



1. Definitions and interpretation

1.1 In these Conditions the following words have the following meanings:

Acknowledgement	Means the document entitled Acknowledgement generated by Oxxkem and sent by post, fax or email to the Buyer.
Buyer:	Means the firm purchasing the goods
Conditions:	Means these standard terms and conditions of sale as amended from time to time in accordance with Condition 2.3
Contract:	Means any contract between the Seller and the Buyer for the sale and purchase of the Goods formed in accordance with Condition 3.1
Goods:	Means the goods or materials supplied or sold by Oxxkem to the Buyer as specified in Oxxkem's acknowledgement.
Incoterms	Means Incoterms 2010 as published by the International Chamber of Commerce in 2010 or such other edition in force at the date when the Contract is made.
Order	Means the Buyer's order for the Goods as set out in the Buyer's purchase order.
Parties	Means both the Buyer and the Seller
Seller:	Means Oxxkem Ltd
Warranty Period:	Has the meaning ascribed to it in Condition 9.2

1.2 Unless the context otherwise requires:

- 1.2.1 references to "a person" include any individual, body corporate, association, partnership, joint venture, government, local or municipal authority, governmental or supra-governmental agency or department, state or agency of state or any other entity (in each case whether or not having separate legal personality); and
- 1.2.2 references to any statute or statutory provision will include any subordinate legislation made under it and will be construed as references to such statute, statutory provision and/or subordinate legislation as modified, amended, extended, consolidated, re-enacted and/or replaced and in force from time to time; and
- 1.2.3 any words following the words "include", "includes", "including", "in particular" or any similar words or expressions will be construed without limitation and accordingly will not limit the meaning of the words preceding them; and
- 1.2.4 the rule known as the ejusdem generis rule will not apply and accordingly the meaning of general words introduced by the word "other" or a similar word or expression will not be restricted by reason of the fact that they are preceded by words indicating a particular class of acts, matters or things; and
- 1.2.5 the singular will include the plural and vice versa and any gender includes the other gender.

2. Application

- 2.1 These conditions apply to the Agreement to the exclusion of any other terms that the Buyer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing;
- 2.2 The Order shall only be deemed to be accepted when the Seller issues a written acceptance of the Order, at which point the Agreement shall come into existence.
- 2.3 Save as otherwise expressly provided in the Contract, no variation to these Conditions shall be effective unless it is in writing and signed by a duly authorized representative on behalf of the Seller.
- 2.4 Should any part of these Conditions be found by any court or tribunal or authority of competent jurisdiction to be wholly or partly illegal, invalid, void, unenforceable or unreasonable, then only the offending part shall be deemed severed from these Conditions and the remaining Conditions shall continue in force.

3. Quotation and Purchase Order

- 3.1 A quotation for the Goods given by the Seller shall not constitute an offer. A quotation shall only be valid for a period of 30 days from its date of issue, unless otherwise agreed by the Parties.
- 3.2 Purchase orders will only be treated as having been accepted by the Seller if the acceptance has been confirmed in writing by the Seller.
- 3.3 Acceptance of delivery of the Goods will be deemed conclusive evidence of the Buyer's acceptance of these Conditions.
- 3.4 Buyer may not cancel, postpone or vary the Purchase Order except with the written consent of the Seller. The Seller may cancel the Contract at any time prior to delivery. If a Buyer cancels a Purchase Order, Buyer agrees to reimburse any outstanding costs incurred by the Seller in relation to that cancellation.

4. Assignment and Subcontracting

- 4.1 The Buyer shall not be entitled to transfer, charge, hold on trust for any person or deal in any other manner with any of its rights under the Contract or to subcontract any of its obligations under the Contract.
- 4.2 The Seller will be entitled to assign, transfer, charge, hold on trust for any person or deal in any other manner with any of its rights under the Contract and to subcontract any of its obligations.

