



Immuno-Mycologics, Inc.  
Standard Terms and Conditions

LAST UPDATED: January 2, 2024

**1. Scope.** These Standard Terms and Conditions (the “Agreement”) govern all purchases of IMMY products (the “Goods”) by all customers (the “Buyer”).

**2. Entire Agreement.** This Agreement, including and together with any related agreements between IMMY and Buyer with reference to this Agreement therein, constitutes the sole and entire agreement between IMMY and Buyer with respect to the subject matter contained herein and therein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, regarding such subject matter.

**3. Terms of Agreement Prevail Over Buyer’s Purchase Order.** This Agreement is expressly limited to the terms of this Agreement and the Purchase Order Transaction Terms (as defined in paragraph five) contained in the applicable Purchase Order. The terms of this Agreement prevail over any terms or conditions contained in any other documentation related to the subject matter of this Agreement and applicable Purchase Orders and expressly exclude any of Buyer’s general terms and conditions contained in any Purchase Order or other document issued by Buyer.

**4. Purchase Order.** Buyer shall issue all Purchase Orders to IMMY in written form via facsimile or email and cause all Purchase Orders to contain the Purchase Order Transaction Terms. Except regarding the Purchase Order Transaction Terms, any variations made to the terms and conditions of the Agreement by Buyer in any Purchase Order are void and have no effect.

**5. Purchase Order Transaction Terms.** Buyer shall specify the following information (collectively, the “Purchase Order Transaction Terms”) in each Purchase Order: (a) a list of Goods to be purchased,

including Reference Number; (b) quantities ordered; (c) requested delivery date; (d) the street address (P.O. Box is unacceptable) for delivery of the Goods (“Delivery Point”); and (e) a contact name, phone number, and email address.

**6. IMMY’s Right to Accept or Reject Purchase Orders.** IMMY may, in its sole discretion, accept or reject any Purchase Order. IMMY may accept any Purchase Order by issuing a Customer Order Invoice or by delivering the Goods, whichever occurs first. If IMMY does not accept the Purchase Order under the terms of this paragraph within five (5) calendar days of IMMY’s receipt of the Purchase Order, the Purchase Order will lapse. No Purchase Order is binding on IMMY unless accepted by IMMY as provided in this Agreement.

**7. Customer Order Invoice.** IMMY may confirm the Purchase Order by issuing to Buyer a Customer Order Invoice (or “COI”). By accepting IMMY’s COI, Buyer agrees to purchase Goods under the terms of this Agreement, including the Purchase Order Transaction Terms, and on no other terms.

**8. Cancellation of Purchase Orders.** IMMY may, in its sole discretion, without liability or penalty, cancel any Purchase Order placed by Buyer and accepted by IMMY, in whole or in part, if IMMY determines that Buyer is in violation of its payment obligations under or has breached or is in breach of the Agreement; or pursuant to any other rights IMMY has under the Agreement.

**9. Payment Terms.** IMMY shall issue invoices to Buyer for all Goods ordered. Buyer shall pay all invoiced amounts due to IMMY on receipt of the invoice, except for any amounts disputed by Buyer in good faith. Buyer shall make all payments in US dollars by check or wire transfer.

**10. Invoice Disputes.** Buyer shall Notify IMMY in writing of any dispute with any invoice (along with substantiating documentation within five (5) calendar days from the Buyer's receipt of the invoice. Buyer will be deemed to have accepted all invoices for which IMMY does not receive timely Notice of disputes and shall pay all undisputed amounts due under these invoices within the period set above. Notwithstanding anything to the contrary, Buyer shall continue performing its obligations under this Agreement during any dispute, including, without limitation, Buyer's obligation to pay all due and undisputed invoice amounts in accordance with the terms and conditions of this Agreement.

