

Iron Oak Sales Order Terms and Conditions

1. Quantities. The buyer(s) named herein ("Buyer") is required to purchase from the Iron Oak entity specified on the attached Order Confirmation ("Seller") the volumes of fracturing sand ("Product") specified on the attached Order Confirmation, and Buyer shall pay Seller the specified price for such specified volumes. "Ton" means two thousand (2,000) pounds.

2. Sourcing. Product may be sourced from any plant owned, leased, operated or controlled by Seller, its assignee(s), designee(s) or affiliate(s), or its or their agent(s), or any third plant meeting Buyer's Product volumes and specifications (each, a "Plant").

3. Price. Buyer shall pay Seller the price set forth on the attached Order Confirmation for the volumes of Product specified therein ("Purchase Price"). Buyer shall bear full responsibility, cost and liability for all transportation (including but not limited to arrangement and cost of transportation) of the Product beyond the applicable tender point. To the extent applicable, as determined by Seller, Buyer shall also bear the full cost for transportation of Product to the shipping point.

4. Scheduling & Deliveries. No terms or conditions contained in any purchase order, acknowledgment, invoice, bill of lading, acceptance or other preprinted form issued by Buyer shall be effective to the extent they are inconsistent with, modify or add to the terms and conditions contained herein. Buyer shall have only a TWENTY-FOUR (24) HOUR PERIOD from the time a purchase order is given to submit PURCHASE ORDER MODIFICATIONS OR CANCELLATIONS; beyond that point, CANCELATIONS WILL NOT BE ACCEPTED. Seller will use commercially reasonable efforts to attempt to accommodate Buyer's requested delivery date(s) stated in Buyer's purchase order. If, despite its commercially reasonable efforts, Seller is unable to meet Buyer's request, Seller shall notify Buyer of the reason for such inability, and Seller and Buyer shall attempt to resolve such matters. If Seller and Buyer cannot agree on the delivery date(s), then Buyer shall be obligated to accept the Product on the delivery date(s) specified by Seller, which date(s) shall reflect Seller's commercially reasonable efforts to accommodate Buyer. As used herein, "delivery date" shall mean each date that Product requested pursuant to a purchase order is actually tendered for delivery to Buyer by Seller. On each delivery date, Seller shall sell and tender, for shipment to Buyer, the amount of Product scheduled for delivery on such date during Seller's normal business operational hours. Buyer assumes all risks of taking delivery on the delivery date(s); and consistent with the foregoing, Seller is not responsible for Buyer's inability to take delivery of tendered Product due to unavailability of truck(s). Buyer bears full responsibility, cost and liability for transportation of the Product(s) beyond the applicable tender point. It is hereby understood and agreed that it is critical that Buyer take, and Buyer hereby agrees to take, delivery of Product on the delivery date(s) specified by Seller to avoid a materially adverse effect on Seller and its other customers utilizing the same facilities. If Buyer fails to take delivery of Product on a delivery date, Seller may, in Seller's sole discretion, and subject to Seller's other contractual commitments, use commercially reasonable efforts to sell such Product to another purchaser and, to the extent Seller sells such Product to another purchaser, Buyer's obligation to pay for such Product in full shall be reduced solely to the extent that the amount Seller actually receives from such other purchaser for such Product exceeds all of Seller's reasonable expenses in connection with such efforts to sell such Product; provided that in no event shall such reduction exceed the applicable Purchase Price. If Seller is unable to sell such Product, then Buyer shall pay Seller, in addition to paying the full Purchase Price for the Product, the amount of all such expenses referred to in the immediately preceding sentence and any storage, demurrage, transload or other costs or expenses Seller incurs as a result of Buyer's

failure to take timely delivery of Product on the delivery date. In addition, Buyer acknowledges and agrees that notwithstanding any references to delivery of Product herein, Seller's obligation with respect to delivery is limited to tendering Product for delivery, and such obligation shall be satisfied when Seller makes Product available for delivery in accordance herewith.

5. Weighing. The Product's weight shall be determined by Seller using the type of scale Seller uses in any particular circumstance (which type may vary), and such determination shall be conclusive.

