

## General Terms and Conditions of Sale

*These general terms and conditions of sale (“Terms and Conditions”) shall constitute part of the sale agreement (if any) unless the sale agreement refers to specific terms and conditions in which case those specific terms and conditions shall apply in conjunction with the Terms and Conditions below.*

### 1. Agreement

These are the Terms and Conditions under which **Indorama Eleme Petrochemicals Limited (“Company”)** sells its products (“**Products**”) to a purchaser (“**Buyer**”) as and when purchase orders are placed by the Buyer and accepted by the Company (“**Order**”). By placing an Order, the Buyer submits an offer to buy the Products pursuant to these Terms and Conditions. The Company shall not be deemed to have accepted any such offer unless and until it ships Products to the Buyer, or accepts the Order of the Buyer in writing, whichever comes first. The Company will not be bound by any standard or printed terms presented by the Buyer unless specifically accepted by an authorized representative of the Company in writing. Unless explicitly objected to in writing received by the Company, these Terms and Conditions shall apply to all offers, Orders, Order acceptances and/or sales by the Company, whether or not they applied to a prior purchase by the Buyer. No employee or agent other than an authorized representative of the Company is authorized to make any representations in respect of the Products.

*“Contract” means these Terms and Conditions, the sale agreement (if any) and the Order for sale of the Products by the Company as accepted by the Company.*

### 2. Price

The purchase price of the Products (“**Price**”) and any other terms and conditions of sale shall be as stated in the Contract or any acceptance of the Order issued by the Company, unless the Company agrees otherwise with the Buyer in writing. The Price shall be payable in the currency designated by the Company.

The Company at any time with due intimation to the Buyer may increase the Price for reasons justifiable.

### 3. Payment and Credit

Payment terms shall be as established by the Company from time to time as stated in the Contract. If for any reason the Price cannot be determined, the Buyer fails to pay any one or more installments of the Price when due, the Buyer breaches any term of the Contract, and/or the Buyer's financial worthiness becomes unsatisfactory to the Company, the Company shall have the right, in addition to all other remedies available to it under the Contract or at law or in equity, to (a) suspend or cancel further deliveries, (b) require immediate cash payment for further deliveries, (c) require satisfactory security before proceeding with further deliveries, (d) have any vessel wait at the discharge port without discharging the Products, (e) divert any vessel, and/or (f) sell the

Products to any other party. All costs and/or damages incurred by the Company in taking any such steps shall be for the account of the Buyer. Any amounts past due over thirty days will accrue interest from their due date at the higher of (a) 6% per annum or (b) the maximum rate permitted under applicable law. The Company will invoice the Buyer for and in respect of each sale and individual consignment of the Products delivered under each Order via regular mail, electronic mail or by any other means. Any invoice not objected to by the Buyer in writing within one month of shipment will be deemed to be an undisputed invoice. The Price of each delivery shall be payable by the Buyer as directed in writing by the Company or as specifically stated in the Contract. Unless otherwise directed in writing by the Company or specifically stated in the Contract, the Price shall be due and payable within 30 days after the date of invoice. The Buyer has no right to set-off against any amount due or alleged to be due to the Buyer from the Company or any affiliated company of the Company. The payment is not deemed to be received unless it has been received in cleared funds. No partial payment by the Buyer shall constitute an accord and satisfaction or otherwise satisfy the entire outstanding balance of any invoice of the Company, notwithstanding any notation or statement accompanying that payment. Notwithstanding anything set out above, the Company reserves the right, with due intimation to the Buyer, to vary the agreed payment terms and/or to cancel or change any credit arrangements or terms granted to the Buyer. The Buyer shall reimburse the Company for the cost of collection, including, without limitation, reasonable attorney's fees, of any overdue amount owed by the Buyer to the Company. The Buyer may not hold back or set-off any amounts owed to the Company in satisfaction of any claims asserted by the Buyer against the Company or any affiliated company of the Company.

### 4. Taxes

The Price does not include any sales, use, revenue, excise, value added or other taxes or governmental charges, all of which are the Buyer's sole responsibility. Any tax or other governmental charge payable by the Company due to the sale, delivery or use of the Products, such as, but not limited to, sales tax, use tax, retailer's occupational tax, gross receipts tax, value added tax and transportation tax, may, at the Company's option, be added to the Price.

