



December 29, 2023

Quote: 00019530

City of Corona
Utilities Department
755 Public Safety Way
Corona, CA 92878

Dear Mr. Amon:

Thank you for your interest in Calgon Carbon Corporation to complete your upcoming GAC Exchange. We are pleased to offer our services to assist you in this endeavor.

The price for performing the GAC Exchange is below, and is subject to Calgon Carbon Corporation's standard terms and conditions, a copy of which is attached. Calgon Carbon Corporation is proposing to perform the GAC Exchange using Vacuum/Dry Fill techniques.

Product/Packaging: FILTRASORB 400 - BULK
Price: \$141,600
Quantity: 60,000 LBS
Tax: \$9,870

Total Price: \$151,470

Incoterms: 11 - Ship Pt Prepaid Delivered

Please note for freight:

Bulk trailers are allotted on-site time for 4-hours - additional time that is required on-site may be applicable to the below detention rates:

Excess detention is \$101.40 per hour, per truck

Layover charge if required of \$259.00 per truck

Standard lead time is 10 business days after receipt of a purchase order. Quote is valid until March 29, 2024. Shipment must take place within 90 days after receipt of a purchase order. Pricing beyond the terms stated above is subject to change. Subject to Calgon Carbon Corporation Terms and Conditions. Any changes made to this order may be subject to the assessment of change fees. Specifically, changes made within a 3 business day window prior to the scheduled delivery date will be subject to additional fees based on costs incurred by Calgon Carbon Corporation. These costs may include, but are not limited to, handling fees, transportation fees, restocking fees, and any other direct costs associated with changes to the order. The freight and product quoted above is based on the current rates. If freight costs and/or product costs increase by more than 5% at time of shipment, pricing is subject to change.

If you would like to proceed with this offer, please email or fax a purchase order or credit card information and tax-exempt form, if applicable, to customer relations at ccc-customerrelations@kuraray.com or 412-787-6323. **Please include your shipping address, delivery date, and reference the above quotation number on your purchase order.** Please contact me with any additional questions.

Sincerely,

Calgon Carbon Corporation

Benjamin Goecke
Senior Technical Sales Representative
Calgon Carbon Corporation, a [Kuraray](#) Company
ben.goecke@kuraray.com
+1 4252860754

Additional Information

Proposal Validity and Scope

Quote is valid until 3/29/24. Payment terms are Net30 from date of invoice. Unless otherwise noted in Calgon Carbon's Sales Proposal or Customer's Purchase Order, the services to be provided by Calgon Carbon and the requirements of the customer are defined in the following sections. Additional service costs will be invoiced for wait time, poor equipment access, difficult to remove or install media, excessive trailer drain times, or other variances from the standard scope of supply.

Rates above contain a fuel surcharge (FSC) calculated for a diesel price of \$3.00 per gallon. An additional Calgon Carbon fuel charge of \$200 base amount + an additional mileage based adder will be applied at time of shipment when diesel fuel prices exceed \$3.00 per gallon.

Standard Scope of Supply

Our quoted service price includes removal of the spent media from the customer vessel, placement of spent media in either bulk bags or disposal container, inspection of vessel interior performed by viewing from outside man-way opening, and re-bedding with replacement media. Service is performed during normal operating hours of Monday to Friday. Weekend and holiday work can be performed at special rates. Bulk exchange pricing assumes adequate access to the vessel, customer supplies air and water for the exchanges, and vessel is equipped with media discharge and media fill lines terminated with male Camlock-type fittings. Two (2) hours are allotted for water to drain from trailers. Vacuum vessel change-out pricing assumes vertical cylindrical vessels with top entry that can be filled pneumatically by pulling a vacuum on the vessel or by drop loading from super sacks directly over the top man-way. To avoid additional invoiced costs, conditions defined in the Site Criteria, Additional Criteria for Vacuum Service, and Spent Media Disposal sections below must also be met.

