INEOS AROMATICS LIMITED – TERMS AND CONDITIONS OF SALE

1. GENERAL TERMS

These terms and the transaction details to which they apply (the “Agreement”) set out all the contractual terms relating to the sale of the specified product (the “Product”) and for deliveries during the period of this Agreement. Such amendments may be required for any reason by INEOS or for the purpose of modifying the terms and conditions and INEOS’s obligations under this Agreement. If these terms and conditions are attached to a contract, then: (a) if there is a conflict between these terms and the specific provisions contained in the contract, the specific provisions contained in such contract will prevail. The UN Convention for the International Sale of Goods does not apply.

This Agreement is governed by English law, and the Courts of England and Wales sitting in London shall have exclusive jurisdiction over any dispute or claim (including non-contractual disputes or claims).

Where “Incoterms 2010” are specified, the definitions and provisions of the applicable Incoterm in Incoterms 2010 apply. “INEOS Plant” means INEOS’s PTA production plants in Geel, Belgium. The term “INEOS Sales Specification” as used herein shall mean the INEOS sales specifications for the Product as notified by INEOS to You from time to time.

All liability for pre contractual misrepresentations, even where these have become material, whether as a result of fraud or error, will not affect these terms and conditions. INEOS Aromatics Limited shall not be liable for any indirect or consequential loss, damage or expense howsoever caused, unless such liability is caused by the fraud or negligence of INEOS or its servants, agents or principals.

When Product is delivered by road truck You shall have two (2) hours for unloading of the vehicle and any accompanying equipment; thereafter INEOS will not be responsible for any loss or damage.

When Product is delivered by INEOS owned or operated hopercars: (a) if the hopercars form part of a single hopper car traffic, You shall have 1 business day for unloading or discharging of the Product; (b) if the hopercars form part of a bulk train system, You shall have four (4) calendar days for unloading or discharging of the Product.

You shall be responsible for any loss or damage to such hopercars occurring at any time between arrival at and departure from Your nominated place of delivery; (c) You shall use such hopercars for transport and/or storage of any other Product not the Product.

The INEOS Plant shall be the intended source of supply of Product. However, INEOS may elect at its sole and absolute discretion to procure some (or all) of the Product to be supplied to You pursuant to this Agreement from alternative sources. All such Product from alternative sources will meet the INEOS Sales Specification.

3. SPECIFICATIONS

Product sold hereunder shall meet the INEOS Sales Specification at the point and at the time where risk passes to You in accordance with the applicable Incoterm.

4. MEASUREMENTS

INEOS may deliver an excess or deficiency of up to five per cent (5%) of any quantity of Product ordered under this Agreement. 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 You to be in error within ten (10) calendar days.

5. TRANSFER OF OWNERSHIP AND RISK

INEOS will retain ownership, and the right of disposal, of the Product, to the fullest extent permitted by law, until payment for the relevant quantity is actually received by INEOS. INEOS may elect at its sole and absolute discretion to procure some (or all) of the Product to be supplied to You pursuant to this Agreement at the price and in accordance with the applicable Incoterm. ALL OTHER CONDITIONS, WARRANTIES OR TERMS, EXPRESS OR IMPLIED (WHETHER BY STATUTE OR OTHERWISE) ARE EXCLUDED to the fullest extent permitted by law including as to quality, description or fitness for any purpose. Any technical information or advice from INEOS is given and accepted at Your risk.

6. PRICE, PAYMENT

Unless otherwise agreed in writing by the parties: (a) INEOS’s invoice dates for the Product on the date of loading will apply and You shall be required to pay for the actual quantity of Product loaded; (b) full payment of the invoiced amount must be received (without deduction for set off or counter claim) when due by electronic funds transfer to INEOS’s nominated account in the currency specified on the invoice. Cleared funds must be received in INEOS’s specified bank account no later than the due date or no later than the last banking day before due date if that due date falls on a non-banking day. Interest on any sums overdue shall accrue from the due date for payment until the date of actual receipt by INEOS at a rate which is three per cent (3%) above the Bank of England base rate on the due date (or if no rate is quoted for the due date, the last previously quoted rate); (c) any payment not be required to supply and deliver any further Product under this Agreement until payment of all invoices then due plus any interest payable has been made by You and cleared in INEOS’s bank account; (d) INEOS reserves the right to terminate this Agreement by notice in the event of a non-payment or delay in payment which is not remedied within thirty (30) days from the due date of payment; (e) INEOS reserves the right to amend the terms of this Agreement if You pay late more than three (3) times during the period of this Agreement. Such amendments may include but shall not be limited to You making payments by direct debit; (f) without prejudice to the right of INEOS to amend the terms of this Agreement, INEOS shall have the right to demand from You an assurance of Your performance under this Agreement, or a change in market conditions, or a change in the financial status of You or Your guarantor. Such assurance may be demanded in any form deemed suitable and sufficient by INEOS, including pre-payment. INEOS may withhold performance under this Agreement until the date on which such assurance is received.

