

BKY TERMS & CONDITIONS OF SALE.

1. Interpretation in these Conditions:

'Buyer' means the person who accepts a quotation of the Seller for the sale of the Goods or whose order for the Goods is accepted by the Seller; 'Goods' means the goods (including any instalment of the goods or any parts for them) which the Seller is to supply in accordance with these Conditions; 'Seller' means BKY Chemical Solutions Ltd. whose registered office is at BKY Chemical Solutions Ltd. 28 Oak Road, Barton under Needwood, DE13 8LR England; 'Conditions' means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes and special terms and conditions agreed in writing between the Buyer and Seller. 'Contract' means the contract for the purchase and sale of the Goods; 'Writing' includes telex, cable, facsimile transmission, electronic mail and comparable means of communication. 'Packaging' includes all types of packaging and containers; 'Product Data Sheet' means the information leaflets produced by the Seller or the Sellers partners in respect of the Goods (and respectively for each of the Goods if more than one) being current at the date of the Contract. The term Product Data Sheet includes any further specifications or details specifically given to the Buyer in Writing by the Seller or The Sellers Partners in respect of the Goods current at the date of the contract.

1.2 The headings in these conditions are for convenience only and shall not affect their interpretation.

2. Basis of the sale The Seller shall sell and the Buyer shall purchase the Goods in accordance with any

quotation of the Seller which is accepted by the Buyer, or any written order of the Buyer which is accepted by the Seller, subject in either case to these Conditions, which shall govern the Contract and no variation to these Conditions shall be binding unless agreed in Writing between the Buyer and the Seller

3. Orders and specifications 3.1 No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in Writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against the loss (including loss of profit, costs (including tooling costs and the cost of all labour and materials used), damaged, charges and expenses incurred by the Seller as a result of cancellation.

3.2 The Seller reserves the right to deliver a quantity of goods which may vary up to 10% over or under the quantity specified on the individual release and the Buyer shall accept delivery and pay for such revised quantity.

4. Price of the Goods The price of the Goods shall be the Seller's quoted price, where a price has been quoted. All quoted prices are valid for 30 days only or until earlier acceptance by the Buyer, after which time

they may be altered by the Seller without giving notice to the Buyer. The price is exclusive of Value Added Tax, which the Buyer shall be additionally liable to pay to the Seller.

5. Terms of Payment 5.1 Subject to any special terms agreed in Writing between Buyer and Seller, the Seller shall be entitled to invoice the Buyer for the price of the Goods on or at any time after delivery of the Goods unless the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods, in which event the Seller may invoice the Buyer for the price at any time after the Seller has notified the Buyer that the Goods are ready for collection or delivery.

5.2 The Buyer shall pay the price of the Goods within 30 days of the date of the Seller's invoice (or as may be agreed by the Seller in Writing, and the Seller shall be entitled to recover the price, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract. Receipts will be issued only upon request. 5.3 If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to: (a) cancel the Contract or suspend any further deliveries to the Buyer; (b) appropriate any payment made by the Buyer to such of the Goods or the goods supplied under any contract between the Buyer and the Seller) as the Seller may think fit notwithstanding any purported appropriation by the Buyer); and (c) charge the Buyer interest (both before and after any judgement) on the amount unpaid, at the rate of 3.5 per cent per annum above HSBC Bank PLC base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

5.4 If in its absolute discretion the Seller agrees to provide any credit facility to the Buyer the Seller shall at all times have the right to terminate such facility and forthwith upon notice from the Seller to the Buyer of such termination all sums outstanding to the Seller shall be payable by the Buyer. The Seller shall be under no obligation to give reasons for such termination.

6. Delivery and Packaging 6.1 Delivery of the Goods shall be made by the Buyer collecting the Goods at Seller's premises at any time after Seller has notified the Buyer that the Goods are ready for collection or, if some other place for delivery is agreed by the Seller, by the Seller delivering the Goods to that place.

6.2 Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods however caused. Time for delivery shall not be of the essence of the Contract unless previously agreed by the Seller in Writing. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.

6.3 If the Seller fails to deliver any Goods for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault, and the Seller is accordingly liable to the Buyer, the Seller's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.

6.4 If the Buyer fails to take delivery of the Goods then, without prejudice to any other right or remedy available to the Seller, the Seller may sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract.

