

SUPPLY AGREEMENT NO. 1495

Liquid Caustic Soda Solution

THIS **Liquid Caustic Soda Solution Supply Agreement** ("Agreement") is entered into by and between the City of Corpus Christi, a Texas home-rule municipal corporation ("City") and Univar USA, Inc. ("Supplier"), effective upon execution by the City Manager or the City Manager's designee ("City Manager").

WHEREAS, Supplier has bid to provide Liquid Caustic Soda Solution in response to Request for Bid No. **1495** ("RFB"), which RFB includes the required scope of work and all specifications and which RFB and the Supplier's bid response are incorporated by reference in this Agreement as Exhibits 1 and 2, respectively, as if each were fully set out here in its entirety.

NOW, THEREFORE, City and Supplier agree as follows:

- 1. Scope.** Supplier will provide Liquid Caustic Soda Solution in accordance with the attached Scope of Work, as shown in Attachment A, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety. "Goods," "products", and "supplies", as used in this Agreement, refer to and have the same meaning.
- 2. Term.** This Agreement is for 24 months. The parties may mutually extend the term of this Agreement for up to zero additional zero-month periods ("Option Period(s)"), provided, the parties do so in writing and prior to the expiration of the original term or the then-current Option Period. The City's extension authorization must be executed by the City Manager or designee.
- 3. Compensation and Payment.** The total value of this Agreement is not to exceed \$7,513,545.00, subject to approved extensions and changes. Payment will be made for goods delivered and accepted by the City within 30 days of acceptance, subject to receipt of an acceptable invoice. All pricing must be in accordance with the attached Bid/Pricing Schedule, as shown in Attachment B, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety.
- 4. Contract Administrator.** The Contract Administrator designated by the City is responsible for approval of all phases of performance and operations under this Agreement, including deductions for non-performance and authorizations for payment. The City's Contract Administrator for this Agreement is as follows:

R. J. [Signature]
2/10/18

Name: Diana Zertuche-Garza
Department: Utilities
Phone: (361) 826-1827
Email: dianaG@cctexas.com

5. **Insurance.** Before performance can begin under this Agreement, the Supplier must deliver a certificate of insurance ("COI"), as proof of the required insurance coverages, to the City's Risk Manager and the Contract Administrator. Additionally, the COI must state that the City will be given at least 30 days' advance written notice of cancellation, material change in coverage, or intent not to renew any of the policies. The City must be named as an additional insured. The City Attorney must be given copies of all insurance policies within 10 days of the City Manager's written request. Insurance requirements are as stated in Attachment C, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety.
6. **Purchase Release Order.** For multiple-release purchases of products to be provided by the Supplier over a period of time, the City will exercise its right to specify time, place and quantity of products to be delivered in the following manner: any City department or division may send to Supplier a purchase release order signed by an authorized agent of the department or division. The purchase release order must refer to this Agreement, and products will remain with the Supplier until such time as the products are delivered and accepted by the City.
7. **Inspection and Acceptance.** Any products that are delivered but not accepted by the City must be corrected or replaced immediately at no charge to the City. If immediate correction or replacement at no charge cannot be made by the Supplier, a replacement product may be bought by the City on the open market and any costs incurred, including additional costs over the item's bid price, must be paid by the Supplier within 30 days of receipt of City's invoice.
8. **Warranty.**
 - (A) The Supplier warrants that all products supplied under this Agreement are new, quality items that are free from defects, fit for their intended purpose, and of good material and workmanship. The Supplier warrants that it has clear title to the products and that the products are free of liens or encumbrances.
 - (B) In addition, the products purchased under this Agreement shall be warranted by the Supplier or, if indicated in Attachment D by the manufacturer, for the period stated in Attachment D. Attachment D is attached to this Agreement and is incorporated by reference into this Agreement as if fully set out here in its entirety.