Site Criteria

1. Compressed air (100 cfm min.), water (60 psig and 150 gpm min.), drainage, 110V, 20 A power, lighting, and restrooms readily available.
2. Suitable access and staging areas for materials and service equipment within 100 feet of equipment to be serviced.
3. Spent media must be free flowing and of a nature (e.g. not gummy or attrited) that does not blind water separation nozzles or screens.
4. Customer is to open all man ways for inspections, vacuum service and dry fills. Failure to allow Calgon Carbon to internally inspect the vessel for damage to under-drains that might result in a carbon release and for a spent carbon heel in the vessel that may cause premature contaminate break-through will make these failures solely the responsibility of the customer.
5. At sites where spent media is classified as a RCRA hazardous waste, customer is responsible for the disposal of contaminated PPE, equipment (e.g., filters) and decontamination rinse water.
6. Inclement weather provisions:
 - For extreme weather conditions (temp < 30 F or > 90 F; wind > 15 mph; heavy rain or snow, etc.), work may be postponed for safety reasons. However, in emergency situations, exceptional provisions (e.g. portable heaters, tarps, etc.) may be used to complete the work. Costs of such provisions are the responsibility of the customer.
 - Impassable roadways at a site will be considered a safety hazard and will result in delay or cancellation charges.

As a reminder for vacuum service, the following conditions should be met:

Vessel(s) to be exchanged are drained, depressurized, and top man way opened before the agreed upon project start time.; Spent media is not be excessively dusty to prevent additional time and material (e.g., fouled dust filters) charges.; Customer is to open all man ways for inspections, vacuum service and dry fills. Failure to allow Calgon Carbon to internally inspect the vessel for damage to under-drains that might result in a carbon release and for a spent carbon heel in the vessel that may cause premature contaminate break-through will make these failures solely the responsibility of the customer. If repairs to a vessel are required, labor and charges for additional materials and equipment will be invoiced as cost over-runs. Additional cost over-runs will be invoiced for wait time, poor equipment access, difficult to remove or install media, excessive trailer drain times, or other variances from the standard scope of supply.

Cost Over-Runs

Pricing is based on indicated quantities of media. If removed or replaced quantity is greater, the invoice will reflect actual quantity and additional costs for transportation, field service crew and material. If repairs to a vessel are required, labor and charges for additional materials and equipment will be invoiced as cost over-runs. Additional cost over-runs will be invoiced for wait time, poor equipment access, difficult to remove or install media, excessive trailer drain times, or other variances from the standard scope of supply. If media is solidified and customer requests Calgon Carbon to remove media, Calgon Carbon will not assume responsibility for any damage to vessel interior.

Carbon Acceptance Fee: This does not apply for any impregnated activated carbons.

We are required by our operating permits to sample and analyze all spent carbons prior to their initial shipment to ensure a safe and environmentally friendly reactivation process. Each approval is then required to be revalidated through submittal of a new profile and sample for testing at a frequency of not less than once every five years. The standard fees for initial approval and project revalidation are as follows:

Non-Hazardous Reactivation Testing Fee (Vapor Phase) \$800.00
Non-Hazardous Reactivation Testing Fee (Liquid Phase) \$1,000.00
RCRA Hazardous Reactivation Testing Fee (Vapor Phase) \$1,000.00
RCRA Hazardous Reactivation Testing Fee (Liquid Phase) \$1,200.00

Additional analyses may also be required for acceptance of spent carbons from certain applications (e.g., wood treating applications, DBCP or PCB treatment, TCLP analysis, metals testing, etc). Contact your Technical Sales Representative or the Carbon Acceptance Department for current pricing. Carbon Acceptance testing will take approximately 3-4 weeks once the sample and paperwork are received by Calgon Carbon Corporation.

SPENT CARBON HANDLING: The Fees listed above include handling of all spent carbon generated in the treatment application provided: 1) the spent carbon satisfies all spent carbon acceptance criteria established by Calgon Carbon; 2) the spent carbon is classified non-hazardous as defined under the Federal Resource Conservation and Recovery Act (RCRA). If it is subsequently determined that the spent carbon generated is a Hazardous Waste as defined by RCRA, then the return of the spent carbon will be subject to a RCRA Spent Carbon Reactivation Fee at a minimum of twenty-five cents (\$.25) for each pound of spent carbon returned on a dry weight basis. The Fee will be determined at the time an order is placed for exchange of Activated Carbon or at the time a return of spent carbon is scheduled if purchase of replacement Activated Carbon is not required.