7. ACCOUNTS

Upon our request, not to be made more often than two times each year, You will provide to us Your then most recent management accounts and audited financial statements.

8. LIMITATION OF LIABILITY

Unless otherwise agreed in writing, INEOS’s maximum aggregate liability to You arising out of or in connection with this Agreement shall not, unless otherwise agreed in writing, exceed a maximum aggregate amount of €100,000 over the term of this Agreement and INEOS shall not be liable for and is released from all liability in excess of this maximum, even where caused by our negligence or otherwise howsoever arising, unless such liability is caused by our fraud or where such liability is for death or personal injury caused by our negligence in which case the limits in this clause shall not apply. You shall indemnify INEOS and its affiliates from and against any third party claims, however they may arise and on whatever legal basis (including negligence), in this respect.

Each party releases the other from all claims for “Consequential Loss”. Consequential Loss includes any indirect damage, loss, expense, compensation or restitution recoverable under any claim and includes without limitation the following notwithstanding they may otherwise be considered a direct loss: (a) loss or of restrictions; (b) costs associated with business interruption, idle time and loss of use; (c) loss of profit or expected profit (except direct losses of the same suffered by both parties); (d) loss of Contract or opportunity; (e) loss of expected savings; (f) loss of use of money or cost of capital.

The provisions of this clause shall survive expiry or termination of this Agreement for whatever reason.

9. WARRANTIES

INEOS warrants that the Product sold to You will meet the INEOS Sales Specification at the point and time where risk passes to You in accordance with the applicable Incoterm. ALL OTHER CONDITIONS, WARRANTIES OR TERMS, EXPRESS OR IMPLIED (WHETHER BY STATUTE OR OTHERWISE) ARE EXCLUDED to the fullest extent permitted by law including as to quality, description or fitness for any purpose.
10. CLAIMS

Any claim for non-conformity to specification must be made within ten (10) days of the date You became aware of the non-conformity but no later than thirty (30) days from receipt of the Product.

Your failure to give written notice to Seller of such non-conformance or quantity claims as required above will constitute an unqualified acceptance of the Product and a waiver by Buyer of all claims with respect thereto.

11. FORCE MAJEURE - INABILITY TO DELIVER

If INEOS is prevented from, hindered or delayed in delivering the Product (or part of it) to You for any reason beyond its reasonable control, including without limitation, compliance with law, regulation, decree, order or request of any governmental authority, nationalization, expropriation, confiscation, riot, war, terrorism, public disturbance, fire, flood, earthquake, storm, explosions, acts of God, strikes, lockouts or other industrial disturbances, breakdown of machinery or equipment, or inability to obtain raw materials, equipment, fuel or transportation ("Force Majeure"), INEOS will be released without liability from its obligations under the Agreement for so long as such Force Majeure is in effect. Force Majeure affecting the INEOS Plant will be deemed to affect INEOS. INEOS will not be obliged to acquire by purchase or otherwise substitute product from any third party, and may allocate available supplies amongst You and others (including INEOS and our related companies) on such basis as INEOS believes is fair and reasonable. This clause shall not extend the period of the Agreement and the quantity required to be purchased and delivered shall be reduced to the extent delivery of Product has been affected. You shall act reasonably if You procure any third party product to make up any shortfall in delivery during any period when INEOS is effected by Force Majeure. INEOS shall not be required to settle strikes, lockouts or other industrial disturbances.

12. TERMINATION

If a party passes a resolution for winding up or if a court makes an order to that effect (otherwise than for the purpose of amalgamation or reconstruction) or a party goes into liquidation, administration, receivership or comes under judicial management in consequence of debt; or is in material breach of this Agreement (for example, but not limited to, delay in payment) and does not remedy the breach within thirty (30) days from the receipt by it of written notice from the other party requiring remedy; then the other party may (without prejudice to its other rights and remedies) terminate this Agreement by written notice with immediate effect (to the fullest extent permitted by applicable law).

