

TERMS & CONDITIONS OF TRADING

General

- 1.1 The terms and conditions of sale set out in this document ("Terms and Conditions") together with our sales order acknowledgement and invoice represent the entire agreement and understanding between us and override any other express or implied terms in relation to any contract for sale of goods ("Contract"). These Terms and Conditions can be altered only by a written statement signed by one of our duly authorised officers. You acknowledge that you have not relied on any statement, promise or representation made or given by or on behalf of us which is not set out here or in the contract.
- 1.2 Subject to any variation under clause 1.1 the Contract shall be subject to these Terms and Conditions to the exclusion of all other terms and conditions that you seek to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 1.3 No one other than a party to the Contract and their permitted assignees shall have any right to enforce any of its terms.
- 1.4 Due to the variability of raw material prices, our quotations and price lists are merely for information and do not constitute an offer to contract, a quotation shall only be valid for the period stated on it. Each order constitutes an offer to purchase by you in accordance with these Terms and Conditions. You are responsible for ensuring that the terms of your order and any applicable specification are complete and accurate. The Contract will be formed when we accept your order by sending you an acknowledgement of order.
- 1.5 Each order placed by you shall, on acceptance by us, be treated as a separate contract. If there shall at any time be more than one contract in course of performance between us and you, any question, dispute or difficulty which may arise in respect of one of such contracts, or the terms on which it may be settled shall not affect in any way the performance of other contracts nor shall you be entitled to exercise in relation to any other contracts any right of set-off or counter-claim arising under one contract.
- 1.6 Once our acknowledgement has been sent an order can only be cancelled or altered if we agree in writing to accept cancellation or alteration. Even if we do accept this we reserve the right to charge for any costs reasonably incurred by us up to the date of alteration and/or cancellation.
- 1.7 Failure or delay by us in enforcing or partially enforcing any provision of these terms shall not be construed as a waiver of any of our rights under these Terms and Conditions or the Contract.
- 1.8 These Terms and Conditions are governed by Incoterms 2020, on the Ex-Works basis unless stated otherwise.

2. Price

- 2.1 Orders for items will be charged at the price shown in our current price list or order acknowledgement at the date of the relevant draw down which is exclusive of any lawful tax and the costs and charges of packaging, insurance, and transport. We may, by giving notice to you at any time before delivery, increase the price to reflect any increase in costs due to any factor beyond our control or any changes requested by you or delays for which you are responsible.
- 2.2 Where we have given a quotation for goods, we will accept orders at the prices given in the quotation provided the order is placed within the validity period stated on the quotation. If the order is not placed within the applicable validity period, we have the right to issue a new quotation.
- 2.3 We will invoice for the quantity of the weighed package for delivery, minus the calculated weight of the packaging. We also reserve the right to charge for packaging where you have special requests and to invoice for material used in testing, which will not be shipped.
- 2.4 Minimum order value is £350 (not including VAT or carriage), if the value of the order does not meet this threshold, we reserve the right to add a small order fee to the order, this will be communicated on the order confirmation.

3. Payment Terms

- 3.1 Unless otherwise agreed in writing, all invoices must be paid in full without demand, deduction, set off or counterclaim, within the due periods as specified on the applicable invoice or, where no due date is specified by the end of the month following the month in which the invoice was submitted.
- 3.2 If you fail to pay us any sum due pursuant to the Contract, you shall be liable to pay interest to us on such sum from the due date for payment at the annual rate of 4% above the base lending rate from time to time of Barclays Bank plc, accruing on a daily basis until payment is made, whether before or after any judgment.

4. Delivery

- 4.1 Standard International delivery is Ex-Works, as defined by Incoterms 2020, at our premises in, Wrexham, Wales, and is entirely your responsibility. Other international delivery terms are available at additional cost and are subject to prior written agreement. Delivery to UK Mainland addresses is chargeable in accordance with our Carriage Policy (available on request).
- 4.2 Time shall not be of the essence in relation to delivery of the goods. Delivery dates quoted by us are given in good faith, but we shall not be liable for failure to deliver on the specified date or dates.
- 4.3 Any liability that we may have for non-delivery of the goods shall be limited to replacing the goods within a reasonable time or issuing a credit note at the pro rata contract rate against any invoice raised for such goods.
- 4.4 If the Contract calls for delivery in instalments each instalment shall be deemed to constitute a separate contract. Any defect in any instalment or failure to deliver any instalment shall not give you the right to cancel future deliveries.
- 4.5 You must arrange for manpower and equipment to be available to unload the goods when they are delivered.

5. Damage and Loss in Transit

- 5.1 For all Ex-Works deliveries, the goods are your responsibility from the time the goods are ready to leave our premises and any loss or damage of equipment in transit is entirely your responsibility as defined in Incoterms 2020. For all other delivery terms responsibility for any loss or damage is borne by the carrier.
- 5.2 We reserve the right to deliver 10 per cent more or less than the contract quantity of goods. Any excess or shortage will be charged or deducted pro rata.
- 5.3 If delivery is to an address in Great Britain and you think that any of the goods have been damaged in transit or that some goods have not been delivered you must notify us in writing within five days of receipt. You must also retain any packaging in which the damaged goods were delivered. We cannot accept any responsibility for any such claim unless you comply with these requirements.
- 5.4 You shall be under a duty to inspect the Goods on delivery or collection.
- 5.5 We shall have no liability for non-delivery, partial loss or damage to the goods occurring prior to delivery and any claim that the goods are not in accordance with the contract unless claims to that effect are notified in writing by you to us, and the carrier that was used to deliver the Goods in cases where our own vehicles have not been used to deliver the Goods:
- 5.5.1 within seven days of delivery for partial loss or damage or non-compliance with the contract; or
- 5.5.2 within fourteen days of the date of the invoice for non-delivery.