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9. **Quality/Quantity Adjustments.** Any quantities indicated on the Bid/Pricing Schedule are estimates only and do not obligate the City to order or accept more than the City's actual requirements nor do the estimates restrict the City from ordering less than its actual needs during the term of the Agreement and including any Option Period. Substitutions and deviations from the City's product requirements or specifications are prohibited without the prior written approval of the Contract Administrator
10. **Non-Appropriation.** The continuation of this Agreement after the close of any fiscal year of the City, which fiscal year ends on September 30th annually, is subject to appropriations and budget approval specifically covering this Agreement as an expenditure in said budget, and it is within the sole discretion of the City's City Council to determine whether or not to fund this Agreement. The City does not represent that this budget item will be adopted, as said determination is within the City Council's sole discretion when adopting each budget.
11. **Independent Contractor.** Supplier will perform the work required by this Agreement as an independent contractor and will furnish such products in its own manner and method, and under no circumstances or conditions will any agent, servant or employee of the Supplier be considered an employee of the City.
12. **Subcontractors.** Supplier may use subcontractors in connection with the work performed under this Agreement. When using subcontractors, however, the Supplier must obtain prior written approval from the Contract Administrator if the subcontractors were not named at the time of bid. In using subcontractors, the Supplier is responsible for all their acts and omissions to the same extent as if the subcontractor and its employees were employees of the Supplier. All requirements set forth as part of this Agreement, including the necessity of providing a COI in advance to the City, are applicable to all subcontractors and their employees to the same extent as if the Supplier and its employees had performed the work.
13. **Amendments.** This Agreement may be amended or modified only by written change order signed by both parties. Change orders may be used to modify quantities as deemed necessary by the City.
14. **Waiver.** No waiver by either party of any breach of any term or condition of this Agreement waives any subsequent breach of the same.
15. **Taxes.** The Supplier covenants to pay payroll taxes, Medicare taxes, FICA taxes, unemployment taxes and all other related taxes. Upon request, the City Manager shall be provided proof of payment of these taxes within 15 days of such request.
16. **Notice.** Any notice required under this Agreement must be given by fax, hand delivery, or certified mail, postage prepaid, and is deemed received on the day


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faxed or hand-delivered or on the third day after postmark if sent by certified mail. Notice must be sent as follows:

IF TO CITY:

City of Corpus Christi
Attn: Diana Zertuche-Garza
Title: Contracts/Fund Administrator
Address: 13101 Leopard Street, Corpus Christi, TX 78410
Phone: (361) 826-1827
Fax: (361) 826-4488

IF TO SUPPLIER:

Univar USA, Inc.
Attn: Stacy Ziegler
Title: Municipal Specialist
Address: 8201 S. 212th Street, Kent, WA 98032
Phone: (253) 872-5000
Fax: (253) 872-5041

- 17. SUPPLIER SHALL FULLY INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY OF CORPUS CHRISTI AND ITS OFFICERS, EMPLOYEES AND AGENTS ("INDEMNITEES") FROM AND AGAINST ANY AND ALL LIABILITY, LOSS, CLAIMS, DEMANDS, SUITS, AND CAUSES OF ACTION OF WHATEVER NATURE, CHARACTER, OR DESCRIPTION ON ACCOUNT OF PERSONAL INJURIES, PROPERTY LOSS, OR DAMAGE, OR ANY OTHER KIND OF INJURY, LOSS, OR DAMAGE, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, ATTORNEYS' FEES AND EXPERT WITNESS FEES, WHICH ARISE OR ARE CLAIMED TO ARISE OUT OF OR IN CONNECTION WITH A BREACH OF THIS AGREEMENT OR THE PERFORMANCE OF THIS AGREEMENT BY THE SUPPLIER OR RESULTS FROM THE NEGLIGENT ACT, OMISSION, MISCONDUCT, OR FAULT OF THE SUPPLIER OR ITS EMPLOYEES OR AGENTS. SUPPLIER MUST, AT ITS OWN EXPENSE, INVESTIGATE ALL CLAIMS AND DEMANDS, ATTEND TO THEIR SETTLEMENT OR OTHER DISPOSITION, DEFEND ALL ACTIONS BASED THEREON WITH COUNSEL SATISFACTORY TO THE CITY ATTORNEY, AND PAY ALL CHARGES OF ATTORNEYS AND ALL OTHER COSTS AND EXPENSES OF ANY KIND ARISING OR RESULTING FROM ANY SAID LIABILITY, DAMAGE, LOSS, CLAIMS, DEMANDS, SUITS, OR ACTIONS. THE INDEMNIFICATION OBLIGATIONS OF SUPPLIER UNDER THIS SECTION SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.**


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18. Termination.

