Multichem Ltd. Terms and Conditions of Sale

1. Interpretation

1.1 The definitions and rules of interpretation in this clause 1.1 apply in these conditions.

Buyer	the person, firm or company who purchases the Goods from Multichem;
Components	any whiteboards, fabric, paper or other surfaces, materials (including livestock fleece) and associated products with which the Goods will be used;
Contract	any contract between Multichem and the Buyer for the sale and purchase of the Goods, incorporating these conditions;
Goods	any goods agreed in the Contract to be supplied to the Buyer by Multichem (including any part or parts of them); and
Multichem	Multichem Limited registered in England and Wales with company number 01100854 whose registered office is at Unit 1, Tyne Mills Industrial Estate, Hexham, Northumberland, NE46 1XL, England;
Order	the Buyer's order for the Goods, as set out in the order form supplied by Multichem to the Buyer setting out the details of the Goods ordered by the Buyer;
Repeat Orders	repeat orders for Goods made by the Buyer to Multichem placed following a single quotation issued by Multichem in which the prices quoted shall apply to each order of them by the Buyer subject to any price changes made on notification by Multichem to the Buyer or on written agreement between Multichem and the Buyer as set out in these Conditions.
Specification	any drawing, design, measurements, metrics, data, information or specification in relation to the Goods.

1.2 A reference to a law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.3 Words in the singular include the plural and in the plural include the singular.

1.4 A reference to one gender includes a reference to the other gender.

1.5 Condition headings do not affect the interpretation of these conditions.

2. Basis of Contract

2.1 The Contract shall be on these Conditions to the exclusion of all other terms and conditions the Buyer attempts to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

2.2 The Order constitutes an offer by the Buyer to purchase the Goods in accordance with these Conditions. The Buyer shall ensure that the terms of the Order and any applicable Specification (whether submitted by the Buyer or Multichem) are complete and accurate.

2.3 The Order shall only be deemed to be accepted when Multichem issues a written acceptance of the Order, or (if earlier) Multichem delivers the Goods to the Buyer, at which point and on which date the Contract shall come into existence.

2.4 The Buyer waives any right it might have to rely on any term endorsed upon, delivered with or contained in any documents of the Buyer that is inconsistent with these Conditions.

2.5 Any samples, drawings, descriptive matter or advertising produced by or on behalf of Multichem and any descriptions or illustrations contained in Multichem's catalogues or brochures (whether digital or otherwise) are produced for the sole purpose of giving an approximate idea of the Goods referred to in them. They shall not form part of the Contract nor have any contractual force.

2.6 Any quotation is given by Multichem to the Buyer on the basis that no Contract shall come into existence until Multichem despatches a written acknowledgement of order to the Buyer. Any quotation is valid for a period of 30 days only from its date of issue, provided that Multichem has not previously withdrawn it. Repeat Orders may be placed by the Buyer with Multichem following a single quotation.

2.7 In the case of a conflict between the Order, Multichem's quotation and these Conditions, the Order shall take precedence.

3. Description and Quality of the Goods

3.1 The quantity and description of the Goods shall be as set out in the Order. Where Repeat Orders are placed by the Buyer, the quantity and description of the Goods for each Repeat Order shall be set out in separate Orders.

3.2 Multichem warrants that upon delivery, and for a period of 12 months from the date of delivery, the Goods shall be of satisfactory quality within the meaning of the Sale of Goods Act 1979;

3.3 Multichem shall not be liable for a breach of the warranty in condition 3.2 unless Multichem is given a reasonable opportunity, after receiving the notice, of examining such Goods and the Buyer (if asked to do so by Multichem) returns such Goods and associated goods to Multichem's place of business at Multichem's cost for the examination to take place there.

3.4 Multichem shall not be liable for a breach of the warranty in condition 3.2 if:

3.4.1 the Buyer makes any further use of such Goods after giving such notice; or

3.4.2 the defect arises because the Buyer failed to follow Multichem's oral or written instructions as to the storage, use (including manufacture) or processing of the Goods or (if there are none) good trade practice;

3.4.3 the Buyer alters or repairs such Goods without the written consent of Multichem; or

3.4.4 the Buyer has failed to ascertain the suitability of the Goods for use in the conditions in which they are to be used or in conjunction with Components or other associated goods not supplied by Multichem.