### 5. Title and Risk of Loss

#### A. Domestic Sales

The title and risk of loss for the Products shall pass from the Company to the Buyer when the Products are delivered at the agreed point of delivery.

**B. International Sales**

Unless otherwise agreed in writing in the Contract, the title and risk of loss for the Products shall pass from the Company to the Buyer in accordance with Incoterms 2020 on a CFR basis.

Notwithstanding any other provision of the Contract, the Buyer shall hold the Products on trust for the Company until the Company has received payment in full of the Price of the Products, the fees for any work done in relation to the Products, all costs and/or damages incurred by the Company as a result of or in connection with any breach of the Contract by the Buyer and all other sums payable by the Buyer to the Company under or in connection with the Contract. Until such time, the Company shall further be entitled in its sole discretion to direct that the title for the Products be transferred back to the Company.

**6. Insurance****A. Domestic Sales**

Unless otherwise agreed in writing in the Contract, the Company shall insure the Products up to the agreed point of delivery and thereafter it will be the sole responsibility of the Buyer to insure the Products.

**B. International Sales**

Unless otherwise agreed in writing in the Contract or indicated in any invoice issued by the Company, the Buyer and the Company respectively shall be responsible for insuring the Products in accordance with Incoterms 2020 on a CFR basis.

Any insurance policy taken out by the Buyer must cover all damage and loss to the Products up to the full insurable value of the Products.

Notwithstanding any other provision of the Contract, until the Company has received payment in full of the Price of the Products, the fees for any work done in relation to the Products, all costs and/or damages incurred by the Company as a result of or in connection with any breach of the Contract by the Buyer and all other sums payable by the Buyer to the Company under or in connection with the Contract, the Company shall be entitled to receive the proceeds of any insurance policy taken out by the Buyer up to the amount due to the Company.

**7. Cancellation or Delay**

Other than with the express written consent of the Company, the Buyer has no right to cancel any Order or to delay any delivery. If the Company allows the Buyer to cancel any Order or to delay a delivery, the Buyer shall pay the Company all costs incurred by the Company with respect to such cancellation or delay, including all restocking charges.

It is further understood and agreed between the Buyer and the Company that if the Order involves Products that have to be manufactured especially for the Buyer (custom made) and such Order is suspended or terminated for any reason, the Buyer shall take delivery of and make payment for all such Products as have been completed and all such

Products as are in the process of being manufactured as of the date notice of suspension or termination is received by the Company. If the Buyer for any reason cannot accept delivery of such custom made manufactured or partially manufactured Products, the Buyer shall make payment for such Products as though delivery has been made and the Company may in its sole discretion store such Products for the Buyer's account and at the Buyer's expense, or destroy or dispose of such Products at the Buyer's expense as it deems appropriate.

**8. Shipment and Delivery**

Unless expressly stated otherwise in the Order as accepted by the Company, time of delivery shall not be of the essence. The Buyer shall give the Company reasonable written notice of requested shipment and delivery dates. All shipment schedules and delivery dates or periods quoted by the Company are estimates only and the Company is not liable for any delay in shipment, transportation or delivery. Unless expressly stated otherwise in the Order as accepted by the Company, selection of carrier and routing of shipment shall be at the Company's option, but the Company will not, by exercising such option to select the carrier and routing, assume any liability in connection with the shipment, nor shall the carrier in any way be construed to be the agent of the Company. The Company may make partial deliveries or may discontinue deliveries of any Products at any time without notice. The Products shall be delivered on the terms as set out in the Contract, or on the basis of Incoterms 2020 in the case of international sales. Without the express written consent of the Company, the Buyer shall not be entitled to refuse to accept delivery and/or return any consignment of the Products delivered by the Company.

**9. Weights, Measurements and Quantities**

The Company's weights and/or measurements shall govern and be deemed to be accepted by the Buyer if the Buyer has not complained of any discrepancy in weight or measurement to the Company within seven (7) days of the Buyer taking delivery of the Products in accordance with Section 5 of these Terms and Conditions. On bulk marine vessel shipments, claims may not be made for shortages of less than 1.0% of the net weight. On bulk tank trucks, bulk tank cars or packaged shipments, claims may not be made for shortages of less than 0.5% of net weight.

