Applied Chemicals
International Group

ACAT South Africa
General Sales and Delivery Conditions of Applied Chemicals Application Technology Ltd

1. Applicability
The following Terms and Conditions of Sale shall apply to all current and future contracts by and between us and our legal successors, on the one part, and our business partners and their legal successors, on the other part, unless otherwise expressly agreed to in writing. To the extent that neither these express provisions nor our terms and conditions provide otherwise, for the rest, the law shall apply exclusively. Terms and conditions of purchase or sale of our contractors shall not be accepted by us and shall, therefore, not apply; the same shall apply to reservations made orally or in writing by contracting parties of ours, unless we expressly accept the same in writing.

2. Purchase order and acknowledgment of order
The basis for all contractual relationships with our customers shall be the respective purchase order and acknowledgement of order and/or any other written selling agreement (framework agreements). Contractual relationships shall be established only if and when we possess two equal documents, which bear the binding company signatures of all contracting parties and confirm that the parties' wills are in absolute conformity. If, however, an exchange of goods or services takes place or is commenced by us prior to receipt of such a confirmation (by placing a purchase order with our supplier or dispatching the ordered goods from our warehouse) the provisions contained in the documents prepared by us shall exclusively apply; in addition, any defect with respect to conclusion of the contract shall be cured thereby. In the case of framework agreements the relevant call-forward notice (including an oral one) shall suffice.

3. Execution of the order
We undertake to duly fulfill the contractual obligations assumed by us. Likewise our customers shall be obliged to duly comply with the agreements concluded with us.

4. Prices
Unless prices are expressly agreed to be fixed prices, prices agreed may be adjusted to the price level if same changes between the date the purchase order is placed and the delivery date, provided that the change is due to circumstances beyond our control. In particular, we may ask for a price adjustment if costs increase due to official interventions, such as increases in taxes of all kinds (customs duties, taxes, charges, incidental payroll costs, etc.), introduction of or increase in prescribed insurance contracts, introduction of other obligations (e.g., with respect to product safety). This shall also apply to increases in wages and/or salaries which are due to the conclusion of collective bargaining agreements.

5. Invoices
Unless otherwise agreed, invoices shall be due for payment within thirty (30) days of the date of the invoice, without any deductions. Invoices shall be settled in the currency stated thereon, either in cash, by remittance or by cheque. If our contracting party is in default of payment or objects to an invoice, we shall be entitled to make any further delivery (maintenance) dependent upon advance payment or furnishing of suitable security and we shall then not be in default. This shall also apply in the case that the financial situation of our contracting party deteriorates in such a way that we fear that he will not be able to settle his accounts payable. In the case that cash or similar discounts which were not granted by us are deducted single-handedly or if the payment period is exceeded, our contracting party shall lose all rebates and discounts which were granted to him by contract and pay the outstanding amount plus interest at the prescribed interest rate of Standard Bank.

6. Delivery/duty to inspect
We will deliver the goods manufactured or traded by us at the earliest date possible to the address advised by the customer; if applicable, upon our instruction, directly from the manufacturer's. Delivery periods shall be deemed non-binding approximate periods, unless we have expressly promised in writing that they are fixed delivery periods. Also in the latter case the goods shall still be deemed delivered on time if they were dispatched in such a manner that they would have arrived on time if unforeseen circumstances had not happened and if they are still received within a reasonable period (that was prolonged by practically inevitable circumstances), or if they are dispatched by the manufacturer or from the warehouse before a written notice from the customer to the effect the goods are no longer needed and we are still able to stop shipping of the goods without any costs.

7. Special duties of our customers
At the place of delivery our customer shall ensure proper delivery taking of the goods by members of staff who are skilled and experienced in handling deliveries. The contracting party shall be responsible for immediate inspection of the chemical quality and quantity in a professional manner and for giving notice of defect, if any, also on our behalf. This shall include proper storage in a way that is adequate for the respective substance. Complaints, if any, shall immediately be made in writing and shall include a description of the defect and the lots affected. If this duty is not observed our contracting party shall lose all claims on grounds of warranty, damages, avoidance on account of mistake, enrichment and/or other claims vis-à-vis us or others, but without being released from his duty to satisfy our claims. If the goods are rejected (because they were not ordered or are not in order) they shall still be kept safe and stored properly until we will dispose of them.

