



## **INEOS EUROPE AG, division Oxide - TERMS AND CONDITIONS OF SALE**

### **1) GENERAL TERMS**

These terms and the transaction details to which they apply (the "Agreement") set out all contractual terms relating to the sale of the specified products (the "Products"), except where INEOS Europe AG has agreed in writing to any changes. For clarity, Your standard terms of purchase and the UN Convention for the International Sale of Goods do not apply. Definitions in "Incoterms 2000" apply. This Agreement is governed by the laws of Switzerland, and the Swiss courts will have exclusive jurisdiction in relation to it, save that INEOS Europe AG may elect to bring proceedings in the country where You are incorporated. No representation or undertaking shall be taken to have been given or implied from negotiations between us save as expressly stated in this Agreement, and neither party shall have any remedy in respect of untrue statements relied upon, unless such statements were made fraudulently, and the only remedies shall be for breach of contract. These terms apply between the buyer of Products ("You" or "Your") and INEOS Europe AG ("INEOS Europe AG", "Us", "Our" or "We"). We may assign Our rights to any third party, and in particular to INEOS Finance (Ireland) Ltd. If requested You will provide Your consent to any transfer of obligations.

### **2) DELIVERIES**

INEOS Europe AG will use reasonable endeavours to achieve delivery on time, in full (within a 5% weight tolerance). INEOS Europe AG will keep You informed of any material variation from agreed delivery times. You must provide what are, in INEOS Europe AG's opinion, proper, safe access and facilities to accept deliveries, and must reimburse any additional actual costs incurred by INEOS Europe AG if We suspend or refuse delivery where such access or facilities are not available or where unloading takes more than a reasonable time for a reason not attributable to INEOS Europe AG. INEOS Europe AG may inspect Your facilities, if necessary, by entering Your premises. Delivery to or use by INEOS Europe AG of any facilities does not constitute their approval by or acceptability to Us.

If in the opinion of Seller, the storage tank or other installation (or any valve, filling line, pump or other equipment required to be used in connection therewith) into which the Goods would be transferred on delivery to Buyer is unsuitable for its intended use, Seller shall be entitled to refuse to make delivery of the Goods or any part thereof without giving notice. Such refusal shall not expose Seller to any liability whatsoever. Notwithstanding the foregoing, delivery by Seller shall not be construed as an admission on the part of Seller as to the suitability of such storage tank or installation.

Where Buyer provides any collection vehicle, ship or any other container for the collection or storage of Goods, Buyer hereby warrants that any such vehicle, ship or container or anyone acting on Buyer's behalf shall comply with all relevant legislation and applicable health and safety requirements. Seller accepts no responsibility whatsoever in relation to any collection vehicle, ship or other container whether or not Seller has previously inspected such.

### **3) MEASUREMENTS**

INEOS Europe AG's quantity and quality measurements taken at the point of loading will be stated in the invoice and shall be binding unless proved by You to be in error.

### **4) TRANSFER OF OWNERSHIP AND RISK**

INEOS Europe AG will retain ownership of the Products, to the fullest extent permitted by law, until payment for the relevant quantity is actually received by Us (or to our order), even if You have co-mingled the Products with other goods. Until payment is made, the Products must be separately stored, identified (where possible) and must be returned or be available for collection at Our request. INEOS Europe AG may enter Your premises to collect Our Products. INEOS Europe AG may maintain an action for payment, notwithstanding that INEOS Europe AG retains ownership of the Products. Risk in the Products shall pass to You as per the Incoterm agreed in the contract.

