

CHEMICAL TERMS AND CONDITIONS

These terms and conditions of sale ("Terms and Conditions") are applicable to the sale of Products (defined below) provided by Best Technology, Inc. ("Supplier") to a customer ("Customer") who places a purchase order pursuant to a proposal or quotation ("Quote") supplied by Supplier (the "Order") to receive Products (defined below) from Supplier. Supplier reserves the right to change these Terms and Conditions at any time.

1. **ACCEPTANCE OF TERMS AND CONDITIONS.** The agreement ("Agreement") between Supplier and Customer shall consist of the Quote, Order and these Terms and Conditions. These Terms and Conditions are integrated into, and form an integral part of, the Agreement. Supplier, upon acceptance of the Order from a Customer, will supply the Products specified in the Order to Customer, pursuant to the terms and conditions of this Agreement. The applicability of terms contained in Customer's Order is limited to the identification and the quantity of Products ordered. No terms or conditions in any acceptance, acknowledgement, invoice, purchase order, or other document submitted by Customer which are in conflict with, different from, or in addition to this Agreement shall be binding upon Supplier unless expressly agreed to in writing by a duly authorized officer of Supplier. In the event of any inconsistency between the Quote, Order and these Terms and Conditions, the Quote and these Terms and Conditions shall control.
2. **PRODUCT ORDERING.**
 - A. Orders. Supplier shall supply the products, fluids, chemicals or chemical solutions (the "Products") described in the Order to Customer at the prices and in accordance with the payment terms outlined in the Quote.
 - B. Cancellation of Orders. Orders placed with Supplier may not be canceled without Supplier's written approval. In the event the Supplier elects to accept a cancellation, Supplier reserves the right to charge Customer for all actual costs incurred including reasonable profit and cancellation charges.
3. **PRICING AND PAYMENT TERMS.**
 - A. Prices. Customer shall pay Supplier the costs, including all state, local, service taxes or fees, freight charges, and express and courier services, described on the applicable invoice in accordance with the payment terms outlined in the Quote. All prices quoted are in U.S. currency and all invoices are made out in U.S. currency.
 - B. Payment Terms. Customer shall comply with the payment terms as set forth in the Quote. Payment terms shall be effective from the date of invoice and/or detailed on the specific Quote. Supplier may, in its sole discretion, extend credit to Customer subject to Supplier's credit requirements to determine credit status or credit limits. Customer must keep their account current at all times.
 - C. Non-Compliance. In the event Customer does not comply promptly and completely with the payment terms, Supplier has the right to place the Order on hold until the issue is resolved to Supplier's satisfaction. Supplier has the right to impose additional charges to Customer for any cost resulting from Customer's failure to comply with payment terms. Supplier reserves the right to

suspend or cancel (at its option) other Customer Orders and/or deliveries when an invoice remains unpaid after the due date.

4. DELIVERY.

- A. Shipments. Unless otherwise specified in the Quote or the invoice, Products are shipped FOB Origin. Supplier shall not be liable for any delays, loss or damage in transit. Title and risk of loss passes to Customer upon delivery of the Products to the carrier. All freight costs will be the responsibility of Customer.
- B. Lead Times. Supplier shall use commercially reasonable efforts to ship the Product in accordance with the lead times set forth in the Quote; however, Supplier shall not be liable for any delays in transit or failure in the estimated delivery or shipment, or for any damages that may result to Customer from such delay.
- C. Partial Shipments. Supplier may, in its sole discretion, without liability or penalty, make partial shipments of Products to Customer. Each shipment will constitute a separate sale, and Customer shall pay for the units shipped whether such shipment is in whole or partial fulfillment of Customer's purchase order. Any failure or defect in any one (1) shipment shall not affect the remaining shipments.
- D. Inspection Period. Customer shall inspect the Products within seven (7) days of the date they are first delivered and made available for Customer's use (the "Inspection Period"). Customer shall inspect and verify the Product identified on the Product label matches the Product identified in the Order before opening the Product. If a Customer opens the Product before verifying, Customer cannot return the Product. Customer will be deemed to have accepted the Products unless it notifies Supplier in writing and within the Inspection Period of any damage, shortage, loss or failure of the Products to comply with the specifications and requirements related thereto as set forth in the Quote and the applicable Product Certificate of Analysis provided by Supplier. If Customer timely notifies Supplier of any non-conforming Products, Supplier shall, in its sole discretion, (a) replace such non-conforming Products with conforming Products; or (b) credit or refund the price for the non-conforming Products. Supplier will have no liability for damage, shortage, or loss caused by acts or omissions of the carrier, or by other causes beyond Supplier's reasonable control. Products reportedly damaged will be held by Customer for disposition as instructed by Supplier. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE REMEDIES SET FORTH IN THIS SECTION 4(D) ARE CUSTOMER'S EXCLUSIVE REMEDIES FOR THE DELIVERY FOR NON-CONFORMING PRODUCTS. EXCEPT AS PROVIDED UNDER THIS SECTION 4(D), ALL SALES OF PRODUCTS TO CUSTOMER ARE MADE ON A ONE-WAY BASIS AND CUSTOMER HAS NO RIGHT TO RETURN THE PRODUCTS TO SUPPLIER.