Transportation of Hazardous Media

If spent media is classified as hazardous, transportation of spent media is by a hazardous carrier. Customer to supply and prepare all required manifests. Wet, dripping, or loading super sacks of hazardous waste will not be acceptable for removal from site. We suggest that these items be placed under roof or tarp so that extra freight charges for rejected loads might be avoided. Please remember that as many as thirty (30) days may be needed to arrange hazardous transportation.

Questions

Further information may be obtained from your sales person, at our website www.calgoncarbon.com, or by calling 1-800-4-CARBON.

Terms and Conditions for the Sale of Carbon and Media

1) DEFINITIONS:

- (a) Seller: Calgon Carbon Corporation or its applicable subsidiary or affiliate
- (b) Buyer: The buyer named in the Documentation
- (c) Documentation: The proposal, confirmation, acknowledgement or other contract, as applicable, for the sale of the Products to which these Terms and Conditions are attached
- (d) Goods:: Any carbon cloth, carbon, resin, diatomaceous earth, and/or perlites sold pursuant to the terms of the Documentation
- (e) Products: The Goods and services, collectively, described in the Documentation
- (f) Agreement: The Documentation, these Terms and Conditions and any attachments referenced in the Documentation

2) GENERAL: Seller hereby offers for sale to Buyer the Products on the express condition that Buyer agrees to accept and be bound by the terms and conditions set forth herein. To the extent of a conflict between these Terms and Conditions and the express terms set forth in the Documentation, the terms set forth in the Documentation shall control. Any provisions

contained in any document issued by Buyer are expressly rejected and if the terms and conditions set forth herein differ from the terms in any document issued by Buyer, this document shall be construed as a counter offer and shall not be effective as an acceptance of Buyer's document. In ordering and delivery of the Products, the parties may employ their standard forms; provided, however, that nothing in those forms shall be construed to modify or amend the terms of this Agreement. In the event of a conflict between this Agreement and either party's standard forms, this Agreement shall govern.

3) Price and Payment: The price shall be as stated in the Documentation.

Unless otherwise stated in the Documentation: (a) The price is exclusive of any taxes, tariff, and duties of any kind which either party may be required to pay with respect to the sale of goods described in the Documentation, and Buyer shall be responsible for the payment of all taxes, tariffs and duties related hereto, except for income taxes imposed on Seller; (b) Sales tax will be added to the price based upon the Product destination unless tax exemption or direct pay documentation is provided; (c) Products will be billed for at the time of delivery; and (d) Payment terms shall be net thirty (30) days, or net forty-five (45) days if paid by Electronic Funds Transfer (EFT). A late payment fee of 1.25% per month, or the highest lawful rate, whichever is less, will apply to all amounts past due, and will be prorated per day.

Retainage may only be applied on the final invoice. Buyer agrees that Seller, at its discretion, may accelerate and make due and payable all remaining payments if Buyer shall fail to perform any of its obligations hereunder or under the Documentation, including without limitation Buyer's failure to pay any amount when due, subject to any applicable cure periods provided for herein.

4) PRICING CONDITIONS:

(a) Unless otherwise indicated within the Documentation, all pricing quoted in connection with the Documentation is valid for purchase for a sixty (60) day period beginning with the date of the Documentation.

(b) If this Agreement shall continue into the next calendar year, the fees payable pursuant hereto will be adjusted on January 1st of such calendar year as outlined in the Documentation; provided that if the Documentation is silent, the mechanism set forth in Section 4(c) below will apply.

(c) If the Documentation is silent regarding the mechanism for adjustment of fees, the fees will be adjusted on January 1st of such calendar year by the annual percentage change in the combined average of two Producer Price Indices, as published by the United States Department of Labor: (i) Producer Price Index of other Petroleum and Coal Products Manufacturing, and (ii) Producer Price Index of Basic Organic Chemicals. The percent adjustment shall be calculated by taking the percent difference for each index during the twelve month period from January 1st through December 31st of the last completed calendar year as compared to the twelve month period from January 1st through December 31st of the calendar year immediately preceding the last completed calendar year. These two percentages will then be averaged for calculating the final percent increase to which all Goods will be subject. If the calculation would result in a negative adjustment, no changes shall be made for such year.

