

8.9 Process Safety Management. Buyer acknowledges that Process Safety Management of Highly Hazardous Chemicals: Explosives and Blasting Agents (i.e. 29 CFR 1910) (collectively "Process Safety Management") associated with the Properties is an ongoing process. **Notwithstanding anything contained in this Agreement to the contrary (including without limitation Articles 5.2, 8.2 or 8.3), Buyer agrees to accept full responsibility for and shall pay all costs and expenses associated with the Process Safety Management process (including without limitation the identification, evaluation and remediation), and shall not be entitled to claim the fact that Process Safety Management is not complete or that additional cost will be required to comply with or complete the Process Safety Management process as an Alleged Title Defect, Alleged Adverse Condition, breach of Seller's representations and warranties or breach of Seller's indemnity obligation under this Agreement, and Buyer (on behalf of itself, its officers, agents, employees, Affiliates, successors and assigns) irrevocably waives such claims.** In conducting the duties and obligations contained in this Article, Buyer shall comply with the applicable Laws.

8.10 Notice of Claims. If a Claim is asserted against a party for which the other party may have an obligation of indemnity, it shall be a condition precedent to the indemnifying party's obligations under this Article 8 that the indemnified party give the indemnifying party written notice of such Claim setting forth full particulars of the Claim (including a copy of the written Claim, if any) as then known by the indemnified party. The indemnified party shall make a good faith effort to notify the indemnifying party within one (1) month of receipt of a Claim and shall in all events effect notice within such time as will allow the indemnifying party a reasonable period of time in which to evaluate and timely respond to said Claim. The notice of Claim provided hereunder is referred to as a "Claim Notice."

8.11 Defense of Claims. Upon receipt of a Claim Notice, the indemnifying party may assume the defense of said Claim with counsel selected by the indemnifying party and reasonably satisfactory to the indemnified party. The indemnified party shall cooperate in all reasonable respects in such defense. If any Claim involves a fact pattern wherein Buyer may have an obligation to indemnify Seller and Seller may have an obligation to indemnify Buyer, each party shall have the right to assume the defense of and hire counsel for that portion of the Claim for which it may have an obligation of indemnity. In all instances, the indemnified party shall have the right to employ separate counsel and to participate in the defense of any Claim; provided however, the fees and expenses of counsel employed by the indemnified party shall be borne solely by the indemnified party. If the indemnifying party does not notify the indemnified party within the earlier to occur of: (a) five (5) Days before the time a response is due in any litigation matter, or (b) sixty (60) Days after receipt of the Claim Notice, that the indemnifying party elects to undertake the defense of a Claim, the indemnified party shall have the right to defend at the expense of