



**INEOS Trading (Shanghai) Co., Ltd Sales - TERMS OF SALE**  
Mentioned below as "INEOS"

**1) GENERAL TERMS**

These terms and the transaction details to which they apply (the "Agreement") set out all contractual terms relating to the sale of the specified products (the "Products"), except where INEOS (as defined below) has agreed in writing to any changes. For clarity, Customer's standard terms of purchase do not apply. Definitions in "Incoterms 2010" apply.

This Agreement is governed by laws of People's Republic of China, and, any disputes in relation to this Agreement shall be submitted for arbitration to Shanghai International Economic and Trade Arbitration Commission/Shanghai International Arbitration Center will have exclusive jurisdiction in relation to it.. No representation or undertaking shall be taken to have been given or implied from negotiations between the parties save as expressly stated in this Agreement, and neither party shall have any remedy in respect of untrue statements relied upon, unless such statements were made fraudulently, and the only remedies shall be for breach of contract. These terms apply between the buyer of Products ("Buyer" or "Customer") and INEOS ("INEOS"). INEOS may assign its rights to any third party and in particular to INEOS Finance (Ireland) Ltd. If requested Customer will provide its consent to any transfer of obligations.

**2) DELIVERIES**

INEOS will use reasonable endeavors to achieve delivery on time, in full (within a 5% weight-tolerance). INEOS will keep Customer informed of any material variation from agreed delivery times. Customer must provide what are, in INEOS's opinion, proper, safe access and facilities to accept deliveries, and must reimburse any additional actual costs incurred by INEOS if INEOS suspend or refuse delivery where such access or facilities are not available or where unloading takes more than a reasonable time for a reason not attributable to INEOS. INEOS may inspect Customer's facilities, if necessary, by entering Customer's premises. Delivery to or use by INEOS of any facilities does not constitute approval by or acceptability to INEOS. If the Products supplied by bulk containers for delivery or collection, the delivery shall be deemed to be effect and risk shall pass to the Customer at the final flange under INEOS' control.

In case of deliveries which are subject to energy taxation, the customer is required to demonstrate to INEOS that the customer is qualified to make use of the tax suspension or tax exemption procedure by presenting a valid license. If the customer is unable to present a valid license for the tax suspension or tax exemption procedure, Customer will repay any taxes INEOS has paid.

**3) MEASUREMENTS**

INEOS's quantity and quality measurements taken at the point of loading will be stated in the invoice and shall be binding unless proved by Customer to be in error.

**4) TRANSFER OF OWNERSHIP AND RISK**

INEOS will retain ownership of the Products, to the fullest extent permitted by law, until payment for the relevant quantity is actually received by INEOS (or to our order), even if Customer has co-mingled the Products with other goods or processed. In this case, INEOS will become co-owner. Until payment is made, the Products must be separately stored (where possible), identified and must be returned or be available for collection at INEOS's request. INEOS may enter Customer's premises to collect the Products. INEOS may maintain an action for payment, notwithstanding that INEOS retains ownership of the Products. If the goods are resold before the payment is completed, they are replaced by the receivables for the purchase price, which are hereby transferred to INEOS as security. Risk in the Products shall pass to Customer as per the agreed Incoterm.

**5) PRICE, PAYMENT**

Unless otherwise agreed:

- (a) the relevant price for the Products will be INEOS's price applicable on the date of loading;
- (b) full payment must be received (without deduction for set off or counter claim unless INEOS shall have given its prior written approval) when due by electronic funds transfer to the account nominated by INEOS in the currency specified on the invoice. Funds must be received in the nominated bank account no later than the due date on INEOS's invoice document or no later than the last banking day before the due date if that due date falls on a non-banking day. Late payments bear interest at 10% per annum from the due date until actual receipt. Notwithstanding the foregoing, all invoices for interest shall also include a liquidated damages charge of £500 (being a genuine pre-estimate of INEOS loss);
- (c) if INEOS require, deliveries may be suspended until Customer provide acceptable security for payment or if any invoice is not paid when due, without prejudice to any other rights INEOS may have;
- (d) quoted prices do not include any Value Added Tax (or its equivalent), or any other taxes or charges either in the place of loading or in the place of delivery, if applicable. Customer must promptly provide INEOS on request with all evidence required under local, national or EU laws to justify any request for exemption from VAT or other applicable taxes. Customer indemnifies INEOS against any tax, cost or penalty it may incur if the request for exemption is found not to be justified.
- e) Where the price is determined by a formula, and variable values are not known, the most recently applied price shall be used as an interim price with subsequent readjustment.

**6) LIMITATION OF LIABILITY**

Unless otherwise agreed in writing, neither Party shall be liable to the other Party for

- loss of or restriction of production,
- costs associated with business interruption,
- loss of contract or opportunity,
- loss of profits or expected profits,
- loss of product,
- loss of revenue or
- loss of use or
- any punitive or exemplary damages
- or special, indirect, incidental or consequential damages

arising from or relating to this Agreement or the performance or non-performance of either Party's obligations under the Agreement, whether based on warranty, condition, contract, tort (including negligence of any nature), strict liability, repudiatory breach or any other legal ground whatsoever.

In respect of all other loss or damage, INEOS maximum aggregate liability arising out of or in connection with each sale under the Agreement shall be the higher of:

- (a) 4% of the aggregate invoice of sales of the same product(s) by INEOS to Customer during the year prior to the date of delivery of the Products to which the relevant sale relates; or
- (b) £100,000.

In any case INEOS maximum liability shall be subject to a maximum aggregate amount of £200,000 for all claims in any twelve months preceding a claim and including the value of that claim. INEOS is released from all liability in excess of the maximum, even where caused by INEOS negligence or breach of duty.