5) SALE AND DELIVERY: Sale terms and pricing, unless otherwise specified in the Documentation, are F.O.B. Seller's point of shipment (Incoterms® 2020). If freight is to be prepaid by Seller and added to the amount due, Seller shall add up to a thirty-five percent (35%) surcharge to the freight charges. Seller will have the right, at its election, to make partial shipments of the Products and to invoice each shipment separately. Seller reserves the right to stop delivery of any Product in transit and to withhold shipments in whole or in part if Buyer fails to make any payment to Seller when due or otherwise fails to perform its obligations hereunder or under any other outstanding payment obligations of Buyer to Seller, whether related to the Documentation or otherwise.

6) TITLE AND RISK OF LOSS: Notwithstanding the trade terms indicated above and subject to Seller's right to stop delivery of any Goods in transit pursuant to Section 5 above, title to and risk of loss of the Goods will pass to Buyer upon delivery of the Goods by Seller to the carrier at Seller's point of shipment. Notwithstanding the foregoing or the provisions of the Uniform Commercial Code or Incoterms® 2020,

if Buyer is located outside of the United States of America, title to the Goods, and all accessions to or products of the Goods, shall remain with Seller until the later of (a) payment in full of the purchase price and of other amounts owing by Buyer and (b) delivery to Buyer.

7) AVAILABILITY: Shipment dates (and delivery and installation dates, if included in the scope of work) are not guaranteed, and Seller will not be liable for any loss or damage resulting from any delay in delivery or failure to deliver which is due to any cause beyond Seller's reasonable control. In the event of a delay due to any cause beyond Seller's reasonable control, Seller reserves the right to reschedule the shipment within a reasonable period of time, and Buyer will not be entitled to refuse delivery or otherwise be relieved of any obligations as the result of such delay. If any delivery is delayed for more than thirty (30) days beyond the originally scheduled delivery date and such delay is caused by Buyer, Buyer will be subject to storage charges from the scheduled shipment date of two percent (2%) of the sale price per month; and such storage charge shall be due monthly on the first day of each month. Storage by Seller shall be at Buyer's risk and expense.

8) SERVICES:

(a) All orders which include services (including installation, supervision, startup, training, testing, etc.) as stated in the Documentation will require the completion of the Pre-Visit Checklist and Service Request Form prior to scheduling the visit. If there are delays, cancellations, or failures by Buyer to meet service personnel at designated times, then fees will be assessed to the customer at Seller's then-applicable per hour rate for each hour of delay for each person. For domestic or international travel, additional fees will apply.

(b) Buyer shall make the premises, where services are to be performed (the "Premises"), available to Seller at all reasonable times as Seller may request, such that Seller shall be able to perform the services in a timely manner. Buyer shall bear all risk and liability associated with its inability to make the Premises available to Seller to perform the services. Prior to the commencement of services, Buyer shall ensure that the Premises are in good repair and in safe condition, and shall notify Seller of any dangerous, unsafe or hazardous conditions associated with the Premises, such that Seller can take the appropriate safeguards. Prior to the commencement of any work, Buyer shall notify Seller of any special workplace requirements, safety standards, operating procedures or other conditions imposed on persons performing work at the Premises.

(c) Any spent activated carbon covered by this Agreement will be subjected to reactivation acceptance testing by Seller as described in Seller's Guidelines for Return for Reactivation of Granular Activated Carbon, which Seller may update from time to time in its sole discretion. Buyer will provide any information required by Seller relative to evaluating carbon acceptance.

Seller reserves the right to reject any and all activated carbon if, in its judgment, it is unsuitable for reactivation. Further, Seller will periodically retest the spent activated carbon to assure it remains acceptable for reactivation and that it does not contain constituents that were not in the carbon acceptance sample and/or Adsorbate Profile Document. Seller reserves the right to apply a surcharge for reactivation of spent carbon with quality that creates excessive corrosion, slagging, exothermic reactions, or other operational problems including lower furnace operating rates. If the spent activated carbon becomes unacceptable for reactivation, disposal of the carbon will be the responsibility of Buyer. Seller reserves the right to reactivate the spent carbon at any of its reactivation facilities where carbon acceptance exists.

