

TERMS AND CONDITIONS OF SALE

1. The terms and conditions contained herein govern and bind all sale transactions and/or trading credit facilities made or to be made and/or granted by any of the companies within the Luxchem Group of Companies. Each of the said companies is hereinafter referred to as the “Company” and the Company’s customer is hereinafter referred to as the “Customer”.
2. The trade credit facilities granted by the Company to its Customer is not assignable or transferable to any other party, in whole or in part.
3. The price(s) quoted by the Company may change or vary from time to time without any prior consent or notice to the Customer. In the event the Government and/or any other relevant authorities shall impose Goods & Services Tax (GST), Sales & Service Tax (SST) and/or any form of taxes and/or duties in whatever name(s) they may be called [“Tax”] on the sale of goods, the Company shall be entitled to charge and/or add the Tax to the said price(s) which are to be borne and paid by the Customer.
4. The time or date for the delivery of the goods as stated by the Company is merely an estimate only and the Company shall not be responsible for any delay of the same, unless both the Company and the Customer have confirmed in writing that time shall be of the essence.
5. The Customer shall pay the Company for the goods within the credit term as approved by the Company. The Company reserves the right to change or vary the said credit term from time to time without any prior consent or notice to the Customer.
6. Time within which the Customer is to pay for the goods shall be of the essence.
7. All payments made by the Customer to the Company must be by way of electronic bank transfer and/or by cheques made payable to the Company and crossed “A/C Payee only”. Any cheque given by the Customer shall not be treated as payment until the same has been cleared.
8. The Company shall have the right to charge late payment interest at the rate of 1.5% per month (or any other rate as may be prescribed by the Company from time to time without any prior consent or notice to the Customer) on the outstanding sum still due by the Customer to the Company before as well as after judgement.
9. All payments made by the Customer, may at the Company’s sole discretion, be used firstly to set-off against any interest, fees and charges due by the Customer to the Company before using the remaining of the same to set-off against the oldest invoices.
10. The title and property of the goods shall remain with the Company until the price of those goods as well as any other goods due by the Customer to the Company together with all and any interest accrued therefrom shall be paid in full. However, the risk of the goods shall be passed to the Customer immediately upon the delivery of the same to the Customer. In the event that the Customer shall fail to pay the Company for all or part of the goods, the Company shall at its sole discretion and without limiting any of its rights and remedies herein and/or under the law, have an absolute right to enter (with the use of reasonable force if necessary, without being made liable in any way for any personal injuries or property damage resulting from such force) into the Customer’s premises for the purpose of repossessing all the goods. The Company shall have the right to re-sell any of the goods repossessed at such price and manner deems fit by it and to claim from the Customer the difference of the same.
11. The Company shall be deemed to have delivered the goods to the Customer if the Customer and/or its agent or representative collects the same from the Company or if the Company and/or its transportation agent delivers the same to the address stated in this Application Form and/or to the address or to the party specified by the Customer in writing in the purchase orders, letter of awards, contracts or otherwise and the delivery order is endorsed by any person who collects the same from the Company or by any person present at the said address without the need of the Customer’s chop/rubber stamp. The Company shall not be responsible to ensure that the person accepting the delivery of the goods and/or endorsing the delivery order is authorised by the Customer. Any certification made by any of the Company’s officer that the goods have been collected by the Customer or have been delivered to the Customer’s said address on a specified date shall be sufficient proof of delivery.
12. The Customer shall inspect the goods immediately upon delivery of the same and prior to the endorsement of the delivery order.
13. The Customer shall take delivery of the goods upon the Company’s delivery of the same or upon the Company’s notification to the Customer, failing which the Customer shall pay the Company storage charges at a rate to be prescribed by the Company. The Customer shall however not be liable for any loss, theft, deterioration and/or damage to the goods stored by the Company. Notwithstanding same, the Customer shall continue to be liable to pay the Company the price of the goods as prescribed in Clause 4 above. In the event that the Customer shall still fail to take delivery of the goods after 7 days, the Company shall have the right to re-sell any of the goods at such price and manner deems fit by it and to claim from the Customer the difference of the same.
14. All goods sold to the Customer shall be non-returnable.
15. Unless disputed in writing by the Customer and duly acknowledged receipt of the same by the Company within 7 days from the date of the invoice, it shall be deemed that the quantity, quality and specification of the goods stated therein have been received by the Customer and the same are correct and that the goods are in good condition and in accordance to the Customer’s order.
16. The unit price and total amount stated in the invoice unless disputed in writing by the Customer and duly acknowledged receipt of the same by the Company within 7 days from the date of the invoice, shall be deemed to be true, correct and conclusive of the amount due and owing by the Customer to the Company and shall be binding against the Customer in all legal proceedings.
17. Any statement of indebtedness certified by any of the Company’s officer as to the balance of monies still outstanding and due from the Customer to the Company shall be binding and conclusive evidence against the Customer in any legal proceedings.
18. The Company is entitled to set-off the Customer’s debts against all monies now or hereafter owed to the Customer and/or held in trust for the Customer and/or standing to the credit of the Customer’s account with the Company or with the Company’s holding, subsidiary and/or related company(s) and for this purpose, the Customer hereby gives the Company irrevocable authority to collect on behalf of the Customer and to give a valid receipt and discharge in respect of all such monies.
19. The credit limit is subject to the Company’s approval. The Company shall have the absolute right without the Customer’s consent to grant new and/or additional trading facility(s) to the Customer and/or cancel the existing one and/or reduce, increase,