6. Limitation on Use. Buyer is buying Product only for, and shall not use the Product except for, oil and gas stimulation operations on properties for which (and only during times when) it is in direct control of operations. Consistent with the foregoing: (i) Seller is not selling, and Buyer is not buying, Product for resale and

(ii) Buyer shall not sell, give or otherwise transfer Product to any third party unless otherwise agreed in writing by Seller.

7. Product Warranty; Seller's Disclaimer of Warranties, Representations and Covenants. WITH RESPECT TO THE PRODUCT AND THIS TRANSACTION, SELLER'S WARRANTIES, REPRESENTATIONS AND COVENANTS AS EXPRESSLY SET OUT IN THESE GENERAL TERMS AND CONDITIONS OF SALE ARE EXCLUSIVE AND IN LIEU OF ANY AND ALL OTHER WARRANTIES, REPRESENTATIONS AND COVENANTS, EXPRESS OR IMPLIED, STATUTORY, UNDER COMMON LAW OR OTHERWISE, AND SELLER DISCLAIMS ANY AND ALL OTHER WARRANTIES, REPRESENTATIONS AND COVENANTS, EXPRESS OR IMPLIED, STATUTORY, UNDER COMMON LAW OR OTHERWISE. SELLER WARRANTS ONLY THAT THE PRODUCT WILL COMPLY WITH THE SPECIFICATIONS IN ALL MATERIAL RESPECTS AT THE TIME SELLER TENDERS THE PRODUCT TO BUYER. CONSISTENT WITH THE ABOVE, AND ONLY EXCEPT TO THE EXTENT EXPRESSLY SET FORTH IN THE IMMEDIATELY PRECEDING SENTENCE, THE PRODUCT WILL BE SOLD, PURCHASED AND ACCEPTED AS IS, WHERE IS, WITH ALL FAULTS, AND WITHOUT ANY WARRANTY, REPRESENTATION OR COVENANT, EXPRESS OR IMPLIED, STATUTORY, COMMON LAW OR OTHERWISE AND, WITHOUT LIMITING THE FOREGOING, THE PRODUCT IS BEING SOLD, PURCHASED AND ACCEPTED WITHOUT ANY WARRANTIES, REPRESENTATIONS OR COVENANTS, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, THAT MAY EXIST UNDER APPLICABLE LAW NOW OR HEREAFTER IN EFFECT, RELATING TO: (i) MERCHANTABILITY; (ii) THE CONDITION, QUANTITY, QUALITY OR FITNESS FOR A PARTICULAR PURPOSE (INCLUDING, WITHOUT LIMITATION, FOR OIL AND GAS STIMULATION OPERATIONS) OR FOR ANY USE OR PURPOSE; OR (iii) CONFORMITY TO MODELS OR SAMPLES OF MATERIAL; AND ALL SUCH WARRANTIES ARE EXCLUDED AND DISCLAIMED TO THE FULLEST EXTENT PERMITTED BY LAW.

8. Buyer's Assumption of Risk of Use, and Buyer's Covenants Regarding Use of Product. Buyer acknowledges, agrees and represents that: (i) it has tested samples of the Product to the extent it deems necessary or appropriate; and (ii) it is satisfied with the Product for its use for the purpose for which it is purchasing the Product. BUYER ASSUMES ALL RISKS THAT THE PRODUCT MAY NOT FUNCTION AS BUYER DESIRES WITH REGARD TO ITS USE OF OR INTENDED USE OF THE PRODUCT FOR THE PURPOSE FOR WHICH IT IS BUYING THE PRODUCT. THE PRODUCT, AS DELIVERED OR AS APPLIED, CONTAINS RESPIRABLE CRYSTALLINE SILICA. SEE THE MANUFACTURER'S SAFETY DATA SHEET. LIMIT EXPOSURE TO RESPIRABLE CRYSTALLINE SILICA TO BELOW OCCUPATIONAL EXPOSURE LIMITES AND ANY APPLICABLE ACTION LEVELS. DO NOT BREATHE THE DUST FROM THE PRODUCT. USE THE PRODUCT SOLELY FOR THE LIMITED PURPOSE FOR WHICH IT IS BEING

