

TERMS AND CONDITIONS OF PURCHASE

These Conditions of Purchase ("**Conditions**") set out the terms on which the Company agrees to purchase Goods and/or Services from the Supplier.

1. DEFINITIONS

In these Conditions:

- the "**Company**" means Brenntag Chemicals Nigeria Limited (registered in Nigeria, company registration number 1186265) whose registered office is at 21 Boyle Street, Onikan -Lagos, Nigeria.
- a "**Condition**" means a clause in these Conditions;
- this "**contract**" means these terms and conditions of purchase of goods & related services;
- the "**Order**" Means a Purchase or Service Order and shall include this document, these Terms and Conditions and any other documents specifically made a part of this Order the order made in writing or sent by e-mail or fax by the Company;
- the "**Goods**" means the goods which are the subject of the Order including, without limitation, plant, machinery, equipment, vehicles and materials (including packaging), whether raw or partly or wholly manufactured;
- the "**Services**" means any services to be provided to the Company pursuant to the Order; and
- the "**Supplier**" means the person, firm or company to whom the Order is issued.

2. APPLICATION OF THESE CONDITIONS

- 2.1 Subject to Condition 2.2 below, the Company only enters into Contracts on the basis of these Conditions. These Conditions can only be altered or qualified by a document signed by a director of the Company.
- 2.2 In the event of a conflict between any of these Conditions and any specific provision referred to on the face of the Order, such a specific provision shall prevail.
- 2.3 The performance of Services or delivery of Goods by the Supplier pursuant to the Order shall constitute unconditional acceptance of these Conditions (and any specific provision referred to on the face of the Order) where acceptance has not previously been communicated to the Company.
- 2.4 No terms or conditions endorsed upon, delivered with or contained in the Supplier's quotation, acknowledgement or acceptance or order, specification or similar document shall form part of the Contract and the Supplier waives any right which it otherwise might have to rely on such terms and conditions.

3. DELIVERY AND DEFAULT

- 3.1 The Supplier shall comply in all respects with the Company's programme for delivery of the Goods and performance of the Services and any reasonable request for information about progress against the programme shall be provided by the Supplier without delay.

- 3.2 All Goods supplied against the Order shall be properly packed and secured in such a manner as to reach their destination in good condition, and shall (unless otherwise directed by the Company) be delivered by the Supplier to the Company's works carriage paid, in accordance with the Company's instructions and bearing the Company's order number on each package.
- 3.3 Delivery shall be completed when the Goods have been unloaded at the point of delivery specified in the Order and the delivery has been accepted by the Company.
- 3.4 If Goods are delivered before the date specified in the Order, the Company shall be entitled at its sole discretion to refuse to take delivery or to charge for insurance and storage of the Goods until the date for delivery specified in the Order.
- 3.5 In the event of any strike, lock-out, fire, explosion or accident or of any stoppage of the Company's business or work for reasons beyond its reasonable control which may prevent or hinder the use of the Goods or the Services or which may impair the performance of any obligation of the Company any payment for those Goods or Services may be suspended or postponed at the Company's option without any liability until such time as the circumstances preventing or hindering the use of the Goods or performance of the Services have ceased. The Company shall give the Supplier notice as soon as reasonably practicable of the said circumstances having arisen and the Company shall use and continue to use its reasonable endeavours to overcome the said circumstances and to minimise the said suspension or postponement.
- 3.6 If a carrier is specified in connection with the Order such carrier shall be deemed to be an agent of the Supplier and not of the Company.
- 3.7 Consignment or part deliveries may be rejected unless the Company has agreed in writing to accept such deliveries.
- 3.8 Unless otherwise stated in the Order, the Supplier is solely responsible for obtaining all the export and import licences for the Goods and the Supplier shall be solely responsible for any delays due to such licences not being available when required.
- 3.9 In the case of any Goods supplied from outside Nigeria, the Supplier shall ensure that accurate information is provided to the Company as to the country of origin of the Goods and expected date of arrival. The Supplier shall be liable to the Company for all duties and taxes in respect of the import into Nigeria.

4. TIME

- 4.1 Where a time is specified (including without limitation a time for delivery or installation), other than a time for payment, such provision shall be of the essence of the Contract.
- 4.2 Failure by the Supplier to adhere to any provision as to time contained in the Order shall entitle the Company at its option to treat the Contract as repudiated in whole or in part. The Company shall be entitled to exercise its option at any time notwithstanding that it has acquiesced in any delay unless a written extension of time has been given to the Supplier by the Company and the time of any extension has not elapsed.