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- change and/or vary the credit limit and/or the terms and conditions relating thereto at any time without granting any reasons nor notice to the Customer.
20. The Company reserves the right to reject and/or cancel any of the Customer's purchase orders and/or not to sell and/or to stop or withhold from selling or supplying goods for part of or all of the orders placed by the Customer without affording any reasons thereto and the Company shall not be held responsible for any losses resulting therefrom.
 21. In the event that the Company shall cancel the trade credit facilities granted to the Customer for any reasons whatsoever, the Customer shall forthwith be required to pay the Company the price of all the goods already supplied, notwithstanding that the credit term for some of those invoices has yet to expire.
 22. Any invoice, statement of account, notice and/or other documents to be sent by the Company to the Customer may be sent through email or ordinary prepaid post at the Customer's address given by the Customer or in the Customer's purchase orders, letter of awards, contracts or otherwise or at the Customer's last known address or registered or business address and the same shall be deemed to have been received by the Customer on the same day of the transmission of the said email or within two (2) days after the date of posting. Any certification made by any of the Company's officer that the same has been properly emailed or posted on a specified date shall be sufficient proof of transmission or posting.
 23. Any Summons or legal process to be served on the Customer shall be sent through registered post to the Customer's address as given by the Customer or in the Customer's purchase orders, letter of awards, contracts or otherwise or at the Customer's last known address or registered or business address and the same shall be deemed to have been received by the Customer within two (2) days after the date of posting.
 24. The Customer shall bear and indemnify the Company of all cost and expenses incurred by the Company (including legal fees on a solicitor and client basis) in recovering back all monies due and owing by the Customer to the Company.
 25. No failure or delay by the Company in exercising any rights hereunder shall operate as a waiver thereof.
 26. The terms and conditions stated herein shall bind the Customer and shall not at any time be changed, varied and/or diminished by the Customer without the written approval by the Company. In the event that the Customer's purchase orders, letter of awards, contracts and/or any other documents shall contain terms and conditions that differ from those contained herein, the Customer hereby expressly acknowledges and agrees that the terms and conditions contained herein shall prevail.
 27. Any provision hereof which is or may be void or unenforceable shall to the extent of such invalidity or unenforceability be deemed severable and shall not affect the other provisions hereof.
 28. All goods sold by the Company to the Customer are strictly in accordance to the Company's specification of the goods as stated in the Company's invoices. Unless otherwise agreed and/or expressly stated in writing by the Company, it makes no representations, warranties or conditions on the goods sold or supplied by the Company to the Customer, whether express, implied, statutory or otherwise, including but not limited to the description, quality, merchantability and fitness for any particular purpose and the Company hereby further specifically disclaims all and any such representations, warranties or conditions. It is expressly understood that any technical advice furnished by the Company with reference to the use of its goods is given gratis and the Company assumes no obligation and/or liability for the advice given or results obtained, and all such advice being given is accepted at the Customer's own risk.
 29. The Company shall not be held responsible for any losses resulting from its non-fulfilment or compliance of the Customer's purchases and/or orders (including any delay in supplying the goods notwithstanding time may be of the essence) if such non-fulfilment or compliance is due to acts of God, force majeure, war, epidemic or pandemic, insurrection, riot, civil commotion, acts or threats of terrorism, cyber-crime, cyber-attacks, strikes, lockouts or industrial disputes (whether such strikes, lockouts or industrial disputes affect the workforce of the Company and/or any other person), labour trouble, public disorders, prohibitions, restrictions and/or controls imposed by the Government and/or any other relevant authorities (including without limitation imposing any export or import restriction, quota or prohibition or failing to grant necessary licence or consent), accidents, fire, flood, natural disasters (storm, bad weather, lighting, earthquake), theft, malicious damage, shortage of labour, materials, fuel, utilities or transport, breakdown or failure of plant or machinery, defective materials, delay or non-performance by third parties or suppliers, acts of other parties and/or anything that is beyond the control of the Company that reduces the availability of the goods from the plant from which the Company receives the goods such that the Company cannot fulfil its obligations under this contract (taking into account on a pro rata basis other internal and external supply obligations) and the Company shall (i) be relieved from its obligations under this contract to the extent the Company is prevented from performing such obligations and (ii) have no obligation to procure goods from other sources.
 30. The Company's maximum liability towards the Customer for any non-fulfilment or compliance of the Customer's purchases and/or orders (including but not limited to quantity, quality, non-merchantable or non-compliance as to the specification of the goods and/or delay) shall not exceed the purchase price of the affected goods that give rise to the Customer's claim. At no time shall the Company be liable for any loss of profit/revenue, indirect, incidental, consequential, punitive, exemplary or special damages.
 31. Save and except as expressly appointed in writing by the Company, the granting of this trading facility shall not in manner grant the Customer any right of distributorship, dealership and/or agency of the Company's goods. The Customer shall not at any time hold itself out and/or represent to anyone or any party that it is a distributor, dealer and/or agent of the Company. The Customer shall in the event that it breaches this term shall be wholly liable for all losses, damages, claims, cost and expenses that the Company shall incur or suffer arising and/or resulting from the said breach.
 32. In the event that the Customer shall be indebted to the Company, the Company shall be entitled to notify, inform, lodge, list, advertise and/or publish the Customer's name and its indebtedness in any form, media or manner and/or to any one or party as well as to any credit or trade bureau in Malaysia or elsewhere. In such an event, the Company shall not be liable for any losses or damages that the Customer shall suffer, incur or sustain resulting from the said notification, lodgment, listing, advertisement and/or publication, including but not limited to injury to its name and reputation.
 33. The contract and/or sale transaction between the Company and the Customer shall be governed by the laws of Malaysia and the Malaysian Courts shall have jurisdiction thereof.