(A) The City Manager may terminate this Agreement for Supplier's failure to perform the work specified in this Agreement or to keep any required insurance policies in force during the entire term of this Agreement. The Contract Administrator must give the Supplier written notice of the breach and set out a reasonable opportunity to cure. If the Supplier has not cured within the cure period, the City Manager may terminate this Agreement immediately thereafter.

(B) Alternatively, the City Manager may terminate this Agreement for convenience upon 30 days advance written notice to the Supplier. The City Manager may also terminate this Agreement upon 24 hours written notice to the Supplier for failure to pay or provide proof of payment of taxes as set out in this Agreement.

19. Assignment. No assignment of this Agreement by the Supplier, or of any right or interest contained herein, is effective unless the City Manager first gives written consent to such assignment. The performance of this Agreement by the Supplier is of the essence of this Agreement, and the City Manager's right to withhold consent to such assignment is within the sole discretion of the City Manager on any ground whatsoever.

20. Severability. Each provision of this Agreement is considered to be severable and, if, for any reason, any provision or part of this Agreement is determined to be invalid and contrary to applicable law, such invalidity shall not impair the operation of nor affect those portions of this Agreement that are valid, but this Agreement shall be construed and enforced in all respects as if the invalid or unenforceable provision or part had been omitted.

21. Order of Precedence. In the event of any conflicts or inconsistencies between this Agreement, its attachments, and exhibits, such conflicts and inconsistencies will be resolved by reference to the documents in the following order of priority:

- A. this Agreement (excluding attachments and exhibits);
- B. its attachments;
- C. the bid solicitation document including any addenda (Exhibit 1); then,
- D. the Supplier's bid response (Exhibit 2).

22. Certificate of Interested Parties. Supplier agrees to comply with Texas Government Code Section 2252.908, as it may be amended, and to complete Form 1295 "Certificate of Interested Parties" as part of this Agreement.

23. Verification Regarding Israel. In accordance with Chapter 2270, Texas Government Code, the City may not enter into a contract with a company for


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goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The signatory executing this Agreement on behalf of the Supplier verifies that the company does not boycott Israel and will not boycott Israel during the term of this Agreement.

- 24. Governing Law.** This Agreement is subject to all federal, State, and local laws, rules, and regulations. The applicable law for any legal disputes arising out of this Agreement is the law of the State of Texas, and such form and venue for such disputes is the appropriate district, county, or justice court in and for Nueces County, Texas.
- 25. Entire Agreement.** This Agreement constitutes the entire agreement between the parties concerning the subject matter of this Agreement and supersedes all prior negotiations, arrangements, agreements and understandings, either oral or written, between the parties.

(SIGNATURE PAGE FOLLOWS)


4/10/18

SUPPLIER

Signature: 

Printed Name: RONAN CULLIGAN

Title: VICE PRESIDENT

Date: 4/10/18

CITY OF CORPUS CHRISTI

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Attached and Incorporated by Reference:

- Attachment A: Scope of Work
- Attachment B: Bid/Pricing Schedule
- Attachment C: Insurance Requirements
- Attachment D: Warranty Requirements

Incorporated by Reference Only:

- Exhibit 1: RFB No. 1495
- Exhibit 2: Supplier's Bid Response

Attachment A - Scope of Work

1.1 General Requirements/Background Information

The Supplier shall provide Water Chemical - Liquid Caustic Soda Solution for the Utilities Department. Liquid Caustic Soda, also known as sodium hydroxide aqueous solution is used for pH adjustment of the final filter effluent.

1.2 Scope of Work

Supplier shall supply Liquid Caustic Soda Solution to the Utilities Department to be delivered in tank truck lots in accordance with Specifications for Water Treating Chemicals.

