



ACI-GEN-003 – Terms & Conditions of Sale.

ACI GROUP LIMITED

TERMS & CONDITIONS OF SALE

1. Definitions

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| 1.1 | “Buyer” | means the person or Company whose order is accepted by the Seller and/or to whom this form is addressed; |
| 1.2 | “Conditions” | means the following terms and conditions of sale set out in this document; |
| 1.3 | “Delivery Date” | means the date specified by the Seller when the goods are delivered; |
| 1.4 | “Goods” | means the goods or any of them which the Seller is to supply to the Buyer, covered by the Purchase Order; |
| 1.5 | “Price” | means the price for the goods excluding carriage, package, insurance and VAT; |
| 1.6 | “Seller” | means ACI Group Limited T/A Naturis, Allchem Pharma Ingredients, Allchem Performance & Flomac Solutions whose registered office is situated at Hartham Park, Hartham Park, Corsham, Wiltshire, England, SN13 0RP |
| 1.7 | “Supplier” | means a third party or company which is instructed by the Seller to supply the Goods to the Buyer. |



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2. Conditions Applicable

- 2.1 These conditions shall apply to all contracts for the sale of Goods by the Seller to the Buyer and services supplied by the Seller subject to the following Conditions, which are the only terms upon which the Seller carries on business unless previously agreed in writing by a director of the Seller.
- 2.2 All orders for Goods shall be deemed to be an offer by the Buyer to purchase goods pursuant to these Conditions. Orders, which have been acknowledged by the Seller, cannot be cancelled without the prior written consent of the Seller. The Buyer shall indemnify the Seller for any loss in connection with any cancellation by the Buyer should it occur 48 hours prior to delivery.
- 2.3 The giving of any delivery instructions, the acceptance of or payment for any Goods or services or any conduct in confirmation of the transaction hereby contemplated shall constitute unqualified acceptance by the Buyer of these Conditions.
- 2.4 No oral, written or other addition hereto or variation or waiver hereof shall be effective unless agreed by a Director of the Seller in writing.
- 2.5 These Conditions:
- 25.1 shall constitute the entire agreement and understanding between the Seller and the Buyer and supersede all prior representations, arrangements, understandings and agreements between the Seller and the Buyer relating to the subject matter hereof unless otherwise agreed by both parties in writing; and
- 25.2 prevail over and exclude any other terms and conditions stipulated or incorporated or referred to by the Buyer or his agent or any third party.
- 2.6 The Buyer irrevocably and unconditionally waives any right that it may have to claim damages for any misrepresentation, arrangement, understanding or agreement not contained in these Conditions or for any breach of any representation not contained in these Conditions (unless such misrepresentation or representation was made fraudulently).
- 2.7 All particulars given by the Seller relating to technical performance, dimensions, capacity, output, consumption and weight of any Goods and all illustrations, descriptions, specifications and drawings are given as accurately as possible, but are approximate only and all such material contained in brochures, catalogues, price lists and other advertising matter is intended merely to present a general idea of the Goods described therein and none of such material shall form part of the contract and the Goods may vary slightly.
- 2.8 Every effort is made to ensure that the latest specification and design are available and the Seller reserves the right to incorporate changes in design constructions composition



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materials arrangement and equipment as the Seller shall think fit without notifying the Buyer and to supply Goods which may not be in strict accordance with the agreed specification.

3. Quotation

- 3.1 Quotations are subject to confirmation in writing by the Seller at the time of such acceptance, and no order (whether made pursuant to a quotation or not) shall create a contract unless it is accepted by the Seller either by acceptance in writing or by the despatch of the Goods ordered (“the Contract”).
- 3.2 Prices quoted are based on the cost of materials, labour, transport, duties, levies, currency exchange rates and statutory obligations ruling in relation to stated fixed quantities at the date of quotation, unless otherwise agreed in writing by both parties. If the Buyer requires a greater quantity of the Goods than the fixed amount initially quoted and/or before delivery of all of the Goods therefore occurs any substantial increase in any of such costs, the price payable may be increased to allow for such increase.



