

TERMS AND CONDITIONS OF SALE OF MCBOECK LLC

1. PAYMENTS. Unless otherwise agreed to by McBoeck, LLC in writing, all amounts payable hereunder shall be due to McBoeck, LLC within thirty (30) days of invoice date, time being of the essence. Late payments shall bear interest at the rate of 18% per annum or the highest rate permitted by law; whichever is less. All prices shown are net, and, in addition to the price of goods. Customer shall pay all expenses including taxes, insurance, freight, carriage, and warehousing.

2. TAXES AND PRICING. All prices quoted are subject to change without notice and are exclusive of taxes. Customer shall pay all taxes resulting from transactions, including without limitation occupation, property, excise, sales, or use tax, but excluding any taxes based on the income of Continental Chemical USA. The purchase price, including applicable taxes, shall be subject to increase based on McBoeck's established price at the date of actual shipment, if shipment is delayed thirty (30) days, or more, beyond the scheduled shipment date, and such delay is caused in whole or in part by circumstances beyond the reasonable control of McBoeck, LLC as provided in paragraph 10.

3. SHIPMENT. (a) Scheduled shipment date is an estimate only. On or after the scheduled shipment date, customer shall accept shipment upon notification by McBoeck, LLC; or if customer refuses shipment. Then McBoeck is authorized to (1) have the goods transported and warehoused, at the customer's expense and risk, which act shall constitute shipment to Customer, in which event, McBoeck may declare as immediately due all amounts due upon shipment, or, if any amounts are financed by McBoeck, may declare as immediately due all amounts due upon shipment, or, if, any amounts are financed by McBoeck, may declare the monthly installment payments to commence thirty (30) days from the date of such shipment to the warehouse, or (2) at McBoeck's option, defer shipment. (b) McBoeck may make partial shipments hereunder and may invoice for each such partial shipment separately. Each partial shipment will be deemed to be a separate sale; however, delay in delivery of any partial shipment will not relieve Customer of its obligation to accept delivery of remaining shipments. (c) McBoeck's shipping weights will govern for each shipment or partial shipment. Customer will promptly notify McBoeck in writing of the reasons for such dispute and provide to McBoeck all necessary documentation to substantiate the difference.

4. SHIPPING TOLERANCES. The goods sold are subject to McBoeck's published shipping tolerances in effect on the date of order or any then-applicable industry shipping tolerances for the goods if McBoeck has no tolerances. (Current standard +/- 10%)

5. TITLE/RISK OF LOSS/INSURANCE. Title to and risk

of loss of the goods shall pass from McBoeck to the Customer when the goods or component parts whether manufactured by McBoeck or other supplier are placed in the possession of the carrier for shipment to Customer. Customer shall provide insurance to be for no less than the total amount owing to McBoeck with loss first payable to McBoeck.

6. ACCEPTANCE OF GOODS. Customer shall inspect or test all goods upon receipt. Customer shall be deemed to have affected final acceptance of the good within fifteen (15) days from the date of initial shipment, unless written notice is received by McBoeck within such period. In any case, the goods will be deemed accepted on the date when used or otherwise placed in commercial operation.

7. WARRANTY. (a) McBoeck warrants that title to the goods sold shall be free from any encumbrance, and will conform to the description contained on McBoeck invoice. (b) McBoeck DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE. THERE ARE NO REPRESENTATIONS OR WARRANTIES EXCEPT AS PROVIDED IN WRITING SIGNED BY AN AUTHORIZED OFFICER OF McBoeck, LLC. (c) Customer is responsible for the designation and selection of product sold by McBoeck. Customer shall McBoeck harmless and indemnify and defend McBoeck (including its affiliates, assigns, directors, officers, employers, agents, and representatives) for any claims arising out of or relating to the design, specification, or use of product(s) sold by McBoeck to Customer.

8. REMEDY. McBoeck sole responsibility and liability and Customer's exclusive remedy under this agreement shall be limited to the repair or replacement of goods (f.o.b. McBoeck's shipping point) not conforming to the warranty, or, at McBoeck's option, to the return of the goods and refund of moneys paid thereon, without interest, provided Customer is not in default hereunder. IN NO EVENT SHALL McBoeck BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES OR ATTORNEYS' FEES. McBoeck's obligation hereunder is subject to receipt of written notice of reject from Customer within thirty (30) days after such alleged defect shall be reasonably apparent to Customer.

9. RETURNS. Returned goods will be accepted only if McBoeck has given prior written consent. Handling, inspection, restocking, and invoicing charge also may be assessed against Customer. All returns allowed must be shipped at Customer's expense and must be in excellent resale condition. Material cut to Customer's specifications is not returnable.