5. Prices

5.1 Unless otherwise agreed in writing between the parties the price of the Goods;

Will be the Seller's Ex-Works price and are exclusive of:

- 5.1.1 taxes (including value added tax), import duties or levies (as applicable); and
- 5.1.2 unless agreed otherwise, any cost of transport will be included on the Acknowledgement sent by Oxxkem to the Buyer.
- 5.2 No discounts or rebates will apply unless agreed in writing between the Parties.
- 5.3 The Seller reserves the right to vary prices subject to written notification being given to the Buyer. Reasons could include but not restricted to;
- 5.3.1 any variations in the costs, taxes and rates of exchange;
- 5.3.2 any variation in the specification for the Goods, change in delivery dates, or delay caused by the Buyer which results in an increase in the cost to Oxxkem;
- 5.3.3 any other expense incurred by Oxxkem that has been caused by the Buyer.

6. Quantities

- 6.1 Unless otherwise agreed in writing by the parties, the weight or volume of the Goods is the weight or volume as ascertained by Oxxkem which will be accepted by both parties as correct and will form the basis on which the invoice will be prepared. Oxxkem will not be responsible for any weight loss during transit.
- 6.2 Oxxkem may deliver against any purchase order an excess or deficiency of up to five per cent of the weight or volume ordered without any liability whatsoever and the Buyer will not be entitled to reject those goods. If there is a discrepancy in weight, the invoice value shall be adjusted accordingly so that the Buyer only pays for the actual weight or volume delivered.

7. Delivery

- 7.1 Except as otherwise agreed by both parties in writing all Goods are delivered EXW (ex works).
- 7.2 All delivery dates and times are estimates and not legally binding on the Seller. The Seller will use all reasonable endeavors to deliver on or before the relevant date but the Seller shall be under no obligation to do so. The Seller shall not be liable for delays howsoever caused and the Buyer shall