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4. The Price and Payment

- 4.1 The Price shall be the price set out in the Seller's confirmed quotation current at the time of the Order or such other price as may be agreed in writing. The price is exclusive of VAT which shall be charged to and paid by the Buyer at the rate in force at the appropriate tax point.
- 4.2 Unless otherwise agreed in writing, delivery shall mean delivered to the Buyer's premises as agreed inclusive of any additional charges whether in respect of insurance shipping carriage any costs of dismantling loading unloading installations or any special packing or alteration to the order required by the Buyer taxes or duties or otherwise howsoever all of which shall be for the Buyer's account. However, the Seller reserves the right to charge additional costs for the above-mentioned services where special arrangements are required by the Buyer.
- 4.3 Where the Seller provides products 'delivered-to-site', the Seller reserves the right to split out an additional charge for exceptional transport costs, where necessary, due to the uncertainty and volatility in pricing at point of shipping, at point of invoicing.
- 4.4 Where delivery is made by the Seller or the Seller's agents, the Buyer will provide safe and proper means of access to the Buyer's delivery points for the Seller and its agents, and if appropriate, any vehicles used by the Seller or its agents and carriers. If the Buyer fails to provide suitable means or facilities for the reception and unloading of the Goods, the Seller shall be entitled to charge the Buyer for any additional costs and time thereby incurred or spent by the Seller or its agents. Off-loading and storing of the Goods is the responsibility of the Buyer alone, and the Seller shall not be responsible for any costs or damage to the Goods in connection therewith.
- 4.5 Unless otherwise agreed in writing by the Seller, payment of the price, VAT and any additional costs shall be due within 30 days from the date of the invoice. Time for payment should be prompt..
- 4.6 Unless another method of payment has been expressly agreed in writing by the Seller, payment for the Goods shall be made in cleared funds in pounds sterling or a currency agreed in writing by the Seller.
- 4.7 If full payment is not received by the due date for payment:
- 4.7.1 interest shall be payable by the Buyer from the date by which payment should have been made on the unpaid amount on a daily basis at the rate of 8% per annum above the base lending rate of Lloyds Bank Plc from time to time in force unless otherwise specified;
- 4.7.2 the Seller shall have the right to suspend any further deliveries under the particular contract or any other contract or accepted order until payment is made



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in full and in addition shall have the right to cancel the particular contract in relation to such further deliveries and any other contract with the Buyer or accepted order and no time or indulgence granted by the Seller to the Buyer shall prejudice any right or remedy which the Seller may have in any manner whatsoever. In the event that any further orders are suspended or contracts are cancelled, full payment shall still be required in accordance with clause 2.2 above.

- 4.8 No deduction shall be made by the Buyer in respect of any set-off or counter-claim however arising.
- 4.9 The cost of pallets and returnable packaging will be due from the Buyer in addition to the price but will be credited to the Buyer provided that the pallets are returned to the Seller in good condition before the due payment date.
- 4.10 This contract is divisible, the work performed in each delivery during the currency of the contract will be invoiced separately. Each invoice for work performed in any delivery shall be payable by the customer in full accordance with the terms of payment herein, without reference to and notwithstanding a defect or default in the work performed or to be performed in any other delivery

5. Insolvency

If the Buyer becomes insolvent or in the Seller's opinion is likely to go into bankruptcy receivership administration or liquidation or makes default in or commits a breach of the Contract the Seller may forthwith on written notice to the Buyer terminate the Contract without incurring liability to the Buyer or without prejudice to the Seller's rights which may have accrued up to the date of termination.

6. Warranties and Liability

- 6.1 The Seller warrants that the Goods to be supplied by it consequent upon the Seller's acceptance of the Buyer's order, will be of normal industrial quality. The Seller's obligation under this warranty shall be to correct any defective work and to repair or at the Seller's option replace free of charge any Goods which are shown to the Seller's satisfaction to have been defective. Provided that notice of such defects and satisfactory proof thereof is given by the Buyer immediately after discovery, and in any event within seven days of the Goods being despatched (as the case may be), and provided that the Goods have only been used for the purposes for which the Goods were manufactured and intended and in accordance with normal practice and provided that the Buyer shall return any such goods to the Seller at the Buyer's expense if required to do so by the Seller.
- 6.2 Save as in this clause expressed the Seller shall be under no liability for any personal, consequential or other loss or damage of whatsoever kind or howsoever caused as a result of any Goods supplied, or work done being defective or not in accordance with any order or as a result of anything done or omitted in connection with any work done or omitted to be done by the Seller, including any breach by the Seller of any fundamental term of any order and the Seller's liability under this clause shall be in lieu of and to the exclusion of



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any liability condition guarantee warranty term undertaking or representation whether express or implied statutory or otherwise and shall be limited to the value of the goods supplied under the order to which any claim relates or the amount received by the Seller in relation to the Goods under any product liability insurance currently held by the Seller.

6.3 Nothing contained in the Clause shall exclude:

- 63.1 any liability for breach of the Seller's implied undertakings as to title;
- 63.2 where the Buyer deals as a consumer (as defined by the Unfair Contract Terms Act 1977) any liability for breach of its implied undertakings as to conformity of goods with description or sample or as to their quality or fitness for a particular purpose;
- 63.3 any liability arising from the Seller's negligence causing death or personal injury;
and
- 63.4 any liability pursuant to the Consumer Protection Act 1987.