**11. Unsatisfactory Credit Status.** Each issuance of a Purchase Order to IMMY constitutes Buyer's representation and warranty that Buyer can pay for the Goods identified in the Purchase Order in accordance with the terms of this Agreement. Buyer shall furnish IMMY with such statements accurately and fairly evidencing Buyer's financial condition as IMMY may, from time to time, reasonably request. Throughout the term, Buyer shall be in compliance with all loan covenants and other obligations to its lenders. Buyer shall Notify IMMY immediately of any and all events that have had or may have a material adverse effect on Buyer's business or financial condition, including any change in management, sale, lease, or exchange of a material portion of Buyer's assets, a change of Control or ownership, or breach of any loan covenants, or other material obligations of Buyer to its lenders. If, at any time, IMMY determines in its sole discretion that Buyer's financial condition or creditworthiness is inadequate or unsatisfactory, then in addition to IMMY's other rights under this Agreement, at law, or in equity, IMMY may without liability or penalty, take any of the following actions: (a) immediately modify the payment terms for outstanding and future purchases, including requiring Buyer to pay cash in advance or cash on delivery; (b) reject any Purchase Order received from Buyer; (c) cancel any previously accepted Purchase Orders; (d) delay any further shipment of Goods to Buyer; (e) stop delivery of any Goods in transit in the possession of a common carrier or bailee and cause the Goods in transit to be

returned to IMMY; (f) immediately terminate this Agreement; or (g) accelerate the due date of all amounts owed by Buyer to IMMY. No actions taken by IMMY under this paragraph (nor any failure of IMMY to act under this paragraph) constitute a waiver by IMMY of any of its rights to enforce Buyer's obligations under this Agreement, including the obligation of Buyer to make payments as required under this Agreement. For purposes of this paragraph "Control" (and with correlative meanings, the terms "Controlled by" and "under common Control with") means, regarding any Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of another Person, whether through the ownership or voting securities, by contract, or otherwise.

**12. Late Payments.** Except for invoiced payments that Buyer has successfully disputed, Buyer shall pay interest on all late payments, calculated daily and compounded monthly, at the lesser of the rate of one and one-half percent (1.5%) per month (for a total of no greater than 18% per year) or the highest rate permissible under applicable Law. Buyer shall also reimburse IMMY for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees. In addition to all other remedies available under the Agreement or at Law (which IMMY does not waive by the exercise of any rights under the Agreement), IMMY may (a) suspend the delivery of any Goods if Buyer fails to pay any undisputed amounts when due under the Agreement and (b) terminate the Agreement.

**13. No Setoff.** Buyer shall perform its obligations under the Agreement without setoff, deduction, recoupment, or withholding of any kind for amounts owed or payable by IMMY, whether relating to IMMY's or IMMY's Affiliates' breach, bankruptcy, or otherwise and whether under the Agreement, any Purchase Order, any other agreement between (a) Buyer or any of its Affiliates and (b) IMMY or any of its Affiliates, or otherwise. For purposes of the Agreement "Affiliate" of a Person means any other Person that directly or indirectly, through one or

more intermediaries, Controls, is Controlled by, or is under common Control with, this Person.

**14. Shipment and Delivery.** Unless expressly agreed to by the Parties in writing, IMMY shall select the method of shipment of and the carrier for the Goods. IMMY may, in its sole discretion, without liability or penalty, make partial shipments of Goods to Buyer. Each shipment constitutes a separate sale, and Buyer shall pay for the units shipped, whether the shipment is in whole or partial fulfillment of a Purchase Order. Unless expressly agreed to by the Parties, IMMY shall deliver the Goods to the Delivery Point, using IMMY's standard methods for packaging and shipping the Goods. All Prices are FOB shipping point. Any time quoted for delivery is an estimate only; provided, however, that IMMY shall use commercially reasonable efforts to deliver all Goods on or before the requested delivery date. IMMY is not liable for or in respect of any loss or damage arising from any delay in filling any order, failure to deliver, or delay in delivery. No delay in the shipment or delivery of any Good relieves Buyer of its obligations under the Agreement, including accepting delivery of any remaining installment or other orders of Goods.

**15. Inspection.** Buyer shall inspect Goods received under the Agreement within five (5) calendar days of receipt (the "Inspection Period") of the Goods and either accept or, if any Goods are Nonconforming Goods or Excess Goods, reject these Goods. For purposes of the Agreement "Nonconforming Goods" means any good received by Buyer from IMMY under a Purchase Order that: (a) is not a Good; (b) does not conform to the Reference Number listed in the applicable Purchase Order; or (c) on visual inspection, Buyer reasonably determines are otherwise defective. "Excess Goods" means Goods that, when counted together with all other Goods having the same Reference Number and received by Buyer under the same Purchase Order, are in excess of the quantities of the Goods ordered under that Purchase Order. Buyer will be deemed to have accepted the Goods unless it Notifies IMMY in writing of any Nonconforming Goods or Excess Goods during the Inspection Period and furnishes