- 5. **CONFIDENTIAL INFORMATION.** The parties agree to hold each other's Proprietary or Confidential Information in strict confidence. "Proprietary or Confidential Information" means any information that parties receive or otherwise have access to incidental to or in connection with this Agreement: (i) whose confidential nature has been made known by the disclosing party, orally or in writing, to the receiving party; or (ii) which a reasonable person under like circumstances would treat as confidential due to its character and nature. "Proprietary or Confidential Information" shall not include any information which (a) was known by the other party prior to disclosure by or on behalf of such party; (b) becomes available to the other party from a source other than such party that is not bound by a duty of confidentiality; (c) becomes generally available or known in the party's industry other than as a result of the other party; or (d) is developed by a party without the use of the other party's Proprietary or Confidential Information. The parties agree not to make each other's Proprietary or Confidential Information available in any form to any

third party or to use each other's Proprietary or Confidential Information for any purpose other than as specified in this Agreement.

6. CUSTOMER RESPONSIBILITIES AND WARRANTIES.

- A. Many factors beyond Supplier's control and uniquely within Customer's knowledge and control can affect the use and performance of the Products in a particular application. Supplier may provide Product information, including technical information, specifications, literature and other materials (collectively, the "Product Information") for Customer's convenience in Customer's selection of Products. The accuracy or completeness of Product Information is not guaranteed and is subject to change without notice. No license under any Supplier or third party intellectual property rights is granted or implied with this Product Information. Customer is solely responsible for evaluating and selecting Products and determining whether each Product is suitable for Customer's intended use or application and each Product is fit for a particular purpose and application.
- B. Customer is solely responsible for complying with all federal, state and local governmental laws and regulations applicable to the purchase and use of the Products, including without limitation handling, transportation, storage, use, processing, disposal, and the conditions of safe use of the Products, and to any of Customer's products that contain or are made by using the Products. Products are sold for use or consumption within the United States only.
- C. Customer shall be solely responsible for any data, information, and documents provided to Supplier in order to purchase Products from Supplier. Supplier shall be entitled to rely on such data, information, and documents in providing the Products and shall have no duty to independently verify the accuracy of the same.

7. WARRANTIES OF SUPPLIER; DISCLAIMER OF WARRANTY.

- A. Supplier warrants that Products sold to Customer meet the Product specifications identified in the applicable Certificate of Analysis at the time the Product is shipped to Customer. Supplier makes no other warranties or conditions of any kind, expressed or implied or otherwise whatsoever, including but not limited to, any implied warranties of merchantability or fitness for any particular purpose or use or any implied warranty arising out of a course of dealing, custom, or usage of trade. There is no guaranty of result, or of functionality.
- B. Supplier assumes no liability for damages related to the use or misuse of any Product purchased by Customer from Supplier incurred or claimed by Customer, whether in any process, used alone or in combination with other substances. Supplier shall not be liable for any injury, loss or damage, direct or consequential, regardless of the legal theory asserted, including warranty, contract, negligence or strict liability arising out of use or the inability to use the Product.
- C. In the event of any breach of any warranty specified in this provision, Customer's exclusive remedy shall be that Supplier shall, at its sole option, replace the Product at no cost to Customer or refund any purchase price paid for such Products. Supplier shall have no liability under this Agreement in the event a breach of the warranties contained herein is: (i) a result of circumstances beyond Supplier's control; or (ii) due to third party errors or omissions.

- 8. **DISCLAIMER.** EXCEPT FOR THE EXPRESS WARRANTY SET FORTH IN SECTION 7 ABOVE, PRODUCTS ARE PROVIDED ON AN "AS-IS" BASIS. SUPPLIER DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL OTHER WARRANTIES WHATSOEVER CONCERNING THE PRODUCTS AND ANY AND ALL OTHER EXPRESS AND

IMPLIED WARRANTIES. SUPPLIER DOES NOT ASSUME ANY RESPONSIBILITY FOR THE PRODUCTS OR ACTIONS OF ANY THIRD PARTIES.

