

**GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY OF GOODS AND SERVICES  
("Terms and Conditions")****1 DEFINITIONS**

- 1.1 **'the Company'** means Blagden Specialty Chemicals Ltd registered with Company No 03914333 whose registered office address is Osprey House, Black Eagle Square, Westerham, Kent, TN16 1PA;
- 1.2 **'the Buyer'** means the person, firm or company who buys or has agreed to buy the Goods;
- 1.3 **'the Goods'** means any item of whatsoever nature which is to be sold by the Company and includes the provision of any service ancillary
- 1.4 to the sale or at any time subsequent thereto.
- 1.4 **'the Price'** means the price payable by the Buyer to the Company for the Goods.

**2 GENERAL**

- 2.1 These Terms and Conditions form an integral part of each contract made or agreed to be made by and between the Company and its customers. All orders are accepted only upon these Terms and Conditions to the exclusion of any terms and conditions purported to have been applied by the Buyer. Unless expressly accepted in writing by an authorised officer of the Company any variation of these conditions by the Buyer in whatever form shall not apply.
- 2.2 The Company shall have the right to terminate any contract to which these Terms and Conditions apply if the Buyer fails to conform to these Terms and Conditions.
- 2.3 Any such contract to which these Terms and Conditions apply is not assignable to any third party without the express written permission of the Company.
- 2.4 Failure of the Company to enforce any of its rights under these Terms and Conditions shall not be deemed a waiver of such rights nor preclude the Company from enforcing such terms thereafter.

**3 INFORMATION**

- 3.1 All specifications, colours, illustrations, drawings, diagrams and other information howsoever communicated are of a generally informative nature and approximate only.

**4 ACCEPTANCE**

- 4.1 Unless previously withdrawn, the Company's quotation expires twenty-one (21) days following the date thereof. No purchase order shall be deemed accepted unless confirmed or executed by us delivering the goods. The contract of sale shall not commence until confirmed by us. Should any delivery be made without prior confirmation the invoice shall be deemed to be the confirmation of order.

**5 PRICES**

- 5.1 Unless otherwise stated the Price quoted for the Goods in respect of contracts for delivery within the United Kingdom includes the cost of packaging and delivery to the Buyer but does not include Value Added Tax which will be charged at the applicable rate and be recoverable as part of the Price by the Company.
- 5.2 The Company reserves the right at any time before delivery to increase the Price of the undelivered balance of the Goods by not less than 7 days notice in writing to the Buyer. In such event the Buyer may within seven days of receipt of such notice by notice in writing cancel the order so far as the undelivered balance is concerned

**6 RETURN OF RETURNABLE CONTAINERS & PACKAGES**

- 6.1 Where a charge for returnable containers/and or packages ("Container") have been made at the time of invoice, the Returnable Container shall be returned to the Company within 3 months of delivery to the Buyer. On return of the Returnable Containers to the Company, the Company shall issue a credit note to the Buyer within 7 days of return of the Returnable Container for the returned value of the Returnable Container. No credit note will be issued to the Buyer where the Returnable Container is returned to the Company 3 months or more after delivery.
- 6.2 Where no charge has been made for the Returnable Container at the time of invoice, the Returnable Container shall be returned to the Company by the Buyer within 3 months of delivery of the Goods. If the Returnable Container is not returned by the Buyer within 3 months of delivery, the Company reserves the right to invoice the Buyer for the full cost of a replacement Returnable Container which shall be payable in accordance with clause 8.
- 6.3 Each Returnable Container shall be returned to the Company at the Company's address as stated on the invoice.

