

## General Conditions of Sale

1. These General Conditions of Sale shall apply to all purchases of goods by the Buyer from the Seller and may be modified only with the prior written agreement of the Seller. **Buyer/Buyers** shall mean the party approved by the Seller as stated in the order form. **Seller/Sellers** shall mean Overseal Natural Ingredients Limited or the affiliate company. **Goods** shall mean any finished good, raw or packaging material described in the Purchase Order Form approved by the Seller.

**2.1** These General Conditions of Sale, the Sellers Product Specification together with any Special Conditions endorsed by the Seller and appended to the confirmation of Sale shall constitute the entire agreement between the Seller and the Buyer as to the contract of sale and shall override any representation, warranty or other statement to the contrary and any other terms and conditions of whatsoever kind and howsoever formulated, whether written or oral, expressed or implied. Any general or special terms and conditions of purchase proposed by Buyer shall not become binding on Seller unless expressly accepted in writing by the Seller and included in the special conditions. No waiver or indulgence by the Seller shall prejudice them in the full exercise of their rights and remedies under this contract. **2.2** In the event of any conflict between any General and Special Conditions, the Special Conditions shall prevail. **2.3** Buyer may not assign any of their rights or obligations under this contract without prior written agreement of the Seller. **2.4** This contract is made subject to the granting of all necessary export licenses to Seller and or their suppliers. **2.5** If any new Export, Customs and/Excise duty or levy shall be imposed on any of the Goods or if the rate of any existing duty or levy on any of the goods shall be increased and should such duty or levy be payable under this contract by Seller, or if by reason of import embargo or restriction or curtailment of governmental or EEC subsidies, Seller is obliged to pay an increased price for the supply of goods after taking into account, such embargo restriction or curtailment, Seller shall be entitled to increase the contract price by such amount as necessary to compensate them for such imposition or increase. **2.6** The contract price is based on freight rates and any surcharges ruling at the date of the contract. Any new charges payable at the time of importation or any increase in an existing surcharge shall be for Buyers' account. **2.7** Any war piracy and/or strike risk premium in excess of 0.5% on the transport of the goods from the country of origin to the place of delivery shall be for Buyers' account. The rate of such increase shall not exceed the rate ruling in London at time of shipment or date of vessel's sailing, whichever may be adopted by underwriters.

**3(1)** Unless otherwise expressly agreed in the Special Conditions, Sellers shall have the option to deliver up to 10% more or less than the contractual quantity or weight of the Goods. **3(2)** Sellers give no warranty that the Goods will be fit for any specific purpose or use. **3(3)** The goods are not warranted free from defect rendering same unmerchantable, which would not be apparent on reasonable examination, any statute or rule of law to the contrary notwithstanding. **3(4)** Any claims by the Buyers regarding specification, analysis, condition, quality, or otherwise in relation to the Goods shall be notified to the Sellers within three working days after discovery thereof (or in the case of perishable goods within xxx hours of discovery.) and in any event within 10 days after receipt by the Buyer. Failing such notification, all claims against Seller in relation to the Goods of whatsoever kind and howsoever arising shall be waived and absolutely barred. **3(5)** In the event of any such notification, Sellers shall be entitled to arrange for the Goods to be inspected as soon as reasonably practicable. Any handling of, or interference or dealing with, the Goods whatsoever or howsoever by Buyers prior to such inspection shall automatically be deemed to be unconditional acceptance of the Goods. **3(6)** In the event of it being proved and certified by an independent Analyst appointed by the Seller that the Goods were not in conformity with the requirements of this contract, Sellers liability shall be limited, at Sellers option to the delivery of replacement material provided that the Buyer shall where possible to have first redelivered the Goods to the Seller or to the granting of an appropriate credit or allowance against the contract price. Any other rights or claims of the Buyer and in particular but without limitation any right to claim indirect or consequential damages including loss of profit and any claims from Buyers sub-buyers (including any claim made for an indemnity made by Buyers hereto) are expressly excluded. **3(7)** It is the Buyers' responsibility at and from the time of delivery to him to ensure that the Goods are in all respects properly marked and packaged, and Sellers will not be liable in respect of improper marking, packaging, loading, stowage, or other preparation for transport. **3(8)** Save where a contrary intention is expressed in the Special Conditions, weight