9. **INDEMNIFICATION.** Customer agrees to indemnify, defend, and hold harmless Supplier (and its affiliates, officers, employees, owners, and agents) from and against any and all losses, damages, liabilities, claims, actions, penalties, costs or expenses of whatever kind, relating to, resulting from or arising out of any third-party claim or any direct claim for: (i) breach of this Agreement by Customer; (ii) use by the Customer (or any third party acting on behalf of or under authorization from Customer) of the Products under this Agreement; or (iii) any negligent act or omission by Customer or its employees, agents, or representatives.
10. **LIMITATION ON LIABILITY.** IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR INCIDENTAL, SPECIAL, INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION, LOST PROFITS, UNDER ANY CIRCUMSTANCE OR ANY THEORY WHATSOEVER, EVEN IF ADVISED IN ADVANCE OF THE POSSIBILITY FOR SUCH DAMAGES AND WHETHER OR NOT SUCH DAMAGES ARE FORESEEABLE. SUPPLIER'S TOTAL LIABILITY FOR DAMAGES UNDER THE AGREEMENT SHALL BE LIMITED TO THE TOTAL FEES DUE HEREUNDER FOR THE INVOICE UPON WHICH A CLAIM IS BASED. The limitation of liability set forth in this section shall not apply to (i) liability resulting from either party's gross negligence or willful misconduct and (ii) death or bodily injury resulting from either party's acts or omissions.
11. **NON-SOLICITATION.** Neither party will hire or retain the services of any employee of the other party during the term of this Agreement and for a one (1) year period thereafter without the prior written consent of the other party, such consent to be made at the discretion of the consenting party. Consent for hiring an employee may be conditioned on payment of a recruitment fee or other payment to compensate the consenting party for the expense of replacing the employee.
12. **INDEPENDENT CONTRACTOR.** The parties agree that Supplier and Customer will be independent contractors and neither Supplier nor its employees will be considered employees of Customer. It is understood and agreed that nothing herein is intended nor shall be construed to create an employer/employee, partnership or joint venture relationship between Supplier and Customer. Customer will not deduct from Supplier's compensation income tax, FICA payments, or any other expenses, unless required by law. Payment of federal income tax, FICA payments, and state income taxes are the responsibility of Supplier. Customer agrees and acknowledges that neither it nor any of its employees, agents or representatives has any right or authorization, express or implied to act for Vendor or incur, assume or create any obligation, responsibility, or liability on behalf of Supplier or make any representations or warranties concerning Supplier or the Work in the name of or on behalf of Supplier or bind Vendor in any manner whatsoever.
13. **INSURANCE.** Supplier and Customer represent that each has and will continue to have appropriate levels of insurance during the term of this Agreement.
14. **COMPLIANCE WITH LAWS AND REGULATIONS.** Each party agrees to comply with all federal, state, county and local laws, regulations, ordinances, and rules applicable to this Agreement and the exercise of its rights and performance of its obligations hereunder.
15. **NOTICES.** Any notice required or permitted to be given under this Agreement shall be in writing and shall be hand-delivered or sent by registered or certified first-class mail, postage prepaid, or commercial overnight delivery service to the address listed above for the party to whom notice is to be given, and shall

be effective upon delivery if hand-delivered, three (3) days after mailing if mailed or one (1) day after delivery to a commercial overnight delivery service.

16. **GOVERNING LAW.** This Agreement shall be governed by the laws of the State of Minnesota, without reference to conflicts of law principles. Any legal suit, action or proceeding arising out of or relating to the Work or this Agreement shall be commenced in a federal or state court in Hennepin County, Minnesota, and each party hereto irrevocably submits to the exclusive jurisdiction and venue of any such court in any such suit, action or proceeding. The parties expressly waive any right they may have to a jury trial and agree that any such litigation shall be tried by a judge without a jury. In the event that litigation is instituted to interpret or enforce any term or provision hereof, the prevailing party shall be entitled to reasonable attorney's fees to be awarded by the court in the same action or in a separate action brought for that purpose.
17. **FORCE MAJEURE.** Supplier shall not be responsible for delays or failure to perform due to, any delays or failure to perform any obligation under this Agreement due to fires, explosions, floods, acts of God, strikes, riots, lock-outs or other disturbances, including, without limitation, pandemic, war, insurrection, embargoes, government restrictions, compliance with or any action taken to carry out the intent or purpose of any law or regulation, inability to obtain raw materials, energy availability, lack of correct or complete data, changes or revisions, delay of third party suppliers, or other accidents or other causes or contingencies not caused by Supplier or over which Supplier has no reasonable control.
18. **SEVERABILITY.** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of this Agreement shall remain in full force and effect and will in no way be affected, impaired or invalidated.
19. **ENTIRE AGREEMENT.** This Agreement supersedes all prior agreements and constitutes a complete and exclusive statement of the terms of the agreement among the parties with respect to its subject matter. There have been and are no representations, warranties or covenants between the parties other than those set forth in this Agreement. No supplement, modification or amendment of this Agreement will be binding unless executed in writing by all of the parties.
20. **WAIVER.** No waiver of any provisions of this Agreement will be deemed a waiver of any other provisions, nor will any waiver constitute a continuing waiver. No waiver will be binding unless executed in writing by the party making the waiver.