



ECOGUARD

Environmentally compatible solutions for
pest and vegetation management

TERMS AND CONDITIONS OF SALE

- 1 Clause 1**
 - 1.1 Orders are accepted subject to availability and Seller takes no responsibility for short supply.
 - 1.2 Orders are accepted on a collect basis ex Ecoguard Biosciences (Pty) Ltd supply depot.
- 2 Clause 2**
 - 2.1 Any price mentioned which is Seller's ruling list price is subject to variation and the goods will be delivered at the Seller's ruling list price at the date of shipment by the Seller.
 - 2.2 Where Seller has not list price for the goods, any price mentioned is subject to a reasonable adjustment to take into account any increases in cost to Seller by virtue of foreign exchange fluctuations, currency regulations, changes in duties or taxes, increase in cost of raw materials, labour or transport or any other cases (whether or not the same nature as the foregoing) beyond the control of the Seller.
 - 2.3 If Buyer is of the opinion that any such increase in price under sub-clause 2.2 is unreasonable, it may object to such increase by written notice given within 10 (ten) days of the date of receipt of Seller's notice of the increase, whereupon Seller shall have the option
 - 2.3.1 to provide Buyer with one or more certificates of a recognized firm of public accountants vouching for the amount of the increase or such lesser amount as may be certified, or
 - 2.3.2 to continue to supply Buyer at the price quoted, or
 - 2.3.3 to cancel the agreement immediately upon written notice to the Buyer.
- 3 Clause 3**

All payments due to Seller shall be paid at its office by bill, draft or cheque made payable to the Seller and marked "not transferable"
- 4 Clause 4**

If the price, freight allowance or terms of payment herein, or any price increase or change in freight allowance in terms of payment hereunder or Seller's ability to make any such increase or change should be altered or prohibited by reason of any law, government decree, order of regulation, Seller may cancel this contract upon written notice.
- 5 Clause 5**

Seller reserves the right without prejudice to the Buyer's liability to pay on the due date, to charge interest on any overdue balance at the rate of 5% higher than the ruling overdraft rate charged by South African Commercial Banks to Prime Commercial Borrowers of unsecured funds or the maximum rate of interest permitted by the law from time to time, whichever is the lesser. Such right shall be in addition and without prejudice to any other right the Seller may have herein.
- 6 Clause 6**

If Buyer fails to perform any of the terms of this contract when due, or if the Seller is not satisfied at any time in its sole discretion with the financial position of Buyer, Seller may, at its opinion, decline to make further deliveries against this contract except for cash, or against security, or may defer shipments until such default is made good or until it is satisfied with the financial position of the Buyer, or may treat such default as final result to accept further shipments hereunder and cancel this contract.
- 7 Clause 7**

At Seller's option, deliveries may be affected by any wholly owned subsidiary of Ecoguard Biosciences (Pty) Ltd or its subsidiaries.
- 8 Clause 8**

In the event of war, fire, flood, strike, labour trouble, accident, mechanical breakdown of machinery or facilities, riot, acts of Government or authority, acts of God, of contingencies beyond the reasonable control of the party affected interfering with the production, supply, transportation, or consumption of the goods covered by this contract, or with the supply of any raw materials in connection therewith, the quantity of the goods provided for in this contract shall be reduced by the amount so affected without liability but the contract shall otherwise remain unchanged. If there is a dispute as to the quantities which are affected, the parties shall appoint a third party to adjudicate and such third party's decision shall be final and binding.
- 9 Clause 9**
 - 9.1 Seller warrants that the goods furnished hereunder will meet with the Sales specifications referred to on the face hereof if the Buyer requires further details of such specifications, it shall notify Seller within 7 (seven) days of receipt of this document.
 - 9.2 Any other condition or warranty as to the quality of freedom from latent defect of the goods furnished hereunder of fitness for any particular purpose or otherwise whether arising under a statute or otherwise is hereby excluded.
 - 9.3 Buyer shall inspect the goods furnished hereunder immediately upon delivery. If any goods furnished hereunder are rejected because of non-conformity to specifications, Buyer shall only have the right to return same to Seller after inspection by Seller and receipt of definite delivery instructions from Seller, such inspection to be made and instructions given within 30 (thirty) days after notice of rejection of Buyer.
 - 9.4 Either
 - 9.4.1 failing to give notice of any claim within 30 (thirty) days of delivery, or
 - 9.4.2 use of goods furnished hereunder constitutes an unqualified acceptance of such goods by Buyer and a waiver by Buyer of all claims in respect of such goods.
 - 9.5 Seller warrants that the manufacture of the goods covered herein does not infringe any letters patent of the country of manufacture. Seller does not warrant that importation of such goods into another country, is free of infringement of any patents of such other country, nor the use of goods in any country is free from infringement.
- 10 Clause 10**

In the event of a breach of contract by either party (whether due to negligence, intent or any other cause), it is agreed that the maximum damages recoverable shall be the contract price for the goods as to which the party in breach of contract is in default. Except as provided by the preceding sentence, neither party shall be under liability for loss or injury to either party whether direct or consequential. It is specially recorded that neither party shall be liable to the other for consequential damages arising out of any circumstances whatsoever.
- 11 Clause 11**

Notwithstanding delivery of the goods sold, ownership of the goods shall remain with the Seller until such time as Purchaser has paid the purchase price in full. Notwithstanding retention ownership in any case, risk in the goods shall pass to the Buyer in accordance with the specified delivery terms and as if ownership has been passed to Buyer.
- 12 Clause 12**

Any technical assistance or advice given by any employee of Seller has been given in good faith and to the best of the employee's knowledge. However, Seller cannot be held liable in the event of such assistance or advice being misinterpreted or being in any way or from any cause incorrect, invalid or mistaken.
- 13 Clause 13**

If the goods sold in terms of this contract are sold to Buyer for resale purposes, the Dow AgroSciences trademark must be maintained by Buyer authorized by Seller in writing to dispense with such trademark and conversely, if the goods are sold for conversion, Buyer may not continue to use the Dow AgroSciences trademark in respect of any resulting product.
- 14 Clause 14**

This contract is not transferable or assignable by Buyer.
- 15 Clause 15**

Seller's failure to exercise any of its rights under this contract upon any occasion shall not waive Seller's right to exercise this on another occasion.
- 16 Clause 16**

This contract shall in all respects be governed by the law of the Republic of South Africa. If Buyer breaches any term of this contract, the Seller, if so desires, shall be entitled to proceed against Buyer in Magistrates Court having geographical jurisdiction notwithstanding that the amount in dispute otherwise be outside the jurisdiction of such court and Seller shall be entitled to recover legal cost from Buyer on attorney and client scale whether or not proceedings are instituted.
- 17 Clause 17**

All goods sold or delivered by Seller are sold or delivered on these terms and conditions. Every order given to Seller shall constitute an agreement to be bound by such terms and conditions unless otherwise agreed in writing.
- 18 Clause 18**

No terms or conditions contained in any order or document issued by Buyer shall be valid or binding upon Seller unless expressly accepted by Seller in writing and specifically referencing any clause herein that is modified or changed thereby.
- 19 Clause 19**

No employee, save for a director, has any authority to contract on behalf of Seller or any terms and conditions other than those contained in this document. No variation of these terms shall be binding upon Seller unless reduced to writing and signed by a director or Seller.