While the Company will use reasonable endeavors to deliver the full quantities purchased by the Buyer in such consignments and intervals as agreed in the Contract, such deliveries will be subject to availability and the Company shall have no liability to the Buyer in the event that the actual deliveries differ from those set out in the Contract. Without prejudice to the generality of the foregoing, where delivery of the Products is to be made in bulk, the Company shall have the right to deliver up to five per cent (5%) more or five per cent (5%) less than the quantity ordered, and the quantity so delivered shall be deemed to be the quantity ordered.

## 10. Containers and Delivery Equipment

The Buyer shall unload and return all delivery equipment furnished by the Company to the carrier within forty-eight (48) hours after arrival of the Products. The Buyer shall be responsible for the cost of any damage to such delivery equipment and shall further be responsible for the costs of any demurrage or detention charges with respect to such equipment. If shipment and/or delivery requires the use of returnable containers, title to such containers shall remain vested in the Company at all times. Such containers shall be returned in good condition to the Company within sixty (60) days from the date of shipment of the Products. The Buyer shall be responsible for the cost of any damage to such containers and shall further be responsible for the costs of any demurrage or detention charges with respect to such containers.

## 11. Product Characteristics

The Buyer represents that it has the requisite expertise, facilities and equipment to properly store, test, use and dispose of the Products. The Buyer and all its employees and others that handle the Products shall familiarize itself with the characteristics of the Products and shall comply with all laws, regulations, and standards applicable to the possession, handling, processing or use of the Products. The Buyer shall follow any safety recommendations or product instructions given by the Company, save that, notwithstanding any such recommendations or product instructions given by the Company, the Buyer shall be solely responsible to ensure that the Products are stored, tested, used, sold and/or disposed of strictly in compliance with any applicable health, safety, environmental, land use or other guidelines, standards, laws and/or regulations.

## 12. Product Suitability

Determination of the suitability of the Products for the uses and applications contemplated by the Buyer and others shall be the sole responsibility of the Buyer. The Company makes no representations or warranties with respect to the suitability of the Products for any use for which the Buyer may intend them. Any suggestions or recommendations made by the Company concerning possible uses or applications of the Products are believed to be reliable, but the Company makes no warranty or guarantee as to the results to be obtained as the conditions of the use and application of the Products by the Buyer and others may vary and are beyond the Company's control.

## 13. Warranties and Disclaimers

There are no warranties, express or implied, made by the Company herein, except for the limited warranty against defects in materials set forth in the following paragraph.

The Company warrants that the Products shall meet the written specifications of the Contract or, where no such written specifications have been

stipulated in the Contract, the standard written specifications of the Company in effect as of the date of delivery.

This limited warranty is expressly in lieu of any other warranties, conditions or other terms, express or implied, including, without limitation, any implied warranty of quality, merchantability or fitness for a particular purpose. For the avoidance of doubt, all warranties, conditions and other terms implied by fact or law, including but not limited to terms implied by business efficacy, custom or usage, and including but not limited to terms regarding quality, merchantability or fitness for purpose, are to the fullest extent permitted by law specifically disclaimed and excluded from the Contract.

The Products subject to the Contract are not warranted as suitable for any purpose particular to the Buyer. The suitability of the Products for any purpose particular to the Buyer is for the Buyer, in the Buyer's sole judgment, to determine. The Company assumes no responsibility for the selection or furnishing of Products suitable to the individual needs and purposes of the Buyer.

No claim of any kind against the Company shall exceed the Price of the Products that has actually been paid to the Company under the Contract, provided further that the size of any claim shall be limited in amount to the Price of the particular Order of Products as accepted by the Company or the Price of the actual quantity of Products delivered for which the Buyer is making a claim, whichever is lower. The remedy hereby provided shall be the sole and exclusive remedy of the Buyer, and any right of the Buyer to loss of profits, business or goodwill, and/or for special, indirect, incidental, exemplary, punitive or consequential damages of any kind is hereby excluded. No charges or expenses incident to any claims will be allowed unless approved in writing by an authorized representative of the Company.