If at any time during the term of this Agreement a change of control affecting You occurs or You sell or otherwise transfer all or part of Your business or all or part of the assets comprising Your business, including Your plant, to a third party (excluding an affiliate) including any toll manufacturing arrangement, then You shall promptly give notice of such change of control, transfer of business or assets or operation of Your plant to INEOS. In such circumstances, INEOS shall be at liberty to terminate this Agreement (in whole or in part) by notice with immediate effect, without penalty or obligation to pay damages, within sixty (60) days after the later of (i) the date of receiving such written notice and (ii) the date on which the change of control takes place. "Control", for purposes of this definition, shall mean ownership of fifty percent (50%) or more of the issued voting stock.

13. WAIVER

The failure or failures of either Party to require the performance of any term or condition of this Agreement or the waiver by either Party of any breach of this Agreement shall not prevent the subsequent enforcement of such term or condition, nor be deemed a waiver of any subsequent breach.

14. SEVERABILITY

To the extent any provision of this Agreement is held to be illegal, void or unenforceable, such provision shall be given no effect and shall be deemed not to be included in the Agreement but without invalidating any of the remaining provisions of this Agreement.

15. THIRD PARTY RIGHTS

No party except to a party to this Agreement will have a right to enforce the provisions of this Agreement pursuant to the Contracts (Rights of Third Parties) Act 1999.

16. CONFIDENTIALITY

During the term of this Agreement and for a period of sixty (60) months thereafter, each party shall treat this Agreement as confidential. Neither party may disclose details of this Agreement (including, without limitation, the prices or price methodology, or any technical or other information relating to the Product or its application (as the case may be) or to the other party’s business affairs or method of carrying on business) to any third party without the prior written consent of the other party. Despite the paragraph above, a party (the “Disclosing Party”) may disclose details of the Agreement without the prior written consent of the other party to this Agreement if:

a) the disclosure is required by law or by any securities exchange or regulatory or governmental body or fiscal authority having jurisdiction over it, wherever situated;

b) the confidential information is or was already in the public domain other than through the fault or action of the Disclosing Party;

c) the disclosure is to an affiliate, legal adviser, agent, financing bank, insurance company/broker or in connection with any dispute, legal or arbitration proceedings and the Disclosing Party shall cause all parties in receipt of the information to be bound by the same obligations of confidentiality as are contained in this Agreement; or

d) the disclosure is made in connection with any finance, securitisation or bank funding arrangements of the Seller.

17. ANTI-BRIBERY & CORRUPTION

Each party agrees that in connection with this Agreement and the transactions contemplated by this Agreement it has and will comply with all applicable laws, rules and/or regulations.

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 directors, 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 including but not limited to the UK Bribery Act 2010 and the US Foreign and Corrupt Practices Act (“FCPA”). The parties each 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 it or any of its affiliates or persons engaged by or associated with it as listed above.

Each party undertakes that it: (a) will not do, or omit to do, any act that will cause or lead the other party to be in breach of either or both paragraphs above; (b) will notify the other party promptly of any request or demand for any improper financial or other advantage of any kind received from any person in connection with the performance of this Agreement; (c) (if requested), will assist the other party and any of its affiliates in complying with its obligations under the Acts and understands that any breach of this clause will amount to a material breach of this Agreement; (d) indemnifies the other party against any losses, liabilities, damages, fines, 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.

18. TRADE COMPLIANCE

Buyer warrants and represents that INEOS’s current or subsequent supply of the Products (or items into which Products have been incorporated) directly or indirectly to any jurisdiction that is subject of a Public Statement of the Financial Action Task Force, Buyer’s failure to comply with this clause shall constitute a material breach of this Agreement. Buyer shall indemnify INEOS against any losses, liabilities, damages, costs (including legal fees) and expenses incurred by, or awarded against, INEOS as a result of any breach by Buyer of this clause.

© 2022 INEOS Aromatics Limited, a limited liability company incorporated in England and Wales with its registered office at Hawklease, Chapel Lane, Lyndhurst, Hampshire, SO43 7FG, United Kingdom and with registered number 06226624 with a branch office situated at Anacolotus 2, B-2440 Geel, Antwerp, Belgium (RPR Antwerp Division: Turnhout, BE 0890/280.597) registered as INEOS Aromatics Limited – Belgian Branch