

## GENERAL PURCHASING CONDITIONS - KEMIN INDUSTRIES

### Article 1 – Definitions

- Kemin Industries, Inc., a company under Iowa law, with registered office situated at 2100 Maury Street, Des Moines, Iowa 50317.
- Seller: the party that provides goods and/or materials and / or services to Kemin Industries by virtue of the Contract.
- Parties: the contracting parties to the Contract, i.e. Kemin Industries and the Seller.
- Contract: every written consensus between Kemin Industries and the Seller aimed at the supply of goods and/or materials and/or the performance of services or works for Kemin Industries.

### Article 2 – Applicability

These general purchasing conditions apply to all requests, offers and contracts relating to the supply of goods and/or the performance of services – irrespective of their nature – for Kemin Industries by the Seller. These conditions always take precedence over all other general conditions - irrespective of their name - of the Seller, and this irrespective of the time at which the general conditions of the Seller are handed over. No departures to these general purchasing conditions are binding unless such a departure has been expressly accepted in writing by Kemin Industries.

### Article 3 - Occurrence of the Contract

Requests for prices and quotations by Kemin Industries are entirely without obligation. A Contract with the Seller only comes into being if the quotation or offer of the Seller has been accepted in writing by Kemin Industries, or if Kemin Industries places an order with the Seller that has been accepted unconditionally in writing. Acceptance of an order by the Seller shall mean acceptance of these general purchasing conditions as a component of the Contract.

### Article 4 - Changes

The goods and services shall be supplied as described in the order form. The Seller shall not make or execute any unilateral changes regarding the subject, nature and specifications (e.g., dimensions, weights, numbers, levels, percentages, etc) of the delivery without the prior express written consent of Kemin Industries. In the event of any differences regarding e.g. the dimensions, weights, numbers, percentages, etc, Kemin Industries reserves the right, without a default notice or legal intervention and with reservation of all its rights to renounce the Contract or to sever it unilaterally if it has already come into being. The Seller shall then be bound to repay the price or part of it already paid within the 10 days thereafter, whereby the aforementioned sum shall be increased by interest of 12% per year, without legal intervention or a prior default notice, starting from the date of payment of the sum concerned by Kemin Industries.

### Article 5 - Prices and payment

All prices are/shall always be expressed net in dollars and are fixed unless agreed otherwise in writing. Seller agrees to give Kemin Industries the benefit of the lowest and most favorable price and terms offered by Seller to other purchasers of the goods and/or services described in Kemin's order. A unilateral price increase on the part of the Seller shall give Kemin Industries the right to cancel the Contract without legal intervention. The price includes all costs and surcharges, including (not exhaustive) the costs of loading, transport, unloading, insurance, administration, sales taxes and import duties, as well as the costs of packaging, except those of the loan packaging.

Kemin Industries shall pay for the goods supplied within 30 days of receiving the invoice, unless agreed otherwise in writing. The burden of proof for the sending of the invoice and receipt by Kemin Industries lies with the Seller. The simple entry of the invoice in the outgoing invoice book of the Seller is insufficient. If Kemin Industries has not made payment within the stipulated period, any interest on amounts owed by Kemin Industries may never be more than 6% on an annual basis, starting from the receipt of the written default notice. Any bank charges that are charged shall be to the charge of the Seller. The Seller must always take receipt of a part of the debt. Payments from Kemin Industries shall be charged to the principal of the debt rather than the

interest. Non-payment or only partial payment of an invoice by Kemin Industries on the due date, shall not make the balance due on any other invoices not yet payable, and shall not under any circumstances give the Seller the right to suspend the execution of any other deliveries. The costs and fees attached to the collection of an invoice by the Seller may never be recovered from Kemin Industries if the Seller does not observe one of its obligations, Kemin Industries always reserves the right to suspend the payment of (the balance of) the price, and this without a prior default notice and without compensation on the part of Kemin Industries.

### Article 6 – Warranty

The Seller guarantees that the goods are of good quality and meet the specific requirements (specifications, drawings, samples or other descriptions) as agreed with Kemin Industries.

A) The Seller represents and warrants that all of the goods and/or materials supplied and any services or any works performed pursuant to the Contract – irrespective of their nature – to, for or on the order of Kemin Industries, are and shall be subject in all respects to and in compliance with all applicable local, state or federal legislation or other requirements of the local, federal and state governments and all subdivisions thereof, which now govern or may, as a result of amendment or otherwise, hereafter govern the manufacture, sale or delivery of the goods and/or materials supplied or services and/or works performed pursuant to the Contract. Seller warrants that the goods and/or materials supplied are not adulterated or misbranded within the meaning of the Federal Food, Drug & Cosmetic Act as amended (21 USC §301 et. seq). Seller further guarantees that the goods and/or materials and their packaging are not those which may not, under Section 404 or 505 of the Federal Food, Drug & Cosmetic Act, be introduced into interstate commerce.

