

CONDITIONS OF SALE & CONDITIONS OF PURCHASE

CONDITIONS OF SALE

1. DEFINITIONS

'the seller' means Menzolit Ltd. 'the Purchaser' means the person, firm or Company to be supplied with the Goods by the seller. 'Goods' means the goods, materials and/or other items to be supplied pursuant to the Contract. 'the Contract' means the contract of sale and purchase of certain goods made between the Seller and the Purchaser to which these Conditions shall apply and which shall include any order issued there under.

2. SCOPE

THESE CONDITIONS SHALL PREVAIL OVER ANY INCONSISTENT TERMS OR CONDITIONS REFERRED TO IN THE PURCHASER'S ORDER OR IN CORRESPONDENCE OR ELSEWHERE UNLESS SPECIFICALLY AGREED TO IN WRITING BY BOTH PARTIES AND ANY CONDITIONS OR STIPULATIONS TO THE CONTRARY ARE HEREBY EXCLUDED OR EXTINGUISHED.

3. QUOTATIONS

Quotations by the Seller shall not constitute an offer and the Seller reserves the right to withdraw or amend the same at any time prior to acceptance of the Purchaser's Order.

4. PRICES

The prices payable for the Goods shall be those charged by the Seller at the time of despatch so that the Seller shall have the right at any time to revise quoted prices to take account of increases in costs including (without limitation) costs of acquisition of raw materials and of carriage.

5. TERMS OF PAYMENT

Payment of invoices shall be made in cash sterling at Ellesmere Port by the 25th day of the month following delivery of the Goods. The Seller shall have the right to charge interest on overdue accounts at the rate of 5% above Lloyds Bank plc base rate from time to time to run from the due date for payment thereof until receipt by the Seller of the full amount whether before or after judgement.

6. DELIVERY

6.1 Time not being of the essence of the contract, delivery dates mentioned in any quotation or acceptance form or elsewhere are approximate only and not of any contractual effect. The Seller shall not be under any liability to the Purchaser in respect of any delay in delivery howsoever arising.

6.2 In the event of the Purchaser returning or failing to accept any delivery of the Goods in accordance with the Contract, the Seller shall be entitled at his option either to deliver and invoice the Purchaser for the balance of Goods then remaining undelivered or to suspend or cancel further deliveries under the Contract. The Seller shall be entitled to store at the risk of the Purchaser any Goods which the Purchaser refuses or fails to accept and the Purchaser shall pay all costs of such storage and any additional costs of carriage incurred as a result of such refusal or failure.

6.3 Subject to the provisions of clause 6.4 (where appropriate) the Goods shall, unless delivered by the Sellers own transport or by a carrier on behalf of the Seller, be deemed to have been delivered and risk to have passed to the Purchaser upon their transfer to the carrier named by the Purchaser or (in the case of delivery 'ex works') upon the Seller notifying the Purchaser that the Goods are available for collection.

6.4 In any case, where Goods are sold CIF or FOB or on the basis of any other international trade term the meaning of such terms contained in current Incoterms shall apply as if expressly incorporated herein except insofar as any part of the same may be inconsistent with any of the provisions contained in these Conditions.

6.5 In the Case of any sale of Goods FOB the Seller shall be under no obligation to give to the Purchaser the notice specified in Section 32(3) of The Sale of Goods Act 1979.

member of **Senata** - group

6.6 In the case of the Contract or any order involving more than one delivery if default is made in payment on the due date the Seller shall have the right to suspend all or any further deliveries pending payment or to terminate the Contract in its entirety by notice in writing to the Purchaser.

6.7 Returnable packaging received by the Purchaser as containers for the goods remain the property of the Seller. Such returnable packaging shall at the cost and risk of the seller be returned empty to the Seller in satisfactory condition within 30 days of delivery failing which by the Purchaser shall be debited with the cost thereof.

7. TITLE

7.1 Notwithstanding delivery and the passing of risk in the Goods title to the Goods shall pass to the Purchaser upon payment in full of the invoice price and ownership of the Goods shall remain with the Seller until the Seller has received in cash or cleared funds payment in full. The Seller reserves the right to dispose of the Goods until payment in full for all of the Goods has been received by the Seller in accordance with the terms of this contract.

