



TERMS & CONDITIONS OF SALE

1. Definitions

1.1. For the purpose of this agreement, unless the context requires otherwise:

- 1.1.1. "Applicant": Means any individual or legal person with whom the Seller contracts, and who has placed an order with the Seller, or any person with whom the Seller contracts as a result of any offer to purchase goods from the Seller, and includes the Applicant's representatives, successors and permitted assignees.
- 1.1.2. "Business Day": Means any day other than a Saturday, Sunday, or official public holiday in the Republic of South Africa.
- 1.1.3. "Delivery": Means the physical handover of Goods by the Seller to the Applicant or its authorised representative or carrier at the Seller's premises, or the dispatch of the Goods from the Seller's premises, whichever occurs first.
- 1.1.4. "Goods": Means the laboratory chemicals, consumables, equipment, and all other products supplied or to be supplied by the Seller to the Applicant in terms of this agreement.
- 1.1.5. "Hazardous Goods": Means any Goods which are classified as hazardous, dangerous, or controlled substances under any applicable legislation or any regulations.
- 1.1.6. "SDS": Means the Safety Data Sheet applicable to any Goods, as required under applicable legislation and the Globally Harmonized System of Classification and Labelling of Chemicals ("GHS").
- 1.1.7. "Seller": Means Associated Chemical Enterprises (Pty) Ltd, a private company incorporated in accordance with the laws of the Republic of South Africa with registration number 1996/007318/07.

2. Quotations & Pricing

- 2.1. Quoted prices are based on the relevant exchange rate prevailing at the date of the quotation, and are only valid until the "expiry date" on the quote.
- 2.2. In the event of fluctuation of the exchange rate of 5% (five per cent) or more between the date of the Applicant's order and the date of each relevant invoice, the Seller shall be entitled to adjust proportionately the quoted prices to take account of such fluctuations and to invoice accordingly, provided that the Seller shall notify the Applicant in writing of any such adjustment prior to invoicing.
- 2.3. The prices quoted are only valid based on the quantities quoted on. Any quantity variations are subject to price changes upon acceptance of orders or contracts.

- 2.4. Value-Added Tax ("VAT"), at the rate prescribed by the Value-Added Tax Act 89 of 1991 ("VAT Act"), is payable by the Applicant on all Goods purchased from the Seller, in addition to the quoted price, unless the supply is expressly zero-rated or exempt in terms of the VAT Act. Unless expressly stated otherwise on the invoice, all prices quoted exclude VAT.
- 2.4.1. Exports from the Republic of South Africa may qualify for zero-rating in terms of section 11 of the VAT Act, subject to the Seller obtaining and retaining the prescribed documentary proof of export as required by the VAT Act and the regulations thereto. The Applicant shall furnish the Seller with all necessary export documentation and information reasonably required by the Seller to substantiate the zero-rating of any export Goods.
- 2.4.2. For export orders, the following terms shall apply:
- 2.4.2.1. Freight and transportation charges from the Seller's premises are not included in the quoted price.
- 2.4.2.2. Unless otherwise agreed in writing, the applicable delivery term for export orders shall be EXW (Ex. Works), FCA (Free Carrier), Incoterms® 2020, the Seller's premises at 10 Amethyst Road, Theta Extension 6, Johannesburg 2091.
- 2.4.2.3. All insurance, transport, and freight costs from the Seller's premises shall be for the account of the Applicant. The Applicant shall ensure that the Goods are adequately insured during transit in accordance with clause 7 below.
- 2.4.2.4. The Applicant shall be responsible for obtaining all necessary export permits, licences, customs clearances, and any other authorisations required for the export of the Goods from the Republic of South Africa and for their import into the country of destination.
- 2.4.2.5. In the case of Hazardous Goods, the Applicant shall comply with all applicable international and domestic legislation and regulations governing the transportation of dangerous goods.
- 2.5. All prices quoted exclude delivery charges unless otherwise agreed upon in writing.
- 2.6. All prices quoted are as per unit of sale.
- 2.7. Pro-forma invoices are price indicators only for COD clients and are valid for 24 (twenty-four) hours only. Should proof of payment not be transmitted to the Seller electronically within 24 (twenty-four) hours, the Seller reserves the right to amend any prices on the pro-forma invoice without prior notice.