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SOLD HEREUNDER. THE INHALATION OF RESPIRABLE CRYSTALLINE SILICA CONTAINED IN THE PRODUCT, OR CREATED BY THE USE OF THE PRODUCT, MAY CAUSE SEVERE IRREVERSIBLE LUNG DAMAGE AND PREMATURE DEATH, AND SOME MEDICAL REPORTS INDICATE SUCH INHALATION MAY CAUSE LUNG CANCER, DEBILITATING ARTHRITIS, AND SKIN AND EYE IRRITATION, AMONG OTHER THINGS. CHRONIC INHALATION OF RESPIRABLE CRYSTALLINE SILICA MAY CAUSE SILICOSIS, A FIBROSIS OR SCARRING OF THE LUNGS. SILICOSIS MAY BE PROGRESSIVE AND MAY LEAD TO DISABILITY AND DEATH. ADVERSE HEALTH EFFECTS SUCH AS LUNG DISEASE, SILICOSIS, CANCER, AUTOIMMUNE DISEASE, TUBERCULOSIS AND NEPHROTOXICITY CAN OCCUR WITH EXPOSURE. THERE ARE GENERALLY NO SYMPTOMS OR SIGNS OF EXPOSURE TO QUARTZ. CHRONIC SILICOSIS OFTEN HAS NO SYMPTOMS. ACUTE SILICOSIS CAN OCCUR WITH EXPOSURES TO VERY HIGH CONCENTRATIONS OF RESPIRABLE QUARTZ OVER A VERY SHORT TIME PERIOD SOMETIMES AS SHORT AS A FEW MONTHS. THE SYMPTOMS OF ACUTE SILICOSIS INCLUDE PROGRESSIVE SHORTNESS OF BREATH, FEVER, COUGH, AND WEIGHT LOSS. ACUTE SILICOSIS IS FATAL. PRODUCTS CONTAINING CRYSTALLINE SILICA SHOULD NOT BE USED WITHOUT THE ACCOMPANYING USE OF NIOSH/MSHA CERTIFIED RESPIRATORY PROTECTIVE EQUIPMENT. Buyer acknowledges that it is well informed and familiar with the risks posed by exposure to products containing silica, including the Product, and with employee and environmental health and safety issues and safeguards related to such risks. Buyer shall establish and maintain a procedure by which it: (i) remains well informed and familiar on an on-going current basis of all risks and issues associated with silica and with the use of Product, including risks and issues discovered or arising after the date hereof, and risks and issues existing as of the date hereof but as to which additional information becomes available after the date hereof; (ii) effectively communicates those risks and associated warnings to all those who may be exposed to the Product and ensures that they comply with all safeguards in that regard; (iii) distributes the manufacturer's Safety Data Sheet to all persons who may be exposed to the Product; (iv) provides those who may come into contact with the Product with all clothing, equipment and working environments necessary or appropriate for their protection; and (v) complies with all laws, rules and regulations, including those regarding the use, storage, application and disposal of Product.

9. **Buyer Acknowledgment.** Buyer acknowledges and agrees that it understands as follows: (a) the Product may contain respirable crystalline silica dust, or respirable crystalline silica dust may be created during the use of the Product; (b) breathing crystalline dust, including, without limitation, respirable crystalline silica dust, is hazardous and can cause severe and permanent lung damage and that breathing the dust can cause silicosis, a lung disease that can cause serious breathing difficulties and death; (c) breathing crystalline silica dust may cause lung cancer and other diseases; (d) the Product shall not be used, promoted or sold for sandblasting; and (e) Buyer must follow OSHA and other applicable health standards (such as recommendations made by the National Institute for Occupational Safety and Health) for crystalline silica (quartz) dust. See the Safety Data Sheet, a copy of which has been provided to Buyer, or which Seller may deliver or make available to Buyer from time to time, for more complete information on hazards and precautions. Additionally, the OSHA website contains more information on crystalline silica; the address is www.osha.gov. Buyer shall warn, protect and train its employees, customers, agents and contractors of the hazards of improperly using silica sand. Because the Product may be received, stored, resold, handled, used, packaged or otherwise employed by Buyer's employees, customers, agents and/or contractors, Buyer acknowledges that Seller does not have the responsibility or ability to control such circumstances or the ability in all cases to communicate

warnings and other information to Buyer's employees, agents, customers and contractors. Buyer agrees to timely warn and notify its employees, agents, contractors and customers by providing them with current Buyer and Seller Safety Data Sheets and other information issued by Buyer or Seller regarding warnings, product hazards and precautions to be followed in using, handling, storing, disposing and selling of sand. Buyer agrees to confirm upon written request from Seller that Buyer is complying with its obligations hereunder. Buyer agrees to comply with all of the terms hereof and all applicable foreign, federal, state and local laws, regulations, orders and ordinances regarding sand, exposure to crystalline silica (quartz), or Buyer's operations relating to sand, including, but not limited to, the OSHA Hazard Communications Standard (29 CFR 1910.1200 et seq.), and those relating to environmental exposure, disposal, spills and cleanup, health and safety, storage, packaging, labeling, transportation and purchase of sand.