7.2 Until such time as the property in the Goods passes to the Purchaser, the Purchaser shall hold the Goods as the Seller's fiduciary agent and bailee and shall keep the Goods separate from those of the Purchaser and third parties and properly stored, protected and insured and identified as the Seller's property. Until that time the Purchaser shall be entitled to resell or use the Goods in the ordinary course of its business, but shall account to the Seller for the proceeds of sale or otherwise of the Goods, whether tangible or intangible, including insurance proceeds, and shall keep all such proceeds separate from any moneys or property of the Purchaser and third parties and, in the case of tangible proceeds, properly stored, protected and insured.

7.3 If such payment is overdue in whole or in part the Seller may without prejudice to any of its other rights recover or re-sell the Goods or any of the Goods and may enter upon the premises of the Purchaser or any third party where the goods are stored by its servants or agents for that purpose.

7.4 Such Payments shall become due immediately upon the commencement of any act, claim, demand or proceeding in which the solvency of the Purchaser is involved as referred to in Clause 13.1

8. VARIATIONS

The Seller shall be deemed to have fulfilled his contractual obligation in respect of any delivery notwithstanding the fact of the quantity delivered being up to ten per cent more or less than the quantity specified in the Contract and in such event the Purchaser shall pay for the actual quantity delivered.

9. SPECIFICATIONS BY THE PURCHASER

9.1 The Purchaser shall indemnify and keep indemnified the Seller against all claims, costs, damage and expenses incurred by or for which the Seller may become liable as a result of the carrying out of any work required to be done on or to the Goods in accordance with the requirements or specifications of the Purchaser involving any infringement of any intellectual property right vested in another person, firm or company.

9.2 The sale of Goods shall not by implication or otherwise convey any license under any patent relating to the product or compositions thereof and the Purchaser expressly assumed all risks of patent infringement by reason of the Purchaser's use or sale of the Goods singly or in combination with other materials or in any processing operation whatsoever.

9.3 The Purchaser warrants that any design or instructions furnished or given by him shall not be such as will cause the Seller to infringe any letters patent, registered design, trade mark or trade name in the execution of the Contract.

9.4 The Seller reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable safety or other statutory requirements, or where the Goods are to be supplied to the Suppliers specification, which do not materially affect their quality of performance.

10. LIABILITY

10.1 THE PURCHASERS ATTENTION IS DRAWN IN PARTICULAR TO THE WHOLE OF THIS CLAUSE 10.

10.2 The Seller shall not be liable for any shortage in quantity delivered nor for any defect in the quality nature or condition of the Goods nor for the failure of the Goods to comply with any specification unless a claim in writing shall have been lodged with the Seller by the Purchaser. (a) In the case of shortage, within three days of delivery and (b) In the case of defects, within seven days of delivery In this respect the Purchaser is obliged to check the quantity, safety and all other properties of the Goods and to hold the Seller harmless against any claims and in the event no such claim is lodged the Purchaser shall not be entitled to reject the Goods the Purchaser shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.

10.3 The Purchaser is obliged to check the Goods on delivery and to indemnify and keep indemnified the Seller against any claims, demands or proceedings in respect of the quantity and safety of the Goods in the possession of the Purchaser.

10.4 In the event of any shortage defect or failure as aforesaid the Seller shall make good the shortage and/or at the Sellers sole discretion replace free of charge any Goods found to be defective by reason of faulty material or workmanship provided that as a condition thereof the Seller may require that the Goods concerned are returned to the Seller's works carriage paid within one month of discovery of the defect.

10.5 Except in respect of death or personal injury caused by the negligence of the Seller (being negligence defined by Section 1 of the Unfair Contract Terms Act 1977) the liability of the Seller to the Purchaser by reason of any representation implied warranty or other term or any duty under common law or under any contract for any consequential loss or damage (whether for loss or profit or otherwise) costs claims and expenses or for any other loss damage or injury whatsoever which may arise from the suitability of the Goods defective material faulty workmanship or otherwise shall in no case exceed the invoiced value on the Goods delivered from which the loss or damage arises. 10.6 Any information or recommendation by the Seller in relation to the Goods is given in good faith but the Seller shall not be liable to the Purchaser in respect of any loss or damage arising there from howsoever caused.

11. LICENCES AND CONSENTS

If any licence or consent of any government or other authority shall be required for the purchase or importation of the Goods by the Purchaser, the Purchaser shall obtain the same as its own expense and if necessary or so required produce evidence of the same to the Seller on demand.

12. FORCE MAJEURE

The Seller shall not be liable to the Purchaser for any loss or damage which may be suffered by the Purchaser as a direct or indirect result of the Seller being prevented, hindered or delayed in the manufacture of the Goods or their delivery by normal route or means of delivery by reason of any act of God riot strike lock out trade dispute or labour disturbances accident breakdown of plant machinery fire flood difficulty in obtaining workmen materials or transport or other circumstances whatsoever outside the control of the Seller.