4.3 Unless an extension of time has been agreed by the Company in accordance with Condition 4.2, the Supplier's failure to effect delivery on the date or dates specified may entitle the Company to purchase substitute Goods and to hold the Supplier accountable for all loss or additional costs (or both) incurred as a result.

5. PRICE AND PAYMENT

- 5.1 Unless otherwise agreed by the Company in writing:-
 - 5.1.1 all prices are fixed and inclusive of delivery, VAT (if applicable) and all other applicable duties and taxes;
 - 5.1.2 invoices shall not be rendered by the Supplier until completion of delivery of all of the Goods and performance of all of the Services which are the subject of the Order; and
 - 5.1.3 payment shall be 30 days net monthly i.e. payment at the end of the month following invoice.
- 5.2 The Company specifically reserves the right to deduct from any monies due or to become due to the Supplier any monies due to the Company from the Supplier whether by way of set-off, lien or counterclaim and whether arising in connection with the Contract, another contract or otherwise.
- 5.3 The Company shall not be responsible for the payment of any charges for Goods supplied or Services performed in excess of the Goods or Services required by the Order or any variation of it unless otherwise agreed in writing by the Company.
- 5.4 No payment of or on account of the Contract price shall constitute any admission by the Company as to proper performance by the Supplier of its obligations.
- 5.5 The Company will not be obliged to pay for or return containers, crates or packing materials or other durable packaging of any description except as otherwise agreed in writing by the Company.
- 5.6 The Supplier agrees:-
 - 5.6.1 to send on the day of despatch for each consignment such advices of despatch and invoices as may be indicated on the Order; or
 - 5.6.2 to send a monthly statement of account quoting the invoice numbers applicable to each consignment of the Goods and element of the Services that have been delivered by the Supplier and for which payment is due; and
 - 5.6.3 to mark clearly the Company's order number on each package, packing notes, advice notes, invoices, monthly statements and all other correspondence relating to the consignments of the Goods.
- 5.7 Without prejudice to any other remedy, where the Supplier fails to comply with the provisions of Condition 5.6, the Supplier accepts that a delay in payment may ensue. The Company shall be entitled to take advantage of any prompt payment discount offered to the Company irrespective of any delay in payment due to the Supplier failing to comply with the provisions of Condition 5.6.
- 5.8 The Supplier shall be entitled to charge the Company interest on any sums paid late under these Conditions from the due date until the date of payment. Such interest shall be calculated on a daily basis at the rate of 10 percent per

annum from time to time prevailing, as well after as before any judgment. This condition shall only become effective upon a notice given in writing to the Company by the Supplier and a grace period of not less than 30days is given from after the date payment is due.

6. RISK AND TITLE

- 6.1 Unless otherwise agreed in writing by the Company:
 - 6.1.1 risk in the Goods purchased shall pass to the Company upon completion of delivery as specified in Condition 3.3; and
 - 6.1.2 title to the Goods or any part of the Goods shall pass upon the earlier of delivery of the Goods as specified in Condition 3.3 and the time of any payment being made for the Goods.
- 6.2 The Supplier shall be responsible for transport and unloading costs and insurance of the Goods to their full value against all risk of damage or loss prior to completion of delivery as specified in Condition 3.3.
- 6.3 All tools, equipment and materials of the Supplier required in the performance of the Supplier's obligations under the Contract shall be and remain at the sole risk of the Supplier whether or not they are upon premises of the Company or other premises specified in the Order.

7. DATA AND TOOLS

- 7.1 All materials, drawings, specifications and other data provided by the Company in connection with the Order will at all times remain the property of the Company and shall be delivered up to the Company forthwith on request and are to be used by the Supplier solely for the purpose of completing the Order.
- 7.2 Any tool or plant which the Supplier may construct or acquire specifically in connection with the Goods and on respect of which the Supplier charges the Company shall be and remain the Company's sole and unencumbered property and the Company may at any time call for possession of such tool or plant.

