agreement, and, to the extent such items are not manufactured pursuant to such detailed information furnished by Buyer, that all Products will be free from defects in design, material and workmanship, and will be of new and merchantable quality. Buyer’s use of such Products does not infringe the intellectual property rights of Seller or any third party, and if the Federal Food, Drug and Cosmetic Act (“Act”) is applicable to any of the Products furnished under this Agreement, then for the purposes of Section 303(c) of the Act, Seller guarantees that the articles comprising each shipment or delivery to Buyer as of the date of such shipment or delivery will not be adulterated or misbranded within the meaning of the Act, or within the meaning of any applicable state or municipal laws in which the definition of “adulteration” and “misbranding” are substantially the same as those contained in the Act, as such laws are constituted and effectuated at the time of delivery, and will not be an article which may not under the provisions of Sections 404 or 505 of the Act be introduced into Interstate Commerce. The warranties of Seller together with its service warranties and guarantees, if any, shall accrue to Buyer. Acceptance of the Products delivered under this Agreement by Buyer shall constitute Buyer’s acceptance of all of the material, applicable state or municipal laws in which the definition of “adulteration” and “misbranding” are substantially the same as those contained in the Act, as such laws are constituted and effectuated at the time of delivery, and will not be an article which may not be introduced into Interstate Commerce.

16. FORCE MAJEURE: Neither party shall be liable for delays or defaults due to acts of God, acts of terrorism, governmental authority or public enemy, war, fires, floods, epidemics, strikes, labor troubles, freight embargoes, or contingencies reasonably beyond its control. The party so affected shall use good faith efforts to remediate the force majeure as expeditiously as possible and, upon prompt written notice to the other party, shall be excused from making or taking deliveries hereunder to the extent of such prevention or restriction. To the extent Seller has Products available Seller shall allocate Products for Seller’s internal consumption needs and among Seller’s contracted customers only, and such allocation shall ensure that Buyer will receive at least Buyer’s ratable portion of Seller’s availability of Products at the time the event that excused Seller’s performance first occurred or such earlier time as Seller should have reasonably expected that such event was likely to occur, whichever is most beneficial to Buyer. Buyer shall have the option upon cessation of such force majeure, upon notice to Seller to either cancel or resume deliveries affected by such force majeure.

17. CONFIDENTIAL INFORMATION: Any information and materials furnished to Seller by Buyer pursuant to this Agreement shall be kept confidential. Such information and materials shall be used only for the purposes of this Agreement, shall remain the property of Buyer and shall be returned by Seller at the conclusion of this Agreement unless otherwise notified. Seller shall impose the same obligation of confidence on any third parties acting on behalf of Seller who receive Buyer’s confidential information for the purpose of being able to execute this Agreement.

18. COMPLIANCE WITH LAWS: Seller warrants that the performance of its obligations pursuant to this Agreement is and shall be subject in all respects to and in compliance with all laws, rules and regulations, and ordinances, proclamations, demands, directives, executive orders, or other requirements of the municipal, state and federal governments and all subdivisions thereof which now govern or may hereafter govern the manufacture, sale or delivery of the Products contemplated by this Agreement, and are not subject to, or arise as a result of, state or federal payment, employment, labor, and manufacturing laws, ordinances, proclamations, demands, directives, executive orders or other laws, rules, regulations, ordinances, proclamations, demands, directives, executive orders, or other requirements of the municipal, state and federal governments and all subdivisions thereof which now govern or may hereafter govern the manufacture, sale or delivery of the Products contemplated by this Agreement, and are not subject to, or arise as a result of, state or federal payment, employment, labor, and manufacturing laws, ordinances, proclamations, demands, directives, executive orders or other laws, regulations or ordinances. Seller shall not be responsible to the extent of such prevention or restriction for any such prevention or restriction.
Both Parties agree that with at least thirty (30) days’ notice, each party has the right to make inspections, and conduct appropriate audits of books and records, of all of the other Party’s premises and any other premises employed in connection with this Agreement so as to ensure compliance with this Clause. A breach of this Clause by either Party shall entitle the non-breaching Party to terminate this Agreement immediately upon written notice and the Party found in breach of this Clause shall indemnify and keep the other Party indemnified against all actions, proceedings, costs, claims, demands and expenses arising from such a breach and termination.

19. RESPONSIBLE HANDLING: Buyer and Seller will cooperate to promote the principles and practices of the American Chemistry Council Responsible Care Code by sharing experiences and offering assistance to each other as requested in improving practices for handling, using, transporting, or disposal of Products.

20. LICENSES & PERMITS Seller has and shall at all times maintain in effect all licenses, permits, approvals and certifications required under Law on the part of Seller and its personnel (including any subcontractors) as a result of this Agreement. To the extent any Seller attends Buyer’s facility, Seller shall ensure that Seller and any of Seller’s personnel (including subcontractors) comply with all rules and regulations pertaining to such facility. Seller is aware that Buyer has established conduct standards for its business practices and that Buyer expects vendors, including Seller to adhere to such standards details of which can be found at www.huntsman.com.

