

**TERMS AND CONDITIONS OF SALE
OF Axchem international Ltd T/A Axchem UK**

In these Terms and conditions "the Seller" means Axchem international Ltd T/A Axchem UK; "the Buyer" means the person or company purchasing the Goods and/or Services, "the Goods" means the goods or materials which shall be the subject of the contract between the Seller and the Buyer; "a Contract" means a legally binding contract between the Seller and the Buyer for the sale and purchase of Goods ordered by the Buyer and accepted by the Seller in accordance with these conditions of sale; "Services" means any services including, any services associated with the Goods Supplied by the Seller to the Buyer in accordance with the Contract; and "the Price" means the price specified in the Seller's acknowledgement or otherwise communicated to the Buyer. The Seller reserves the right to update these terms and conditions at any time.

Unless otherwise expressly agreed in writing by the Seller, every Contract shall be governed in all respects by these terms and conditions.

The Seller will accept no responsibility whatsoever for any error or omission in the transmission of the Buyer's Order.

The seller shall be entitled to rely on the contents of the Order Acknowledgement as stating the quantity and the type of the Goods that are to be supplied. It is the Buyer's sole responsibility to check the Order Acknowledgement and to notify the Seller immediately after the receipt where the Goods are not properly stated in the Order Acknowledgement.

1. PRICE AND PAYMENT

- 1.1. The price (exclusive of VAT, costs and charges of packaging, insurance and transport) for the Goods ("the Price") shall be the price of the Seller at the time of delivery (unless otherwise agreed in writing by the seller), shall be made by the Buyer in full and cleared funds within 30 days of the month end of the invoice date for the Goods. Time for payment is of the essence. The Seller may invoice the Buyer for the Goods on or at any time after dispatch.
- 1.2. If the Price is not paid by the due date interest shall accrue both before and after judgment on the unpaid portion of the Price at the rate of 8 per cent per annum above the base rate from time to time of Lloyds Banking Group plc. The Buyer shall pay the interest together with the overdue amount.
- 1.3. The Buyer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Seller may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Buyer against any amount payable by the Seller to the Buyer.
- 1.4. The Sellers quotation is not to be taken as an offer and no contract shall take effect until an order acknowledgement has been sent to the buyer.

2. DELIVERY

- 2.1. The Seller shall deliver the Goods to the Buyer at the address of the Buyer as shown on the order acknowledgment, or such other location as the parties may agree ("Delivery Location") within a reasonable time.
- 2.2. Any dates quoted for delivery are approximate only and time shall not be of the essence for delivery.
- 2.3. Delivery is completed on the completion of unloading of the Goods at the Delivery Location.
- 2.4. The Seller may deliver the Goods in instalments, which shall be invoiced and paid for separately.
- 2.5. If for any reason the Buyer fails to accept delivery of the Goods when they are ready for delivery then:
 - 2.5.1. Risk in the Goods shall pass to the Buyer.
 - 2.5.2. The Goods shall be deemed to have been delivered at 9.00am on the third business day following notification the Goods were ready for delivery; and
 - 2.5.3. The Company shall store the Goods until delivery at the Buyer's cost and expense (including the cost and expense of insurance). Furthermore, the company reserves the right to further invoice these costs together with any additional expense for re-delivery.
 - 2.5.4. If ten business days after the day on which the Seller notified the Buyer that the Goods were ready for delivery the Buyer has not accepted delivery of them, the Seller may resell or otherwise dispose of part or all of the Goods.

3. ACCEPTANCE

The Buyer shall be deemed to have accepted the Goods if they have not been rejected on or before the 7th day after delivery. The Buyer shall not be entitled to reject the Goods in whole or in part after such date.

4. TITLE AND RISK

- 4.1. The Goods shall be at the risk of the Buyer following completion of delivery.
- 4.2. Notwithstanding delivery title in the Goods shall not pass to the Buyer until the Buyer has made and the Seller has received payment in full of all sums owing to the Seller.
- 4.3. Until such time as title in the Goods passes to the Buyer the Seller shall have the right to repossess or otherwise recover the Goods and the Buyer shall:
 - 4.3.1. hold the Goods on a fiduciary basis as the Company's bailee.
 - 4.3.2. not remove, deface or obscure any identifying mark or packaging on or relating to the Goods.
 - 4.3.3. notify the Seller immediately if it becomes subject to any of the events listed in clause 7.1.
 - 4.3.4. store the Goods in such a way that they remain readily identifiable as the Seller's property.
 - 4.3.5. maintain the Goods in satisfactory condition and keep them insured on the Seller's behalf for their full price against all risks from the date of delivery.
 - 4.3.6. give the Seller such information relating to the Goods as the Seller may require from time to time.
- 4.4. If before title to the Goods passes to the Buyer the Buyer becomes subject to any of the events listed in clause 7.1, then, without limiting any other right or remedy the Seller might have:
 - 4.4.1. the Seller may at any time require the Buyer to deliver up all Goods in its possession; or
 - 4.4.2. the Buyer grants the Seller, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored to recover them where the Buyer's right to possession has terminated.