A. Water treating chemicals must conform to:

1. **Liquid Caustic Soda (Sodium Hydroxide Solution) 50**
2. **American National Standards Institute/National Sanitation Foundation Institute Standard for Drinking Water Treatment Chemical - Health Effects, ANSI/NSF 60.** It is the responsibility of the supplier to inform the City of Corpus Christi (within 24 hours from the time of verbal or written notification to supplier) that its NSF certification has been revoked or lapsed. Loss of NSF certification constitutes grounds for immediate termination of the liquid caustic soda contract.
3. **American National Standards Institute/American Water Works Association standard for Caustic Soda (Liquid) ANSI/AWWA B501-03.**
4. 50 % Liquid Caustic Soda must contain not less than 48.0 % as Caustic Soda (Sodium Hydroxide NaOH).
5. The manufacturer must provide an affidavit of compliance, stating that at the time of loading, the chemical(s) furnished under the release order, complies with all applicable requirements to the City of Corpus Christi, Water Production Superintendent, P.O. Box 9277, Corpus Christi, Texas 78469-9277.

B. MATERIAL REQUIREMENTS

The liquid Caustic Soda delivered under this agreement must meet the following physical-chemical specifications based on the required concentration:


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1. Liquid Caustic Soda 50 wt.%

<u>Physico-chemical Parameters</u>	<u>Units</u>	<u>Specifications</u>
Sodium Hydroxide (NaOH)	wt.%	48.0 - 52.0
Sodium Oxide (Na ₂ O)	wt.%	38.3 – 39.57
Sodium Carbonate (Na ₂ CO ₃)	wt.%	<0.15
Sodium Chloride	ppm	100.0 Maximum
Sodium Chlorate	ppm	50.0 Maximum
Sodium Sulfate	ppm	40.0 Maximum
Iron as Fe	ppm	5.0 Maximum
Appearance	n.a.	Clear Liquid
Specific Gravity	g/mL	1.52 – 1.54
Density	lb./gal	12.76

A. Delivery and Weighing Requirements:

1. Each chemical shipment must be weighed by local certified weigher before delivery to and after unloading at the O.N. Stevens Water Treatment Plant. The truck driver must promptly deliver chemical shipment weight "ticket" or legible copies to the City of Corpus Christi, Plant Supervisor, 13101 Leopard, Corpus Christi, Texas 78410. Deliveries will be made Monday thru Sunday, 8 A. M. to 5 P. M. **only**, unless an emergency arises then the Plant Supervisor may approve after hour deliveries.
2. The Supplier must provide a chemical analysis for each chemical shipment (Certificate of Analysis, including Lot number, and production date), and the chemical analysis must include the parameters above described in this scope of work, such as NaOH percentage, specific gravity, Sodium Carbonate mg/liter, and Sodium Chloride mg/liter and the others.
3. The Successful Supplier must base billing and pay quantity for each chemical shipment on certified weight tickets for delivery of Liquid Caustic Soda. The Plant Supervisor may reject any chemical shipments as per example: 50% Liquid Caustic Soda containing less than 48.0 percent or more than 52.0 percent as not meeting specifications for NaOH.

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4. Supplier must make shipments in approximately 4,000-gallon tank truck lots to the City of Corpus Christi, O. N. Stevens Water Treatment Plant, 13101 Leopard, Corpus Christi, Texas 78410. The Supplier must submit the chemical analysis, weight ticket, and bill of lading with each invoice.

D. OWNERSHIP:

City's ownership of the Liquid Caustic Soda begins, and Supplier's ownership ceases, upon completion of unloading of the chemical at the O. N. Stevens Water Treatment Plant.