10. **Indemnification.** Buyer agrees to indemnify and hold harmless Seller, its affiliates, and its and their respective officers, directors, shareholders, members, managers, partners, employees, representatives, agents, affiliates, successors and assigns from and against any and all claims, liabilities, losses or damages, including, without limitation, any attorneys' fees, as a result of any claim, suit, action, administrative proceeding, demand, judgment or settlement arising out of: (a) Buyer's material violation of any of the provisions hereof; (b) Buyer's use of or the resale of Product, other than to the extent arising solely out of Seller's breach of warranty contained herein; (c) Seller's reliance on any tax exemption certificate provided to Seller by Buyer; or (d) any claim, suit, action, administrative proceeding, demand or judgment asserted by any employee or former employee, agent or former agent, customer or former customer or contractor or former contractor of Buyer against Seller or any other person or entity indemnified pursuant hereto, including, but not limited to, any claim, suit or action by an employee or former employee of Buyer, or an employee or former employee of a customer to whom Buyer resold Product, alleging liability against Seller or any other person or entity indemnified pursuant hereto for "failure to warn", "failure to adequately warn", negligence or intentional conduct (including, but not limited to, "conspiracy") or any allegation concerning any claims, liabilities, losses or damages, that arise from, are connected with, or are otherwise related to any injury or death (or any claim of injury or death) in any way associated with exposure (through inhalation or otherwise) to crystalline silica.

11. **No Returns.** All sales of Product to Buyer are made on a one-way basis and Buyer has no right to return Product purchased to Seller.

12. **Title and Risk of Loss.** Title to and risk of loss of the Product shall pass to Buyer upon loading the Product into truck(s) at the applicable tender point.

13. **Specifications; Safety Data Sheet(s).** Buyer acknowledges that it has reviewed and has accepted in all respects the specifications for Product (the "Specifications") previously provided by Seller. Product shall be deemed to have met the Specifications in all respects once Buyer takes the Product at the tender point, irrespective of the condition in which such Product is received by Buyer. Buyer acknowledges that it has received and reviewed the Safety Data Sheet(s) with respect to the Product previously provided to Buyer by Seller or made available to Buyer by Seller.

14. **Invoicing; Payments.** Seller shall invoice Buyer for the Purchase Price of the Product, including any fuel surcharge and shipping/delivery costs (if applicable), itemized per terms of sale, in each invoice. Seller may deliver the invoice by hard copy or electronically. Buyer shall

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participate in any electronic invoicing program instituted by Seller and shall take all actions reasonably requested by Seller in furtherance of such participation. Buyer shall pay in full each invoice, within thirty (30) days after the date of such invoice, to the payee(s) specified in such invoice, unless otherwise agreed in writing to by Seller. In the event of a dispute as to any amount alleged to be owed to Seller, Buyer shall pay in full the invoice and seek a refund or credit on a subsequent purchase order. Buyer shall make all payments hereunder by electronic funds transfer (either via Automated Clearing House (ACH) or wire transfer). Buyer will cooperate with Seller to promptly complete all documentation and other arrangements necessary to make all such electronic funds transfers.

15. **Taxes.** Buyer shall pay, in addition to the Purchase Price of the Product and all other invoiced amounts, the amount of any tax (other than income tax imposed on Seller), duty or other governmental charges now or hereafter (a) imposed on the Product or its source or (b) imposed on, or required to be paid or collected by, Seller by reason of the manufacture, transportation, sale or use of such Product unless a valid exemption certificate is provided by Buyer to Seller.

16. **Late Charges.** Interest shall accrue on all invoiced amounts that are more than fifteen (15) days delinquent at the lesser of: (a) a rate of one and one-half percent (1.5%) per month on the invoiced amount; and (b) the maximum rate permitted by law.