13. TERMINATION

13.1 This clause applies if:

13.1.1 The Purchaser makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (other than for the purposes of amalgamation or reconstruction); or

13.1.2 An encumbrancer takes possession, or a receiver is appointed, of any of the property of assets of the Purchaser; or

13.1.3 The purchaser ceases, or threatens to cease, to carry on business; or

13.1.4 The Seller reasonably apprehends that any of the event mentioned above is about to occur in relation to the Purchaser and notifies the Purchaser accordingly.

13.2 If this clause applies then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further delivery under the Contract without any liability to the Purchaser, and if the Goods have been delivered but not paid for the payment shall become immediately due and payable, notwithstanding any previous agreement or arrangement to the contrary.

13.3 The Seller which by the Contract is understood to mean all Companies forming part of the same group of Companies as the Seller has the right to set off any sums receivable from the Purchaser (which in this respect is also understood to mean all companies forming part of the same group of Companies as the Purchaser) against any sums payable to the Purchaser.

14. WAIVER

The failure on the part of either party to the Contract to exercise or enforce any rights conferred by the Contract shall not be deemed to be the waiver of any such right nor operate so as to bar the exercise or enforcement thereof at any time or times thereafter.

15. NOTICES

Any notice required to be given hereunder in writing shall be deemed to have been duly given if sent by pre-paid first class post, telex, fax transmission or telegraph addressed to the party concerned at its principal place of business or last known address.

16. HEADINGS

Headings to any of these Conditions are included to facilitate reference only and shall not affect construction hereof.

17. SEVERABILITY

If any provision of these Conditions is held by a 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 thereby.

18. GOVERNING LAW

The Contract shall be governed by and construed and interpreted in accordance with the laws of England and for the purpose of settlement of any disputes arising out of or in connection with the Contract the parties hereby submit themselves to the jurisdiction of the English Courts. The Statutory regulations for implementation of the convention concluded at The Hague on 1st July 1974 relating to a uniform law on the international sale of Goods shall not be applicable to this contract.

19. SET OFF

Seller, which in this respect is also understood to mean all companies forming part of the same group of companies as Seller, has the right to set off any sums receivable from the Purchaser, which in this respect is also understood to mean all companies forming part of the same group of companies as Buyer, against any sums payable to the Purchaser.

CONDITIONS OF PURCHASE

Applicable to all purchases unless a variation is agreed with the Buyer in Writing on the Order or in amendment to the Order.

1. DEFINITIONS

"Buyer" means Menzolit Limited.

"Conditions" means the standard terms and conditions of purchase set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and the Seller.

"Contract" means the contract for sale and purchase of the Goods and the Supply and acquisition of the Services.

"Delivery Address" means the address stated on the Order.

"Goods" means the goods, articles or materials or any part of them described in the Order.

"Order" means the order or request by the Buyer to the Seller made in writing on the Buyers Order form for the Supply of the Goods.

"Price" means the price of the Goods and/or the charge for the Services.

"Seller" means the person, firm or company to whom the Order is addressed.

"Services" means the services (if any) described in the Order.

"Specification" includes any plans, designs, drawings, data formulae or other information relating to the Goods or Services.

"Writing" includes telex, cable, facsimile transmission and comparable means of communication.

2. BASIS OF PURCHASE

(i) The Order constitutes an offer by the Buyer to purchase the Goods and/or acquire the Services subject to these Conditions and the Buyer will not be bound by any order unless issued on the Buyers official Order Form.

(ii) These Conditions shall apply to the Contract to the exclusion of any other terms and conditions on which any quotation has been given to the Buyer or subject to which the Order is accepted or purported to be accepted by the Seller.

(iii) The Seller's acceptance of the Order implies agreement to supply the Goods or Services at the price and subject to the terms and conditions stipulated.

3. VARIATIONS

Neither the Buyer nor the Seller shall be bound by any variation, waiver of or addition to these Conditions or to the terms and the specifications in the Order except as agreed by both parties in Writing and signed by a duly authorised person on their behalf.

4. SPECIFICATIONS

(i) The quantity, quality and description of the Goods and the Services shall, subject as provided in these Conditions, be as specified in the Order and/or in any applicable Specification supplied by the Buyer to the Seller or agreed in Writing by the Buyer.

