



GENERAL TERMS AND CONDITIONS OF SALE (Version 1.0)

These general terms and conditions of sale (these “**Terms**”) apply where any of TMK Chemical Bhd. and/or its subsidiaries in Malaysia (the “**Seller**”) sells goods and/or services, and they supersede all other terms and conditions relating to the subject matter of these Terms. In these Terms, “**Buyer**”, means the natural person or legal entity to whom the goods or services are sold by the Seller.

These Terms shall be incorporated into the Contract (as defined below) and any agreement from time to time entered into between the Seller and the Buyer for the sale of any goods by the Seller to the Buyer. These Terms shall apply in place of, and prevail over, any terms or conditions contained or referred to in the Buyer’s order or in correspondence or elsewhere or implied by trade custom, practice or course of dealing unless such terms and conditions are expressly agreed to, in writing, by the Seller and the Seller’s agreement therewith is notified to the Buyer in writing, and any purported provisions to the contrary are automatically excluded or extinguished.

1. Quotation, Orders and Formation of Contract

- 1.1 A quotation for goods given by the Seller shall not constitute an offer. A quotation shall only be valid for the period stated in it or, if no period is stated, for 30 days from its date of issue.
- 1.2 The order issued by the Buyer constitutes an offer by the Buyer to purchase goods in accordance with these Terms. The Buyer’s acknowledgement of order, confirmation or acceptance of goods and/or services from the Seller shall be deemed to constitute acceptance of these Terms.
- 1.3 No order submitted by the Buyer shall result in a binding contract of sale unless and until expressly accepted by the Seller by the issue of a written confirmation of the order, at which point a contract (“**Contract**”) shall come into existence between the Buyer and the Seller. These Terms apply to the Contract to the exclusion of any other terms that the Buyer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 1.4 The Seller shall be entitled to cancel and/or reject the order submitted by the Buyer in whole or in part.
- 1.5 Any reference to trade terms in these Terms or any invoice shall be construed as referring to the most current Incoterms®.

2. Specifications

- 2.1 The goods are supplied in accordance with the specifications (if any) submitted to the Buyer and any additions and alterations (if applicable) shall be the subject of an extra charge. The Seller reserves the right to make any changes in the

specifications of the goods which are required to conform with any applicable safety or other statutory requirement or which do not materially affect the quality or performance of the goods.

- 2.2 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 all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of cancellation.

3. Invoices and payment

- 3.1 Unless a longer payment term is agreed in writing, the Buyer will pay all undisputed amounts on each invoice within 30 days from the date on which the Buyer receives a correct invoice. The Buyer is not entitled to set off amounts owed by the Seller or any of the Seller’s affiliates to the Buyer or any of the Buyer’s affiliates against amounts payable.
- 3.2 Time for payment shall be of the essence. Interest of 2% per month will be charged on all overdue payments, calculated from the due date until the date of full payment thereof. In addition, the Buyer’s default in payment shall entitle the Seller to terminate forthwith all outstanding contracts and/or orders and/or suspend supply and/or further deliveries of goods to the Buyer.
- 3.3 The Buyer shall provide all necessary information in order for the Seller to issue a validated e-Invoice in accordance with applicable laws. Any error due to the provision by the Buyer of incorrect or insufficient invoicing information preventing the Seller to successfully submit the e-Invoice to the Inland Revenue Board of Malaysia or for the Seller

to duly and effectively process such invoice or which, in any event, requires the Seller to issue an invoice again, shall not result in an extension of the payment term, and such term shall still be calculated from the date of the original invoice.

4. Delivery

4.1 Any time or date named by the Seller for delivery is given and intended as an estimate only and the time of delivery shall not be of the essence of the contract. In no circumstances shall the Seller be liable to compensate the Buyer in damages or otherwise for non-delivery or late delivery of the goods or any part thereof for whatever reason or for any loss whether direct, indirect, consequential or otherwise including, without limitation, any loss of profits, revenue or goodwill arising therefrom whether or not the Seller has been advised of the possibility of such losses.

4.2 The Seller is entitled to make partial deliveries to the extent that this is reasonable. The goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.

4.3 Without prejudice to the foregoing, adherence to the time of delivery shall be at all times subject to the fulfilment by the Buyer of its obligations under the Contract.

4.4 Where the goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Terms or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.