8. INSPECTION AND TESTING

- 8.1 Any inspector or representative authorised by the Company shall be entitled to inspect:
 - 8.1.1 the Goods either complete or in the process of manufacture;
 - 8.1.2 any Services being performed; and
 - 8.1.3 and any tools or plant supplied pursuant to Condition 7 above and any other materials supplied by the Company to the Supplier,
 - 8.1.4 at any reasonable time either at the Supplier's works or at the works of any sub-contractor and to require all defects or deficiencies to be made good and alterations made. The exercise or failure to exercise any right granted by this Condition shall not constitute or be taken as acceptance or approval of all or any part of the Goods, the Services or the good condition of the said tools, plant or material.

9. QUALITY AND GUARANTEE

- 9.1 The Supplier warrants that the Goods shall:

- 9.1.1 be of first class quality, new, unless otherwise specified;
- 9.1.2 be supplied strictly in accordance with the quantities, drawings, specifications, standards and stipulations contained in or annexed to the Order and any other provision agreed in writing by the parties;
- 9.1.3 shall not contain any contaminant or impurity other than as expressly agreed in writing by the Company; and
- 9.1.4 unless otherwise agreed in writing, conform to all relevant Nigerian statutes, standards, specifications and conditions.
- 9.2 The Supplier warrants that all work and Services performed by the Supplier shall:
 - 9.2.1 be performed with the level of skill and care reasonably expected of a leading supplier of services of a similar or equivalent nature to those provided by the Supplier;
 - 9.2.2 be supplied in accordance with good manufacturing practice; and
 - 9.2.3 comply with the provisions of the Order and any other provision agreed in writing by the parties.
- 9.3 The Supplier warrants that it has the expertise and resources indicated by it prior to the Contract being entered into and confirms the accuracy of all statements and representations made by the Supplier in respect of the Goods and Services prior to or in the Order.
- 9.4 Nothing contained in these Conditions shall in any way detract from the Supplier's obligations under Nigerian law or statute or any express warranty or condition contained in the Order.
- 9.5 The Supplier agrees to assign to the Company upon request the benefit of any warranty, guarantee or similar right which the Supplier has against any third party manufacturer or supplier of the Goods or any part thereof.
- 9.6 The Supplier also expressly warrants title to all of the Goods is free and clear of any and all encumbrances of whatsoever nature and kind.
- 9.7 The Supplier agrees that all warranties shall survive any inspection, delivery, acceptance or payment

10. HEALTH AND SAFETY

The Supplier warrants that:-

all Goods supplied will be supplied with all necessary information sheets and registrations sufficient to comply with current statutory requirements.

11. INDEMNITY

- 11.1 The Supplier agrees to indemnify the Company against:-
 - 11.1.1 all losses, costs, damages, expenses and claims caused to and made against the Company which would not have been caused or made had the Supplier fulfilled its express or implied obligations under the Contract;
 - 11.1.2 any claims for infringement of any patents, design right, copyright, registered design, or trade mark by reason of the use or sale of the Goods and/or Services supplied (save where the same shall have been manufactured in

accordance with specifications or designs supplied solely by the Company) and against all losses, costs, damages, expenses and claims which the Company may incur or have to bear or for which the Company may become liable as a result of such claims for infringement;

- 11.1.3 all claims in respect of royalties payable by the Supplier in respect of the Goods and/or Services;
- 11.1.4 all claims arising out of errors and omissions in drawings, calculations, packing details or other particulars supplied by the Supplier; and
- 11.1.5 all claims made against the Company arising out of the acts and omissions of the Supplier, its employees, agents or its sub-contractors.

12. MARKING OF GOODS AND PUBLICITY

- 12.1 Unless otherwise agreed in writing no maker's name or other trade mark shall appear on any Goods supplied pursuant to the Order.
- 12.2 Neither the Order nor the name of the Company shall be disclosed to any third party or used by the Supplier or any sub-contractor for advertisement or publicity purposes without the Company's prior written consent.

13. CONFIDENTIALITY

- 13.1 The Supplier shall keep secret all information of a secret or confidential nature (including without limitation all information relating to the customers of the Company, the Goods and Services ordered by the Company, all manufacturing techniques or related information revealed by the Company and all information labelled as secret or confidential by the Company) (together the "Confidential Information") communicated to the Supplier.
- 13.2 The Supplier shall not disclose any such Confidential Information to any person except as permitted by this Condition 13. The Supplier may only disclose such Confidential Information to its employees to the extent such disclosure is necessary provided that before any such disclosure the Supplier shall procure that each of its employees concerned shall be bound to it by similar obligations of confidentiality.
- 13.3 The provisions of this Condition 13.3 shall not apply to such Confidential Information:
 - 13.3.1 which is or becomes public knowledge (except by reason of default on the part of the Supplier); or
 - 13.3.2 which the Supplier obtains from a third party who does not place an obligation of confidence on the Supplier; or
 - 13.3.3 which the Supplier is required to be disclosed by law or pursuant to the regulations of any government agency or court with proper jurisdiction to require disclosure.
- 13.4 Upon any termination of the Contract the obligations of confidentiality contained in this Condition 13 shall continue in full force and effect.

