

1. INTERPRETATION

In these Conditions:

- a) "Conditions" means these conditions together with any amendments agreed in writing by an authorised officer or agent of the Company but excluding any other terms purported to be included by the Customer, whether by way of his order or otherwise;
- b) "Company" means Basildon Chemical Company Limited, its successors and assigns;
- c) "Customer" means the person, firm, corporation or company with whom the contract is made.
- d) "Goods" means the goods or any part thereof to be sold as described in the Contract and any replaced goods or spare parts;
- e) "Contract" means the contract for sale of the Goods made between the Company and the Customer.

2. GENERAL

- a) These Conditions shall apply to the Contract and shall exclude or prevail over any conditions referred to by the Customer or contained in any order, acceptance of quotation, confirmed or otherwise brought to the notice of the Company. These Conditions may be varied only by agreement in writing by an authorised officer or agent of the Company and no other action on the part of the Company shall be construed as an acceptance of any other conditions whatsoever.
- b) Quotations issued by the Company are not offers capable of acceptance so as to make a binding contract and must be accepted within any time limit set out in the quotation unless re-confirmed by the Company.
- c) These conditions constitute the whole agreement between the parties and supersede any prior promises, representations and undertakings whether oral or in writing and for the avoidance of doubt the Customer hereby acknowledges that it has not entered into the Contract in reliance upon any representation other than those which have been reduced to writing and included in the Contract.
- d) Each accepted order shall constitute an entire and separate contract to which these Conditions shall apply.
- e) If any of these conditions in whole or part is held to be invalid for any purpose it shall be deemed to have been omitted and shall not prejudice the effectiveness of the rest of these conditions of sale.

3. PRICE

- a) Unless stated otherwise in the Contract all prices include the costs of packaging, containers and other packaging (to include without limitation boxes, drums and pallets) except when the Company's delivery note states that any packaging is to be returned to the Company and if, within three months of the date of the delivery note, the packaging has not been returned carriage paid and in good condition to the Company's address, then the full replacement cost of such packaging may be charged to the Customer.
- b) All Customs & Excise duties, import or export duties and all other taxes, tariffs and surcharges of any nature whatsoever now or hereafter levied or imposed in any country or territory either directly or indirectly in respect of the sale, supply, delivery or use of the Goods or payment for them or upon freight or other charges shall be borne by the Customer and except as otherwise in writing in the Contract are additional to the price.
- c) VAT is not included in the price and will be paid by the Customer at the rate currently in force.

4. PAYMENT

- a) Except as otherwise agreed, payment for the Goods shall be due in full in United Kingdom pounds sterling payable nett monthly at the end of the month following delivery of the invoice.
- b) In the case of any export sale and unless otherwise agreed in writing, payment of the price of the Goods shall be effected by an irrevocable letter of credit (acceptable to the Company) and the irrevocable letter of credit shall remain valid for not less than ninety days.
- c) In the event of any payment becoming overdue the Company may without notice charge interest at an annual rate of 4% above LIBOR from the due date for payment until receipt by the Company of the full amount whether before or after judgement.

5. TITLE AND RISK

Risk in the Goods shall pass to the Customer at the time the products are appropriated to the Contract or despatched for delivery to the Customer whichever be the earlier. Until the Company has received full payment of all sums due from the Customer to the Company hereunder the following terms shall apply:

- a) The property in the Goods shall remain in the Company and the Customer shall be entitled to possession of the Goods only which shall be held by the Customer in a fiduciary capacity as a bailee;
- b) Except where inconsistent with the purpose for which the Goods are supplied the Customer shall keep and store the Goods separately from any other goods in such a manner as to enable them to be identified as the property of the Company;
- c) The Customer shall keep the Goods insured against all risks in their full replacement value;
- d) The Customer shall have a licence to sell and use the products supplied pursuant to the Contract. Such licence may be immediately terminated by the Company at any time upon giving the Customer written notice. Provided that (without prejudice to any other rights of the Company) such licence shall automatically terminate upon the appointment by any person of a Receiver of any of the Customer's assets or upon the Customer going into liquidation;
- e) The proceeds of any such sale and the benefit of any such contract of sale shall to the extent of all sums owing and due to the Company from the Customer as aforesaid be held in trust for the Company absolutely;
- f) At any time after the termination of the above licence, the Company may repossess the products and for this purpose the Customer hereby grants to the Company an irrevocable licence to enter upon any premises of the Customer.

6. DELIVERY

- a) Unless otherwise expressly provided in writing, all sales are ex-works Incoterms 1990 from the Company's address and delivery of the Goods to the carrier shall constitute delivery thereof to the Customer and from the point in time immediately preceding loading the Goods shall be at the Customer's risk.