4.5 The Buyer must inspect the goods upon delivery of the goods and prior to signing the delivery order. By signing the delivery order, the Buyer agrees and accepts the goods in its condition and quality, and the Buyer's acceptance is final. Delivery taken is not returnable and the Buyer shall not be entitled to reject the goods.

5. Seller's Liability / Buyer's Claims

5.1 Subject as expressly provided in these Terms, all warranties, conditions and other terms implied by statute or common law are excluded to the fullest extent permitted by law.

5.2 Any claim by the Buyer which is based on any defect in the quality or conditions of the goods or their failure to correspond with specifications shall (whether or not delivery is refused by the Buyer) be notified to the Seller at the point of delivery. If delivery is not refused and the Buyer does not notify the Seller accordingly, 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 in full for the goods.

5.3 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 meet specifications is notified to the Seller in accordance with these Terms, the Seller shall be entitled to replace the goods (or the defective part) free of charge or, at the Seller's sole discretion, refund to the Buyer the contract value of the goods (or a proportionate part thereof), but the Seller shall have no further liability to the Buyer.

5.4 Without prejudice to the provisions of these Terms, the Seller's liability (if any) for breach of any of its obligations and /or undertakings hereunder shall be limited to the contract value of the goods. The Seller shall not be liable in any way whatsoever for any loss of profit, incidental, indirect, consequential, punitive or special losses or damages suffered by the Buyer or any other third parties, arising out of or of or related to the Contract, for all causes of action of any kind (including without limitation any actions for tort, contract, negligence, strict liability, breach of statutory duty or breach of warranty) even if such loss was reasonably foreseeable or the Seller has been advised of the possibility of such damages.

5.5 In particular, the Seller shall not be liable for any loss or damage of any kind whatsoever arising wholly or partly out of or in connection with:

- (i) unsuitability for any purpose of the goods;
- (ii) any claim or demand by any third party at any time arising from or in connection with the manufacture, supply or use of the goods or substance in which the goods are a component or part; or
- (iii) the goods, the supply, and/or delivery thereof.

6. Risk

6.1 Risk of damage to or loss of the goods shall pass to the Buyer:

- (i) in the case of goods to be collected at the Seller's premises, at the time when the Seller notifies the Buyer that the goods are available for collection;
- (ii) in the case of a sale based on Incoterms, the Buyer will bear all risks of loss of or damage to the goods according to the agreed Incoterms;
- (iii) in all other cases, 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.

6.2 Notwithstanding that risk in the goods has already passed to the Buyer, the Seller will remain the sole and absolute owner of the goods until such time as the Seller has received in cash or cleared funds payment of the price of the goods.

6.3 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 at the Buyer's expense properly stored and insured and shall also keep the goods separately from any other goods that the Buyer has. The Seller shall be entitled to maintain an action for the price of goods notwithstanding that title in those goods has not passed to the Buyer.

7. Compliance

7.1 The Buyer represents and warrants that:

- (i) it is in full compliance with the Seller's Business Ethics and Code of Conduct and Anti-Bribery & Anti-Corruption Policy, as may be updated from time to time and found at <https://www.tmkchemical.com/certifications-and-policies/>;
- (ii) it complies with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the Malaysian Anti-Corruption Commission Act 2009, the United Kingdom Bribery Act 2010, the U.S. Foreign Corrupt Practices Act, and will report to the Seller any request or demand for any undue financial or other advantage of any kind received by the Buyer or its employees relating to the provision of goods and/or services by the Seller;
- (iii) it complies with all applicable laws, statutes, regulations and codes relating to anti-terrorism financing and anti-money laundering including the Malaysian Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001; and
- (iv) neither it nor any of its affiliates, directors, officers and employees are the target or subject of any Sanctions, owned or controlled by any person who is the target or subject of any Sanctions, or acting for the benefit of or on behalf of any person who is the target or subject of any Sanctions. "Sanctions" shall mean the international economic and financial sanctions (i.e. trade embargoes, asset freezes and other similar restrictions on doing business with a country, territory or person) that is administered, enacted or enforced by the U.S. Treasury Department's Office of Foreign Assets Control, Her Majesty's

Treasury or any other governmental authority of the United States, United Nations, European Union, any member state thereof, the United Kingdom, and/or of the country of use of the goods.