- not be entitled to refuse to accept the Goods by reason of any delay in delivery unless the Seller gives its written consent.
- 7.3 If the Buyer cancels the purchase order then the Seller will reimburse to the Buyer any sums which the Buyer has paid. If the Seller has incurred costs in association with the cancelled Contract, the Buyer will reimburse to the Seller any costs incurred by the Seller as a result.
- 7.4 If the Buyer refuses or fails to take delivery of any of the Goods when they are ready The Seller shall be entitled to charge the Buyer all proper costs arising out of such delay, including without limitation;
- 7.4.1 Store or arrange for storage of the Goods until actual delivery or sale in and charge the Buyer for all related costs and expenses (including storage and insurance); and/or
- 7.4.2 returning the Goods to The Seller's warehouse
- 7.5 The sale of the Goods is subject to the Incoterm (if any) stated in the quote supplied by The Seller by email or fax.
- 7.6 The Buyer shall be responsible for complying with any legislation or regulations governing the importation and use of Goods into the country of destination and for the payment of any duties on them. The Seller will not be liable if the Buyer breaches any such legislation or regulations.
- 7.7 Where The Seller has agreed to invoice for the Goods in a currency other than pound sterling, The Seller may at any time prior to delivery revise the price of the Goods to take account of any variation in exchange rates.
- 8. Risk and Ownership**
- 8.1 The risk in the Goods shall pass to the Buyer at the time of delivery or deemed delivery.
- 8.2 Title in the Goods shall not pass to the Buyer until payment in full has been received by the Seller.
- 8.3 Until ownership of the Goods has passed to the Buyer, the Buyer holds the Goods in trust for The Seller. The Buyer will;
- 8.3.1 store the Goods (at no cost to the Seller) in an appropriate environment and in a place that it is easily identifiable as The Seller's material;
- 8.3.2 not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods;
- 8.3.3 maintain the Goods in satisfactory condition; and
- 8.3.4 have the Goods insured for their full Price against all risks to the reasonable satisfaction of The Seller.
- 8.4 The Buyer is entitled to use the Goods in its manufacturing process notwithstanding that ownership in such Goods has not passed to it.
- 8.5 The Buyer's right to possession and use of the Goods shall terminate immediately:
- 8.5.1 if payment of any invoice under the Contract by the Buyer becomes overdue; or
- 8.5.2 if the Buyer becomes Insolvent; or
- 8.5.3 on the Seller giving the Buyer written notice that it has any concerns regarding the financial standing of the Buyer; or
- 8.5.4 if the Buyer is in breach of any of its obligations under the Contract or any other contract between the Seller and the Buyer; or
- 8.5.5 if the Buyer encumbers or in any way charges any of the Goods; or
- 8.5.6 if the Contract terminates for any reason.
- 8.6 The Seller shall be entitled to recover payment for the Goods (including by way of court action) notwithstanding that ownership of any of the Goods has not passed from the Seller.
- 8.7 The Buyer grants The Seller, its agents, employees and sub-contractors an irrevocable license at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Buyer's right to possession and use has terminated, to recover them.
- 9. Warranty and Liability**
- 9.1 Subject to the terms set out below and unless otherwise specified in writing, the Seller warrants that, on delivery, the Goods shall comply with the Seller's specification for the Goods. The Seller reserves the right to make any changes to the specification of the Goods which:
- 9.1.1 are required to conform with any applicable safety, performance or other statutory or regulatory requirements; and/or
- 9.1.2 do not materially alter the quality or performance of the Goods,
- and the Buyer will not be entitled to reject the Goods, by reason of such changes.
- 9.2 Save as provided in this clause, no representation, warranty, condition or term, expressed or implied, statutory or otherwise as the quality of the Goods, its fitness for any purpose or compliance with any sample or description or in any other respect shall apply to the Agreement or to any delivery made thereunder.
- 9.2 If the Goods are shown, to the reasonable satisfaction of the Seller, not to comply with the specification supplied by The Seller to the Buyer, then The Seller will either, at the Seller's option, replace such Goods or refund the Price of the Goods.
- 9.3 the Buyer agrees that the Buyer is solely responsible for satisfying itself and other as to the suitability of the Goods for any particular purpose and the Buyer acknowledges that is relying solely on the Buyer's own skill and judgment and not The Seller's in determining such suitability.
- 9.4 The Seller shall in no circumstances be liable to the Buyer for any; pure economic loss, loss of profit, loss of business, loss of contracts or indirect costs.
- 9.5 The Seller will not be liable where:
- 9.5.1 The Seller was not notified of any potential problems with the product or breach of contract;
- 9.5.2 The defect was caused by improper use, mis-handling, alteration, poor storage or failure to comply with instructions provided by the Seller to the Buyer (by email, or fax or oral);
- 9.5.3 The Buyer continues to use the product after discovering problems with the product or breach of contract.
- 9.6 If any Goods have been modified or subjected to any process of manufacture or adaption after delivery then the Buyer will be deemed to have accepted such Goods as being in all respects in accordance with the Contract.
- 9.7 The Buyer will indemnify the Seller in respect of all liabilities, damages, injuries, actions, suits, claims, demands, costs, charges, expenses, direct, indirect and consequential losses (all three of which terms include pure economic loss, loss of profits, loss of anticipated savings, depletion of goodwill and like loss), proceedings and legal costs and judgments which the Seller incurs or suffers as a consequence of any direct or indirect breach or negligent performance or failure in performance by the Buyer of the terms of the Contract or any acts or omissions of the Buyer in connection with the use or application of the Goods or otherwise.
- 9.8 Nothing in these Conditions shall limit or exclude the Seller's liability for:
- 10.5.1** Death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors
- 10.5.2** Defective products
- 10.5.3** Fraud or fraudulent misrepresentation
- 10.5.4** Breach of the terms implied by section 12 of the Sale of Products Act 1979;
- 10.5.5** Any matter in respect of which it would be unlawful for the Seller to exclude or restrict liability.
- 10. Notification of Defects, Damage or Loss**
- 10.1 All Goods should be examined and tested by the Buyer on delivery. Any defect should be brought to The Seller's attention in writing, before the end of the next working day. If the buyer fails to do so or the Buyer makes use of the Goods after giving such notice, the Goods shall be conclusively presumed to have been received and accepted by the Buyer without any claim for any defect, shortage, damage or loss.
- 10.2 In the event of a valid claim for defect, loss, damage or non-compliance, The Seller undertakes at its option either to repair, reprocess or replace the items concerned at its expense but shall not be under any further or other liability in connection with such non-delivery, loss, damage or non-compliance.
- 10.3 Any claim by the Buyer on account of quality shall be decided by reference to control samples drawn at the time of manufacturing the relevant Goods and retained in the Seller's laboratory. The results of the examination of such control samples shall be conclusive in all respects in regard to such claim.