condition and quality shall be final upon shipment/dispatch according to the certificate of the Sellers or their suppliers. The provision of such certificate shall not relieve the Buyer from any consequences of their failure, where a reasonable opportunity has been afforded them, to check the goods and ensure their suitability for the purpose for which they are intended and/or whether the Goods are satisfactory. **3(9)** The Buyer shall arrange with a reputable firm of insurers all such insurance's as would be usual and prudent to cover any liabilities that may arise under or in connections with the Goods. The limit of the indemnity should be at least £5,000,000 or such amount as specified by the Seller and should include pure financial loss. If requested the Buyer shall provide the Seller evidence of any such insurance.

**4(1)** If the Goods are to be delivered by instalment, each instalment shall be considered a separate contract and subject to Sellers rights under (3) below, any failure in respect of delivery, quantity, condition or specification of any one instalment shall not affect the contract as to other instalments to be delivered. **4(2)** Delivery under these General Conditions of Sale shall be subject to, and Seller shall be in no way liable for, any loss or damage of any kind caused by or resulting from inability to deliver or delay in delivery arising from any circumstances beyond their reasonable control including in particular, but without limitation: war whether declared or not; warlike hostilities or armed conflict whether internal or international; insurrection; riot; civil commotion; rebellion; crop failure; flood; storm; tidal wave; earthquake; fire; ice; lightning; or any natural phenomenon or Act of God; explosion; strike; lockout; labour dispute; embargo; blockade; breakdown or prevention of machinery; unavailability, loss, delay, detention or interruption of a carrying vessel or any similar means of transportation; delay or mishap in, loading or discharging material; requirements or regulations any governmental or quasi governmental or other public or statutory authority or any state, city, municipal or local authority; prohibition of export or import; non availability of export or import licence; cancellation or suspension or other non performance, except if caused by Sellers unjustifiable act or omission of any contract on which Seller depends for fulfilment of this contract; accident or any other similar or dissimilar circumstance including any circumstance affecting, or affecting the availability of, any raw material required for the production of the Goods whatsoever, wheresoever, howsoever preventing or hindering delivery of the Goods. **4(3)** In the event of the Sellers' inability to effect delivery by reason of any of the above mentioned circumstances, Sellers' shall be at liberty by notice in writing to Buyer to postpone delivery, or at the Sellers' sole option, to terminate the this contract in whole or as to any unfulfilled part thereof, in which event Sellers' liability shall absolutely cease and determine. Any delivery thus postponed shall, if Seller so require, be accepted by Buyer at the same rate of delivery and upon the same terms and conditions as are specified in this contract as are specified in this contract, such resumption of delivery to commence within a reasonable time after the service of notice in writing by Seller to Buyer. **4(4)** If by reason of any of the above-mentioned circumstances, Sellers do not have or are unable to obtain sufficient available supplies of the Goods to enable them to fulfil all their contracts, Seller may allocate their available supplies against any or all purchasers on such basis as the Seller deems fair and practical, without any liability for failure to comply with the provisions of this contract. **4(5)** Any duly authenticated certificate provided by Seller to the Buyer which is issued by any recognised Chamber of Commerce, trade association, government or other body with knowledge of the relevant facts in any country in which the above mentioned circumstances occurred shall be accepted by Buyer as conclusive proof of the occurrence and duration of such circumstances.