written evidence or other documentation as reasonably required by IMMY. If Buyer timely Notifies IMMY of any Nonconforming Goods or Excess Goods, IMMY shall determine, in its sole discretion, whether the Goods are Nonconforming Goods or Excess Goods. If IMMY determines that the Goods are Nonconforming Goods it shall either, in its sole discretion replace the Nonconforming Goods with conforming Goods or refund the Price for the Nonconforming Goods, together with all shipping expenses incurred by Buyer in connection therewith. If IMMY determines that the Goods are Excess Goods IMMY shall refund the Price for the Excess Goods, together with all related shipping and handling expenses incurred by Buyer in connection therewith. Buyer shall ship, at IMMY's expense, all Nonconforming Goods and Excess Goods to IMMY's headquarters in Norman, Oklahoma USA. If IMMY exercises its option to replace Nonconforming Goods, IMMY shall, after receiving Buyer's shipment of Nonconforming Goods, ship to Buyer, at IMMY's expense, the replaced Goods to the Delivery Point. Buyer acknowledges and agrees that the remedies set out in this paragraph are Buyer's exclusive remedy for the delivery of Nonconforming Goods or Excess Goods. Except as provided under this paragraph all sales of Goods to Buyer under this Agreement are made on a one-way basis and Buyer has no right to return Goods purchased under this Agreement.

**16. Title and Risk of Loss.** Title to Goods and the risk of loss of Goods shipped under any Purchase Order passes to Buyer on IMMY's delivery of such Goods to the carrier at IMMY's facility.

**17. Government Contracts.** Buyer shall not resell Goods to any federal, state, local, or foreign government or political subdivision thereof, or any agency or instrumentality of the government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority, or quasi-governmental authority (to the extent that the rules, regulations, or orders of this organization or authority have the force of Law), or any arbitrator, court, or tribunal of competent jurisdiction ("Governmental Authority") without express written approval from IMMY. Unless

otherwise separately agreed to in writing between IMMY and Buyer, no provisions required in any US government contract or subcontract related thereto shall be a part of this Agreement, imposed on or binding on IMMY, and this Agreement is not deemed an acceptance of any government provisions that may be included or referenced in Buyer's request for quotation, Purchase Order, or any other document.

**18. General Compliance With Laws Representation, Warranty and Covenant.** Buyer represents and warrants to IMMY that it is in compliance with all Laws and any contract or agreement to which Buyer is a party or to which any of its material assets are bound applicable to this Agreement, the Goods, and the operation of its business. Buyer shall at all times comply with all Laws. In particular, but without limitation, pursuant to 15 C.F.R. § 730 et seq., Buyer shall not export or re-export Goods (a) into any U.S. embargoed countries; (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Person's List or Entity List; or (c) to anyone for purposes of use in a prohibited end-use. Buyer shall at all times, at its own expense, obtain and maintain all certifications, credentials, authorizations, licenses, and permits necessary to conduct its business relating to the exercise of its rights and the performance of its obligations under this Agreement. Notwithstanding Buyer's indemnity of IMMY pursuant to Section 25 of this Agreement, Buyer agrees to indemnify and defend IMMY for any penalties, fines, or other action taken against IMMY as a result of the Buyer's non-compliance with this provision.

**19. Intellectual Property Rights.** Buyer acknowledges and agrees that: (a) any and all IMMY's Intellectual Property Rights are the sole and exclusive property of IMMY or its licensors; (b) Buyer shall not acquire any ownership interest in any of IMMY's Intellectual Property Rights under the Agreement; (c) any goodwill derived from the use by Buyer of IMMY's Intellectual Property Rights inures to the benefit of IMMY or its licensors, as the case may be; and (d) if Buyer acquires any Intellectual Property Rights in or relating to any product