14. SUB-CONTRACTORS

- 14.1 The Supplier shall not without the written consent of the Company sub-contract or assign all or any part of the Order.

- 14.2 Any authority given by the Company for the Supplier to sub-contract the Order or any part of it shall not impose any duty on the Company to enquire as to the competency of any authorised sub-contractor.
- 14.3 The Supplier shall remain solely responsible for the acts and omissions of any sub-contractor (whether authorised or not).
- 15. TERMINATION**
- 15.1 The Company may terminate the Contract forthwith if:-
- 15.1.1 the Supplier shall become bankrupt or, be deemed to be unable to pay its debts or shall compound with its creditors or if a resolution shall be passed or proceedings commenced for the administration or liquidation of the Supplier (other than for a voluntary solvent winding up for the purpose of reconstruction or amalgamation) or if a receiver or manager shall be appointed of all or any part of its assets or undertaking;
- 15.1.2 where the Supplier is situated outside Nigeria, an event analogous to an event described in Condition 15.1.1 shall occur; or
- 15.1.3 the Supplier shall commit any breach of its obligations under the Contract which, if capable of remedy, is not remedied within thirty (30) days of receipt of written notice from the Company requiring that breach to be remedied.
- 15.2 The Company may exercise its rights under Condition 15.1 above notwithstanding that:-
- 15.2.1 the Company has accepted all or part of the Goods; or
- 15.2.2 the title in the Goods has passed to the Company.
- 15.3 Upon any termination, the Company may in its absolute discretion keep or return any of the Goods in the possession of the Company. The Company shall be liable to pay only for such of the Goods, if any, that the Company so keeps, the price being determined pro rata with respect to the total Contract price. Termination shall be without prejudice to any claim that the Company may have against the Supplier arising out of a breach of the Contract by the Supplier.
- 15.4 Where a defect is discovered in the Goods or Services:
- 15.4.1 which is reasonably apparent on a visual inspection, then within ninety (90) days after delivery of the Goods to the Company or the provision of the Services; or
- 15.4.2 which is not reasonably apparent on a visual inspection, then within ninety (90) days after the Company has discovered the defect in question,
- in either event the Company shall be entitled to require the Supplier to rework or replace the Goods so that the defect is not present or else the Company may by written notice, reject the Goods and terminate the Contract.
- 15.5 Where the Company exercises its right under Condition 15.4 above to require the Supplier to rework or replace the Goods, the Supplier shall be responsible for making good with all possible speed the defective or damaged Goods or Services as the case may be including the full replacement of the Goods where necessary together with all costs of re-delivery to the Company's site and installation and all other incidental costs and expenses incurred by the Company.
- 15.6 The rights of the Company in this Condition 15 are in addition to any that the Company may have in law.
- 16. VALUE ADDED TAX**
- The Supplier shall issue a proper tax invoice in respect of value added tax in accordance with the relevant legislation before the Company shall be required to make payment for Goods or Services supplied in accordance with the Order.
- 17. SEVERABILITY**
- 18.1 If any provision of these conditions is or shall be judged by a court of competent jurisdiction void or unenforceable in whole or in part the other provisions of these conditions shall remain fully valid and enforceable and the void or unenforceable provisions shall, where appropriate, be replaced as near as may be to reflect the meaning and purpose of these conditions.
- 18. SUPPLY CHAIN MANAGEMENT**
- 18.1 In performing its obligations under the Contract, the Supplier shall (and shall ensure that each of its subcontractors shall) comply with all applicable laws, statutes, regulations and codes from time to time in force.
- 18.2 The Supplier represents and warrants that neither the Supplier nor any of its officers, employees or other persons associated with it has engaged in or been convicted of any offence relating to bribery or corruption or slavery and human trafficking and to the best of its knowledge has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and human trafficking.
- 18.3 The Supplier warrants that it has implemented appropriate procedures (including, but not limited to, training) in its organisation and its supply chain and undertaken appropriate due diligence on its own suppliers, subcontractors and other participants in its supply chains, to prevent bribery and corruption and to ensure that there is no slavery or human trafficking in its supply chains. The Supplier agrees to make available records and documents demonstrating such procedures and due diligence to the Company upon its reasonable request.
- 18.4 The Supplier agrees to notify the Company as soon as it becomes aware of any actual or suspected bribery or corruption or slavery or human trafficking in a supply chain which has a connection with the Contract.
- 18.5 A breach of this Condition 18 shall be considered a material breach incapable of remedy and, in the event of such a breach, the Supplier agrees to indemnify the Company against any losses, liabilities, damages, costs (including but not limited to reasonable legal fees) and expenses incurred by the Company as a result.
- 19. VARIATION**
- 19.1 Any amendments to these Conditions or the Order shall be valid and binding only where made by an agreement