17. **Force Majeure.** Seller shall not be liable for its failure or delay to perform any obligation to Buyer when such failure is due to an event of Force Majeure. Force Majeure events shall include, but not be limited to, events of nature (including, without limitation, weather and flooding), labor disputes, industrial disputes or disturbances, civil disturbances, interruptions by government action or court order, valid orders or changes in regulations of any regulatory body having proper jurisdiction, changes in law applicable to Seller or its business, acts of a public enemy, rail embargos, wars, riots, insurrections, inability to secure materials (including, without limitation, inability to secure materials by reason of allocations promulgated by authorized governmental agencies), epidemics, fires, explosions,

terrorist acts, breakage or accident to machinery and any other cause, whether of the kind herein enumerated or otherwise, which are (i) not within the reasonable control of Seller, (ii) not able to be overcome or prevented by Seller through Seller's reasonable due diligence and (iii) not due to Seller's fault or negligence. Force Majeure events, as to Seller or any of its affiliates, shall include, without limitation, any action or inaction by the lessor under Seller's or any of its affiliates' lease(s) with respect to any Plant that breaches the lease to the extent that such action or inaction materially interferes with Seller's or any of its affiliates' ability to produce or sell Product from any Plant, unless such action or inaction is caused by a breach by Seller or such affiliate of (a) the provisions of such lease, (b) any agreement to which Seller is a party or (c) applicable law. If an event of Force Majeure affects Seller's ability to meet obligations to provide Product to Buyer and contractual obligations to provide Product to other purchasers of Product, Seller may allocate available supplies of Product based on the contracted amount as a percentage of total available supply.

18. **Buyer's Failure to Perform.** If Buyer fails to pay any portion of any invoiced amount when due, in addition to all other remedies, Seller may suspend any future tenders and deliveries (if any) until Buyer complies with such obligations, and Seller shall be free to sell Product otherwise allocated to Buyer to any other party on any terms in Seller's

sole and absolute discretion and such reallocation shall in no event be deemed to be a breach by Seller of any of its obligations to Buyer.

19. **Further Assurances.** Without further consideration, Buyer shall take such further actions and execute such further documents as may be reasonably requested by Seller in order to effectuate the purpose and intent of these General Terms and Conditions of Sale or any other agreement between Buyer and Seller.

20. **Notices.** All notices given hereunder shall be in writing and shall be addressed to the party notified at the address set forth herein (or, with respect to notice to Buyer, at the address indicated in Seller's records). All notices shall be given by: (a) personal delivery; (b) facsimile or other electronic communication (including e-mail), provided that the transmitting device used by the party provides documentary confirmation of receipt; (c) first class mail, postage prepaid; or (d) a nationally recognized overnight courier service, delivery charges prepaid. Each notice shall be deemed given: (i) when delivered, if delivered by personal delivery; (ii) when confirmation of receipt is given, if delivered by facsimile or other electronic means during business hours or, if after business hours, then on the succeeding business day; (iii) if sent by first-class mail, the fifth business day after deposit in the mail; and (iv) if sent by overnight courier and deposited prior to the deadline for next business day delivery, on the business day after deposit or, if deposited after such deadline, then on the second business day after deposit.

21. **Governing Law and Venue.** The Order Confirmation and these General Terms and Conditions of Sale shall be governed by and interpreted in accordance with the laws of the state of Texas without giving effect to any choice or conflict of law provision or rule (whether of the State of Texas or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Texas. The sole and exclusive venue for the resolution of all disputes hereunder shall be in a state or federal court of competent jurisdiction in Harris County, Texas; provided that in the event that a dispute arises hereunder, the parties will first meet and attempt to resolve the dispute for a period up to thirty (30) days, and if such dispute cannot be resolved within such thirty (30) days, the parties may then proceed to litigation in accordance herewith.