21. DATA PROTECTION AND COMPLIANCE “Data Protection Legislation” means applicable regulations on personal data processing and in particular Regulation (EU) 2016/679 of the European Parliament (EU GDPR) and any other applicable laws and regulations in any jurisdiction relating to or impacting the processing of personal data, all as may be amended, supplemented or replaced from time to time. “Personal Data”, “Processing of Personal Data” and “Data Processor” shall have the meaning given to those terms by the applicable Data Protection Legislation. Each party shall comply with applicable Data Protection Legislation when Processing Personal Data in the course of performing its obligations under this Agreement. The Supplier acknowledges and agrees that Huntsman may Process Personal Data, provided by the Supplier, relating to the Supplier’s personnel and subcontractors for the purposes of personnel administration, security management, IT support and any other purpose in relation with or necessary for the performance of this Agreement (the Purposes), and that Huntsman may transfer the Personal Data to Huntsman entities and third parties in and outside of the European Economic Area in relation with the Purposes. The Supplier shall ensure that: (i) The Personal Data provided to Huntsman is collected by the Supplier and provided to Huntsman in accordance with applicable Data Protection Legislation; and (ii) The persons whose Personal Data are provided by the Supplier to Huntsman in relation with this Agreement have received fair processing information and, if applicable, have given all required consents for the Processing of their Personal Data by Huntsman. If and to the extent that the Supplier Processes Personal Data as a Data Processor on behalf of Huntsman, and a data transfer agreement that complies with the EU GDPR does not exist, these terms shall apply and the Parties agree to comply with such terms. The Parties agree that Supplier as Processor must act only on the written instructions of Huntsman unless required by law to act without such instructions; must ensure that employees Processing the Personal Data have committed themselves to confidentiality; must take appropriate measures to ensure the security of the Processing, which includes as appropriate, the pseudonymization and encryption of Personal Data, the ability to ensure the ongoing confidentiality, integrity, availability and resilience of Processing systems and services, the ability to restore the availability and access to Personal Data in a timely manner in the event of a physical or technical incident, a process for regularly testing, assessing and evaluating the effectiveness of technical and organizational measures for ensuring the security of the processing; only engage sub-processors with the prior consent of Huntsman and under a written agreement that provides the same sufficient guarantees to implement appropriate technical and organizational measures that meets the requirements of the applicable Data Protection Legislation; assist Huntsman in providing Data Subject access and allowing Data Subjects to exercise their rights under Data Protection Legislation; assist Huntsman in meeting its obligations in relation to the security of processing; provide notification of any personal data breaches in sufficient time to enable Huntsman to comply with its own onward obligations after Supplier becomes aware of it; at the end of the services or work that results in the Processing of Personal Data delete or destroy all Personal Data belonging to Huntsman; submit to Huntsman audits and inspections, providing Huntsman with whatever information it needs to ensure the Parties are meeting their respective Data Protection Legislation obligations; and, tell Huntsman immediately if it is asked to do something infringing Data Protection Legislation. The subject matter, nature and purpose, types of Personal Data and categories of Personal Data Subjects related to this Processing are set out in the underlying agreement, work authorization or purchase order between the Parties.

22. WAIVER: The failure of Buyer to insist upon the performance of any provision of this Agreement, or to exercise any right or privilege granted to Buyer under this Agreement, shall not be construed as a waiver of effect.

23. GOVERNING LAW/WAIVER AND JURY TRIAL/CONSENT TO JURISDICTION: THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS WITHOUT REGARD TO THE CONFLICTS OF LAW PRINCIPLES THEREOF. FURTHER, THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS SHALL NOT APPLY TO THIS AGREEMENT. EACH PARTY TO THIS AGREEMENT WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION, SUIT, OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT. Further, Buyer and Seller irrevocably submit to the exclusive jurisdiction of the Federal courts of the United States of America located in the Southern District of Texas, Houston Division, or the State District Courts of Texas located in Montgomery County, Texas, solely in respect of the interpretation and enforcement of the provisions of this Agreement, and in respect of the transactions contemplated hereby, and hereby waives, and agrees not to assert, as a defense in any action, suit, or proceeding for the interpretation or enforcement hereof or of any such document, that it is not subject thereto or that such action, suit, or proceeding may not be brought or is not maintainable in said courts or that the venue thereof may not be appropriate or that this Agreement or any such document may not be enforced in or by such courts, and the parties hereto irrevocably agree that all claims with respect to such action or proceeding shall be heard and determined in such a court. Buyer and Seller consent to and grant any such court jurisdiction over the person of such parties and over the subject matter of any such dispute. Terms not otherwise defined herein shall have the meaning ascribed thereto in the Uniform Commercial Code as in effect in the State of Texas.

24. NO THIRD PARTY BENEFICIARIES: Except with regards to Article 14, this Agreement is for the sole benefit of the parties hereto and their successors and permitted assigns, and nothing herein expressed or implied shall give or be construed to give to any person, other than the parties hereto and such successors and permitted assigns, any legal or equitable rights hereunder.

25. RELATIONSHIP OF THE PARTIES: Nothing contained herein shall be construed to create an association, joint venture, trust, or partnership, or impose a trust or partnership covenant, obligation, or liability on or with regard to the parties. Each party shall be individually responsible for its own covenants, obligations, and liabilities under this Agreement.

26. SET-OFF: Buyer may credit any amount which Seller owes to Buyer under this Agreement, any other agreement, or based upon any other claim or right, against any amounts which Buyer owes to Seller hereunder.

27. HEADINGS: The headings used herein are for convenience purposes only and shall not be used to interpret this Agreement.

28. CONSTRUCTION OF AGREEMENT: Any ambiguities or uncertainties in the wording of any provision of this Agreement shall not be construed or interpreted for or against any party because that party drafted or caused its legal representative to draft the provision.

29. SEVERABILITY: If for any reason any provision contained in this Agreement is held to be invalid, illegal, unenforceable, or otherwise void by a court of competent jurisdiction, the remaining provisions of this Agreement shall not be affected and shall continue in full force and effect.