6.4 Each Returnable Container shall be returned empty, in good condition and with carriage paid.

## **7 DELIVERY**

7.1 The following conditions shall apply:

7.1.1 Any date or length of time named or accepted stated for delivery by the Company in the confirmation of order for the performance of its obligations hereunder is **not** of the essence;

7.1.2 the Company shall not be liable for the consequences of any delay nor shall the Buyer be entitled to refuse delivery because of delay;

7.1.3 The Company shall be entitled to make partial deliveries or deliveries by instalments and these Conditions shall apply to each part or instalment;

7.1.4 Delivery shall take place when the Goods shall be delivered at the address specified in the Company's quotation or confirmation of order;

7.1.5 The Company shall be entitled to determine the route and manner of delivery and sub-section 32(2) of the Sale of Goods Act 1979 shall not apply to any contract to which these Conditions apply;

7.1.6 The Company shall not be responsible for off-loading from delivery transport, unpacking or for any other additional back-up service;

7.1.7 The risk of any loss or damage to or deterioration of the Goods shall be borne by the Buyer from the time delivery has taken place as above;

7.1.8 The Buyer is responsible for the acceptability including safety and security of the premises to which the Goods are to be delivered by the Company and accepts liability for any consequences arising from the use thereof;

7.1.9 The Company retains the right to refuse to deliver to premises which the Company or its agents deem unacceptable;

7.1.10 If the Buyer arranges collection from the Company's premises the Buyer is responsible for the suitability of such arrangements including safety and security and accepts liability for consequences arising from such collection;

7.1.11 The Company retains the right to refuse to load the Goods on to any form of transport which in its opinion is not suitable; and

7.1.12 Where the Goods are subject to The Carriage of Dangerous Goods by Road Regulations 1996 (SI 2095/1996 as amended by The Carriage of Dangerous Goods (Amendment) Regulations 1999 SI 303/1999) or amendments or re-enactments in force from time to time or other relevant legislation the Company also retains the right to refuse to load the Goods onto any such vehicle which in its opinion does not conform to those regulations or whose driver is not in possession of a valid Driver Training Certificate for the class or classes of Goods which are to be carried.

## **8 PAYMENT**

8.1 Time of payment shall be of the essence of the contract to which these Conditions apply.

8.2 Unless otherwise stated on the Company's invoice or otherwise agreed in writing payment for the Goods by the Buyer shall be made in cleared funds not later than twenty (20) days after the end of the month in which the invoice was rendered.

8.3 Failure by the Buyer to pay the Price when due in accordance with this provision shall entitle the Company to treat such failure as repudiation of the whole contract by the Buyer or to require the Buyer to make immediate payment of all monies due or to become due and to recover from the Buyer damages for such breach of contract and/or at the Company's option.

8.4 Without prejudice to such right as set out in 8.3 above the Company shall have the right to charge interest on the outstanding amount of the Price at the rate of eight per cent per annum or at two percent per annum above the Base Rate of Barclays Bank plc whichever is the higher, calculated on the actual days elapsed since the due date until the Price is paid in full.

## **9 TRANSFER OF TITLE**

9.1 Notwithstanding delivery and the passing of risk, title in the Goods shall remain in the Company until payment in full has been made to the Company by the Buyer for the Goods and all other sums due to the Company at the date of delivery of the Goods.

9.2 Where full payment has not been made to the Company and the Buyer uses the Goods in its manufacturing process or incorporates the Goods with other products title in the Goods shall be retained by the Company insofar as such Goods remain identifiable.

9.3 Until such payment is made the Buyer shall hold all Goods on a fiduciary basis only and should any of the events specified under Condition 12 occur the Buyer shall store such Goods so as to be readily identifiable as the property of the Company.

9.4 The Buyer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or where the Buyer's right to possession has terminated, to recover them.

## **10 SHORTAGES AND DAMAGE AND/OR LOSS IN TRANSIT**

10.1 The Buyer shall inspect the Goods immediately upon delivery and shall within three days of such delivery (time being of the essence) give notice in writing to the Company and the carrier of all claims of damage to or total or partial loss of Goods in transit.

10.2 Goods may not be returned without the Company's approval.

10.3 Claims for non-delivery must be submitted in writing to the Company within fourteen days after notification of despatch.

10.4 Quality claims must be made in writing immediately after the Buyer learns of the defect and in any event not more than sixty days after the Buyer's receipt of the Goods.