3. Payment

- 3.1. All payments due by the Applicant to the Seller shall be strictly payable by the Applicant within 30 (thirty) calendar days from the date of the statement sent by the Seller to the Applicant, or on the specific credit terms afforded to the Applicant by the Seller, which credit terms must be confirmed in writing.
- 3.2. If payment is not received within the agreed period, the Seller reserves the right to charge interest at a rate of 2,5% (two point five per cent) over the prime lending rate as published by the Standard Bank of South Africa Limited from time to time, calculated daily and compounded monthly on all amounts outstanding from the due date until the date of payment in full. Such interest shall not exceed the maximum rate permitted under the National Credit Act 34 of 2005, to the extent applicable.

- 3.3. Should the Applicant fall into arrears, then all amounts outstanding by the Applicant to the Seller from whatever cause, whether or not the due date of payment has arisen, will immediately become due and payable by the Applicant (an "acceleration clause"), and the Seller shall have the right to appropriate any payments received firstly towards interest, then towards costs, and thereafter in reduction of the capital amount owing.
- 3.4. No payment received shall be regarded as a novation of the debt.
- 3.5. Should any portion of an invoice indebtedness be disputed by the Applicant, the Applicant shall pay the undisputed portion of such indebtedness.
- 3.6. Any defect or query relating to goods delivered, shall be brought to the attention of the Seller in writing within 7 (seven) calendar days of the date stated on the delivery note.
- 3.7. Any cash sale payment made by way of direct internet payment shall be subject to a clearance period of 48 (forty-eight) hours where the payment originates from a bank other than the Standard Bank of South Africa Limited or 24 (twenty-four) hours if paid into the Standard Bank of South Africa Limited.
- 3.8. No settlement discount will be allowed unless agreed in writing by both parties.

4. Delivery and time of delivery

- 4.1. Time is not of the essence of the agreement.
- 4.2. Any time or date stipulated by the Seller for delivery is intended as an estimate only and the Seller shall not be held liable for any loss or damages whatsoever, (including loss of profits or consequential loss), which may result from non-delivery by the time or date so stipulated nor shall any such delay confer upon the Applicant any right to rescind the agreement, unless otherwise agreed in writing.
- 4.3. It is agreed that the signature of any employee or agent of the Applicant which appears on the Seller's or authorized independent carrier's delivery note will constitute *prima facie* proof of delivery of goods purchased by the Applicant.
- 4.4. If a dispute arises, the Seller's invoice and statement shall be deemed to be *prima facie* proof of delivery. If a dispute arises as to the quantity of Goods sold and delivered, the onus of proving that the Goods were not Delivered and/or that the quantity and the price thereof is not in accordance with the Seller's claim, shall be upon the Applicant.
- 4.5. Where the Applicant fails to accept Delivery, does not collect the Goods as per the agreement between the Applicant and the Seller, or otherwise commits a breach of any term of this agreement, the Seller may, at its sole discretion and without prejudice to any other rights it may have:
 - 4.5.1. cancel the agreement in whole or in part and claim from the Applicant all damages that may have been sustained as a result of such cancellation; or
 - 4.5.2. enforce the agreement, tendering the Goods only against immediate payment notwithstanding any previous credit terms and other terms agreed to; or
 - 4.5.3. withhold Delivery of any further Goods until all amounts outstanding have been paid in full.
- 4.6. Any notification by the Seller to the Applicant that the Goods are available for collection shall not constitute a guarantee that the Goods will remain available at the time of collection. The Seller shall not be liable for any loss, damage, cost, or expense incurred by the Applicant in preparing for or undertaking the collection of Goods, where such Goods are no longer available for collection due to theft, damage, destruction, or any other cause beyond the Seller's reasonable control.