B) California Supply Chain Act: Seller represents that it complies with all laws regarding slavery and human trafficking in all countries in which it does business, in compliance with the California Transparency in Supply Chains Act of 2010.

C) The Seller furthermore represents and warrants that all of the goods and/or materials supplied and any services or any works performed pursuant to the Contract– irrespective of their nature – to, for or on the order of Kemin Industries, are and shall be subject in all respects to and in compliance with all applicable international treaties, applicable federal regulations, directives, decisions or other requirements inasmuch the legislation mentioned under this article 6B) has a direct effect (or immediate applicability) or is implemented in federal legislation and does not conflict with the federal legislation mentioned under the article 6A).

Kemin Industries shall only be deemed to accept the condition of the goods supplied and any visible defects, if they are not protested within 30 working days following the delivery. Kemin Industries shall only be bound to place the Seller in default within a reasonable period following the discovery of a hidden defect. If the goods or services are affected by a hidden defect, then the Seller shall always owe indemnification to Kemin Industries, irrespective of the time at which the defect is discovered by Kemin Industries. Notwithstanding any attempts to achieve an amicable settlement, as well as during acts of investigation regarding the defect with or without due hearing of the parties, Kemin Industries shall always have the right to make a claim to the court and shall also be entitled to compensation for all the damage caused by the defect, without any default notice being required. In addition, Kemin Industries reserves the right to return the goods to the charge and at the risk of the Seller, if they exhibit defects or do not satisfy the requirements, even when they come to light during the processing of them, without prejudice to the right of Kemin Industries to replacement and/or additional compensation. The signature of a delivery form or any other similar document cannot in any way be interpreted as an acceptance of any nonconformity or defect. The Seller undertakes with respect to Kemin Industries and subsequent buyers or users, including the final consumer of the goods supplied (in a processed state or otherwise) to fully compensate the damage that

they may suffer as a result of a defect in the good supplied, or other shortcoming of the Seller in the observance of his obligations under the Contract, or as a result of a wrongful act and the Seller shall indemnify, defend and hold harmless Kemin Industries and other indemnitees from any and all liability (including attorney fees and costs) for such damage. Such indemnification will apply regardless of whether Kemin or another indemnitee is alleged to be passively, concurrently or actively negligent and regardless whether liability without fault is imposed on an indemnitee. Seller agrees to maintain adequate insurance to comply with its obligations herein and to provide Kemin with proof of such insurance upon request.

Seller agrees to keep any confidential or proprietary information received from Kemin as confidential, and shall not use this information for any purpose other than performance of its obligations under this Contract. Seller will promptly return confidential information to Kemin upon termination of this Contract.

Seller's obligations in Article 6 shall survive termination of this Contract.

#### **Article 7 - Packaging and transport**

The goods have to be packaged and marked in accordance with all applicable legal requirements, as well as any supplementary requirements of Kemin Industries, and attuned to the nature of the goods and the transport method, so that they reach the place of delivery in a good condition. The Seller is responsible for any damage and loss occurring during or further to transport. The packaging becomes the property of Kemin Industries upon delivery, unless this last-mentioned foregoes this, or the Seller has marked the packaging as reusable. If a deposit is attached to the reusable packaging, this must be stated as such on the invoice. The reusable packaging shall be returned within 14 days of notification to the Seller, to the charge and at the risk of the Seller, to a destination specified by him.

#### **Article 8 - Delivery**

TIME IS OF THE ESSENCE OF THIS AGREEMENT. Deliveries shall be made in the warehouse of Kemin Industries at the agreed time of delivery at the agreed address as mentioned on the purchase order. If the agreed delivery date is exceeded, the Seller shall immediately notify Kemin Industries of the delay and Kemin Industries shall have the choice to demand the execution of the order with the right to compensation on account of the delayed delivery, or to immediately declare the Contract cancelled without legal intervention. In both cases Kemin Industries shall also be entitled to compensation for the damage suffered. If Kemin Industries decides to cancel the Contract, Kemin Industries, shall be entitled to the repayment of all sums already paid. As of the cancellation, Kemin Industries shall be entitled to supply itself from elsewhere. All transport costs relating to the deliveries of goods and/or services shall be to the charge of the Seller (free delivery) unless otherwise stipulated on the purchase order of Kemin Industries Seller shall also be responsible for any export and import formalities to his own charge. Damage or loss upon loading, during transport or upon unloading, of whatever nature or due to whatever cause, shall be to the charge and at the risk of the Seller, who shall replace all goods that are damaged or lost to his charge. The Seller guarantees that the goods and/or services supplied are free of all charges, restrictions and claims of third parties, including restrictions that could arise from patents, copyright or other intellectual property rights, except for charges, restrictions and claims that Kemin Industries has expressly accepted in writing.

