

Local Sale

Standard Terms and Conditions

Unless otherwise specifically agreed to in writing by both the Seller and the Purchaser, all sales of "goods" by the Seller to the Purchaser shall be subject to the general terms and conditions set out hereunder ("the Conditions"). The Conditions shall prevail over any "standard terms of purchase" which may be incorporated as part of the Purchaser's order and the acceptance by the Seller of the Purchaser's order, whether effected expressly or by conduct, shall not override the Conditions save to the extent expressly agreed to in writing by both the Seller and the Purchaser. These Conditions will be read together with any express terms agreed to in writing between the Seller and the Purchaser and only to the extent of a conflict between the express terms and the terms hereof shall the former prevail.

1. DEFINITIONS

For the purposes of the Conditions, the following definitions shall apply:-

- 1.1. "the Seller" means NCP Alcohols (Pty) Ltd;
- 1.2. "goods" means products produced by the Seller, including the products purchased in terms of this agreement;
- 1.3. "the Purchaser" means the party with whom the Seller is contracting in respect of the sale of goods.

2. PAYMENT

- 2.1. The Seller may, in its sole discretion, grant a Purchaser credit facilities from time to time subject to the Seller having the right at any time, without prior notice to the Purchaser, to terminate, curtail or vary such facilities in respect of any goods not yet delivered to the Purchaser.
- 2.2. The purchase price of any goods shall be the Manufacturer's ruling price at the date of despatch of the Purchaser's order unless otherwise agreed in writing.
- 2.3. All prices are inclusive of Value Added Tax, unless otherwise expressly stated.
- 2.4. The Seller shall render an invoice to the Purchaser for each shipment of goods and the Purchaser shall effect payment of the amount due within 30 days from the date of the Seller's invoice unless otherwise agreed by both parties in writing. All amounts payable to the Seller shall be paid without set-off, deduction or demand to the Seller at such address or into such bank account, within South Africa, as it may from time to time direct, unless otherwise agreed in writing.
- 2.5. The Seller shall be entitled to charge the Purchaser, who shall be liable for, interest on any overdue amounts at ABSA Bank Ltd's prime overdraft rate plus 2% (two per centum). Such interest shall accrue as from the 31st day after the date of the relevant invoice until the date of payment.
- 2.6. In the event of the Purchaser:-
 - 2.6.1. failing to make any payment on the date that the same becomes due;
 - 2.6.2. breaching any provision of this agreement;

- 2.6.3. failing to satisfy or failing to appeal against or failing to apply for a rescission of any judgment granted against it within 7 (seven) days of the judgment being granted;
 - 2.6.4. taking steps to surrender its estate, or if its estate is sequestrated/liquidated whether provisionally or finally;
 - 2.6.5. committing any act of insolvency as defined in the Insolvency Act No. 24 of 1936;
 - 2.6.6. dying;
 - 2.6.7. compromising or attempting to compromise or deferring payment to all or any of its creditors
- all amounts outstanding in respect of all goods sold but not yet paid for shall immediately become due and payable and the Seller shall without prejudice to any of the other rights of the Seller be entitled to institute action against the Purchaser for the recovery thereof without notice to the Purchaser

3. DELIVERY

- 3.1. Unless otherwise agreed in writing, the Seller shall deliver the goods to the premises specified by the Purchaser
- 3.2. Risk of loss or damage to the goods shall pass to the Purchaser upon delivery. All routes and modes of transportation of the goods shall be chosen by the Seller, save that the Purchaser's preferences shall be considered. Any additional costs incurred in accommodating the Purchaser's preferences shall be borne by the Purchaser
- 3.3. The Seller shall be entitled to deliver goods in more than one consignment and the Purchaser shall be obliged to accept delivery in such manner. Each consignment shall be deemed to be a separate sale divisible from any other and the Purchaser shall be liable to pay the purchase price in respect of such consignment on the due date. The validity of the sale of each consignment shall in no way be affected if delivery of any consignment is not fulfilled for any reason whatsoever.
- 3.4. The Seller shall be entitled to withhold delivery and/or cancel any sale or unfulfilled order if at any time the Purchaser is in arrears with its obligation to pay any indebtedness owing to the Seller irrespective of the cause of such indebtedness.
- 3.5. Notwithstanding the date of delivery thereof, ownership of all goods sold by the Seller to the Purchaser shall remain vested in the Seller until the purchase price thereof has been paid in full.
- 3.6. The Purchaser shall have no claim against the Seller for any delay in delivery or failure to deliver any of the goods sold for any reason whatsoever, including but not limited to the Seller's inability to carry out its obligations as a result of "force majeure" or any other circumstances outside the Seller's control including but not limited to any strike, lock-out, act of war, civil disturbance, shortage or non-availability of raw materials, machinery breakdown or government interference.
- 3.7. Unless otherwise agreed in writing, the packaging material, (drums, pallets, etc.), other than tankers, in which the goods are delivered, are sold together with the goods and ownership shall pass to the Purchaser on delivery.
- 3.8. The Seller will supply the Purchaser with current Material Safety Data Sheets (MSDS) regarding the goods supplied.
- 3.9. Over and above the advice and assistance which Seller is required to give the Purchaser by law, the Seller will endeavour to further advise and assist the Purchaser in respect of the packaging,