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6.4 The Buyer recognises that the limitation of liability contained in this clause is reasonable in that the prices quoted by the Seller are dependent upon such limitation being incorporated in the Contract.

7. Misrepresentations

None of the Seller's employees other than a Director of the Company is authorised to make any statement or warranty or representations as to the Goods in any way whatsoever. The Seller shall therefore be under no liability whatsoever nor shall the Buyer be entitled to any remedy by reason of the Misrepresentation Act 1967 or any subsequent amendments of the legislation, except to the extent (if any) that the Court or any arbitrator may allow reliance on it as being fair and reasonable.

8. Delivery of the Goods

8.1 Delivery of the Goods shall be made by the Buyer collecting the Goods at the Seller's premises or another warehouse at any time after the Seller has notified the Buyer that the goods are ready for collection, or if some other place for delivery is agreed by the Seller by the Seller delivering the Goods to that place.

8.2 Any dates quoted for delivery of the Goods are estimates given in good faith and as accurately as possible, but are not guaranteed. The Seller cannot accept responsibility for any failure to deliver or late delivery due to circumstances beyond the Seller's control. Time for delivery shall not be of the essence. The Goods may be delivered by the Seller in advance of the quoted Delivery Date upon giving reasonable notice to the Buyer.

8.3 Risk in the Goods shall pass to the Buyer:

83.1 in the case of goods to be delivered at the Seller's premises or other warehouse at the time when the Seller notifies the Buyer that the Goods are available for collection; or

83.2 in the case of goods to be delivered otherwise than at the Seller's premises or warehouse at the time of delivery or if the Buyer wrongfully fails to take delivery of the Goods at the time when the Seller has tendered delivery of the Goods.

9. Acceptance of the Goods

In the absence of a signed POD, unless the Seller is notified to the contrary by telephone or email within seven days of delivery and such notification is confirmed in writing within such time, the Goods shall be deemed to have been accepted by the Buyer as being in good condition and in accordance with the Contract. The Buyer shall not be entitled to withhold payment of all or any of the purchase price while any claim is being investigated by the Seller. Should the Buyer withhold payment the Seller is entitled to suspend or cancel any



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other pending orders. The payment in respect of pending or cancelled orders are subject to clause 2.2 above.



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10. Title

- 10.1 In spite of delivery having been made, title of the Goods shall not pass from the Seller until
- 10.1.1 the Buyer shall have paid the price plus VAT in full; and
- 10.1.2 any other sums whatever due from the Buyer to the Seller have been paid.
- 10.2 Until title in the Goods passes to the Buyer in accordance with clause 10.1, the Buyer shall hold the Goods on a fiduciary basis as the Bailee for the Seller. The Buyer shall store the Goods (at no cost to the Seller) separately from all other goods in its possession and marked in such a way that they are clearly identified as the Seller's property.
- 10.3 The Seller shall have the right with or without prior notice at any time to retake possession of the whole or any part of the Goods (and for that purpose shall be granted an irrevocable licence to go upon any premises occupied by the Buyer with or without prior notice and at any time).
- 10.4 The Seller shall have the right to dismantle the Goods or detach, unload or extract the Goods from any items in which they may have been incorporated without prejudice to any of the Seller's other remedies.
- 10.5 The Buyer shall indemnify the Seller against all costs and liabilities which the Seller incurs in retaking possession of the Goods (or any part thereof), or in exercising any of its rights under this clause 10 including without limitation any liability in respect of any damages (caused to such premises in such retaking of possession and removal of goods) which it was not reasonably practicable to avoid.
- 10.6 Notwithstanding that the Goods (or any of them) remain the property of the Seller, the Buyer may sell the Goods in the ordinary course of the Buyer's business. In this respect, the Buyer shall act in the capacity of a Commission Agent and the proceeds of any such sale shall be held in trust for the Seller in a manner which enables proceeds to be identified as the Seller's money and shall not be paid into an overdrawn account. The Seller as principal shall remunerate the Buyer as Commission Agent by payment of a commission equivalent to the surplus which the Commission Agent may obtain over and above the price payable by the Buyer to the Seller under the original contract of supply in respect of the goods sold.
- 10.7 If the Goods in which the Seller has retained title are mixed with goods the property of any person other than the Seller, the product thereof shall be deemed to be owned in common with that person.
- 10.8 Notwithstanding that ownership of the goods remains with the Seller, the Seller shall be entitled to maintain an action for the price of the Goods in the event of default in payment by the Buyer.



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- 10.9 The Buyer shall not pledge or in any way charge by way of security for any indebtedness any of the Goods which are the property of the Seller. Without prejudice to the other



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rights of the Seller if the Buyer does so all sums whatever owing by the Buyer to the Seller shall forthwith become due and payable.