3.5 Subject to condition 3.3 and condition 3.4, if any of the Goods do not conform with the warranty in condition 3.2 Multichem shall at its sole option repair or replace such Goods (or the defective part) or refund the price of such Goods at the pro rata Contract rate provided that, if Multichem so requests, the Buyer shall, at Multichem's reasonable expense, either return the Goods or the part of such Goods which is defective to Multichem or arrange for such Goods to be destroyed and confirm that such destruction has taken place to Multichem in writing.

3.6 If Multichem complies with condition 3.5 it shall have no further liability whatsoever, howsoever arising, for a breach of the warranty in condition 3.2 in respect of such Goods.

3.7 Any Goods replaced shall belong to Multichem and any repaired or replacement Goods shall be guaranteed on these terms for the unexpired portion of the 12 month period referred to in condition 3.2.

3.8 Any viscosity, density, colour, shade, solids content, flow characteristics, drying characteristics, coverage, yield or other quantitative or qualitative requirements contained within the Order and/or Specification, or any sales literature in respect of the Goods, are approximations only unless expressly stated otherwise. Whilst every reasonable effort is made to

ensure that Specifications are accurate and consistent, the manufacture and supply of the Goods are subject to normal manufacturing and trade tolerances and reasonable variations inherent in the manufacture of ink.

3.9 The Parties acknowledge and agree that the Goods are non-Newtonian fluids and that their viscosity is dependent upon the conditions under which viscosity is measured, including, without limitation, the shear rate, test speed, temperature, and duration of testing. Accordingly, viscosity results obtained at different testing speeds or shear rates may differ and shall not be considered directly comparable unless the tests are conducted under the same agreed testing conditions and using the same test method, equipment, temperature, and relevant parameters. For the avoidance of doubt, any Specification, acceptance criterion, or comparison of viscosity shall be assessed by reference to the testing methods and conditions used by Multichem. Variations in viscosity arising from differences in testing speed or shear rate shall not constitute a failure of the Goods to comply with the Specification.

3.10 It is the Buyer's sole responsibility to ascertain the suitability of the Goods for use in the conditions in which the Buyer intends to use the Goods and/or the Components with which the Buyer intends the Goods to be used.

4. Delivery

4.1 Delivery of the Goods shall be made in accordance with the delivery terms specified in the Order, which shall state the applicable Incoterms® Rule. If no Incoterms® Rule is stated in the Order, the Goods shall be delivered Ex Works. Unless otherwise agreed in writing, the Incoterms® Rule shall be interpreted in accordance with the latest version of the Incoterms® Rules published by the International Chamber of Commerce (ICC).

4.2 Any dates specified by Multichem for delivery of the Goods are intended to be an estimate and time for delivery shall not be of the essence. If no dates are so specified, delivery shall be completed within a reasonable time.

4.3 Multichem shall not be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations under the Contract, if such delay or failure results from:

4.3.1 any failure of the Buyer to obtain or maintain any necessary licences, consents or other related authorisations required for importing or receiving the Goods; or

4.3.2 any law, convention or other rule, or any action taken by a government, public authority or other agency, including imposing an export or import restriction, quota or prohibition, seizure, inspection, request for further information, documentation or declarations, or failing to grant a necessary licence or consent.

4.4 If any delay occurs as set out within clause 4.3 the time for performance of Multichem’s obligations under the Contract shall be extended accordingly. For the avoidance of doubt, such an extension shall continue for as long as necessary to enable the Goods to clear export, import and/or customs controls.

4.5 Subject to the other provisions of these Conditions, Multichem shall not be liable for any direct, indirect or consequential loss (in each case including, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods, nor shall any delay entitle the Buyer to terminate or rescind the Contract unless such delay exceeds 180 days.

4.6 If for any reason the Buyer fails to accept delivery of any of the Goods when they are ready for delivery, or Multichem is unable to deliver the Goods on time because the Buyer has not provided appropriate instructions, documents, licences or authorisations:

4.6.1 risk in the Goods shall pass to the Buyer;

4.6.2 the Goods shall be deemed to have been delivered; and

4.6.3 Multichem may store the Goods until delivery, whereupon the Buyer shall be liable for all related costs and expenses (including, without limitation, storage, insurance and destruction).