5. Withdrawal and variation of facility

- 5.1. Prior to accepting the order, the Seller shall be entitled, at its sole discretion, to vary, reduce, suspend, or withdraw the credit facility offered to the Applicant at any time, whether in relation to a specific order or generally, by providing written notice to the Applicant.
- 5.2. Without limiting the generality of and subject to clause 5.1 above, the Seller may vary, reduce, suspend, or withdraw the credit facility afforded to the Applicant if, in the Seller's reasonable opinion, the Applicant's financial position or creditworthiness has deteriorated or if any of the events referred to in clause 8.1 have occurred or are, in the Seller's reasonable opinion, likely to occur.
- 5.3. The Applicant shall promptly notify the Seller in writing of any material change in its financial position, ownership or management structure, or of any event which may affect its liability to meet its payment obligations under this agreement.
- 5.4. The Seller may, at any time, require the Applicant to provide security for the payment of any amounts due or to become due, including but not limited to suretyship, guarantees, or deposits, as a condition of granting or continuing credit.
- 5.5. The Seller shall be entitled to set-off any amounts owed by the Seller to the Applicant against any amounts owed by the Applicant to the Seller.
- 5.6. The granting of credit to the Applicant shall not constitute a waiver of any of the Seller's rights under this agreement, including its right to require payment in advance or on Delivery in respect of any particular order.

6. Permissions / Permits / Licenses / Declarations

- 6.1. Purchase orders for items falling under any government regulation or supervision shall constitute the Applicant's irrevocable warranty and undertaking that the Applicant holds all suitable and valid permissions, permits, licenses and/or authorisations required for the purchase, possession, use, storage, handling and transportation of such items. The following documentation must be completed for each purchase order:
 - 6.1.1. For narcotic or controlled substances regulated under applicable legislation, Form Ref SCA09 must be completed.
 - 6.1.2. For hazardous or controlled substances regulated under applicable legislation, Form Ref SCA14 must be completed.
 - 6.1.3. For the transportation of Hazardous Goods, the Applicant must comply with all applicable legislation and regulations governing the transportation of dangerous goods.
 - 6.1.4. For precious metals, the Applicant must comply with all applicable legislation and regulations governing the purchase, possession, and the sale of precious metals.
 - 6.1.5. The Applicant shall comply with all applicable environmental legislation and regulations insofar as the handling, storage, use, transport, and disposal of any Goods may have an environmental impact.
 - 6.1.6. For any explosives, explosive precursors, and related substances, the Applicant must comply with all applicable legislation and regulations, and must hold all valid certificates of registration or licences as required thereunder.
- 6.2. Copies of any relevant documentation pertaining to any permissions, permits, licenses, authorisations, registrations and/or declarations must be presented to the Seller upon request and prior to the Delivery of any Goods requiring such

documentation. The Seller reserves the right to withhold Delivery of Goods until satisfactory evidence of compliance has been received.

- 6.3. The Applicant warrants that it holds all necessary permissions, permits, licences, and authorisations required for the purchase, collection, transport, storage, handling, use, and disposal of the Goods, including any Hazardous Goods, and that it shall maintain such authorisations in full force and effect for the duration of this agreement.
- 6.4. The Applicant hereby indemnifies and holds the Seller harmless against any claim, losses, damages, penalties, fines, or liabilities arising from the Applicant's failure to obtain or maintain any necessary permissions, permits, licences, or authorisations required in terms of this clause 6 or under any applicable legislation.