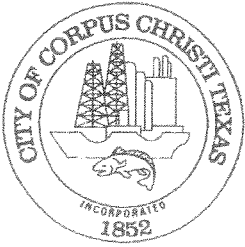
E. OSHA AND TRAINING:

1. Any chemical supplied must comply with all requirements and standards of the Occupational Safety and Health Act. Supplier must provide all appropriate chemical and warning markings before delivery. Water Production Superintendent may reject items not meeting OSHA specifications.
2. Supplier at its expense must provide training to City employees in the safe handling, storage, and use of the chemical on a semiannual basis at the Water Production Superintendent's convenience. This training must include a presentation of sufficient length to visually portray the proper procedures of handling, storage, and use of Liquid Caustic Soda and all information contained on the Safety Data Sheet must be thoroughly covered.
3. The Supplier must comply with drug and alcohol testing, education, and training programs that comply with U.S. Department of Transportation Regulations 49CFR, Parts 382 and 40. The Supplier must execute a Certification of compliance with U.S. Department of Transportation regulations 49CFR, Parts 382 and 40 and provide a copy to the Water Production Superintendent on a quarterly basis beginning with the first chemical shipment.

1.3 Supplier Quality Control and Superintendence

The Contractor shall establish and maintain a complete Quality Control Program that is acceptable to the Contract Administrator to assure that the requirements of the Contract are provided as specified. The Contractor will also provide supervision of the work to insure it complies with the contract requirements.

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**CITY OF CORPUS CHRISTI
 BID FORM
 PURCHASING DIVISION
 RFB No. 1495
 Liquid Caustic Soda Solution**

PAGE 1 OF 1

Date: February 15, 2018

Bidder: Univar USA, Inc.

Authorized
 Signature:

1. Refer to "Instructions to Bidders" and Contract Terms and Conditions before completing bid.
2. Quote your best price for each item.
3. In submitting this bid, Bidder certifies that:
 - a. the prices in this bid have been arrived at independently, without consultation, communication, or agreement with any other Bidder or competitor, for the purpose of restricting competition with regard to prices.
 - b. Bidder is an Equal Opportunity Employer, and the Disclosure of Interest information on file with City's Purchasing office, pursuant to the Code of Ordinances, is current and true.
 - c. Bidder is current with all taxes due and company is in good standing with all applicable governmental agencies.
 - d. Bidder acknowledges receipt and review of all addenda for this RFB.
4. Bidders must not write over or revise the bid form. Bidders will be considered Non-Responsive if the bid form is modified.

Item	Description	UNIT	1-Yr Qty.	Unit Price	Total Price	2-yr Qty.	Unit Price	Total Price
1	50% Liquid Caustic Soda Solution	Wet Tons	10,750	\$ 329.38	\$ 3,540,835.00	10,750	\$ 369.38	\$ 3,970,835.00
2	Est. Unloading Delay Charge	Hrs.	12.5	\$ 75.00	\$ 937.50	12.5	\$ 75.00	\$ 937.50
Total				\$360.00	\$3,541,772.50		\$400.00	\$3,971,772.50

Total \$7,513,545.00

Handwritten initials and date: 2/10/18

Attachment C – Insurance Requirements

CONTRACTOR'S LIABILITY INSURANCE

- A. Contractor must not commence work under this contract until all insurance required has been obtained and such insurance has been approved by the City. Contractor must not allow any subcontractor, to commence work until all similar insurance required of any subcontractor has been obtained.
- B. Contractor must furnish to the City's Risk Manager and Contract Administrator one (1) copy of Certificates of Insurance with applicable policy endorsements showing the following minimum coverage by an insurance company(s) acceptable to the City's Risk Manager. The City must be listed as an additional insured on the General liability and Auto Liability policies **by endorsement**, and a waiver of subrogation **endorsement** is required on GL, AL and WC if applicable. **Endorsements** must be provided with Certificate of Insurance. Project name and/or number must be listed in Description Box of Certificate of Insurance.