6. Risk & Title

- 6.1 Risk in the goods shall pass to you on completion of delivery.
- 6.2 Notwithstanding delivery and the passing of risk and subject to clause 6.5, property in and title to the goods shall remain with us until we have received payment of the full price of the goods and all other amounts owed to us
- 6.3 If any payments are overdue or the provisions of clause 12.1.4 or 12.1.5 apply to you then, without prejudice to any other remedies, we may terminate any subsisting contracts with you and enter your premises to recover all goods in respect of which title has not passed.
- 6.4 Until title has passed you must store the goods in such a way as clearly to indicate at all times that the goods are owned by us and not do anything to

- the goods which may prevent them from being identified. We reserve the right to enter upon any relevant land or buildings with such transport as may be necessary for the purpose of repossession, but this shall be without prejudice to any other rights or remedies arising from any breach of contract.
- 6.5 Subject to clause 6.4 the goods may be resold by you in the ordinary course of the business before we receive payment for the Goods. However, if you resell the Goods before that time title to the Goods shall pass from us to you immediately before the time at which the resale by you occurs.
7. **Limitation of Liability**
- 7.1 Subject to Clause 4 the following provisions set out our entire financial liability (including any liability for the acts or omissions of our employees, agents and sub- contractors) to you in respect of:
- 7.1.1 Any breach of these Terms & Conditions;
- 7.1.2 Any use made or resale by you of any of the goods, or of any product incorporating any of the goods; and
- 7.1.3 Any representation, statement or tortious act or omission including negligence arising under or in connection with any contract for sale.
- 7.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.
- 7.3 Nothing in these conditions excludes or limits our liability:
- 7.3.1 For death or personal injury caused by our negligence; or
- 7.3.2 Under section 2(3), Consumer Protection Act 1987; or
- 7.3.3 For any matter which it would be illegal for us to exclude or attempt to exclude our liability; or
- 7.3.4 for fraud or fraudulent misrepresentation.
- 7.4 Subject to clause 7.2 and clause 7.3:
- 7.4.1 Our total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to price paid by you for the goods under the Contract; and
- 7.4.2 We shall not be liable to you for loss of profit, loss of business, in each case whether direct, indirect or consequential which arise out of or in connection with the Contract.
8. **Anti-Bribery**
We shall comply with all applicable laws, statues and regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010.
9. **Ownership Rights**
Unless otherwise agreed in writing, All technical information, formulation, mixing and manufacturing methods and all other information in relation to the goods or their attributes are our property and you are not allowed to do anything which may damage or endanger or challenge the validity of these ownership rights and you should not reproduce or otherwise use these without our prior written permission.
10. **Severance**
If any provision of these Terms and Conditions are prohibited by law or adjudged by a Court to be unlawful, void or unenforceable then that provision shall to the extent required be severed from these Terms and Conditions and rendered ineffective as far as possible without modifying the remaining terms of these Terms and Conditions and shall not in anyway affect any other circumstances or the validity or enforcement of these Terms and Conditions.
11. **Force Majeure**
Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from an event outside their reasonable control. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for 3 months, the party not affected may terminate the Contract by giving 30 days' written notice to the affected party.
12. **Termination on Non-Payment or Insolvency**
- 12.1 We may at any time terminate the Contract with immediate effect by giving written notice to you if:
- 12.1.1 You fail to pay any amount due under the Contract on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment;
- 12.1.2 You commit a material breach of any term of the Contract (other than failure to pay any amounts due under the Contract) and (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;
- 12.1.3 You repeatedly breach any of the terms of the Contract in such a manner as to reasonably justify the opinion that your conduct is inconsistent with it having the intention or ability to give effect to the terms of the Contract;
- 12.1.4 You suspend, or threaten to suspend, payment of your debts or re unable to pay your debts as they fall due or admit inability to pay your debts or are deemed unable to pay your debts within the meaning of section 123 of the Insolvency Act 1986;
- 12.1.5 You commence negotiations with all or any class of your creditors with a view to rescheduling any of your debts, or make a proposal for or enter into any compromise or arrangement with your creditors other than for the sole purpose of a scheme for a solvent amalgamation with one or more other companies or a solvent reconstruction;
- 12.2 Termination of the Contract, for any reason, shall not affect the accrued rights, remedies, obligations or liabilities of the parties existing at termination.
13. **Indemnity**
- 13.1 You will indemnify us and keep us indemnified against any loss, damage or liability (whether criminal or civil) suffered and legal fees and costs incurred by any breach by you of these Terms and Conditions including any act neglect or default by your employees or agents and including any breach by you resulting in any successful claim by any third party.
- 13.2 By entering into the Contract you agree that any rules relating to or providing for fixed costs or any other such provisions seeking to limit any litigation, enforcement and recovery costs, fees and expenses incurred whether contained in the Civil Procedure Rules or elsewhere are specifically excluded and shall not apply to your liability for any costs under these Terms and Conditions.
14. **Governing Law**
These Terms and Conditions shall be governed by and construed in accordance with English Law and be under the jurisdiction of the Courts of England.
15. **Date & Revision New IMS Reference IMS-L1-002 16/04/2004**