(ii) Any Specification supplied by the Buyer to the Seller, or specially produced by the Seller for the Buyer, in connection with the Contract, together with the copyright, design rights or any other intellectual property rights in the specification, shall be the exclusive property of the Buyer. The Seller shall not disclose to any third party or use any such Specification except to the extent that it is or becomes public knowledge through no fault of the Seller, or as required for the purpose of the Contract.

(iii) The Seller shall comply with all applicable regulations or other legal requirements concerning the manufacture, packaging, packing and delivery of the Goods and the performance of the Services and in particular with the Health and Safety at Work Act 1974 or any modification or re-enactment thereof.

(iv) The Goods shall be marked in accordance with the Buyer's instructions and any applicable regulations or requirements of the carrier, and properly packed and secured so as to reach their destination in an undamaged condition in the ordinary course.

5. DELIVERY

(i) The Goods shall be delivered to, and the Services shall be performed at, the Delivery Address on the date or within the period stated in the Order, in either case during the Buyer's usual business hours

(ii) Where the date of delivery of the Goods or performance of the Services is to be specified after the placing of an Order, the Seller shall give the Buyer reasonable notice of the specified date.

(iii) The time of delivery of the Goods and of performance of the Services is of the essence of the Contract.

(iv) A detailed packaging slip must accompany each delivery.

(v) If the Goods are to be delivered, or the Services are to be performed, by instalments, the Contract will be treated as a single contract and not severable.

(vi) All Goods supplied under the Contract shall be subject to acceptance and approval by the Buyer and the Buyer shall:

(a) Be entitled to reject any Goods delivered which are not in accordance with the Contract;
and

(b) Not be deemed to have accepted any Goods until it has had a reasonable time to inspect them following delivery or, if later, within a reasonable time after any latent defect in the Goods has become apparent and any Goods rejected by the Buyer shall remain at the Buyer's premises or on any other location or site to or at which the Goods were delivered until collection by the Seller and shall remain at the Sellers risk.

(vii) The Seller shall supply the Buyer in good time with any instructions or other information required to enable the Buyer to accept delivery of the Goods and performance of the Services.

(viii) The Buyer shall not be obliged to return to the Seller any packaging or packing materials for the Goods, whether or not any Goods are accepted by the Buyer.

(ix) A detailed ADVICE NOTE must be posted by the Seller to the Buyer the same day the Goods are despatched stating how sent and quoting order number.

6. PASSING OF PROPERTY AND RISK

(i) Subject to the Buyers right to reject the Goods the property in the Goods shall pass to the Buyer when the Goods have been delivered in accordance with these Conditions unless payment for the Goods is made prior to delivery when it shall pass to the Buyer once payment has been made and the Goods have been appropriated to the contract.

(ii) Risk of damage to or loss of the Goods shall pass to the Buyer upon delivery of the Goods in accordance with these Conditions.

7. PRICE OF THE GOODS AND SERVICES

(i) The price of the Goods and Services shall be stated in the Order and, unless otherwise stated, shall be

(a) Inclusive of any applicable value added tax (which shall be payable by the Buyer subject to a receipt of a VAT invoice);

And

(b) Inclusive of all charges for packaging, packing, shipping, carriage, insurance and delivery of the Goods to the Delivery Address and any duties, imports or levies other than value added tax.

(ii) No increase in the price may be made (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) without the prior consent of the Buyer in Writing

(iii) The Buyer shall be entitled to any discount for prompt payment, bulk purchase or volume of purchase customarily granted by the Seller, whether or not shown on its own terms and conditions of sale.

8. PAYMENT

(i) Payment will be made at the prices and in accordance with the terms of the Order unless otherwise agreed in writing by the Buyer.

(ii) A SEPARATE INVOICE quoting Order number must be rendered simultaneously with each delivery stating fully all discounts and showing the net total.

(iii) Payment terms are net monthly account unless specifically arranged otherwise.

9. WARRANTIES AND LIABILITY

(i) The Seller warrants to the Buyer that the Goods:

(a) Will be of merchantable quality and fit for any purpose held out by the Seller either expressly or impliedly at the time the Order is placed;

(b) Will be free from defects in design, material and workmanship;

(c) Will correspond with any relevant Specification or sample; and

(d) Will comply with all statutory requirements and regulations relating to the sale of the Goods.

(ii) The Seller warrants to the Buyer that the Services will be performed by appropriately qualified and trained personnel, with due care and diligence and to such high standard of quality as it is reasonable for the Buyer to expect in the circumstances.