- b) Any international trade term listed in Incoterms 1990 and provided to be the basis on which the Goods are sold in the Contract shall have the same meaning as set out in Incoterms 1990.
- c) Upon delivery of the Goods to the Customer, the Customer shall write on the delivery notice all Goods damaged or lost in transit or shall sign the delivery notice if the goods are in good order.
- d) Section 32(3) of the Sale of Goods Act 1979 shall not apply.
- e) The Company will use reasonable endeavours to deliver within any time agreed with the Customer by accepts no liability whatsoever for any loss or damage resulting from delay howsoever caused.
- f) The Company shall ensure that prior to delivery or collection, any hazardous goods and documentation relating thereto comply with the regulations from time to time in force in the United Kingdom relating to the packaging, marking and labelling of such goods.
- g) Any loss occurring during loading or unloading by the Customer during any collection or delivery shall be for the Customer's account unless it shall prove that such loss was caused by the negligence of the Company's servants or agents and the Company shall not in any event be liable unless the Customer gives written notice of delivery and the Company or its representatives have reasonable opportunity to make enquiries as to the cause of the loss.
- h) If the Company agrees to postpone delivery at the Customer's request, the Company may at its option exercisable by notice to the Customer treat the risk in the Goods as having passed to the Customer and store the Goods at the Customer's risk and expense.
- i) Where delivery is effected by instalments each instalment shall be deemed to be a separate contract and failure by the Company to make any delivery or part delivery shall not entitle the Customer to reject the balance of the Goods agreed to be purchased by the Customer.
- j) All Goods sold by the Company shall be subject to reasonable commercial variation.
- k) The Customer must ensure that any shortage or visible damage to the goods (including packing) are noted on the delivery note or carrier's bill of lading. At the time of delivery details of any shortage or damage must be sent immediately by telephone, facsimile or email and confirmed in writing to the Company. Any claims by the Customer in relation to Goods damaged upon delivery, shortage or non-delivery must be made in writing to the Company within three working days of the products being delivered or, if non-delivery, of the fact of non-delivery coming to the attention of the Customer.

7. LICENCES

If any licence or consent of any government or other authority shall be required for the acquisition, carriage, storage or use of the Goods by the Customer, the Customer shall obtain the same at its own expense and if necessary produce evidence of the same to the Company on demand. Failure so to do shall not entitle the Customer to withhold or delay payment of the price. The Customer must obtain all necessary consent, licences, permissions, documents or certificates in order to lawfully import and pay for the Goods, and ensure that all relevant documentation complies with all necessary governmental or other official regulations, speculation or requirements whatsoever. The Customer shall be liable to indemnify the Company in respect of any costs and expenses incurred by the Company in the event of the Customer failing to comply with this provision.

8. HEALTH AND SAFETY AT WORK

The Customer shall be solely responsible for and keep the Company indemnified against loss, liability or expense arising directly or indirectly from use of the Goods other than in accordance with the Company's operating instructions.

9. FORCE MAJEURE

The Company shall not be liable for any loss or damage caused by delay in the performance or non-performance of any of its obligations hereunder including (but not limited to) delayed delivery or non-delivery where the same is occasioned by any cause whatsoever that is beyond the Company's reasonable control including but not limited to an act of God, war, shipwreck, civil disturbance, requisitioning, governmental or parliamentary restrictions, prohibitions or enactments of any kind, import or export regulations or prohibitions, strike, lock-out or trade dispute, difficulties in obtaining workmen or materials, breakdown of machinery, fire or accident, non-availability or delay of vessels or transport or explosion.

10. WARRANTY

- a) The Company warrants that the products should at the time of despatch from the Company's premises be free from defect in workmanship and materials and be in accordance with the Company's published specification (if any) relevant to the Goods. If any of the Goods do not conform to that warranty the Company will at its option:
 - i. Replace such products found not to conform to the warranty
 - ii. Take back the products found not to conform to the warranty and refund the appropriate part of the purchase price.Provided that the Company's liability shall not exceed the purchase price of the defective Goods and due performance of any one of the above options shall constitute an entire discharge of the Company's liability under this warranty.
- b) The warranty in paragraph (a) of this Condition shall, to the extent permitted by the Unfair Contract Terms Act 1977, be the limit of the Company's liability to the Customer for any defect in or unsuitability of the Goods or unfitness of the Goods for the purpose for which they are bought, and all other implied or statutory terms or warranties are hereby expressly excluded.
- c) Notwithstanding anything to the contrary in this Contract, the Company shall not be liable to the Customer for any consequential loss (including loss of profits or of contracts) whether arising out of or in connection with any act or omission, negligent or otherwise of the Company.
- d) The Company shall have no liability to the Customer in the event of the Goods infringing or being alleged to infringe the rights of any third party.

11. TERMINATION

The Company shall be entitled to terminate the Contract by written notice if the Customer becomes insolvent, goes into liquidation, enters into an agreement with its creditors or has a receiver appointed over the whole or any part of its undertaking or assets, or of the Company reasonable believes that any of the foregoing events are likely or threatened.

12. LAW

The construction validity and performance of this Agreement shall be governed in all respects by English Law, and the Customer submits to the non-exclusive jurisdiction of the English Courts and agrees to accept service of any judicial process by first class pre-paid registered post addressed to it at the address appearing in the Contract.