22. **Limitation on Liability.** IN NO EVENT SHALL SELLER OR ANY OF ITS AFFILIATES BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, EXEMPLARY, SPECIAL, PUNITIVE OR INDIRECT DAMAGES OR FOR COMPENSATION, REIMBURSEMENT OR DAMAGES ON ACCOUNT OF THE LOSS OF PROSPECTIVE PROFITS ON ANTICIPATED SALES OR ON ACCOUNT OF EXPENDITURES, INVESTMENT LOSSES OR COMMITMENTS IN CONNECTION WITH THE BUSINESS OR GOODWILL OF BUYER OR OTHERWISE. NOTWITHSTANDING ANYTHING CONTAINED HEREIN, SELLER'S LIABILITY SHALL NEVER EXCEED THE PURCHASE PRICE PAID TO SELLER BY BUYER FOR PRODUCT UNDER THE CORRESPONDING ORDER CONFIRMATION PROVIDED BY SELLER UNDER WHICH THE CLAIM AROSE.

23. **Confidentiality and Intellectual Property Rights.** Buyer shall keep confidential Seller's proprietary and/or confidential information, including, but not limited to, Seller's marketing information, samples, volumes, prices and all commercial terms contemplated hereby and by any agreement(s) that exists or might exist between Seller and Buyer, throughout the term of any agreement between Buyer and Seller and for a period of five (5) years following the later of the date of the attached Order Confirmation and the expiration of any such term or termination of any such agreement. Buyer shall not disclose any such information to any other person except as permitted hereby, or use such information itself

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for any purpose other than performing its obligations hereunder in accordance herewith. Buyer shall not advertise or publish the fact that Seller has contracted or engaged in this transaction with Buyer, nor shall any information relating to the transactions contemplated hereby or to any agreement between Buyer and Seller be disclosed without Seller's express, prior written consent. Buyer may disclose secret or confidential information without the express written consent of Seller solely to the extent that such confidential information is required to be disclosed by any government agency or entity having jurisdiction over Buyer, or applicable laws and regulations of the government, for Buyer to be in compliance with any applicable laws or regulations, or because of any order of any court binding upon Buyer. For the avoidance of doubt, Seller is permitted to disclose these General Terms and Conditions of Sale, the transactions contemplated hereby, any agreement between Seller and Buyer and any purchase orders, notices or similar documentation delivered by Buyer pursuant hereto or thereto to its lenders and investors or prospective lenders or investors as Seller may deem necessary for Seller to obtain financing and capital and to any of its future lenders and investors as reasonably necessary, including, without limitation, for any refinancing or recapitalization. In addition, neither Buyer nor Seller shall be prohibited from disclosing these General Terms and Conditions of Sale, the transactions contemplated hereby or by any agreement between Buyer and Seller and any such other agreements, purchase orders, notices and similar documentation to their auditors and financial and legal advisors who have an obligation to maintain their confidentiality.

Seller owns all rights to all confidential information and all proprietary intellectual property embodied in the Product, including, but not limited to, any Improvements (defined below), and does not transfer any ownership rights in such intellectual property to Buyer. Buyer agrees it shall not service, repair, modify, alter, replace, reverse engineer, analyze or otherwise attempt to derive the techniques, compounds, formula compositions, processes, algorithms, know-how or other information relating to any Product sold by Seller to Buyer. "Improvements" means any modification of any of Seller's confidential information or intellectual property. Any Improvements developed by Buyer shall be wholly owned by Seller and Buyer shall assign, and hereby assigns, its entire right, title and interest in any such Improvements to Seller. Buyer shall provide any assistance necessary and execute any document required to assign or confirm such assignment to any Improvements to Seller, without delay and at no additional cost to Seller. Any disclosure of such confidential information hereunder shall not be construed as an assignment, grant, option, license or other transfer of any such right, title or interest whatsoever from Seller to Buyer.

24. Miscellaneous.

(a) Entire Agreement; Amendment and Waiver; Successors and Assigns. These General Terms and Conditions of Sale (together with any written and signed agreement(s) between Buyer and Seller, if applicable) contain the entire understanding of the parties and supersede all prior agreements and understandings, written or oral, between the parties relating to the subject matter hereof. Buyer may not assign its rights or obligations hereunder without the Seller's written consent. Seller may assign its rights and/or obligations hereunder without Buyer's consent. Without limiting the generality of the foregoing, Buyer specifically acknowledges that Seller's right to assign its rights and/or obligations hereunder without Buyer's consent includes, and is not limited to, assigning or pledging any invoice related to the General Terms and Conditions of Sale to Seller's lender(s) as collateral, and that from time to time such assignment or pledge will require, and Buyer agrees to execute, documents required by Seller's lender(s) to effect such an assignment or