4.7 The Buyer shall provide at the point of delivery, and at its expense, adequate and appropriate equipment and manual labour for unloading the Goods.

4.8 If Multichem delivers to the Buyer a quantity of Goods of up to 5% more or less than the quantity accepted by Multichem, the Buyer shall not be entitled to object to or reject the Goods or any of them by reason of the surplus or shortfall.

4.9 Multichem may deliver the Goods by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of the Contract.

4.10 Each instalment shall be a separate Contract and no cancellation or termination of any one Contract relating to an instalment shall entitle the Buyer to repudiate or cancel any other Contract or instalment. In the event of payment for a consignment remaining outstanding, without prejudice to any other remedies, Multichem shall be entitled to suspend delivery of any remaining consignments under the Contract.

4.11 Delivery of Goods shall be made on an order by order basis and Goods shall not be held as consignment stock unless agreed in advance between Multichem and the Buyer and in the event that Goods are to held as consignment stock then the basis and terms of delivery of such consignment stock shall be set out in Multichem's acknowledgement of order.

5. Non-delivery

5.1 Multichem shall have no liability for Goods that are lost in transit or where only partial delivery of the Goods is made unless:

5.1.1 in the case of only part of the Goods being delivered, the Buyer endorses details of the missing Goods on the carrier's delivery note or receipt and Multichem and the carrier receives notice in writing of part of the Goods being missing from that stated within the Order within 3 Business Days of the Buyer's receipt of the Goods; and

5.1.2 in the case of Goods being lost in transit, notice given by the Buyer in writing of the non-delivery is not received by Multichem and the carrier within 7 days of the date of the advice note or invoice (as the case may be) issued by Multichem.

6. Title and Risk

6.1 The risk in the Goods shall pass to the Buyer on completion of delivery unless otherwise stated in the applicable Incoterms® Rule.

6.2 Title to the Goods shall not pass to the Buyer until Multichem has received payment in full (in cash or cleared funds) for:

6.2.1 the Goods; and

6.2.2 all other sums which are, or which become due to Multichem for sales of the Goods or any other products to the Buyer.

6.3 Until ownership of the Goods has passed to the Buyer, the Buyer shall:

6.3.1 hold the Goods on a fiduciary basis as Multichem's bailee;

6.3.2 store the Goods (at no cost to Multichem) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as Multichem's property;

6.3.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and

6.3.4 maintain the Goods in satisfactory condition and keep them insured on Multichem's behalf for their full price against all risks to the reasonable satisfaction of Multichem. On request the Buyer shall produce the policy of insurance to Multichem.

6.4 The Buyer may resell the Goods before ownership has passed to it solely on the following conditions:

6.4.1 any sale shall be effected in the ordinary course of the Buyer's business at full market value; and

6.4.2 any such sale shall be a sale of Multichem's property on the Buyer's own behalf, and the Buyer shall deal as principal when making such a sale.

6.5 At any time before title to the Goods passes to the Buyer, Multichem may require the Buyer to deliver up all Goods in its possession and if the Buyer fails to do so promptly, enter any premises of the Buyer or of any third party where the Goods are stored in order to recover them and return them to Multichem at the Buyer's cost and expense.

7. Price

Unless otherwise notified by Multichem in writing, the price for the Goods shall be the price set out in the Order. Multichem reserves the right to adjust the price for the Goods up to 7 days before delivery to reflect the increase in the cost to Multichem due to factors beyond the reasonable control of Multichem including, without limitation, foreign exchange fluctuations, taxes and duties and the cost of labour, materials and other manufacturing and logistics costs.

8. Payment

8.1 Subject to condition 8.4, payment of the price for the Goods is due in such currency and on such terms as are set out in the Order.

8.2 Time for payment shall be of the essence.

8.3 No payment shall be deemed to have been received until Multichem has received cleared funds.

8.4 All payments payable to Multichem under the Contract shall become due immediately on its termination despite any other provision.

8.5 The Buyer shall make all payments due under the Contract in full or shall ensure that all payments due are made without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid by Multichem to the Buyer.