7.2 In case of breach of the above representations and warranties, the Buyer acknowledges and agrees that the Seller shall be entitled to suspend or terminate the present Contract without incurring any liabilities whatsoever towards the Buyer, and without prejudice to any further rights or remedies available to the Seller thereunder or at law.

7.3 The Seller's internal and external auditors may conduct inspections or audits of the Buyer's records and facilities for compliance with the Contract and these Terms. The Buyer will unconditionally cooperate fully with any such inspection or audit.

8. Personal Data

8.1 If the Contract includes the processing of personal data, the Buyer will make sure that its processing of the personal data is in accordance with all applicable laws and regulations including but not limited to the Malaysian Personal Data Protection Act 2010.

8.2 The Seller shall exclusively own all database rights in respect of any personal data processed by the Seller under the Contract.

8.3 The Buyer agrees that personal data concerning itself, its employees, or any person(s) working for the Buyer or on its behalf, may be collected, used and disclosed by the Seller and its affiliates in connection with the Contract and for the Seller's compliance with applicable laws, regulations, industry codes and guidelines and for internal audit. The Buyer warrants that where it discloses the personal data of third parties (such as personal data of its employees) to the Seller in connection with the goods and/or services, the Buyer has obtained the prior consent of such third parties for the Seller to collect, use and disclose their personal data for all purposes relevant in the context of the Contract, and in accordance with the Personal Data Protection Act 2010, any applicable laws, regulations and/or guidelines. The personal data will be processed in accordance with the Seller's personal data protection notice which is accessible on <https://www.tmkchemical.com/certifications-and-policies/>.

9. Force Majeure

9.1 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 any failure to perform, any of the Seller's obligations in relation

to the goods, if the delay or failure was due to a Force Majeure Event.

9.2 **"Force Majeure Event"** means causes beyond the Seller's reasonable control including:

- (i) act of God, explosion, flood, tempest, fire, accidents or epidemic;
- (ii) war or threat of war, sabotage, insurrection, civil disturbance or requisition;
- (iii) acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
- (iv) import or export regulations or embargoes;
- (v) strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party);
- (vi) difficulties in obtaining raw materials from normal source of supply, labour, fuel, parts of machinery; and
- (vii) power failure at manufacturing plant, operational disruptions or breakdown in machinery.

10. Miscellaneous

- 10.1 Where the goods are supplied for export from the country of manufacture, the Buyer shall be responsible for complying with any legislation or regulations governing the importation of the goods into the country of destination and for the payment of any duties thereon.
- 10.2 The Buyer cannot assign any rights or grant a security interest in any rights under these Terms or any Contract without the prior written consent of the Seller.
- 10.3 Any amendment, modification or change of these Terms, any Contract or any agreement entered into between the Seller and Buyer will be valid only if it is in writing and signed by an authorised representative of the Seller.
- 10.4 The Buyer will not, without the Seller's prior written consent:
- (i) use the name, trademarks, logo or other identifying marks of the Seller in any sales, marketing or publicity activities or materials, or
 - (ii) issue a press release or other kind of public statement regarding the Seller.

10.5 The failure of either party to enforce strict performance by the other party of any provision of these Terms or to exercise any right under these Terms will not be construed as a waiver to any extent of that party's right to assert or rely upon any provision of these Terms. All rights and remedies provided for in these Terms are cumulative and in addition to any other remedies available to either party at law or based on these Terms.

10.6 If any provision of these Terms is held invalid or unenforceable by a court of competent jurisdiction, that provision will be renegotiated to be restated to reflect as nearly as possible the original intentions of the parties.

11. Agreements

11.1 Any agreement, acceptance, consent or approval by the Seller with or to the Buyer in respect of any matter or thing under or pursuant to the Contract is not binding on the Seller unless such agreement, acceptance, consent or approval is signed, given or made by an authorised person with at least the designation of Deputy General Manager of the Seller.

12. Applicable law and disputes

12.1 The Contract and any agreement entered into between the parties and these Terms are exclusively governed by the laws of Malaysia.

12.2 Any dispute, controversy or claim arising out of or otherwise connected with the Contract, any agreements and/or these Terms shall be settled by arbitration in accordance with the AIAC Arbitration Rules. The arbitral tribunal shall consist of a sole arbitrator to be mutually agreed upon by the parties.