5. QUALITY

- 5.1. The Seller warrants that on delivery the Goods shall:
 - 5.1.1. conform in all material respects with their description; and
 - 5.1.2. be free from material defects in design, material and workmanship.
- 5.2. Subject to clause 5.2, if:
 - 5.2.1. the Buyer gives notice in writing to the Seller within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 5.1;

- 5.2.2 the Seller is given a reasonable opportunity of examining such Goods; and
- 5.2.3 the Buyer (if asked to do so by the Seller) returns such Goods to the Seller's place of business at the Buyer's cost, the Seller shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

- 5.3 The Seller shall not be liable for the Goods' failure to comply with the warranty set out in clause 5.1 in any of the following events:
 - 5.3.1 the Buyer makes any further use of such Goods after giving notice in accordance with clause 5.2.
 - 5.3.2 the defect arises because the Buyer failed to follow the Seller's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same.
 - 5.3.3 the Buyer alters or repairs such Goods without the written consent of the Seller.
 - 5.3.4 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
 - 5.3.5 Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 5.4 Except as provided in this clause 5.4 the Seller shall have no liability to the Buyer in respect of the Goods' failure to comply with the warranty set out in clause 5.1.
- 5.5 These Conditions shall apply to any repaired or replacement Goods supplied by the Seller.

6. **LIMITATION OF LIABILITY – BUYER'S ATTENTION IS DRAWN TO THIS CLAUSE**

- 6.1. 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.
- 6.2. Nothing in these conditions excludes or limits the liability of the Company:
 - 6.2.1 for death or personal injury caused by the Seller's negligence; or
 - 6.2.2 for fraud or fraudulent misrepresentation.
- 6.3. Subject to clause 6.1 and 6.2:
 - 6.3.1 the Seller's total liability to the Buyer in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the Contract shall be limited to the Price; and
 - 6.3.2 the Seller shall under no circumstances whatsoever be liable to the Buyer whether in contract, tort (including negligence) breach of statutory duty or otherwise, 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.

7. **TERMINATION**

- 7.1 Without limiting its other rights or remedies, the Seller may terminate this Contract with immediate effect by giving written notice to the Buyer if:
 - 7.1.1 the Buyer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 7 days of that party being notified in writing to do so;
 - 7.1.2 the Buyer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;
 - 7.1.3 the Buyer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
 - 7.1.4 the Buyer's financial position deteriorates to such an extent that in the Seller's opinion the Buyer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 7.2 Without limiting its other rights or remedies, the Seller may suspend provision of the Goods under the Contract or any other contract between the Buyer and the Seller if the Buyer becomes subject to any of the events listed in clause 6.1 or the Seller reasonably believes that the Buyer is about to become subject to any of them, or if the Buyer fails to pay any amount due under this Contract on the due date for payment.
- 7.3 Without limiting its other rights or remedies, the Seller may terminate the Contract with immediate effect by giving written notice to the Buyer if the Buyer fails to pay any amount due under the Contract on the due date for payment.
- 7.4 On termination of the Contract for any reason the Buyer shall immediately pay to the Seller all of the Seller's outstanding unpaid invoices and interest.
- 7.5 Termination of the Contract shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of this Contract that existed at or before the date of termination.
- 7.6 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

8. **FORCE MAJEURE**

The Seller shall not be liable for any default due to any circumstances beyond the reasonable control of the Seller including, but not limited to, Acts of God, war, civil unrest, riot, strike, lock-out, acts of civil or military authorities, fire flood, earthquake or shortage of supply or failure to deliver the Goods.

9. **GENERAL**

- 9.1. If any term or provision of these Conditions is held invalid illegal or unenforceable for any reason by any Court of competent jurisdiction such provision shall be severed or modified to the minimum extent necessary to make it valid, legal and enforceable and the remainder of the provisions hereof shall continue in full force and effect as if these Conditions had been agreed with the invalid illegal or unenforceable provision eliminated.
- 9.2. The Seller may without the consent of the Buyer sublicense its rights or obligations or any part of these Conditions.
- 9.3. The headings in these Conditions are for ease of reference only and shall not affect the interpretation of any of the Conditions.
- 9.4. Unless otherwise agreed with the seller, the buyer will be responsible for the delivered product's packaging and its future disposal and handling thereof
- 9.5. Return of goods:
 - 9.5.1 Any return of goods must be approved by the seller. Any such request in the first instance should be made through the Buyer's Account manager, within the seller's organisation. The seller reserves the right to carry out any necessary check as to the condition of the related goods prior to the approval of the return being processed.
 - 9.5.2 All goods where the return has been approved by the seller must be packaged and in a fit state for transportation.
 - 9.5.3 An assessment will be made by the seller, in relation to any approved return, in terms of the value of any resulting credit.

9.5.4 The seller reserves the right to charge the buyer for any additional costs incurred by the seller in relation to managing and processing the necessary transaction of returned goods. These costs including but not being limited to, transport of goods or cost of re processing or cost of disposal.

10. **THIRD PARTY RIGHTS**

The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

11. **ENTIRE AGREEMENT**

Each of the parties agrees that save in respect of statements made fraudulently it shall have no remedy in respect of any untrue statement upon which it relied in entering this Agreement and that its only remedies shall be for breach of contract.

12. **GOVERNING LAW AND JURISDICTION**

This agreement shall be governed by the laws of England and Wales and the parties hereby submit to the exclusive jurisdiction of the Courts of England and Wales.