

TERMS AND CONDITIONS OF SALES

These Conditions of Sales ("**Conditions**") set out the terms on which the Company agrees to sell Goods and/or Services to Purchaser.

1. DEFINITIONS

In these Conditions:

the " Company "	means Brenntag Chemicals Nigeria Limited (registered in Nigeria, company registration number 1186265) whose registered office is at Plot 1, Block G, Oshodi Industrial Layout, Apapa-Oshodi Expressway, Matori Lagos, Nigeria.
a " Condition "	means a clause in these Conditions;
this " contract "	means these terms and conditions of sale of goods & related services;
the " Order "	Means a 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 " Purchaser "	means the person, firm or company to whom the Order is sold.

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 vendor 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 Purchaser's quotation, acknowledgement or acceptance or order, specification or similar document shall form part of the Contract and the Purchaser waives any right which it otherwise might have to rely on such terms and conditions.

3. DELIVERY AND DEFAULT

- 3.1 The Company shall comply in all respects with the 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 without delay.

- 3.2 All Goods sold against the Order shall be properly packed and secured in such a manner as to reach their destination in good condition, and shall be delivered, 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 Purchaser.
 - 3.4 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 delivery of the Goods or the Services or which may impair the performance of any obligation of the Company The Company shall give the Purchaser 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.
 - 3.5 If a carrier is specified in connection with the Order such carrier shall be deemed to be an agent of the Purchaser and not of the Company.
 - 3.6 Consignment or part deliveries may be rejected unless the Company has agreed in writing to accept such deliveries.
 - 3.7 Unless otherwise stated in the Order, the Purchaser is solely responsible for obtaining all the export and import licences for the Goods and the Purchaser shall be solely responsible for any delays due to such licences not being available when required.
 - 3.8 In the case of any Goods supplied from outside Nigeria, the Company shall ensure that accurate information is provided as to the country of origin of the Goods and expected date of arrival. The Company shall be liable 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 Company to adhere to any provision as to time contained in the Order shall entitle the Purchaser at its option to treat the Contract as repudiated in whole or in part. The Purchaser 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 Purchaser by the Company and the time of any extension has not elapsed.
- ### 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 Purchaser shall settle all invoices prior to delivery of all of the Goods and performance of all of the Services which are the subject of the Order; and

5.2 The Purchaser shall not be responsible for the payment of any charges for Goods delivered 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 Parties. .

5.3 The Company will not be obliged to return containers, crates or packing materials or other durable packaging of any description except as otherwise agreed in writing by the Company.

5.4 The Company agrees:-

5.4.1 to send on the day of dispatch for each consignment such advices of dispatch and invoices as may be indicated on the Order; or

5.4.2 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.

6. RISK AND TITLE

6.1 Unless otherwise agreed in writing by the Parties:

6.1.1 risk in the Goods sold shall pass to the Purchaser 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 Company 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 Company required in the performance of the its obligations under the Contract shall be and remain at the sole risk of the Company whether or not they are upon premises of the Purchaser 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 Purchaser solely for the purpose of completing the Order.

8. INSPECTION AND TESTING

8.1 Any inspector or representative authorised by the Parties 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 Purchaser,

8.1.4 at any reasonable time either at the company'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 Company 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, , 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; and

9.1.4 unless otherwise agreed in writing, conform to all relevant Nigerian statutes, standards, specifications and conditions.

9.2 The Company warrants that all work and Services performed 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 Company;

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 Company 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 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 Company's obligations under Nigerian law or statute or any express warranty or condition contained in the Order.

9.5 The Company also expressly warrants title to all of the Goods is free and clear of any and all encumbrances of whatsoever nature and kind.

9.6 The Company 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 Company agrees to indemnify the Purchaser against:-

11.1.1 all losses, costs, damages, expenses and claims caused to and made against the Purchaser which would not have

been caused or made had the Company 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 and against all losses, costs, damages, expenses and claims which the Purchaser may incur or have to bear or become liable as a result of such claims for infringement;
- 11.1.3 all claims arising out of errors calculations, packing details or other particulars supplied by the Company; and
- 11.1.4 all claims made against the Purchaser 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 Neither the Order nor the name of the Company shall be disclosed to any third party or used by the Purchaser for advertisement or publicity purposes without the Company's prior written consent.

13. CONFIDENTIALITY

- 13.1 The Purchaser 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 from 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 Purchaser.
- 13.2 The Purchaser shall not disclose any such Confidential Information to any person except as permitted by this Condition 13. The Purchaser may only disclose such Confidential Information to its employees to the extent such disclosure is necessary provided that before any such disclosure the Purchaser 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; or
 - 13.3.2 which the Purchaser obtains from a third party who does not place an obligation of confidence on the Purchaser; or
 - 13.3.3 which the Purchaser 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 Parties shall not without the written consent sub-contract or assign all or any part of the Order.
- 14.2 Any authority given by the Purchaser for the Company 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.

15. TERMINATION

- 15.1 The Company may terminate the Contract forthwith if:-
 - 15.1.1 the Purchaser becomes 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 Purchaser (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 the Purchaser has accepted all or part of the Goods; or
 - 15.1.3 the title in the Goods has passed to the Purchaser.
- 15.2 The Purchaser may terminate Where a defect is discovered in the Goods or Services:
 - 15.2.1 which is reasonably apparent on a visual inspection, then within thirty (30) days after delivery of the Goods to the Purchaser or the provision of the Services; or

in either event the Purchaser shall be entitled to require the Company to rework or replace the Goods so that the defect is not present or else the Purchaser may by written notice, reject the Goods and terminate the Contract.
- 15.3 The rights of the Parties in this Condition 15 are in addition to any that the Company may have in law.

16. SEVERABILITY

- 16.1 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.

17. VARIATION

- 17.1 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.
- 17.2 The Company shall advise the Purchaser immediately if such amendments either prevent the specified delivery dates being met or have any other significant implication regarding the Purchaser's obligations to the Company.

18. INSTRUCTIONS

- 18.1 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 Purchaser.
- 18.2 The Company hereby permits the Purchaser to copy those instructions, information and warnings.

19. INTELLECTUAL PROPERTY

- 19.1 All designs, inventions, patents, know how, copyright and other intellectual property rights, new technology and improvements made, designed or developed by the Company pursuant to the provision of the Services and all confidential information generated by the Company pursuant to the Supplier's provision of the Services shall be the absolute property of the Company. .
- 19.2 Where the Purchaser is permitted by the Company to use any intellectual property rights of the Company then those intellectual property rights shall remain the absolute property of the Company and the Purchaser shall use those intellectual property rights only for the purposes of the Contract or otherwise as permitted by the Company in writing.
- 19.3 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.

20. 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.

21. INTERPRETATION

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

22. 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.