## 5) PRICE, PAYMENT

Unless otherwise agreed:

- (a) The relevant price for the Products will be INEOS Europe AG's price applicable on the date of loading;
- (b) full payment must be received (without deduction for set off or counter claim unless INEOS Europe AG shall have given its prior written approval) when due by electronic funds transfer to the account nominated by INEOS Europe AG in the currency specified on the invoice. Funds must be received in the nominated bank account no later than the due date on INEOS Europe AG's invoice document or no later than the last banking day before the due date if that due date falls on a non-banking day. Late payments bear interest at 10% per annum from the due date until actual receipt. Notwithstanding the foregoing, all invoices for interest *shall in addition include a fixed amount of EUR 500 to cover Our loss and indemnify for the additional work, including administrative work, induced by the delay in payment*
- (c) if INEOS Europe AG require, deliveries may be suspended until You provide acceptable security for payment or if any invoice is not paid when due, without prejudice to any other rights INEOS Europe AG have;
- (d) quoted prices do not include any Value Added Tax (or its equivalent), or any other taxes or charges, if applicable. You must promptly provide INEOS Europe AG on request with all evidence required under local, national or EU laws to justify any request for exemption from VAT or other applicable taxes. You indemnify INEOS Europe AG against any tax, cost or penalty it may incur if the request for exemption is found not to be justified.
- e) Where the price is determined by a formula, and variable values are not known, the most recent applied price shall be used as an interim price with subsequent readjustment.

## 6) LIMITATION OF LIABILITY

Unless otherwise agreed in writing, neither party shall have any liability to the other for any indirect, special or consequential loss or damage, or for any loss resulting from any claim made by any third party or for any loss of revenue, contract, pure economic loss, profit or goodwill, arising out of or in connection with this Agreement, whether in contract, tort (including negligence) or otherwise. In respect of all other loss or damage, INEOS Europe AG's maximum liability to You arising out of or in connection with each sale under the Agreement shall be limited to the value of the merchandise. In any case, Our maximum liability shall be subject to a maximum aggregate amount of EUR 300,000 for all claims in any twelve months preceding a claim and including the value of that claim.

INEOS Europe AG is released from all liability in excess of the maximum, even where caused by Our negligence or breach of duty, except in the case of fraud or where INEOS Europe AG's negligence results in death or personal injury

## 7) WARRANTIES

INEOS Europe AG warrants that it is able to pass ownership of the Products sold to You, that they will meet the relevant contractual specification at the point where risk passes to You, and that they do not infringe any patent in their country of origin. ALL OTHER CONDITIONS, WARRANTIES OR TERMS, EXPRESS OR IMPLIED (WHETHER BY STATUTE OR OTHERWISE) ARE EXCLUDED including as to quality, description or fitness for any purpose. Your attention is drawn to Our published Material Safety Data Sheets regarding the Products. However, any information or advice from INEOS Europe AG is given and accepted at Your risk.

## 8) MAKING CLAIMS

Any claim for shortage, or damage in transit, must be made to INEOS Europe AG in writing within 3 days of receipt of the Products. Any claim for non-conformity to specification must:

- (a) be made without delay after You become aware of the non-conformity but in no event later than 40 days from receipt of the Products;
- (b) describe with sufficient details the nature and the importance of the alleged defect; and

Only differences in net weight or volume against invoiced quantity in excess of 0.5% per bag or bulk delivery, or 1% per drum, may be subject to quantity claims. Any claims not made as required shall be waived.



#### 9) INABILITY TO DELIVER

INEOS Europe AG shall have no liability for failure or delay in delivering the Products to You if it is prevented or partially prevented from or is delayed for any reason beyond its reasonable control. INEOS Europe AG will not be obliged to purchase substitute products from any third party, and may allocate available supplies amongst You and others (including INEOS Europe AG and Our related companies) on such basis as INEOS Europe AG believes is fair and practical.

#### 10) RETURNABLE CONTAINERS

Where Products are supplied in returnable containers or pallets, these must be promptly returned to INEOS Europe AG at Your cost in substantially the same condition as You received them. If containers or pallets are returned damaged or not returned within 90 days of delivery, INEOS Europe AG may invoice You for their repair or replacement. In the case of non-returnable containers or packaging, You must destroy these after use at Your own cost.

#### 11) INTELLECTUAL PROPERTY

By purchasing Products, You shall not obtain any rights to any intellectual property in or relating to the Products, including (without limitation) any trade marks, copyright, patents or rights in designs and, where such intellectual property is capable of registration, whether or not the same is registered.