11 Force Majeure

11.1 The Seller shall in no circumstance be liable for any failure or delay in performing its obligations under the Agreement to the extent that such failure or delay is caused by any circumstance beyond its reasonable control. This includes, but is not limited to, Acts of God, fire, flood, ice, frost, withdrawal of labor, breakdown of machinery, loss of detention of vessels or other means of transport. Or an inability to arrange transport by the Seller's normal methods, delay in loading or discharging Goods, inability to obtain supplies of raw materials, or restrictions on the use of or supply of fuel or power.

12 Packaging

12.1 The loading or filling of transport equipment and/or packaging which has been made available by the Buyer shall take place at the risk of the Buyer, even if this is carried out by the Seller. The Seller is entitled to refuse to load or to fill packaging or equipment provided by the Buyer, if this does not comply, according to the judgment of the Seller, with applicable legislation.

13 Payment

13.1 The price of the Goods shall be the price set out in the Seller's quotation, and confirmed in the Seller's Acknowledgment.
13.2 The price of the Goods is exclusive of amounts in respect of VAT. The Buyer shall, on receipt of a valid VAT invoice from The Seller, pay to the Seller such additional amounts in respect of VAT as are chargeable on the supply of the Goods.
13.3 Invoices which are due must be paid in full without any deduction, set-off, restriction, condition or withholding for or on account of any counterclaim or any present or future taxes, levies, duties, charges, fees, deductions or withholdings of any nature, unless the Buyer is required by law to make any such deduction or withholding.
13.4 Where any sum owed by the Buyer to the Seller is overdue, or if at any time the credit standing of the Buyer has in the opinion of the Seller been impaired for whatever reason, the Seller may at its own absolute discretion demand payment of all outstanding balances whether due or not and cancel or suspend all outstanding orders and decline to make further deliveries except upon receipt of cash or satisfactory security
13.5 Without prejudice to the Seller's other rights under the Contract, the Seller reserves the right to charge interest of any invoice not paid on or before the due date, at the rate of 8% per annum over the Bank of England base rate from the date on which payment is due until the date payment is made in full.

14 Intellectual Property

14.1 No right or licence is granted to the Buyer in respect of the IPR of the Seller, except the right to use the Goods in the Buyer's ordinary course of business.
14.2 No warranty or representation is given by the Seller that the Goods do not infringe the IPR of any person.
14.3 If the Goods have been manufactured to the specification or design of the Buyer, the Buyer shall indemnify the Seller and keep the Seller indemnified from and against any and all losses, liabilities, costs, claims, demands, expenses and fees (including legal and other professional fees) actions, proceedings, judgments awarded and damages suffered or incurred by the Seller arising out of or in connection with any infringement of any IPR of any third party where such liability arises as a consequence of the specification supplied by the Buyer.