8.6 If the Buyer (or its nominated import clearing agent) fails to pay Multichem any sum due pursuant to the Contract, the Buyer shall be liable to pay interest to Multichem on such sum from the due date for payment at the annual rate of 3% above the base lending rate from time to time of Lloyds Bank plc, accruing on a daily basis until payment is made, whether before or after any judgment. Multichem reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.

8.7 All payments due under these conditions shall be paid by telegraphic transfer unless otherwise stated in the Order and each party shall bear its own related bank charges.

9. Termination

9.1 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

9.1.1 the other party commits a material breach of any term of the Contract and (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;

9.1.2 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;

9.1.3 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

9.1.4 the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.

9.2 Without affecting any other right or remedy available to it, Multichem may terminate the Contract with immediate effect by giving written notice to the Buyer, if the Buyer fails to pay any amount due under the Contract within 30 days of its due date.

9.3 Without affecting any other right or remedy available to it, Multichem may suspend delivery of Goods under the Contract or any other contract between the Buyer and Multichem if the Buyer fails to pay any amount due under the Contract on the due date for payment, the Buyer becomes subject to any of the events listed in clauses 9.1.2 to 9.1.4, or Multichem reasonably believes that the Buyer is about to become subject to any of them.

10. Consequences of termination

On termination of the Contract the Buyer shall immediately pay to Multichem all of Multichem's outstanding unpaid invoices and interest and, in respect of Goods supplied but for which no invoice has been submitted, Multichem shall submit an invoice, which shall be payable by the Buyer immediately on receipt.

11. Limitation of Liability

11.1 References to liability in this clause 11 include every kind of liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

11.2 Neither party may benefit from the limitations and exclusions set out in this clause 11 in respect of any liability arising from its wilful default.

11.3 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:

11.3.1 death or personal injury caused by negligence;

11.3.2 fraud or fraudulent misrepresentation;

11.3.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

11.4 Subject to clause 11.2 and clause 11.3, Multichem's total liability to the Buyer shall not exceed the price for the Goods as set out within the Order.

11.5 The following types of loss are wholly excluded:

11.5.1 loss of profits;

11.5.2 loss of sales or business;

11.5.3 loss of agreements or contracts;

11.5.4 loss of anticipated savings;

11.5.5 loss of use or corruption of software, data or information;

11.5.6 loss of or damage to goodwill; and

11.5.7 indirect or consequential loss.

11.6 Multichem has given commitments as to compliance of the Goods with relevant specifications in clause 3. In view of these commitments, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

11.7 This clause 9 shall survive termination of the Contract.

12. Assignment

12.1 Multichem may assign the Contract or any part of it to any person, firm or company.

12.2 The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of Multichem.

13. Force Majeure

Multichem reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods ordered by the Buyer (without liability to the Buyer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of Multichem including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, provided that, if the event in question continues for a continuous period in excess of 90 days, the Buyer shall be entitled to give notice in writing to Multichem to terminate the Contract.

14. Data Protection

How Multichem use any personal data provided by the Buyer is set out in Multichem's Privacy Notice: https://www.multichem.net/privacy-policy/

15. General

15.1 Each right or remedy of Multichem under the Contract is without prejudice to any other right or remedy of Multichem whether under the Contract or not.

15.2 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.

15.3 Failure or delay by Multichem in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.

15.4 Any waiver by Multichem of any breach of, or any default under, any provision of the Contract by the Buyer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.

15.5 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

15.6 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the courts of England and Wales.

16. Communications

16.1 All communications between the parties about the Contract shall be in writing and sent by e-mail, fax or post:

16.1.1 (in case of communications to Multichem) to the address set out in these conditions or to such address, fax number or e-mail address as Multichem may notify the Buyer from time to time;

16.1.2 (in the case of communications to the Buyer) to any postal address, fax number or e-mail address as the Buyer may notify Multichem from time to time.

16.2 Communications shall be deemed to have been received:

16.2.1 if sent by fax or e-mail on transmission;

16.2.2 if sent by pre-paid UK first class post 2 business days from the date of posting; or

16.2.3 if sent by airmail 10 business days from the date of posting.