9) PERMITS, LICENSES AND FEES: Buyer shall be responsible, at its sole expense, for all environmental permits, applications, regulatory approvals, and other permits or licenses that may be required for installation and/or operation of the Products.

10) Termination: Seller may cancel this Agreement if any of the following occurs: (a) Buyer becomes insolvent; (b) Buyer ceases to conduct its operations in the normal course of business; (c) Buyer is unable to meet its obligations as they mature, or admit in writing such inability or fails to provide adequate assurances of its ability to perform its obligations hereunder; (d) Buyer files a voluntary petition in bankruptcy; (e) Buyer suffers the filing of an involuntary petition in bankruptcy and the same is not dismissed within thirty (30) days after filing; (f) a receiver, custodian or trustee is appointed for Buyer or for a substantial part of its property; (g) Buyer fails to make payment on the terms and within the time specified in this Agreement, or breaches any other obligations under this Agreement; or (h) Buyer executes an assignment for the benefit of its creditors. In the event of such cancellation, Seller shall have all rights and remedies set forth in the Uniform Commercial Code of any applicable jurisdiction and all other remedies available at law or in equity. Sections 2, 10, 11, 12, 14, 15, 16, 18, 19 and 20 shall survive termination or expiration of this Agreement.

11) LIMITED WARRANTIES:

(a) Unless otherwise specifically provided for in the Documentation, Seller warrants that all Products provided under this Agreement shall, at the time of delivery, conform to Seller's then-applicable specifications for such Products. Seller shall correct (by replacement of Goods or reperformance of services) any failure to conform to the foregoing warranty of which it is notified in writing within ninety (90) days from delivery. Any Goods removed in connection with such replacement may be reactivated or disposed of at Seller's sole discretion.

(b) THE OBLIGATIONS CREATED BY THIS WARRANTY TO REPAIR OR REPLACE DEFECTIVE GOODS OR TO PROVIDE CORRECTIVE SERVICES SHALL BE THE SOLE REMEDY OF BUYER IN THE

EVENT OF DEFECTIVE GOODS OR SERVICES. THERE ARE NO WARRANTIES MADE WITH REGARD TO THE PRODUCTS OTHER THAN THOSE CONTAINED IN THIS SECTION. ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, ARE HEREBY DISCLAIMED, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE.

(c) The sale of any Products pursuant to this Agreement does not include any license, express or implied, to practice any intellectual property owned or licensed by any third party. Buyer agrees not to use the Products for any patented use not set forth expressly in this Agreement, absent a separate license from the holder of such patent. Additionally, Buyer agrees not to resell or sublicense the use of Products for any use not expressly granted hereunder. Any warranty obligations do not apply to any specific use of the Products, application of the Products, modification of the Products, or combination of the Products with any product manufactured by any third party. Seller, except as noted herein, does not and will not warrant, indemnify, or in any other way share responsibility for Buyer's use, application, modification, or combination of the Products.

12) LIMITATION OF LIABILITY: Notwithstanding any provision to the contrary herein, except with respect to a breach of the confidentiality obligations set forth in Section 15 hereof, the parties hereto agree that in no event shall either party be liable to the other party for any indirect, special, consequential, incidental or punitive damages, or lost profits, as a result of a breach of any provision of this Agreement or for any other claim of any kind arising out of or relating to this Agreement, whether in contract, in tort or otherwise. Notwithstanding any provision to the contrary herein, for all losses, damages, liabilities or expenses (including attorney's fees and costs), whether for indemnity or negligence, including errors, omissions or other acts, or willful misconduct, or based in contract, warranty (including any costs and fees for repairing, replacing or re-performing services or curing a breach hereof), or for any other cause of action (individually, a "Claim"; collectively, "Claims"), Seller's liability, including the liability of its insurers, employees, agents, directors, and officers and all other persons for whom Seller is legally responsible, shall not, to the maximum extent permitted by law, exceed in the cumulative aggregate with respect to all Claims arising out of or related to this Agreement, the lesser of (a) the total amount of compensation paid to Seller hereunder, and (b) One Million Dollars (\$1,000,000). All Claims of whatsoever nature shall be deemed waived unless made in writing within ninety (90) days of the occurrence giving rise to the Claim. Moreover, any failure of

Buyer to notify Seller of unsatisfactory operation or any improper or unauthorized installation, maintenance, use, repair, or adjustment shall relieve Seller of any further responsibilities hereunder.