**5(1)** The Goods shall remain the sole and absolute property of the Seller as legal and equitable owner until such time as the Buyer shall have paid in full to the Seller the price in respect thereof. The Buyer agrees that until such time as the property in the Goods shall pass to them as aforesaid (i) they agree that they are only in possession of the Goods solely as fiduciary and bailee for the Seller: (ii) they will store the same in a manner which makes them readily identifiable as the Goods of the Seller: and (iii) the Seller may recover or resell the Goods or any part thereof and for this purpose may at all reasonable times enter upon the premises where they are stored or where they are reasonably thought to be stored and the Buyer shall allow or procure that access for the Seller. **5(2)** The Buyer is licensed by the Seller in his capacity as fiduciary to resell the Goods by way of bona fide sale at full market value before the Seller has received payment

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in full in respect thereof subject to the expression conditions that (i) the price of the Goods shall become immediately payable to the Seller upon resale by the Buyer notwithstanding any period of credit agreed in this contract; (ii) the entire proceeds are held in trust for the Seller and shall not be mixed with any other funds or paid into an overdrawn account but are paid into a separate bank account and shall be at all times identifiable as the Sellers' monies and it is agreed that if the Buyer shall be in breach of this provision the Seller shall be entitled to trace the proceeds of sale into the Buyers' Bank account or otherwise.

**5(3)** Without prejudice to the generality of clauses 5(1) and 5(2), the Buyers' right to possession of the Goods and to resell the Goods shall cease if payment in respect thereof is overdue or if the Buyer becomes insolvent or being an individual commits any act of bankruptcy or, being a company, pass a resolution for winding up, suffer the appointment of a receiver or administrator or make any arrangement with or compound with its creditors. **5(4)** If the Goods are admixed with goods the property of the Buyer or are processed with or incorporated therein such that it is not possible to extract or remove the Goods from the resulting product of such admixture, process or incorporation, the said resulting product shall become and/or shall be deemed to be the sole and exclusive property of the Seller. If the Goods are admixed with goods the property of any person other than the Buyer the said resulting product shall become or be deemed to be owned in common with that other person. **5(5)** If the Seller repossesses the Goods under Clause 5(1) or 5(3), including any admixed goods as referred to in Clause 5(4), and resell the same, it shall account to the Buyer or any relevant third party for any proceeds of sale in excess of the aggregate of the amounts owned by the Buyer to the Seller under this contract or any other contract or otherwise which aggregate shall include the costs incurred in repossessing and reselling the Goods including legal costs, incurred in connection therewith.

**6 (1)** Seller may, upon the request and on behalf of Buyer and at the expense of the Buyer, make packaging, shipping, transport, discharging, unloading, storing, insurance, and/or other arrangements in respect of all or any of the Goods, provided always that any such arrangements are made at the entire risk and responsibility of Buyer, without any liability on the part of Seller, and without prejudice to the Sellers' rights under this contract. **6(2)** Notwithstanding any provision of law or regulation to the contrary it shall be the responsibility of the Buyer to dispose of all packaging materials of all descriptions in accordance with the provisions of all laws and regulations of the place at which the goods are delivered to the Buyer and the Buyer shall hold harmless and indemnify the Seller against any liability which may arise from their failure or refusal to effect such disposal.

**7(1)** Buyer shall effect payment strictly in accordance with the payment terms set forth in the Purchase Order Form and or Special Conditions and shall not be entitled in any way to withhold, retain or exercise any right of set-off whatsoever or howsoever in respect of the contract price or any part thereof. **7 (2)** In the event of failure by the Buyer to pay any sum due on the due date for payment thereof, Buyer shall become liable to pay Seller, in addition to such unpaid sum, interest thereon from the due date of payment until the actual date of payment, calculated on a day by day basis as well after before judgement, at a rate equivalent to four per cent per annum above National Westminster Bank PLC's Base Lending Rate from time to time in force for the currency of the contract. **7 (3)** If the Buyer shall fail to make payment on the due date of any amount due from them to the Seller whether such amount be due pursuant to this contract or in respect of any other dealing between Seller and Buyer, or if the Buyer, being constituted in England and Wales, shall become insolvent or commit any act of bankruptcy or have an administrative receiver appointed over all or any of their assets or suffer an administration order to be made against them or take or suffer any action preparatory to winding up including, but without limitation the presentation of a winding up petition, the passing of a resolution for voluntary winding-up or the convening of meeting of creditors or if Buyer, being constituted in any other country, take or suffer any corresponding action in any such other country, Seller may at their option exercise any or all of the following remedies without prejudice to any other remedies they may have (i) require payment in cash to discharge any existing liability and to cover before delivery all further material to be delivered under this contract: and/or (ii) terminate this contract in which event the Seller will be entitled to sell the Goods to any third party and to claim from the Buyer the difference between the price realised and