(including any Good) purchased under this Agreement (including any rights in any Trademarks, derivative works, or patent improvements relating thereto), by operation of law, or otherwise, these rights are deemed and are hereby irrevocably assigned to IMMY or its licensors, as the case may be, without further action by either Party. "Intellectual Property Rights" means all industrial and other intellectual property rights comprising or relating to: (a) patents (including all reissues, divisionals, provisionals, continuations, and continuations-in-part, re-examinations, renewals, substitutions, and extensions thereof), patent applications, and other patent rights and any other Governmental Authority-issued indicia of invention ownership (including inventor's certificates, petty patents, and patent utility models); (b) all rights in and to US and foreign trademarks, service marks, trade dress, trade names, brand names, logos, trade dress, corporate names, and domain names and other similar designations of source, sponsorship, association, or origin, together with the goodwill symbolized by any of the foregoing, in each case whether registered or unregistered and including all registrations and applications for, and renewals or extensions of, these rights and all similar or equivalent rights or forms of protection in any part of the world; (c) internet domain names, whether or not Trademarks, registered by any authorized private registrar or Governmental Authority, web addresses, web pages, website, and URLs; (d) works of authorship, expressions, designs, and design registrations, whether or not copyrightable, including copyrights and copyrightable works, software, and firmware, data, data files, and databases and other specifications and documentation; (e) all inventions, discoveries, trade secrets, business and technical information and know-how, databases, data collections, patent disclosures, and other confidential and proprietary information and all rights therein; and (f) all industrial and other intellectual property rights, and all rights, interests, and protections that are associated with, equivalent or similar to, or required for the exercise of, any of the foregoing, however arising, in each case whether registered or unregistered and including all registrations and applications for, and renewals or extensions of, these rights or forms of protection under the Laws of any

jurisdiction throughout in any part of the world. "Law" means any statute, law, ordinance, regulation, rule, code, constitution, treaty, common law, governmental order, or other requirement or rule of law of any Governmental Authority. Buyer shall not: (a) take any action that may interfere with any of IMMY's rights in or to IMMY's Intellectual Property Rights, including IMMY's ownership or exercise thereof; (b) challenge any right, title, or interest of IMMY in or to IMMY's Intellectual Property Rights; (c) make any claim or take any action adverse to IMMY's ownership of IMMY's Intellectual Property Rights; (d) register or apply for registrations, anywhere in the world, for IMMY's Trademarks or any other Trademark that is similar to IMMY's Trademark or that incorporates IMMY's Trademarks in whole or in confusingly similar part; (e) use any mark, anywhere, that is confusingly similar to IMMY's Trademarks; (f) engage in any action that tends to disparage, dilute the value of, or reflect negatively on the products purchased under this Agreement (including Goods) or any IMMY Trademark; (g) misappropriate any of IMMY's Trademarks for use as a domain name without prior written consent from IMMY; and (h) alter, obscure, or remove any of IMMY's Trademarks or trademark or copyright notices or any other proprietary rights notices placed on the products purchased under this Agreement (including Goods), marketing materials, or other materials that IMMY may provide.

**20. Prohibited Acts.** Buyer shall only use the Goods in accordance with the written instructions of IMMY and shall not and shall not cause or permit any third party to: (a) use the Goods contrary to the aforementioned written instructions; or (b) analyze, attempt to modify or reverse-engineer, or otherwise seek to determine the structure, sequence, formulation, or composition of the Goods without the prior written consent of IMMY.

**21. IMMY's Buy-Back Right.** Within thirty (30) calendar days following this Agreement's expiration or earlier termination, Buyer shall Notify IMMY in writing of the Reference Number and quantity of all Goods in Buyer's remaining inventory. On or before the thirty (30) calendar day after IMMY receives the

Notice, IMMY may, in its sole discretion, offer to purchase all or a portion of any remaining inventory free of all liens, claims, or encumbrances, at a price equal to the lesser of Buyer's cost therefor and IMMY's then-prevailing Buyer price. Buyer must accept IMMY's offer and promptly deliver, at IMMY's expense, the ordered Goods to IMMY's designated carrier for delivery to IMMY. Repurchased Goods must be returned in their original packaging, unopened and undamaged. IMMY shall pay the repurchase price to Buyer either by the issuance of a credit against any indebtedness of Buyer to IMMY; or if the repurchase price exceeds the indebtedness, by payment of the excess to Buyer within thirty (30) calendar days after delivery to IMMY.

**22. End of Term Purchase Restrictions.** During the Term's last six months, Buyer shall purchase Goods in quantities that are no greater than an amount that Buyer reasonably determines is necessary to meet Customer demand in that period.