evidenced in writing and signed by a director of the Company.

- 19.2 The Supplier shall advise the Company immediately if such amendments either prevent the specified delivery dates being met or have any other significant implication regarding the Supplier's obligations to the Company.

20. CANCELLATION

Without prejudice to any other specific provision of the Contract or any other right available to the Company, the Company shall have the right to cancel the Contract in whole or in part at any time by giving written notice to the Supplier whereupon all work under the Order (or the cancelled part) shall be discontinued and the Company shall pay to the Supplier such proportion of the Order price as may be fair and reasonable having regard to the value of work done, of the Goods previously delivered and of Services performed under the Order (including an element of profit to be calculated on a pro rata basis by reference to the net profit margin on the Contract as a whole which the Supplier can evidence to the satisfaction of the Company that the Supplier would have obtained had the Contract proceeded to completion). On such payment by the Company no further sum or sums shall be due by way of damages, loss of profits or otherwise from the Company by reason of such cancellation.

21. INSTRUCTIONS

- 21.1 All instructions, information and warnings supplied with the Goods shall be supplied in English and in a form suitable for photocopying or electronic copying by the Company.
- 21.2 The Supplier hereby permits the Company to copy those instructions, information and warnings.

22. INTELLECTUAL PROPERTY

- 22.1 All designs, inventions, patents, know how, copyright and other intellectual property rights, new technology and improvements made, designed or developed by the Supplier pursuant to the Supplier's provision of the Services and all confidential information generated by the Supplier pursuant to the Supplier's provision of the Services shall be the absolute property of the Company. The Supplier shall procure at no charge to the Company the execution of any and all papers reasonably requested by the Company to perfect the ownership of the same by the Company.
- 22.2 Where the Supplier is permitted by the Company to use any intellectual property rights of the Company for the purposes of the provision of the Goods or the Services, then those intellectual property rights shall remain the absolute property of the Company and the Supplier shall use those intellectual property rights only for the purposes of the Contract or otherwise as permitted by the Company in writing.
- 22.3 All material, drawings, patterns, gauges, samples, specifications and other technical data supplied by the Company in connection with the provision of the Services shall be and shall at all times remain the property of the Company. The contents of the same and all such data shall be regarded as "Confidential Information" for the purposes of Condition 13 above.
- 22.4 Where any material, drawings, patterns, gauges, samples, specifications and other technical data are supplied by the

Company to the Supplier, the Supplier shall return the same and all copies thereof on the demand of the Company. The Supplier shall not use any such material, drawings, patterns, gauges, samples, specifications and other technical data except in connection with the provision of the Services to the Company.

23. NIGERIAN LAW

The parties agree that the Contract shall in all respects be governed by Nigerian law and that any disputes arising or in any way connected with the subject matter of this Agreement (whether of a contractual or tortious nature or otherwise) shall be subject to the exclusive jurisdiction of the Nigerian courts except that the Company may seek injunctive relief outside such jurisdiction.

24. INTERPRETATION

- 24.1 In these Conditions and any Order:
- 24.1.1 the headings are for convenience only and shall not affect the interpretation of these conditions or the Order;
- 24.1.2 the use of the plural shall include the singular and the use of the singular shall include the plural; and
- 24.1.3 references to the masculine, feminine or neuter genders shall include each and every gender.

25. WAIVER

Save in respect of a waiver granted in writing, the failure of the Company at any time to enforce a provision of the Contract shall not be deemed a waiver of such provision or of any other provision of the Contract or of the Company's right thereafter to enforce that or any other provision of the Contract.