pledge and that such documents may, among other things, require Buyer to provide notices and opportunities to cure to Seller's lender(s). These General Terms and Conditions of Sale shall be binding upon and inure to the benefit of the respective successors and permitted assigns of Buyer and Seller. No amendment or modification hereto shall be effective unless in writing and signed by an authorized officer of each of Buyer and Seller. No waiver by a party of any breach by the other party of any provision hereof shall be deemed a waiver of any preceding or succeeding breach of the same or any other provision hereof. No such waiver shall be effective unless in writing and then only to the extent expressly set forth in writing.

(b) Remedies. Unless expressly herein provided otherwise: (i) no right or remedy conferred hereby shall be exclusive of any other right or remedy now or hereafter available at law or in equity and (ii) no provision hereof regarding remedies shall be construed as a limitation on the nature of the remedies to which a party may be entitled with respect to a breach hereof.

(c) Construction. Unless otherwise expressly provided, references to sections refer to sections of these General Terms and Conditions of Sale, and references to subsections refer to subsections of these General Terms and Conditions of Sale within the section where the reference appears. Section headings are for convenience of reference only and shall not in any way affect the meaning or interpretation hereof. These General Terms and Conditions of Sale shall be deemed to have been drafted by both Seller and Buyer, and therefore any rule regarding construing ambiguities against the party drafting a contract shall be inapplicable.

(d) Severability. If any provision hereof is held to be invalid or unenforceable in whole or in part in any relevant jurisdiction, such provision, only to the extent invalid or unenforceable, shall be severable from these General Terms and Conditions of Sale, and the other provisions hereof (along with the provision at issue, to the extent that it would be valid and enforceable, and such provision shall be deemed to be so reformed) shall remain in full force and effect in such jurisdiction and the remaining provisions hereof shall be liberally construed to carry out the purpose and intent hereof. The invalidity or unenforceability, in whole or in part, of any provision hereof in any relevant jurisdiction shall not affect the validity or enforceability of such provision in any other jurisdiction, nor shall the invalidity or unenforceability of any provision hereof with respect to any person or entity affect the validity or enforceability of such provision with respect to any other person or entity.

(e) Attorneys' Fees. In the event that Seller seeks legal recourse for any failure by Buyer to make payment or any other breach by Buyer of these General Terms and Conditions of Sale that results in litigation, Seller shall be entitled to an award of reasonable attorneys' fees and costs incurred by Seller in such dispute.

(f) No Third-Party Beneficiaries. These General Terms and Conditions of Sale shall be construed to benefit the parties and their respective successors and permitted assigns only and shall not be construed to create third party beneficiary rights in any other party other than indemnitees pursuant to Section 10 above (which indemnitees shall be able to enforce such indemnity as a third-party beneficiary hereof).

(g) No Partnership. Nothing herein shall be deemed to: (a) constitute either Buyer or Seller the partner, co-venturer, agent, or legal representative of the other; or (b) create any fiduciary relationship between Buyer and Seller. Such parties do not intend to create, and nothing herein shall be construed to create, any mining, commercial or other partnership or joint venture. Neither such party shall act for or

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assume any obligation or responsibility on behalf of the other party unless and as otherwise expressly provided herein.

(h) Currency. "Dollar" and "\$" as used herein means and refers to the lawful currency of the United States of America.

(i) Conflicting Provisions. If Buyer and Seller are party to a purchase agreement or other written agreement currently in effect with respect to the purchase of Product (a "Binding Agreement"), then to the extent that any provision in such Binding Agreement conflicts with any provision in these General Terms and Conditions of Sale, the provision in such Binding Agreement shall govern and control.

(j) Electronic Signature. Each party agrees that an electronic signature of a party included in these General Terms and Conditions of Sale, whether digital or encrypted, is intended to authenticate this writing and to have the same force and effect as a manual signature. Electronic signature means any electronic sound, symbol, or process attached to or logically associated with a record and executed and adopted by a party with the intent to sign such record, including facsimile or email electronic signatures.

AGREEING to be legally bound:

Buyer Name (Company)

By: _____

Printed Name: _____

Title: _____

Date: _____