10.5 Any claim not made in writing and received by the Company within the aforesaid time limits shall be deemed waived.

10.6 Where the Company fails to make delivery or makes defective delivery of any one instalment such failure or defective delivery shall not vitiate the contract as regards other instalments.

10.7 The right of the Buyer to set off the value of any shortage defective Goods or Goods not otherwise conforming to contract shall be restricted to the specific invoice for the Goods in question and shall not apply to previous or future accounts.

## **11 WARRANTY AND LIMITATION OF LIABILITY**

11.1 The Company warrants that the Goods shall be of reasonable industrial quality unless notified to the contrary. The Buyer acknowledges that the Goods requested are fit for the purpose for which they are required and that the Buyer has not relied on the Company's advice in selecting the Goods.

11.2 The Company's liability is limited to replacement of any Goods which do not conform to this warranty.

11.3 Save as expressly provided above the Company shall be under no liability whatsoever for any consequential loss or damage suffered by the Buyer howsoever arising from supply of the Goods. In particular the Company accepts no liability in respect of Goods which have been incorporated into other products by the Buyer or a third party.

11.4 If contrary to any of the provisions set out above any liability on the part of the Company shall arise whether under the express or implied terms of any contract or at common law or in any other way to the Buyer for any loss or damage of whatever nature arising out of or connected with the provision or purported provision of or failure of or defect in the Goods to which the contract refers such liability shall be limited to the payment by the Company by way of damages including interest of a sum equal to the price of the goods.

11.5 [The Goods shall be delivered in accordance with their specification]. The Company has no interest in and makes no warranty as to the suitability of the Goods for use by the Buyer.

## **12 BUYER'S BREACH AND/OR INSOLVENCY**

12.1 The Buyer's consent from the Company to do the acts referred to in paragraph 8 shall determine and be deemed to have determined forthwith in the event that the Buyer suffers enters into or is subject to any of the following:

12.1.1 distress or execution levied against any of his assets or the Goods ;

12.1.2 a bankruptcy order made against him;

12.1.3 liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation;

12.1.4 an arrangement with his creditors;

12.1.5 an administrator, administrative receiver or any other receiver or manager appointed over any assets;

12.1.6 pledges or charges by way of security any of the Goods title of which remains the Company's;

12.1.7 receives a written demand from the Company to pay sums owed to the Company;

12.1.8 has any bill of exchange cheque or other negotiable instrument drawn or accepted by the Buyer in favour of the Company dishonoured on presentation for payment;

12.2 The Buyer shall not transfer sell or use the Goods belonging to the Company save with the consent of the Company until payment has been made in full

### **13 LIEN**

13.1 The Company retains a general lien on any of the Buyer's equipment goods or other property in the Company's possession in respect of all unpaid debts due from the Buyer and shall after the expiration of fourteen days written notice to the Buyer be entitled to dispose of such Goods and property as it deems fit and to apply the proceeds towards such debts.

### **14 SEVERANCE**

14.1 Each of the Buyer's obligations hereunder shall be a separate and independent obligation. Waiver by the Company of any term or condition hereof shall not prevent the subsequent enforcement of that term or condition and shall not be deemed a waiver of any subsequent breach. In the event that a Court determines that any of the provisions of these terms should be set aside then the other provisions will continue to stand and be independently enforced.

### **15 INTERPRETATION**

15.1 These Terms and Conditions and the construction validity and performance of any contract between the parties shall be construed and applied in accordance with the Laws of England and Wales and any question dispute or difference which may arise under out of or in connection with or in relation to any order or contract or touching the meaning and construction of the same shall be referred to arbitration in London in accordance with the rules of arbitration and the by-laws of the Chemical Business Association for the time being in force. Such arbitration shall be binding on both parties and shall be a submission to arbitration within the meaning of the Arbitration Act 1996 or any statutory modification or-enactment thereof.

### **16 EXCLUSION OF RIGHTS ARISING UNDER THE CONTRACTS RIGHTS OF THIRD PARTIES ACT**

A person who is not a party to any contract which is subject to these Terms and Conditions has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of such contract.