**23. Protection of Confidential Information.** From time to time during the Term, IMMY may disclose or make available to Buyer information about its business affairs, goods, and services, forecasts, confidential information, and materials comprising or relating to Intellectual Property Rights, trade secrets, third-party confidential information, and other sensitive or proprietary information; such information, as well as the terms of this Agreement, whether orally or in written, electronic or other form or media and whether or not marked, designated, or otherwise identified as "confidential" constitutes "Confidential Information" hereunder. Confidential Information excludes information that, at the time of disclosure and as established by documentary evidence: (a) is or becomes generally available to and known by the public other than as a result of, directly or indirectly, any breach of this paragraph by Buyer or any of its Representatives; (b) is or becomes available to Buyer on a non-confidential basis from a third-party source, provided that such third party is not and was not prohibited from disclosing such Confidential Information; (c) was known by or in the possession of Buyer or its Representatives before being disclosed by or on behalf of IMMY; (d) was or

is independently developed by Buyer without reference to or use of, in whole or in part, any of IMMY's Confidential Information; or (e) must be disclosed under applicable Law. For purposes of this Agreement, "Representatives" means a Party's Affiliates, employees, officers, directors, partners, shareholders, agents, attorneys, third-party advisors, successors, and permitted assigns. Buyer shall: (i) protect and safeguard the confidentiality of IMMY's Confidential Information with at least the same degree of care as Buyer would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care; (ii) not use IMMY's Confidential Information, or permit it to be accessed or used, for any purpose other than to exercise its rights or perform its obligations under this Agreement; and (iii) not disclose any such Confidential Information to any Person, except to Buyer's Representatives who need to know the Confidential Information to assist Buyer, or act on its behalf, to exercise its rights or perform its obligations under this Agreement. Buyer shall be responsible for any breach caused by any of its Representatives. The provisions hereof shall survive termination or expiration of this Agreement for any reason for a period of five (5) year after such termination or expiration. At any time during or after this Agreement's expiry or earlier termination, at IMMY's request, Buyer and its Representatives shall promptly return all Confidential Information including copies that it has received under this Agreement. In the event of any conflict between the terms and provisions of these terms and conditions and those of any other provision in this Agreement, the terms and provisions of these terms and conditions will prevail.

**24. Warranties Disclaimer; Non-Reliance.**

NEITHER IMMY NOR ANY PERSON ON IMMY'S BEHALF HAS MADE OR MAKES ANY EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY WHATSOEVER, INCLUDING ANY WARRANTIES OF: (i) MERCHANTABILITY; (ii) FITNESS FOR A PARTICULAR PURPOSE; (iii) PERFORMANCE OF GOODS TO STANDARDS SPECIFIC TO THE COUNTRY OF IMPORT, WHETHER ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR

OTHERWISE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED, AND BUYER ACKNOWLEDGES THAT IT HAS NOT RELIED ON ANY REPRESENTATION OR WARRANTY MADE BY IMMY, OR ANY OTHER PERSON ON IMMY'S BEHALF.

**25. Buyer General Indemnification.** Subject to the terms and conditions of this Agreement, Buyer shall indemnify, defend, and hold harmless IMMY and its parent, officers, directors, partners, members, shareholders, employees, agents, affiliates, successors, and permitted assigns (collectively, "IMMY Indemnified Party") against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees, fees, and the costs of enforcing any right to indemnification under this Agreement and the cost of pursuing any insurance providers, incurred by an IMMY Indemnified Party or awarded against an IMMY Indemnified Party (collectively, "Losses"), arising out of or relating to any claim of a third party: (a) relating to a breach or non-fulfillment of any representation, warranty, or covenant of this Agreement by Buyer or Buyer's Personnel; (b) alleging or relating to any negligent or gross negligent act or omission of Buyer or its Personnel (including any recklessness or willful misconduct) in connection with the performance of its obligations under this Agreement; (c) alleging or relating to any bodily injury, death of any Person or damage to real or tangible personal property caused by the acts or omissions of Buyer its Personnel; (d) relating to any failure by Buyer or its Personnel to comply with any applicable Laws; or (e) alleging that the Buyer breached its agreement with a third party as a result of or in connection with entering into, performing under or terminating this Agreement.

**26. IMMY General Indemnification.** IMMY shall indemnify, hold harmless, and defend Buyer and its officers, directors, employees, agents, successors, and permitted assigns (collectively, "Buyer Indemnified Party") against any and all Losses incurred by Buyer Indemnified Party arising out of or resulting from

any claim of a third party alleging or relating to: (a) a breach or non-fulfillment of any material representation, warranty, or covenant of this Agreement by IMMY; (b) any negligent or gross negligent act or omission of IMMY (including any recklessness or willful misconduct) in connection with the performance of its obligations under this Agreement; (c) any bodily injury, death of any Person, or damage to real or tangible personal property caused by the negligent acts or omissions of IMMY; or (d) any failure by IMMY to comply with any applicable Laws.