- 10.10 The Buyer shall insure and keep insured the Goods to the full price against “all risks” to the reasonable satisfaction of the Seller until the date that property in the Goods passes from the Seller and shall whenever requested by the Seller produce a copy of the policy of insurance forthwith. Without prejudice to the other rights of the Seller, if the Buyer fails to do so, all sums whatever owing by the Buyer to the Seller shall forthwith become due and payable including the cost of any policy of insurance which the Buyer should have had in place, until such time as the sums due are fully paid.
- 10.11 The Buyer shall promptly deliver the prescribed particulars of this contract to the Registrar in accordance with the Companies Act 1985 Part XII as amended. Without prejudice to the other rights of the Seller if the Buyer fails to do so all sums whatever owing by the Buyer to the Seller shall forthwith become due and payable.

11. Force Majeure

Force majeure or any other unforeseen event that hinders or impedes production or delivery e.g. war, industrial unrest, riots, official action, shortage of energy and raw materials, disruptions to operations failure of component suppliers to the delivery transport disruptions and any other such matters shall release the Seller from its duty to deliver for the duration of any such circumstance.

12. Copyright

The Seller shall retain the exclusive property and reserve the copyright in all documents supplied or produced to the Buyer in connection with any contract or tender and it shall be a condition of such supply or production that the contents of such documents or any part thereof shall not be communicated either directly or indirectly to any other person firm or company without the Seller’s prior written consent. All communications in connection with any contract or intended contract and all arrangements for the inspection of Goods and/or facilities shall be regarded as strictly confidential between the Seller and the Buyer and shall not be divulged to any other person firm or company without the Seller’s prior written consent.

13. Confidentiality

The Seller will keep confidential and will not divulge or exploit for its own purposes otherwise than in pursuance of its performance of this order any information (in whatever form) which is confidential furnished by or on behalf of the Company in connection with this order.

14. Patents



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The Buyer agrees to indemnify the Seller against all demands claims damages charges liabilities costs and expenses which may be incurred or sustained by the Seller by reason of or arising directly or indirectly out of any third party claims or rights or otherwise howsoever in respect of any Goods manufactured or services supplied in accordance with



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any specification, design information, equipment or instruction given by or on behalf of the Buyer and whether relating to the infringement or the alleged infringement of a Patent, Copyright Registered Design or other protected industrial right or property or otherwise howsoever.

15. Design Rights

The property in the design of the Goods covered by the Contract shall subject to any existing rights of any third party in any design or invention incorporated or used in the design of the products remain exclusively the Seller's property and neither the Buyer nor any agent contractor or other person authorised by the Buyer nor any other person, firm or company shall at any time make use of the design or any part thereof.

16. Non-Assignability

The Contract is between the Seller and the Buyer as principals and is not assignable without the Seller's written consent.

17. Law

- 17.1 These Conditions shall be governed by and construed in accordance with English law and the parties irrevocably agree for the exclusive benefit of the Seller that the Courts of England are to have jurisdiction to settle any disputes which may arise out of or in connection with these Conditions and that accordingly any suit, action or proceeding arising out of or in connection with these Conditions ("Proceedings") may be brought in such Courts.
- 17.2 Nothing contained in this clause shall limit the right of the Seller to take Proceedings against the Buyer in any other Court of competent jurisdiction nor shall the taking of Proceedings in one or more jurisdiction preclude the take of Proceedings in any other jurisdiction whether concurrently or not.
- 17.3 The Buyer irrevocably waives (and irrevocably agrees not to raise) any objection which it may have now or subsequently to the laying of the venue of any Proceedings in any such Court as is referred to in this clause and any claim that any such Proceedings have been brought in an inconvenient forum and further irrevocably agrees that a judgement in any



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Proceedings brought in any such Court as is referred to in this clause shall be conclusive and binding upon the Buyer and may be enforced in the Courts of any other jurisdiction.

18. Notices

- 18.1 Any notice required to be given hereunder shall be sent to the address of the recipient given on the order. A notice shall be deemed to have been served if by hand when delivered, e-mail or facsimile after 24 hours of transmission and if by first class post 48 hours after posting;
- 18.2 The Buyer hereby further acknowledges and agrees that no representations, arrangements, understandings or agreements (whether written or oral) made by the Seller or on the Seller's behalf have been relied upon other than those expressly set out or referred to in these Conditions.

19. General

Each of the clauses and sub-clauses of these Conditions shall be construed as separate and severable and in the event that a clause is found by a court of law to be unenforceable, it shall simply be removed, however the remaining terms and conditions shall continue to apply.