13) FORCE MAJEURE: Notwithstanding any provision to the contrary herein, Seller shall have no liability to Buyer or its affiliates, and shall have the right to suspend performance (including, without limitation, shipments) hereunder, in the event of war, riot, terrorism, accident, explosion, sabotage, flood, acts of God, fire, court order, strike, labor disturbance, work stoppage, national defense requirements, act of governmental authority, pandemic, epidemic, extraordinary failure of equipment or apparatus, inability to obtain electricity or other type of energy, raw material, labor, equipment or transportation, or other causes beyond Seller's reasonable control. It is understood and agreed that settlement of strikes, lockouts and other labor disputes shall be entirely within the discretion of Seller and that nothing in this Agreement shall require the settlement of strikes, lockouts and labor disputes when such course is inadvisable in the sole discretion of Seller.

14) EXPORT CONTROLS: Buyer acknowledges that the Products and related technology are subject to U.S. export control and economic sanctions laws and regulations, which may include the International Traffic in Arms Regulations (ITAR), the Export Administration Regulations (EAR) and regulations promulgated by the U.S. Department of the Treasury Office of Foreign Assets Control (OFAC). Buyer further acknowledges that the re-export of the Products and/or related technology to a third country or retransfer to an unapproved end user may require a license or other authorization from the Government of the United States. Such licenses or other authorizations may impose further restrictions on the re-export or retransfer of the Products and/or related technology. U.S. law also restricts the re-export or retransfer of U.S.-origin goods, technology, or services to countries or persons subject to U.S. sanctions or embargoes. Buyer represents and warrants that it is in compliance with and agrees to comply with all such applicable export control and economic sanctions laws and regulations. It is the sole responsibility of Buyer to apply for and obtain any necessary licenses or other authorizations prior to any re-export or retransfer of the Products and/or related technology. Seller makes no warranty that any such licenses or other authorizations will be granted, and shall have no liability for Buyer's inability to obtain such licenses or other authorization or for any violation by Buyer of any applicable export control and/or economic sanctions laws and regulations. Buyer will indemnify Seller and hold it harmless from any liability resulting from Buyer's violation of this provision or applicable export laws or regulations. Notwithstanding any other provision in this Agreement, Seller shall have the right to terminate this Agreement immediately upon the determination by Seller, in Seller's sole discretion, that Buyer has breached, intends to breach, or insists upon breaching any of the provisions in the above clauses.

15) CONFIDENTIALITY: Other than in the performance of the terms of this Agreement, neither Buyer nor its agents, employees, or subcontractors shall use or disclose to any person or entity any confidential information of Seller (whether written, oral, electronic or other form) that is obtained or otherwise prepared or discovered in connection with this Agreement. Buyer agrees that all pricing, discounts, design drawings and technical information that Seller provides to Buyer are the confidential and proprietary information of Seller, whether or not otherwise identified as such. The obligations under this section continue perpetually and survive the termination or expiration of any underlying agreement between the parties. The provisions of this section relating to use and disclosure shall not apply to any information that: (a) is or becomes generally available to the public other than as a result of a disclosure by Buyer under this Agreement; (b) becomes available to Buyer from a source other than Seller without breach of any obligation of confidentiality; (c) was independently developed by Buyer without violation of Seller's rights and without reference to the confidential information, as evidenced by written records, maintained in the ordinary course of business by Buyer; (d) is used or disclosed with the prior written approval of Seller; (e) is information previously known to Buyer as evidenced by written records maintained by Buyer in the ordinary course of business, and not otherwise subject to any confidentiality restrictions; or (f) Buyer becomes legally compelled (by oral questions, interrogatories, requests for information or documents, subpoenas, investigative demands or similar process) to disclose. The burden of proof that the information resides within one of the exceptions set forth above shall be on Buyer. If Buyer becomes legally compelled (by oral questions, interrogatories, requests for information or documents, subpoenas, investigative demands or similar process) to disclose any of the confidential information, Buyer shall provide Seller with prompt written notice so that Seller may seek a protective order or other appropriate remedy or waive compliance with the provisions of this Agreement. If such protective order or other remedy is not obtained, or if Seller waives compliance with the provisions of this Agreement, Buyer shall furnish only that portion of the confidential information which Buyer is legally required to disclose and shall exercise its reasonable efforts to obtain reliable assurance that confidential treatment shall be accorded the confidential information. Buyer shall not undertake any qualitative or quantitative analysis, reverse engineering or replication of any of Seller's products, samples or prototypes without Seller's specific written authorization.