**27. Exceptions and Limitations on General Indemnification.** Notwithstanding anything to the contrary in this Agreement, an Indemnifying Party is not obligated to indemnify or defend an Indemnified Party against any claim (whether direct or indirect) if the claim or corresponding Losses arise out of or result from the Indemnified Party's or its Personnel's: (a) gross negligence or more culpable act or omission (including recklessness or willful misconduct); or (b) use of the products purchased under this Agreement (including Goods) in any manner not otherwise authorized under this Agreement, that does not materially conform with the then-current usage instructions, guidelines, or specifications provided by IMMY.

**28. Sole Remedy.** PARAGRAPHS 25 THROUGH 27 SET FORTH THE ENTIRE LIABILITY AND OBLIGATION OF EACH INDEMNIFYING PARTY AND THE SOLE AND EXCLUSIVE REMEDY FOR EACH INDEMNIFIED PARTY FOR ANY LOSSES COVERED BY EACH RESPECTIVE PARAGRAPH.

**29. No Liability for Consequential or Indirect Damages.** IN NO EVENT IS IMMY OR ITS REPRESENTATIVES LIABLE FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES, OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO ANY BREACH OF THIS AGREEMENT, REGARDLESS OF: (A) WHETHER THE DAMAGES WERE FORESEEABLE; (B) WHETHER OR NOT IMMY WAS ADVISED OF THE

POSSIBILITY OF THE DAMAGES AND (C) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) ON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

**30. Survival.** Subject to the limitation and other provisions of this Agreement; (a) the representations and warranties of the Parties contained herein and related exceptions, limitations or qualifiers survive the expiration or earlier termination of this Agreement for a period of twelve (12) months after the expiration or termination; and (b) any other provisions that, to give proper effect to its intent, should survive such expiration or termination, survive the expiration or earlier termination of this Agreement for the period specified therein, or if nothing is specified for a period of twelve (12) months after expiration or termination. The foregoing limitations do not apply to the collection of any amounts due to IMMY under this Agreement; and provided, further, that any claims asserted in good faith with reasonable specificity and in writing by Notice before the applicable survival period's expiration is not thereafter barred by the relevant period's expiration, and these claims survive until finally resolved.

**31. Force Majeure.** No Party shall be liable or responsible to the other Party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations to make payments to the other Party under this Agreement), when and to the extent the failure or delay is caused by or results from acts beyond the impacted Party's ("Impacted Party") reasonable control, including the following force majeure events ("Force Majeure Events"): (a) acts of God; (b) flood, fire, earthquake, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest; (d) requirements of Law; (e) actions, embargoes, or blockades in effect on or after the date of this Agreement; (f) action by any Governmental Authority; (g) national or regional emergency; (h)

strikes, labor stoppages, or slowdowns or other industrial disturbances; and (i) shortage of adequate power or transportation facilities. The Impacted Party shall give Notice within ten (10) calendar days of the Force Majeure Event to the other Party, stating the period of time the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of the Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event that the Impacted Party's failure or delay remains uncured for a period of thirty (30) calendar days following Notice given by it, either Party may thereafter terminate this Agreement on thirty (30) calendar days' Notice.

**32. Choice of Law and Forum.** This Agreement and all matters arising out of or relating to this Agreement, are governed by, and construed in accordance with the Laws of the State of Oklahoma, USA, without regard to the conflict of laws provisions thereof to the extent these principles or rules would require or permit the application of the Laws of any jurisdiction other than those of the State of Oklahoma. The Parties agree that the United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. Each Party irrevocably and unconditionally agrees that it will not commence any action, litigation or proceeding of any kind whatsoever against the other Party in any way arising from or relating to this Agreement, and all contemplated transactions, including contract, equity, tort, fraud, and statutory claims, in any forum other than the United States District Court for the Western District of Oklahoma, or, if this court does not have subject matter jurisdiction, the courts of the State of Oklahoma sitting in Cleveland County, and any appellate court from any thereof. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of these courts and agrees to bring any action, litigation, or proceeding only in the United States District Court for the Western District of Oklahoma or, if this court does not have subject matter jurisdiction, the courts of the State of Oklahoma sitting in Cleveland County. Each Party agrees that a final judgment in any action, litigation

or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Law.