INEOS does not seek to exclude or restrict its liability in relation to: (a) death or personal injury resulting from negligence; (b) fraud; or (c) any matter in respect of which, by law, it is not permitted to restrict its liability.



#### **7) WARRANTIES**

INEOS warrants that it is able to pass ownership of the Products sold to Customer, that they will meet the relevant contractual specification at the point where risk passes to Customer and that they do not infringe any patent in their country of origin. ALL OTHER CONDITIONS, WARRANTIES OR TERMS, EXPRESS OR IMPLIED (WHETHER BY STATUTE OR OTHERWISE) ARE EXCLUDED including as to quality, description or fitness for any purpose. INEOS refers to the published Material Safety Data Sheets regarding the Products. However, any information or advice from INEOS is given and accepted at Customer's risk.

#### **8) MAKING CLAIMS**

Any claim for shortage, or damage in transit, must be made to INEOS in writing within 3 days of receipt of the Products. Any claim for non-conformity to specification must: (a) be made without delay after Customer become aware of the non-conformity but no later than 40 days from receipt of the Products; and (b) in respect of Products which have been processed, be supported by reasonable evidence that the defect was not ascertainable before processing. Only differences in net weight or volume against invoiced quantity in excess of 0.5% per bag or bulk delivery, or 1% per drum, may be subject to quantity claims. Any claims not made as required shall be waived.

#### **9) DUTY OF INSPECTION AND INFORMATION**

The Customer commits to conduct appropriate testing of delivered product to ensure its quality and quantity immediately after delivery prior to processing or mixing. If Customer failed to inspect the product or omit to inform INEOS of any defect of the product immediately latest by 2 working days after realisation of the defect (even if a defect appears afterwards) the product is deemed accepted by Customer. In this case INEOS will not be held liable for any damages incurred by the Customer due to the product deviation unless the defect could not be detected by appropriate testing.

If Customer realised a quality deviation all information, including test details, test results and product samples shall be send to INEOS.

#### **10) FORCE MAJEURE**

"Force Majeure", shall mean for example but not limited to: Act of god, explosion, flood, tempest, fire or accident, war or threat of war, riots, terrorist acts, sabotage, insurrection, civil disturbance or requisition, strike, lock-outs, or other industrial actions or trade or labor disputes (except if involving solely employees of either Seller or Customer), Acts, restrictions, regulations, by-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority; Import or export regulations or embargoes; plant breakdowns or plant disturbances, general shortage of raw material, energy, interruption of power supplies, fuel or transportation facilities or other disturbances beyond the reasonable control of the party concerned, which are not due to such party's negligence or wilful misconduct, and which constitutes a major impediment to or renders it impossible or commercially impracticable for such party to perform its obligations under this Agreement (other than Customer's obligation to make payment for product received).

An event of Force Majeure, shall release the affected party from such obligations for as long as and to the extent to which the event of Force Majeure impedes or prevents the performance of this Agreement in whole or in part. Neither party shall be liable for any loss or damage suffered or incurred by the other party arising from the first party's delay in performing or failure to perform such obligations to the extent that and for so long as such delay or failure results from an event of Force Majeure.

Force majeure prolongs contractual deadlines and defers contractual dates by the duration of the Force Majeure plus an appropriate start-up period.

Seller shall not be required to acquire, by purchase or otherwise, additional quantities of Product from other suppliers or from any of its Affiliates, or otherwise supplement its available supply of Product. Available stock product of Seller shall be allocated on a pro- rata basis (considering all delivery obligations of Seller).

A party being subject to an event of Force Majeure shall promptly notify the other party of the event and its expected duration. Customer's obligation to pay for the Products delivered shall in no event be excused by Force Majeure.

#### **11) RETURNABLE CONTAINERS**

Where Products are supplied in returnable containers or pallets, these must be promptly returned to INEOS at Customer's cost in substantially the same condition as Customer received them. If containers or pallets are returned damaged or not returned within 90 days of delivery, INEOS may invoice Customer for their repair or replacement. In the case of non-returnable containers or packaging, Customer must destroy these after use at Customer's own cost.

#### **12) INTELLECTUAL PROPERTY**

By purchasing Products, Customer shall not obtain any rights to any intellectual property in or relating to the Products, including (without limitation) any trade marks, copyright, patents or rights in designs and, whether or not such intellectual property is capable of registration, whether or not the same is registered.

#### **13) ANTI-BRIBERY & CORRUPTION**

The parties shall, and shall ensure that any Affiliates or persons engaged by or associated with either party in relation to this Agreement - including but not limited to employees, contractors, subsidiaries, consultants, advisors, distributors and agents - shall, comply with all applicable laws, statutes, regulations, decrees and/or official government orders and codes relating to anti-bribery and anti-corruption.

The parties specifically undertake that no payments or transfers of anything of value which have the purpose or effect of public or commercial bribery, money laundering, extortion or other unlawful or improper means of obtaining or retaining business or business advantage shall be made, offered, given, authorised or promised to: any person or entity (including, for the avoidance of doubt, any Government Official; any political party or official thereof; any candidate for political office; or any other person, individual or entity at the suggestion, request or direction of or for the benefit of any of the above- described persons and entities) by any of its owners, directors, officers, employees and other associated persons.

Each party;

- (a) will not do, or omit to do, any act that will cause or lead the other party to be in breach of any of the above and;
- (b) will notify the other party promptly of any request or demand for any undue financial or other advantage of any kind received from any person in connection with the performance of this Agreement, and;
- (c) if requested, will assist the other party and any of its Affiliates in complying with its obligations under the law and understands that any breach of this clause will amount to a material breach of this Agreement, and;
- (d) indemnifies the other party against any losses, liabilities, damages, costs (including legal fees) and expenses incurred by, or awarded against, such other party as a result of any breach by a party of this clause.