transport, storage, processing and application possibilities of any of the Seller's goods and in respect of containers.

- 3.10. It is recorded that the Seller is obliged, by legislation, to comply with the requirements of the Trade and Metrology Act and to regularly assize its weighing equipment. Accordingly, the quantity or weight of goods delivered by the Seller to the Purchaser shall be determined by means of the Seller's equipment and the quantities / weights so determined shall, unless the Purchaser proves otherwise, be deemed to be correct and accurate.

4. RETURNS

- 4.1. The Purchaser shall inspect the goods upon delivery to verify compliance with specifications and quantities. The Purchaser shall have no claim against the Seller arising out of or in connection with any defect or alleged defect in the goods sold nor shall it have any claim arising out of the fact that any delivery of the goods was not in accordance with this agreement, unless the Purchaser has given written notice by pre-paid registered mail, of its complaint to the Seller within 7 (seven) days of the date of delivery of the goods and the Seller has been permitted a reasonable opportunity to inspect same.
- 4.2. The decision whether any goods may be returned by the Purchaser and subsequently replaced by the Seller (where applicable) shall lie with the Seller, whose decision shall be final and binding.
- 4.3. Apart from instances where the goods are manifestly defective and such defects are attributable to the Seller, if the Seller accepts the return of any goods, it shall be entitled to charge the Purchaser a reasonable handling fee of not more than 10% (ten per centum) of the selling price of the goods returned.
- 4.4. The Seller shall keep retention samples of each delivery for a period of 1 year (12 months) only, as proof that the product delivered meets the agreed specification. The expiry date of the product shall be 2 years from the date specified on the Certificate of Analysis (COA).

5. NEGLIGENCE

- 5.1. To the fullest extent permitted by law, the Seller on behalf of its employees, agents, suppliers and contractors excludes liability for any losses and expenses of whatever nature and howsoever arising (including losses and expenses arising as a result of negligence of any degree on their part) including without limitation any direct, indirect, special, punitive, or consequential damages, loss of use, loss of income or profit, loss of or damage to property, claims of third parties, or other losses of any kind or character, arising out of or in connection with the purchase of goods by the Purchaser from the Seller.
- 5.2. In the event that the Purchaser succeeds in a claim against the Seller based on the Seller's liability, notwithstanding the provisions of clause 5.1 above, the Purchaser agrees that its damages shall be limited to an amount not exceeding the value of the goods out of which such liability claim arose.

6. GENERAL

- 6.1. No variation of any of these terms and conditions shall be of any force and effect unless committed to writing and signed by the duly authorised representatives of the respective parties.
- 6.2. No statement, recommendation, promise, undertaking or assistance given by any employee/servant/agent of the Seller and which is not an express term of the sale agreement between the Seller and the Purchaser, shall result in the Seller incurring any liability in the event

- of such statement, recommendation, promise, undertaking, advice or assistance proving to be incorrect, inadequate or inappropriate.
- 6.3. The Seller shall be entitled, but not obliged, to institute any proceedings arising out of or in connection with this agreement in the relevant Magistrate's Court having jurisdiction over the Purchaser's person notwithstanding that the amount in issue would otherwise have exceeded the jurisdiction of such court.
 - 6.4. Should any legal proceedings be instituted against the Purchaser in terms of these Conditions, the Purchaser agrees that it shall be liable for the payment of all attorney and own client costs incurred by the Seller in respect of such proceedings.
 - 6.5. The Seller shall not be bound by any error or omissions made in relation to the sale of goods, whether they be of arithmetical calculations, incorrect ruling prices or otherwise.
 - 6.6. The Purchaser may not cede any of its rights or delegate any of its obligations in terms of this agreement with the Seller, without the Seller's prior written consent, however, the Seller shall be entitled to freely cede, assign and delegate its rights in terms hereof, provided that such cession, assignment or delegation is to a party reasonably capable of meeting any obligations to the Purchaser, so transferred.