## 14. Liability Limitations

The Buyer assumes all risk and liability resulting from the use of the Products, whether alone or in combination with other materials.

The Buyer assumes responsibility to analyze the Products, and the Company shall have no liability if the Buyer uses Products that do not conform to the written specifications of the Contract or the standard written specifications of the Company in effect as of the date of delivery, whichever is applicable. The Buyer must give the Company written notice of any alleged failure of the Products to comply with the applicable specifications within seven (7) days of the Buyer taking delivery of the Products in accordance with Section 5 of these Terms and Conditions. The Company shall have a reasonable opportunity to inspect the Products at issue. For any Products that the Company determines do not conform to the specifications, the Buyer's sole and exclusive remedy shall be for the Company, at its sole discretion, to replace the non-conforming Products or refund the amount of the Price that the Buyer has already

actually paid to the Company for the non-conforming Products, and in no event shall the Company's liability for any claim exceed that amount. Claims related to non-conforming Products shall be notified in writing by the Buyer to the Company within thirty (30) days after discovery thereof. All other claims shall be notified in writing by the Buyer to the Company within thirty (30) days after receipt of the Products to which the claim relates, or if for non-delivery, after the scheduled delivery date. The Buyer's failure to give the Company written notice of any claim within the applicable time period shall constitute an absolute and unconditional waiver of such claim. Without prejudice to the foregoing, the Buyer shall be absolutely barred from commencing any action or proceeding against the Company later than 90 days after the cause of action has accrued.

#### **15. Indemnity**

The Buyer represents that it is familiar with the characteristics of the Products and assumes all responsibility and liability for, and will indemnify and hold the Company harmless from and against, any and all loss or injury to persons or property arising out of or in connection with the handling, use or possession of the Products delivered to it. The Buyer shall further defend, indemnify and hold the Company and its employees free and harmless from and against any and all claims, liabilities, judgments, losses, damage to property or bodily injury, economic losses or expenses (including reasonable attorney's fees) arising out of or in connection with the Contract, including without limitation (a) any breach of the Contract by the Buyer, (b) the performance or fulfillment of the Contract by the Company, (c) the Buyer's use of the Products, (d) any processing or modification of the Products in any manner by the Buyer, its employees, agents or customers, (e) any violation of law or regulation by the Buyer, its employees or agents in their use, sales, distribution or handling of the Products, and (f) any violation or infringement of any patent, trademark, copyright, trade secret or other property interest of a third party. At the Company's request, the Buyer shall defend the Company, at the Buyer's expense, against any such claims made against the Company.

#### **16. Force Majeure**

The Company shall not be liable for any failure to deliver or delay in the performance of the Contract or in the delivery or shipment of the Products, or for any loss or damages suffered by Buyer by reason of such failure to deliver or delay, if such failure to deliver or delay is directly or indirectly caused by or in any manner arises from events and causes beyond the Company's reasonable control, including but not limited to accidents, acts of God, acts and omissions of any governmental authority, declared or undeclared wars, terrorism, explosions, pandemics, strikes or other labor disputes, fires and natural calamities (including floods, earthquakes, storms and epidemics), changes in the law, delays in obtaining (or the inability to obtain) labor, materials, services, fuel, power, materials or supplies through the Company's usual sources at normal prices, riots, embargoes,

delay or default of common carriers, transportation delays, or without limiting the foregoing, any other cause or causes, whether or not similar in nature to any of those herein before specified, which are beyond the Company's reasonable control. The Company shall have the additional right, in the event of the happening of any of the above contingencies, at its sole option, to cancel any Order or any part thereof without any resulting liability or to extend the date of delivery for a period equal to the time actually lost by reason of the delay. Further, in the event that the Company is not able to produce enough Products to satisfy all outstanding Orders (as accepted by the Company) for any reason, the Company shall have the right, in its sole discretion, to allocate its Products amongst its customers including the Buyer.

#### **17. Waiver**

No waiver or amendment of any provision of the Contract shall be valid or binding on the Company unless the waiver or amendment is made in writing and signed by an authorized representative of the Company. No waiver by the Company of any breach by the Buyer of the Contract (including without limitation any of the Terms or Conditions contained herein) shall be construed as a waiver of any succeeding breach of the same or any other term of the Contract. Failure or delay by the Company to enforce any of its rights under the Contract shall not be taken as or deemed to be a waiver of such right. Nothing contained herein shall limit the remedies of the Company in the event of the Buyer's breach of the Contract.