10. DELAY OR NONPERFORMANCE. McBoeck shall not be liable for failure or delay in performance hereunder due in whole or in part to strikes, work stoppages, fires, acts of terrorism, accidents,

wars, rebellions, civil commotion, public strife, acts of any government, whether legal or otherwise, acts of public enemies, forces majeure, or qualified labor, or any other causes beyond McBoeck's reasonable control; this specifically includes delays or inability to obtain product because of the actions of McBoeck's suppliers.

11. DEFAULT. In the event of Customer's refusal to accept shipment or other default, McBoeck, at its discretion and option, shall be entitled to retain all money paid by Customer on account as liquidated damages. If Customer fails to make any payments when due, or if there is a breach of any covenant or agreement by Customer, or if McBoeck deems itself insecure, then Customer shall be deemed in default and McBoeck shall have, at its option, the right to take immediate possession of the goods, and/or declare all unpaid amounts immediately due and payable and/or suspend shipments to Customer. McBoeck shall be entitled to set off any amount owed by Customer or any of Customer's related entities against any amount payable to McBoeck in connection with any unpaid moneys due to McBoeck. McBoeck shall have all the rights and remedies of a secured party under the Uniform Commercial Code in addition to all other rights as established herein, which rights and remedies shall be cumulative. Waiver by McBoeck of any breach or default shall not constitute a waiver of any subsequent breach or default.

12. EQUIPMENT. (a) Any equipment including jigs, dies, and tools, (which McBoeck acquires for use exclusively in the production of goods for Customer) will be and remain McBoeck's possession and control; and any changes by McBoeck are permissible. (b) Any material or equipment owned or furnished by Customer to McBoeck will be carefully handled and stored by McBoeck while in McBoeck's possession. When for eighteen (18) consecutive months no orders acceptable to McBoeck are received from Customer for goods to be made from any such equipment or materials, McBoeck may, be written notice to Customer, request Customer to make disposition thereof at Customer's expense. If Customer fails to comply with such notice, McBoeck may make such use or disposition of said material or equipment as it desires, without liability or obligation to Customer.

13. CANCELLATION. Upon receipt of written notice from Customer, McBoeck shall cancel any orders as instructed, subject to McBoeck's (or its subcontractors) right to continue processing raw or finished material to the point at which processing can be halted with the least disruption and cost to McBoeck. Customer shall be responsible for all costs associated with the cancellation and completion of processing of material.

14. ACCEPTANCE. These Terms and Conditions shall be deemed

binding on Customer by its purchase of products from McBoeck. These Terms and Conditions may only be modified if in writing and signed by an authorized office of McBoeck; each of these terms and conditions shall remain in effect unless the provision(s) are explicitly contradicted by the aforesaid writing. If customer submits a form with contrary terms or conditions, such order shall be considered as confirmation only and in no way amend, prevail over, supplement, or supersede any provision herein. These TERMS AND CONDITIONS may be superseded or revised by McBoeck ANNUAL TERMS AND CONDITIONS.

15. GENERAL. McBoeck may assign its rights and obligations under these Terms and Conditions. If Customer changes its corporate status, both Customer and its successors continue to be bound by these Terms and Conditions of Sale, but McBoeck LLC reserves its rights under paragraph 11. No prior representation, affirmation, or agreement shall be enforceable unless set forth herein.

16. NUCLEAR USE. The products covered by these Terms and Conditions and sold by McBoeck are not intended for application in connection with the use or handling of nuclear material or the construction or operation of a nuclear installation. Customer shall not use these products for such purposes, or permit others to use these products for such purposes unless an authorized officer of McBoeck agrees to such use in writing. If any such use occurs without McBoeck's written agreement, McBoeck disclaims all liability for any nuclear or other damages, in jury or contamination, and Customer shall protect, defend, and indemnify McBoeck, LLC. McBoeck's affiliates and directors, officers, employees, agents, and representatives of McBoeck and its affiliates from and against any and all claims, losses, damages, costs, actions, judgments, expenses and liability of every kind and nature whatsoever (including, without limitation, attorney's fees and costs and expenses of defense) which, either directly or indirectly, are in any way connected with, arise out of or result from such use.

17. DISPUTE RESOLUTION/GOVERNING LAW. Any and all disputes between McBoeck, LLC Customer shall be determined subject to Texas's law, and its state or federal courts shall have exclusive jurisdiction. The parties hereby agree to the personal jurisdiction of the United States courts, and that attorney's fees and costs shall be awarded to the prevailing party in any litigation. Customer must institute any action against McBoeck one year after Customer's claim arises, or such claim shall be barred notwithstanding any statutory limitations to the contrary.