6.5 Packaging, Property in 1,000 litre IBC tote containers shall remain with the Seller. The Buyer shall keep such containers safe, unfulfilled and undamaged and forthwith upon demand of the Seller deliver them up to the Seller for collection by it. The Buyer is obliged at its own expense to destroy other Packaging in which the Goods are delivered 'In accordance with the laws of the country in which the Goods are situated.

The Buyer must not use any Packaging for storage of other products or goods. The Buyer will indemnify the Seller against any loss, costs, claims, damaged or awards arising out of any breach of this clause by the Seller.

7. Risk and Property 7.1 Risk at damage to or loss of the Goods shall pass to the Buyer:

(a) in the case of Goods to be delivered at the Seller's premises, at the time when the Seller notifies the Buyer that the Goods are available for collection; or

(b) in the case of the Goods to be delivered otherwise than at the Seller's premises, at the time of delivery or, if the buyer wrongfully fails to take delivery of the Goods, the time when the Seller has tendered delivery of the Goods.

7.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by the Buyer to the Seller for which payment is then due.

7.3 Until such time as property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee, and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property, but the Buyer shall be entitled in good faith to resell or use the Goods in the ordinary course of its business.

7.4 Until such time as the property in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold), the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.

8. Warranties and liability 8.1 It is the responsibility of the buyer and not the Seller to ensure that the Goods are fit for the Buyer's intended purpose. subject to the conditions set out below the Seller warrants that the Goods will correspond with their or their Partners Product Data Sheet at the time of delivery and for the period applicable to the Goods as stated in the Product Data Sheet.

8.2 The above warranty is given by the Seller subject to the matters contained in the Product Data Sheet described in clause 8.1 and it is the responsibility of the Buyer and not the Seller to ensure that the Buyer is ware of the contents of the relevant Product Data Sheet and the Buyer shall be deemed to have actual knowledge thereof.

8.3 Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with Product Data Sheet shall whether or not delivery is refused by the Buyer) be notified to the Seller within 15 days from and including the date of delivery or (where the defect was not apparent on reasonable inspection) within a reasonable time after discovery of the defect of failure if delivery is not refused then forthwith upon making such notification the Goods (or a representative sample thereof) shall be returned to the Seller's principal office for inspection and examination by the Seller. If delivery is not refused, and the Buyer does not notify the Seller accordingly and return the Goods or provide such sample then the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.

8.4 Where any valid claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods or their failure to correspond with their Product Data Sheet is notified to the Seller in accordance with these Conditions, the Seller shall be entitled to replace the Goods (or the part in Question) free of charge or, at the Seller's sole discretion, refund to the Buyer the price of the Goods (or proportionate part of the price). but the Seller shall have no further liability to the Buyer.

8.5 If any action is brought against the Buyer for infringement of any patent alleging that the Goods or the method of manufacturing the same infringes any such patent then the Seller shall at its own expense defend such action and shall pay any award of damages assessed against the Buyer in such action to the extent only that the damages are awarded in connection specifically with the said alleged infringement provided that the Buyer must give the Seller prompt notice in writing of the institution of such action and to the full extent of the Buyer's power to do so, permits the Seller to defend the same against any such action. The foregoing fully expresses the Buyer's remedy and the Seller's sole liability with respect of infringement of any patent by the Goods.

8.6 Except in respect of death or personal injury cause by the Seller's negligence, the Seller shall not be liable to the Buyer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of Contract, for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs expenses or other claims for compensation whatsoever (whether caused by the negligence or the Seller, its employees or agents or otherwise) which arise out of or in connection with the supply or the Goods or their use or resale by the Buyer, and the entire liability of the Seller under or in connection with the Contract shall not exceed the price of the Goods, except as provided in these conditions.

8.7 The Seller shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or failure to perform, any of the Seller's obligations in relating to the Goods, if the delay or failure was due to any cause beyond the Seller's reasonable control; act of God, explosion flood tempest fire or accident War or threat of war sabotage insurrection civil disturbance or requisition Acts restrictions bye-laws prohibitions or measures of any kind on the part of any government parliamentary or local authority import or export regulations or embargoes or Strikes lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party) difficulties in obtaining raw materials labour fuel parts or machinery power failure or breakdown in machinery.

8.8 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.

9. The Contract shall be governed by the laws of England, and the Buyer agrees to submit to the non-

exclusive jurisdiction of the English Courts.

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