#### **18. Assignment**

The Buyer shall not assign to any person or entity all or a portion of its rights or obligations under the Contract without the prior written consent of the Company, and any attempted assignment without such consent shall be void. The Company may assign its rights under the Contract without the consent of the Buyer in the event that the Company shall effect a reorganization, consolidate with or merge into any other corporation, partnership, organization or other entity, or transfer all or substantially all of its properties or assets to any other corporation, partnership, organization or other entity. In any other circumstances, the Company, with intimation to the Buyer, may transfer its rights under and subject to the terms of Contract.

#### **19. Severability**

If any provision of the Contract is held by a competent authority to be invalid or unenforceable, the validity of the other provisions of the Contract shall not be affected.

#### **20. Notices and Communication**

Any notice or other communication that either party gives under the Contract shall be made in writing and given either by hand, first class recorded postal delivery, facsimile transmission or electronic mail to a previously designated authorized individual. For the

purposes of this provision, any employee or agent of the Buyer who has placed an Order shall be deemed to be an authorized individual of the Buyer.

#### **21. Conflicting provisions**

In the event of any conflicting or inconsistent provisions between (1) the sale agreement (if any), (2) these Terms and Conditions, (3) the Order (as accepted by the Company), and (4) any other applicable document(s) or correspondence (including for the avoidance of doubt any other specific terms and conditions referred to in the sale agreement (if any) or any other document), the provisions of (1) the sale agreement (if any), (2) these Terms and Conditions, (3) the Order (as accepted by the Company), and (4) such other applicable document(s) or correspondence shall prevail respectively and take precedence with respect to any such conflicting or inconsistent provisions.

The English language version of the Contract (including without limitation these Terms and Conditions) shall be controlling in all respects and shall prevail in the event of any conflicts or inconsistencies with translated versions, if any.

#### **22. Status of the Buyer**

Nothing in the Contract shall create or be construed as creating a partnership, joint venture, a contract of employment or relationship of employer and employee, or a relationship of principal and agent between the Buyer and the Company.

#### **23. Confidentiality**

The Buyer undertakes to keep in strict confidence all information obtained from the Company and shall not use any such information for any purpose other than the purposes intended in the Contract. The Buyer shall protect the confidentiality of all such information with the same degree of care it uses to protect its own confidential information, but in no event shall the Buyer use less than a reasonable standard of care. For the avoidance of doubt, the Price of the Products shall be deemed to be confidential information for the purposes of this Section 23.

The Buyer agrees that it would be difficult to measure any damages caused to the Company which might result from any actual or threatened breach by the Buyer of the promises set forth in this Section 23, and that in any event money damages would be an inadequate remedy for any such breach. Accordingly, the Buyer agrees that the Company shall be entitled, in addition to all other remedies that it may have, to an injunction or other appropriate equitable relief to restrain any actual or threatened breach by the Buyer of the promises set forth in this Section 23, without the necessity of proving actual damages and without the posting of any bond. The Buyer further agrees that, in such event, the Buyer shall reimburse the Company its attorney's fees and costs on an indemnity basis.

#### **24. Governing Law**

The Contract shall be governed by and construed in accordance with the laws of Nigeria, without regards to its conflicts of law provisions. For the avoidance of doubt, the application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded.

Any dispute arising out of or in connection with this Contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration in Singapore in accordance with the Arbitration Rules of the Singapore International Arbitration Centre for the time being in force, which rules are deemed to be incorporated by reference in this clause. The Tribunal shall consist of one (1) arbitrator. The language of the arbitration shall be English.

Nothing in the Contract shall or shall be construed so as to limit the right of the Company to take proceedings against the Buyer in the courts of any country in which the Buyer has assets or in any other court of competent jurisdiction, nor shall the taking of proceedings by the Company in any one or more jurisdictions preclude the taking of proceedings by the Company in any other jurisdiction (whether concurrently or not) if and to the extent permitted by applicable law.