8. Warranty/damages/contractual penalty
In the case that goods ordered by us are defective as regards quality or quantity, we shall be given an opportunity to repair such defects through replacement in kind within a reasonable period of time. A reasonable period of time shall mean a period in which the goods can be obtained on the market, if applicable, after they have been manufactured again, and delivered. Cancellation of contract may be claimed only if repair of defects fails. In the case of defects in quantity and if we fail to repair the same a price reduction may only be claimed pro rata the short shipment.

For the rest, any and all warranty claims, claims for damages, claims on account of mistake and liability claims based on whatsoever grounds shall be excluded to the extent permitted by law. In any case claims for damages and claims on account of mistake shall be limited to the amount invoiced for the (partial) delivery concerned. Compensation for lost profit, indirect damage or consequential damage (e.g., caused by production downtime) shall be expressly excluded. Such exclusions of liability shall also apply in the case of cancellation or rescission of contract. In the case of defects only that portion of the invoice amount may be withheld that is affected by the defect or an amount necessary for repairing the defect. If, as an exception, we agree in writing to pay a contractual penalty, the amount of the contractual penalty shall in any case be limited to ten (10) per cent of the invoice amount of the affected (partial) delivery. No additional damages shall be claimed; likewise, no contractual penalty shall be payable if the customer suffered no or only an insignificant financial loss.

9. Miscellaneous
The contracting parties undertake to comply with all legal provisions of the countries of origin, of all countries of transit and of the end customer's country, in particular with respect to the handling of the goods (chemical

substances). This shall include in particular the handling of such substances in compliance with safety regulations in the production, processing, storage and transport of these goods, and this shall especially apply to compliance with the marking requirement, the affixing of warnings etc.

10. Right of assignment/set-off
No contracting party is authorized to transfer any claim under this

contractual relationship to a third party unless this passes with the transfer of ownership of its company. A set-off against counter-claims is not admissible on principle unless they are connected in legal terms with the claim with which they are intended to be set off, they are recognized or established by a court, or, however, if the contracting partner is in default with the payment of two invoices or parts thereof, or the claim cannot otherwise be easily enforced in the South Africa.

11. General agreements
As far as general agreements (annual agreements) are concerned, we are not obliged to accept the pre-arranged quantities if they prove impossible to sell due to a change in demand among our customers.

12. Return of goods
Our contracting partner are obliged on principle to take back goods if another contracting partner for whom the goods were intended refuses to accept the goods, whether justified or not; this is irrespective of any mutual claims resulting therefrom, whereby the contracting partner taking back the goods must have any benefits, which it can draw or drew respectively refrains from drawing from the use or applicability of the returned goods, set off against its claims.

13. Loyalty
The contracting partners undertake towards each other to take into account mutual requirements. They shall, therefore, neither entice away personnel, nor, in the event of a change in personnel or individual employees becoming self-employed, end nor restrict the business relationship solely or mainly for this reason, nor try, by circumventing our trading company, to establish direct transactions with our contracting partners, by exploiting free of charge the contacts created by our efforts or information which has become accessible.

14. Written form
The requirement of written form shall be fulfilled within the scope of this contractual relationship by any form of communication, unless such communication is only verbal, thus in particular also by fax, e-mail, telex and other media which can be printed and thus archived in paper form. When communications are stored in post boxes (e-mail, telebox), time-limits shall only start to run from the working day following their receipt in such media. Faxes received on Saturdays, Good Friday or other public holidays shall only have legal consequences (running of time-limits) at the earliest as of the next working day.

15. Place of performance/Legal venue/Choice of law
Place of performance and legal venue for all disputes is exclusively South Africa.

This Agreement, and any dispute arising from the relationship between the parties to this Agreement, shall be governed by the law of South Africa, and in the event of a dispute arising, the parties consent to the jurisdiction of the Magistrates Court having geographical jurisdiction.

Alternatively, the Parties may agree in writing to alternative dispute resolution procedures.

16. Any future amendments to the Terms and Conditions
If we amend these Terms and Conditions, they shall remain applicable unchanged to any transaction commenced at the time of the amendment, also if our contracting partner objects to the amendment for future transactions; otherwise the amended Terms and Conditions shall apply from then onwards. Should individual provisions of these Terms and Conditions be invalid, this shall not affect the validity of the contractual relationship. In such case, the parties shall be obliged to put into force another provision which most closely corresponds in economic intent to the invalid provision.

Durban, 1sth February 2016