7. Ownership and risk

- 7.1. Ownership of all Goods sold and delivered shall remain with the Seller and shall not pass to the Applicant until the purchase price is paid in full and Delivery has occurred as defined in clause 1.1.3. The aforementioned Goods shall not in any way be hypothecated or pledged.
- 7.2. Where the Goods are to be stored at leased premises, the Applicant undertakes promptly to inform the lessor that the Seller has retained the right of ownership of all Goods which are the subject matter of this agreement.
- 7.3. The risk in and to the Goods supplied by the Seller to the Applicant shall pass to the Applicant upon the Delivery as defined in clause 1.1.3 above, or upon the Goods leaving the premises of the Seller, whichever is sooner. From the moment risk passes, the Applicant shall be solely responsible for the Goods, including their transport, handling, storage, and use.
- 7.4. The Applicant shall ensure that all Goods, from the moment risk passes in terms of clause 7.3 above, are adequately insured against all reasonable risks, including but not limited to theft, fire, explosion, accidental damage, spillage, contamination, and third-party liability, until the purchase price has been paid in full and ownership has passed to the Applicant. The Seller may require written proof of such insurance at any time.
- 7.5. The Applicant hereby indemnifies and holds harmless the Seller, its directors, officers, employees, and agents against any and all claims, demands, actions, proceedings, losses, damages, costs, fines, penalties, and liabilities of whatsoever nature and howsoever arising, directly or indirectly, from or in connection with:
 - 7.5.1. the transportation, handling, storage, use, or disposal of the Goods after risk has passed to the Applicant;
 - 7.5.2. any breach by the Applicant of its obligations under this agreement, including any failure to comply with applicable legislation;
 - 7.5.3. any personal injury, death, property damage, or environmental contamination arising from the Applicant's handling or use of the Goods; and
 - 7.5.4. any claim by any third party arising from the Applicant's possession, transport, handling, or use of the Goods.
- 7.6. The Applicant shall not transport, or cause to be transported, any Hazardous Goods unless the vehicle, container, and driver comply with all applicable legal requirements for the transportation of dangerous goods. The Seller shall have no liability in respect of any incident occurring during the transportation of Goods.
- 7.7. The Applicant shall ensure that its employees, agents, and contractors who handle, transport, or use the Goods are properly trained and qualified in the

handling and transportation of hazardous substances in accordance with all applicable legislation and regulations.

- 7.8. Without limiting the generality of clause 7.3 above, the Applicant acknowledges and agrees that, once risk in the Goods has passed to the Applicant, the Seller shall bear no liability whatsoever for any loss, damage, injury, death, contamination, or environmental harm arising from or in connection with the transportation, handling, storage, use, or disposal of the Goods by the Applicant or any third-party acting on the Applicant's behalf, including but not limited to an independent carrier or logistics provider.
- 7.9. In respect of Hazardous Goods, the Applicant specifically acknowledges that:
- 7.9.1. it is aware of the hazardous nature, properties, and risks associated with such Goods;
 - 7.9.2. it has received and reviewed the relevant SDS prior to taking Delivery;
 - 7.9.3. it is solely responsible for ensuring that the transportation, handling, storage, and use of such Goods are carried out in compliance with all applicable legislation and regulations; and
 - 7.9.4. it has obtained appropriate insurance covering third-party liability in respect of the transportation and handling of such Goods.

8. Suspension or cancellation of delivery

- 8.1. The Seller reserves the right to suspend, delay or cancel the Delivery of some or all of the Goods or to require advance payment for them if:
- 8.1.1. the Applicant is, or becomes insolvent or unable to pay its debts, or seeks to effect any compromises with any of its creditors or compound any of its debts; or
 - 8.1.2. the Applicant is placed under an order of sequestration, judicial management or liquidation, whether such order be provisional or final; or
 - 8.1.3. the Applicant is the subject of any resolution passed to enable it to be wound up or dissolved; or
 - 8.1.4. any judgement is given against the Applicant in any court of law which, in the reasonable opinion of the Seller, may affect the Applicant's ability to perform its obligations under this agreement, and which, if appealable, is not appealed against within the period allowed for the lodging of such an appeal, or if appealed, the appeal is dismissed, or, if not appealed, remains unsatisfied for a period of 10 (ten) Business Days; or
 - 8.1.5. the Applicant is in breach of any of its obligations under the Agreement to the Seller.
 - 8.1.6. the Applicant fails to pay its account within 30 (thirty) calendar days from statement date or agreed terms or other payment terms agreed upon in writing by the Seller
- 8.2. No suspension, delay, or cancellation as a result of any of the above foregoing events shall affect any other right which the Seller may have against the Applicant in terms of the agreement or otherwise. In such an event, the Seller shall be entitled, if the Applicant defaults in payment or ceases to carry on business or is provisionally or finally liquidated or sequestrated, to take possession of the Goods (in terms of its reservation of ownership under clause 7.1 above) without prejudice to any other rights vested in it, and the Seller shall reserve the right to claim any shortfall from the Applicant or its estate.