TYPE OF INSURANCE	MINIMUM INSURANCE COVERAGE
30-day advance written notice of cancellation, non-renewal, material change or termination required on all certificates and policies.	Bodily Injury and Property Damage Per occurrence - aggregate
COMMERCIAL GENERAL LIABILITY including: 1. Commercial Broad Form 2. Premises – Operations 3. Products/Completed Operations 4. Contractual Liability 5. Independent Contractors 6. Personal Injury- Advertising Injury	\$1,000,000 Per Occurrence \$1,000,000 Aggregate
AUTO LIABILITY (including) 1. Owned 2. Hired and Non-Owned 3. Rented/Leased	\$1,000,000 Combined Single Limit
WORKERS'S COMPENSATION (All States Endorsement if Company is not domiciled in Texas) Employers Liability	Statutory and complies with Part II of this Exhibit. \$500,000/\$500,000/\$500,000

[Signature]
4/10/18

POLLUTION LIABILITY (Including Cleanup and Remediation)	\$1,000,000 Per Incident Limit \$1,000,000 Aggregate
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C. In the event of accidents of any kind related to this contract, Contractor must furnish the Risk Manager with copies of all reports of any accidents within 10 days of the accident.

II. ADDITIONAL REQUIREMENTS

A. Applicable for paid employees, Contractor must obtain workers' compensation coverage through a licensed insurance company. The coverage must be written on a policy and endorsements approved by the Texas Department of Insurance. The workers' compensation coverage provided must be in statutory amounts according to the Texas Department of Insurance, Division of Workers' Compensation. An All States Endorsement shall be required if Contractor is not domiciled in the State of Texas.

B. Contractor shall obtain and maintain in full force and effect for the duration of this Contract, and any extension hereof, at Contractor's sole expense, insurance coverage written on an occurrence basis by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- VII.

C. Contractor shall be required to submit renewal certificates of insurance throughout the term of this contract and any extensions within 10 days of the policy expiration dates. All notices under this Exhibit shall be given to City at the following address:

City of Corpus Christi
Attn: Risk Manager
P.O. Box 9277
Corpus Christi, TX 78469-9277

D. **Contractor agrees that, with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:**

- List the City and its officers, officials, employees, and volunteers, as additional insureds by endorsement with regard to operations, completed operations, and activities of or on behalf of the named insured performed under contract with the City, with the exception of the workers' compensation policy;


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- Provide for an endorsement that the "other insurance" clause shall not apply to the City of Corpus Christi where the City is an additional insured shown on the policy;
 - Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City; and
 - Provide thirty (30) calendar days advance written notice directly to City of any, cancellation, non-renewal, material change or termination in coverage and not less than ten (10) calendar days advance written notice for nonpayment of premium.
- E. Within five (5) calendar days of a cancellation, non-renewal, material change or termination of coverage, Contractor shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Contractor's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this contract.
- F. In addition to any other remedies the City may have upon Contractor's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Contractor to stop work hereunder, and/or withhold any payment(s) which become due to Contractor hereunder until Contractor demonstrates compliance with the requirements hereof.
- G. Nothing herein contained shall be construed as limiting in any way the extent to which Contractor may be held responsible for payments of damages to persons or property resulting from Contractor's or its subcontractor's performance of the work covered under this contract.
- H. It is agreed that Contractor's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by the City of Corpus Christi for liability arising out of operations under this contract.
- I. It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this contract.

2018 Insurance Requirements
 Utilities
 Delivery of Water Treating Chemicals
 01/10/2018 sw Risk Management
 Valid Through 12/31/2018


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Attachment D - Warranty Information



Mission Statement

Univar sets out to be the preferred quality partner for the distribution of chemicals and services. We combine economic success with social and environmental responsibility.

Vision Statement

Be the benchmark of excellence.

Quality Policy

Univar USA Inc. is committed to the success of our customers and supplier/partners by providing value-added products and services that consistently meet requirements. In the spirit of innovation, management encourages full employee participation in the continuous review and improvement of Univar's business processes and its total quality process.

Statement of Core Values

- *Safety: Safety is the first priority, the most important aspect of our work.*
- *Continuous Improvement: We will improve results for all our stakeholders by doing the right things better every time.*
- *Employees: We respect and value every employee and are committed to support and develop each other personally and professionally.*
- *Environment: We are committed to protecting the health and well being of our employees, our customers, the community and the environment.*
- *Ethics: We treat every individual in our business and personal practices ethically with integrity and honesty.*
- *Leadership: Each of us strives to lead and motivate by example and consistently live up to these core values. We coach, train, develop and empower employees to reach their full potential.*

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