(iii) Without prejudice to any other remedy, if any Goods or Services are not supplied or performed in accordance with the contract, then the buyer shall be entitled:

(a) To require the Seller to repair the Goods or to supply replacement Goods or Services in accordance with the Contract, within 7 days; or

(b) At the Buyer's sole option and whether or not the Buyer has previously required the Seller to repair the Goods or to supply any replacement Goods or Services to treat the Contract as discharged by the Seller's breach and require the payment of any part of the Price which has been paid.

(iv) The Seller shall indemnify the Buyer in full against all liability, loss damage (whether direct indirect economic or consequential) costs and expenses (including legal expenses (including legal expenses) awarded against or incurred or paid by the Buyer as a result of or in connection with:

(a) Breach of any warranty given by the Seller in relation to the Goods or Services;

(b) Any claim that the Goods infringe, or their importation, use or resale, infringes, the patent, copyright, design right, trade mark or other intellectual property rights to any other person, except to the extent that the claim arises from the compliance with any Specification supplied by the Buyer.

(c) Any liability under the Consumer Protection Act 1987 in respect of the Goods;

(d) Any act or omission of any of the Seller or its employees, agents or sub-contractors in supplying, delivering and installing the Goods; and

(e) Any act or omission of any of the Seller's personnel in connection with the performance of the Services;

(f) Personal injury to any of the Seller's Servants or Agents of the Seller's sub-contractors and in respect of any claim by any third party in connection with the performance of the Order howsoever arising.

(v) The Seller shall arrange and maintain in force adequate insurance against all and any of the risks set out in clause (iv) herein and shall produce insurance policies for the Buyer's inspection upon request.

(vi) Neither the Seller nor the Buyer shall be liable to the other or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of its obligations in relation to the Goods or the Services, if the delay or failure was beyond that party's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond either party's reasonable control;

(a) Act of God, explosion, flood, tempest, fire or accident;

(b) War or threat of war, sabotage, insurrection, civil disturbance or requisition;

(c) Acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;

(d) Import or export regulations or embargoes;

(e) Strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of either the Seller or the Buyer or of a third party);

(f) Difficulties in obtaining raw materials, labour, fuel, parts or machinery;

(g) Power failure or breakdown in machinery

10. TERMINATION

(i) The Buyer shall be entitled to terminate the Contract without liability to the Seller by giving notice to the Seller at any time if:

(a) The Seller makes any voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986) or (being a company) becomes subject to an administration order or goes into liquidation otherwise than for the purpose of amalgamation or reconstruction); or

(b) an encumbrance takes possession, or a receiver is appointed, of any of the property assets of the Seller; or

(c) the Seller ceases, or threatens to cease, to carry on business; or

(d) the Buyer reasonably apprehends that any of the events mentioned above is about to occur in relation to the Seller and notifies the Seller accordingly.

11. BUYER'S PROPERTY AND MATERIALS ETC.

(i) When materials, components or specifications are supplied to the Seller for the purpose of or to enable manufacture for the Buyer title of such property shall remain with the Buyer who may request the Seller to return any such property at any time without notice. All such property shall be insured by the Seller whilst in his possession in the joint names of the buyer and the Seller in an amount and office to be approved in writing by the Buyer.

(ii) All such property shall be kept separate and apart from all other property belonging to the Seller or other parties and be marked as the property of the Buyer and shall not be removed from the Seller's premises without the written consent of the Buyer except for the purpose of manufacture.

(iii) Materials and components not returned or not satisfactorily accounted for will be charged to the Seller. The Seller will at all times furnish when required a statement giving all relevant details concerning materials and components in his possession.

member of **Senata** - group

(iv) The Seller also undertakes not to supply to anyone without written permission of the Buyer any materials or parts made to or from the Buyer's specification or tools.

12. GENERAL

(i) The Order is personal to the Seller and the Seller shall not assign or transfer or purport to assign or transfer to any other person any of its rights or sub-contract any of its obligations under the Contract.

(ii) Any notice required or permitted to be given by either party to the other under these Conditions shall be in Writing addressed to that other party as its registered office or principle place of business or such address as may at the relevant time have been notified pursuant to this provision to the party giving notice.

(iii) No waiver by the Buyer or any breach of the Contract by the Seller shall be considered as a waiver of any subsequent breach of the same or other provision.

(iv) If any provision of these Conditions 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 continue to be valid.

(v) The Contract shall be governed by and construed in all respects in accordance with the laws of England.