15. Termination

15.1 If the Buyer:
15.1.1 commits a material breach of the Contract which cannot be remedied; or
15.1.2 commits a material breach of the Contract which can be remedied but fails to remedy that breach within 30 days of a written notice setting out the breach and requiring it to be remedied being given by the Seller,
the Seller may terminate the Contract immediately by giving written notice to that effect to the Buyer.
15.2 The Seller may terminate the Contract immediately by giving written notice to that effect to the Buyer if the Buyer becomes Insolvent.
15.3 A material breach can be remedied if the Buyer can comply with the relevant obligation in all respects other than as to time of performance unless time of performance of such obligation is of the essence. For the avoidance of doubt, a failure by the Buyer to make any payment due to the Seller under the Contract on or before the due date will constitute a material breach.
15.4 Following expiry or termination of the Contract:
15.4.1 any other Conditions which expressly or impliedly continue to have effect after expiry or termination of the Contract shall continue in force; and
15.4.2 all other rights and obligations shall immediately cease without prejudice to any rights, obligations, claims (including claims for damages for breach) and liabilities which have accrued prior to the date of expiry or termination.
15.5 The Seller will be entitled to suspend deliveries of Goods otherwise due to occur following service of a notice specifying a breach until either the breach is remedied (if applicable) or the Contract terminates, whichever occurs first.

16. General

16.1 The Seller's rights and remedies set out in these Conditions are in addition to and not exclusive of any rights and remedies provided by law.
16.2 A delay in exercising or failure to exercise a right or remedy under or in connection with the Contract will not constitute a waiver of, or prevent or restrict future exercise of, that or any other right or remedy, nor shall the single or partial exercise of a right or remedy prevent or restrict the future exercise of that or any other right or remedy. A waiver of any right, remedy, breach or default will only be valid if it is in writing and signed by the party giving it and only in the circumstances and for the purpose for which it was given and will not constitute a waiver of any other right, remedy, breach or default.
16.3 The parties do not intend that any term of the Contract will be enforceable under the Contracts (Rights of Third Parties) Act 1999 by any person other than the parties.
16.4 The Contract constitutes the entire agreement between the parties and supersedes any prior agreement or arrangement in respect of its subject matter and:
16.4.1 neither party has entered into the Contract in reliance upon, and it will have no remedy in respect of, any representation, misrepresentation or statement (whether made by the other party or any other person) which is not expressly set out in the Contract; and
16.4.2 the only remedies available for misrepresentation or breach of any representation or statement which was made prior to entry into the Contract and which is expressly set out in the Contract will be for breach of contract; and
16.4.3 nothing in this Condition 18 will be interpreted or construed as limiting or excluding the liability of either party for fraud or fraudulent misrepresentation.
16.5 Each party agrees that it is an independent contractor and is entering into the Contract as principal and not as agent for or for the benefit of any other person.
16.6 This will be governed by English law.
16.7 The parties submit to the exclusive jurisdiction of the courts of England and Wales in connection with this contract

17. Notices

Any notice given in connection with the Contract must be in writing and must be delivered by hand or sent by prepaid first class or special delivery post to the Seller or the Buyer, as the case may be, at its address as provided by either of the parties or to either party's registered office
17.1 Notices will be deemed to have been received if sent by pre-paid first class or special delivery post, at 9.00am on the second working day (in England) after posting (exclusive of the day of posting); and if delivered by hand, on the day of delivery, provided delivery is between 9am-4pm on a working



- day excluding bank holidays.
- 17.2 The Parties undertake that they will not at any time, divulge or communicate to any person, organization, except their professional representatives or legal authorities, any confidential information concerning the business or affairs of the other party which may in the future come to their knowledge. The parties will use all reasonable endeavors to prevent the publication or disclosure of any confidential information concerning such matters
- 17.3 The Buyer shall not be entitled to assign the benefit or burden of the whole or any part of this agreement without the written consent of OXkem
- 17.4 If a provision in these conditional is determines by a Court or tribunal to be wholly or partly unenforceable for any reason. Such unenforceability shall not effect the rest of the agreement