9. Warranty and disclaimer

- 9.1. All sizes, weights, and other specifications given by the Seller are approximate only.
- 9.2. The Seller gives no warranty, whether express or implied, that Goods are suitable or fit for any particular purpose for which they are purchased by the Applicant. The Applicant acknowledges that it has satisfied itself as to the suitability of the Goods for its intended purpose prior to placing an order.
- 9.3. All Goods sold by the Seller are intended for laboratory, analytical, research, or industrial purposes only and not for food or human consumption, unless expressly stated otherwise in writing. The Applicant warrants that it shall not use or permit the use of any Goods for any purpose other than their intended purpose.
- 9.4. Save as expressly provided in this agreement, the Seller shall not be liable for any loss of profit, business, goodwill, or any indirect, special, or consequential damages sustained by the Applicant, however arising, whether in contract, delict, or otherwise, including but not limited to damages arising from:
 - 9.4.1. any defect in the Goods discovered after Delivery, save where such defect was caused by the Seller's gross negligence or wilful misconduct;
 - 9.4.2. any delay in Delivery;
 - 9.4.3. any act or omission of the Applicant in the handling, storage, transport, use, or disposal of the Goods; or
 - 9.4.4. any reliance by the Applicant on any technical information, advice, or recommendation provided by the Seller.
- 9.5. The Seller's total aggregate liability under or in connection with this agreement, shall in no event exceed the purchase price of the Goods giving rise to the claim.
- 9.6. Nothing in this agreement shall exclude or limit the Seller's liability for:
 - 9.6.1. death or personal injury caused by the Seller's gross negligence or wilful misconduct;
 - 9.6.2. fraud or fraudulent misrepresentation; or
 - 9.6.3. any liability which cannot be excluded or limited by law.

10. Errors, shortages and returns

- 10.1. All products are guaranteed full mass as stated on containers on Delivery and the Seller shall not be responsible for any loss of mass or volume of products by drying, heating or evaporating, or incorrect storage thereafter.
- 10.2. The Seller shall not be liable for products lost as a result of containers being damaged after Delivery.
- 10.3. The Applicant shall immediately, upon receipt of any Goods from the Seller, inspect the Goods and inform the Seller of any visible errors, defects and/or shortages by way of written notice to be received by the Seller within 7 (seven) calendar days of receipt of the Goods. Should the Applicant fail to notify the Seller within the applicable period, the Applicant shall have no claim against the Seller in regard thereto, save for any rights which may not be excluded by law.
- 10.4. Any products delivered by the Seller to the Applicant in error shall be considered for credit by the Seller provided that such products:
 - 10.4.1. are returned undamaged by the Applicant within 7 (seven) calendar days of its receipt thereof; and

- 10.4.2. are in their original packaging and have not had the seal broken, been unpacked, opened or used in part; and
 - 10.4.3. are not defaced by price labels or any other markings; and
 - 10.4.4. are accompanied by the original SDS and any hazardous classification labels; and
 - 10.4.5. in respect of Hazardous Goods, have been stored and handled in accordance with the SDS and all applicable legislation, and the Applicant provides written confirmation thereof; and
 - 10.4.6. are returned within the shelf life or expiry period of the Goods, as indicated on the packaging or SDS.
- 10.5. The Seller reserves the right to refuse the return of any Goods where, in the Seller's reasonable opinion, such return would create a safety risk or would not comply with the relevant legislation or regulation.
- 10.6. Any Goods collected by the Applicant in error shall be considered for credit by the Seller provided that the pre-requisites contained in clauses 10.4.1 to 10.4.6, above are complied with.
- 10.7. Should the Applicant wish to return any Goods which are not defective and which have not been Delivered or collected in error, the Applicant shall first obtain the written consent of the Seller, which consent shall not unreasonably be withheld. Should the Seller accept the return of such products, the Seller shall be entitled to charge a handling fee of 15% (fifteen per cent) of the invoiced value (excluding VAT) of the returned Goods.
- 10.8. The relevant invoice or delivery note number must be quoted in respect of any Goods returned by the Applicant to the Seller for credit.
- 10.9. Goods may only be returned for credit if authorized by the Seller and must be accompanied by a completed goods return voucher ("GRV") – ACE Standard Form Ref SCA05.
- 10.10. No credit shall be passed in favour of the Applicant for Goods correctly supplied and which are not faulty and which the Applicant seeks to return.