#### **Article 9 – Transfer of risk and ownership**

The ownership and risk of the goods supplied to Kemin shall be transferred to Kemin Industries at the time at which these goods are (deemed to be) delivered to Kemin Industries, provided that the goods are approved by Kemin Industries and satisfy the Contract. The Seller guarantees that the complete and unencumbered ownership shall be transferred. If Kemin Industries does not approve the goods supplied, does not find them in order upon inspection, or invokes the right to cancel the Contract or a replacement of the goods supplied, the goods supplied shall remain the property and to the risk of the Seller. The Seller bears the risks of loss, damage or destruction of the goods and/or services up until the time that the ownership of the goods and/or services transfers to Kemin Industries. If Kemin Industries provides goods

such as raw materials, auxiliary materials, tools, drawings, specifications and software to the Seller for the observance of the obligations of the Seller, they shall remain the property of Kemin Industries. The Seller shall keep the goods concerned, separate from goods that belong to him or third parties, in a sufficiently secure place to prevent damage, theft, etc, of these goods. The Seller shall mark them as the property of Kemin Industries. No stipulation of reservation of ownership on the part of the Seller shall be accepted by Kemin Industries and such property shall be promptly returned to Kemin, FOB Kemin's plant, immediately upon request. Seller shall not delegate or subcontract any duties, switch raw material suppliers, change its location of manufacture, nor assign any rights or claims under this Contract without the prior written consent of Kemin Industries.

#### **Article 10 - Guarantees**

During the performance of the contract, the Seller may not require payment guarantees from Kemin Industries under any circumstances.

#### **Article 11 - Limitation of actions**

Every right to the Seller to make a claim and to state a defense with respect to Kemin Industries shall expire and lapse after the passage of one year after the occurrence of the claim. If a shorter period legally applies then this short period shall apply.

#### **Article 12 - Termination of the contract**

Kemin Industries may terminate its order, in whole or in part, at any time and without cause, upon written notice to Seller, whereupon Seller shall immediately suspend all work and terminate all orders and subcontracts related to the terminated work. There shall be no charge to Kemin for an order so terminated for standard goods; claims for custom goods must be submitted to Kemin in writing within 10 days after the termination notice. If the Seller does not promptly or properly observe its obligations arising from the Contract and/or these general purchasing conditions, as well as in the event of its bankruptcy, acquisition or any similar situation to the Seller's business, the Seller shall be in default without legal intervention, and Kemin Industries shall be entitled to unilaterally terminate the Contract, entirely or partially, without a default notice and without legal intervention. Likewise Kemin Industries may suspend the payment obligations and/or entirely or partially assign the performance of the Contract to third parties, without Kemin Industries being bound to pay any compensation, without prejudice to any additional rights of Kemin Industries, including the right to full compensation and reimbursement of the costs incurred. All claims that Kemin Industries has in these cases with respect to the Seller shall be immediately and completely payable. If the Seller invokes a non-imputable shortcoming, Kemin Industries shall be entitled to terminate the Contract in accordance with the provisions of this article. In case of unforeseen circumstances Kemin Industries reserves itself the right to cancel the order in case of force majeure, for example but not limited to, when a government enacts special rules or laws, strike, fire, flood, natural disaster, acts of God, calamity, transportation delays, inability to obtain fuel, power, materials or supplies, and any other causes independent of the will of Kemin Industries.

#### **Article 13 - Disputes**

In the event of a dispute between Kemin Industries and a Seller without a registered office in the United States, or without a branch in the United States, who is assisted by a lawyer/legal counsel with his/her practice/office in the United States, this Seller shall always be deemed to have chosen its address for the service of process at the practice/office of this lawyer/legal counsel. These general purchasing conditions, as well as every Contract between the Seller and Kemin Industries, shall be governed by Iowa law. Any disputes to which this Contract and/or these general purchasing conditions may give rise shall come under the exclusive jurisdiction of the courts located in Polk County, Iowa.

#### **Article 14 - Invalidity**

If one or more provisions of these general purchasing conditions are entirely or partially invalid, then the other provisions shall continue to apply in full.