16) SECURITY INTEREST: Buyer hereby grants Seller a security interest in the Goods to secure the payment of the purchase price, and shall not sell, lease, transfer or encumber the Goods and will keep the Goods free from any and all liens and security interests until Seller has been paid in full. Buyer shall execute any and all documents reasonably requested by Seller to protect such security interests.

17) MANAGEMENT OF CHANGE: Seller is constantly striving to improve its products and capabilities and to provide the best product to its customers. Seller may from time to time develop product improvements or alterations with respect to the Products hereunder (the "Product Improvements"), and Seller may implement such Product Improvements without notice to Buyer so long as the performance of the Products will not be materially diminished, as determined in Seller's sole discretion, and so long as Seller has not separately agreed in writing to provide such notification to Buyer. In the event that Seller has agreed in writing to provide notice of Product Improvements to Buyer (the "Notice"), then Seller shall provide such Notice in accordance with the terms set forth in the separate writing.

18) APPLICABLE LAW AND JURISDICTION: This Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Pennsylvania, without regard to its conflict of law principles. The UN Convention on Contracts for the International Sale of Goods shall not apply to the transaction(s) represented hereby. The parties consent and submit to the exclusive jurisdiction and service of process of any state or federal court located in Allegheny County, Pennsylvania.

19) MISCELLANEOUS:

(a) Neither party may assign this Agreement, including without limitation any of its rights or obligations hereunder, without the express written consent of the other party hereto; provided that Seller may, without Buyer's consent, assign this Agreement, including without limitation any of its rights or obligations hereunder, to any of its parents, subsidiaries or affiliates or to any third party which merges with Seller or acquires all or substantially all of its business and assets or a substantial part of its assets or business relating to the Products. Seller may use subcontractors to fulfill its obligations pursuant to this Agreement.

(b) In the event of any legal proceeding between Seller and Buyer relating to this Agreement, neither party may claim the right to a trial by jury, and both parties waive any right they may have under applicable law or otherwise to a trial by jury.

(c) In the event that any one or more provisions (or portions thereof) contained herein shall be held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions (or portions thereof) contained herein shall remain in full force and effect, unless the revision materially changes the bargain.

(d) Seller's failure to enforce, or Seller's waiver of a breach of, any provision contained in this Agreement shall not constitute a waiver of any other breach or of such provision.

(e) Seller reserves the right to correct clerical, arithmetical, or stenographic errors or omissions in this Agreement, invoices or other documents.

(f) Any notice or communication required or permitted hereunder shall be in writing and shall be deemed received when personally delivered or three (3) business days after being sent by certified mail, postage prepaid, to a party at the address specified in this Agreement, or at such other address as either party may from time to time designate in writing to the other.

(g) Buyer agrees that it will not use Seller's name(s), logo(s) or mark(s) in any public communication or press release, or for any other marketing or promotional purpose, without Seller's prior written consent.

(h) Terms used in this Agreement which are not defined herein and which are defined by the Uniform Commercial Code of the Commonwealth of Pennsylvania shall have the meanings contained therein.

20) ENTIRE AGREEMENT: With respect to the subject matter hereof, this Agreement constitutes the complete and exclusive statement of the contract between Seller and Buyer. No waiver, consent, modification, amendment or change of the terms contained in this Agreement shall be binding unless made in writing and signed by Seller and Buyer. Seller's failure to object to terms contained in any subsequent communication from Buyer (whether in a purchase order or other communication) will not be a waiver or modification of the terms set forth herein.