11. Jurisdiction and governing law

- 11.1. This agreement is governed by the Laws of the Republic of South Africa.
- 11.2. The Applicant hereby consents to the jurisdiction of the Magistrate's Court in terms of section 45 of the Magistrates Court Act 32 of 1944, in respect of any action to be instituted against the Applicant by the Seller arising from or in connection with this agreement, notwithstanding that the amount in dispute may exceed the monetary jurisdiction of such court. It shall nevertheless be at the discretion of the Seller to institute proceedings in the Magistrates Court or any other Court having jurisdiction.
- 11.3. The Applicant agrees to be liable for all legal costs including attorney and own client costs, collection commission and tracing agent fees which may arise.
- 11.4. A certificate by any director or manager of the Seller, whose authority and appointment need not be proved, reflecting the amount due and owing by the Applicant at any given date, shall constitute *prima facie* proof of the Applicant's indebtedness to the Seller for the purpose of obtaining judgment, or any other legal proceedings for the recovery of such amount.

12. Domicilium citandi et executandi

- 12.1. Each party chooses the address set out opposite its name as the address at which all notices, legal processes and other communications must be delivered for the purpose of this agreement.

The Seller: Associated Chemical Enterprises Pty Ltd
 10 Amethyst Road
 Theta Extension 6
 Johannesburg
 2091

The Applicant:

- 12.2. Any notice or communication required or permitted to be given in terms of this agreement shall be valid and effective only if in writing. It shall be competent to give notice by email.
- 12.3. Any party may by written notice to the other party change its address or email address to another physical address or number, provided that the change shall become effective on the fourteenth day after receipt of the notice by the addressee.

13. General and interpretation

- 13.1. No alteration, modification, cancellation, variation of, or addition hereto shall be of any force or effect unless reduced to writing and signed by the Seller and the Applicant or their duly authorised representatives.
- 13.2. This document and any order form or quotation issued by the Seller and accepted by the Applicant contain the entire agreement between the parties and the Seller shall not be bound by any undertakings, representations, or warranties not recorded herein. For the avoidance of doubt, in the event of any conflict or inconsistency between these terms and conditions and any terms and conditions of the Applicant (howsoever communicated or incorporated), these terms and conditions shall prevail.
- 13.3. No indulgence, leniency, or extension of time which the Seller may have permitted shall preclude the Seller from exercising any of its rights in the future.
- 13.4. The Applicant may not cede or assign its rights or delegate its obligations in terms of this agreement without prior written approval of the Seller being had and obtained.

14. Force majeure

- 14.1. Neither party shall be liable for any failure or delay in performing its obligations under this agreement where such failure or delay results from any cause beyond the reasonable control of that party, including but not limited to acts of God, fire, flood, earthquake, epidemic, pandemic, war, terrorism, civil unrest, strikes, lockouts, government sanctions, embargoes, import or export restrictions, interruption or failure of utility or transport services, or any other event of force majeure ("Force Majeure Event").
- 14.2. The affected party shall notify the other party in writing as soon as reasonably practicable after the occurrence of a Force Majeure Event, specifying the nature of the event and the expected duration of the delay. The affected party shall use all reasonable endeavours to mitigate the effects of the Force Majeure Event.

- 14.3. If a Force Majeure Event continues for a period exceeding 90 (ninety) calendar days, either party may terminate the affected order by written notice to the other party, without liability, save for payment for Goods already Delivered.

15. Severability

- 15.1. If any provision of this agreement is found by any court or tribunal of competent jurisdiction to be invalid, unlawful, or unenforceable, such provision shall be severed from this agreement and the remaining provisions shall continue in full force and effect. The parties shall negotiate in good faith to replace any severed provision with a valid provision that achieves, to the greatest extent possible, the original commercial intention of the severed provision.

16. Protection of personal information

- 16.1. The parties shall comply with the Protection of Personal Information Act 4 of 2013 ("POPIA") in respect of any personal information processed in connection with this agreement. The Applicant consents to the Seller processing the Applicant's personal information for the purposes of fulfilling its obligations under this agreement, managing the commercial relationship, credit vetting, debt collection, and compliance with applicable laws.