the contract price and Seller may by their representatives enter upon Buyer premises for any purposes in connection with such sale and in particular but without limitation, to retake possession of all or any the Goods: and/or (iii) apply any sum owing by Seller to Buyer in or towards satisfaction of all or any of Buyers' obligation to Seller, whether actual or contingent. **7(4) In default of fulfilment of this contract by the Buyer, the Seller at their discretion shall have the right either to cancel the contract or to sell against the Buyer who shall on demand make good the loss, if any of such sale.**

**8** Seller shall in no way be liable for: (i) labour costs or other expenditure in and about the processing of the Goods or any consequential loss or damage whatsoever including but without prejudice to the generality of the forgoing any claims which shall be made against the Buyer by any third party to whom the Goods shall be resold by the Buyer or by whom the Goods may otherwise be handled, processed or used. (ii) alleged loss of profit.

**9.** Whether or not Buyer shall confirm in writing their acceptance of Sellers' General and Special Conditions, the Buyers' conduct in performance, part performance, or purported performance of this contract shall constitute their unconditional acceptance of the Sellers' General and Special Conditions for this and future business.

**10.** No failure of delay by the Buyer or Seller in exercising any right or privilege shall operate as a waiver nor shall single or partial exercise by the Buyer or Seller preclude any subsequent exercise in law or equity or otherwise.

**11.** The Buyer shall not issue any form of media release or communication announcing this Agreement or otherwise communicate with the media in any way concerning this Agreement or any aspect of it unless otherwise they have the prior written agreement of the Seller.

**12.** Nothing contained in this Agreement shall be interpreted as constituting a partnership or joint venture between the Buyer and the Seller and neither shall have the authority to bind the other in any manner whatsoever unless expressly provided in this Agreement.

**13.** All confidential information of whatsoever nature supplied by the Seller to the Buyer or prepared by the Buyer in connection with the Buyer's performance of the Order shall be used by the Supplier only for the performance of the Order and may be disclosed to a third party only with the Seller's prior written agreement and only after obtaining a written confidentiality undertaking from the intended receiving third party. In addition the Buyer and Seller agree to keep the existence, the nature, and the terms of the Order confidential during their relationship and thereafter

**14.** This Agreement sets out the entire understanding between the Seller and the Buyer in relation to the sale of the Goods and replaces and supersedes all previous agreements and understanding between the Buyer and the Seller. No representations made by or on behalf of the Seller in relation to the Goods shall form part of this Agreement unless expressly stated herein, provided that nothing in this Agreement shall be deemed to exclude or restrict the Sellers' liability to the Buyer for fraudulent misrepresentations and or to exclude or limit the Sellers liability for death or personal injury caused by negligence

**15.** The Order shall not include the transfer of any and all Intellectual Property Rights to the Goods (which shall mean all intangible property rights such as confidential and proprietary formulas, technical know-how, processing technology, trade secrets, and other confidential data and information of a non-technical nature, as well as copyrights and rights in the nature of copyright, database rights, design rights, model rights, patents, trademarks and domain names, whether registered or not, and any pending applications) of to the Buyer save that the Seller shall grant a limited license for the sole purpose of enabling the Buyer to use the Goods as intended pursuant to the Order.

**16.** Notices or other communications may be in writing and delivered personally or sent by pre paid first class post or facsimile addressed to the intended recipient at such address or facsimile number as either party may notify to the other in writing from time to time. Any notice or communication shall be served immediately if delivered personally or sent by facsimile (proven by good transmission report) or two business days after posting (seven days if to or from

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outside the United Kingdom and sent by registered express post). The Seller may serve and date notice in an electronic form such as email subject to providing written confirmation as detailed in this clause.

**17.** No alteration or modification of any of the terms of this Agreement shall be binding unless in writing signed by the Seller and the Buyer.

**18** Except as expressly stated otherwise, nothing in this Agreement is intended to confer any rights on third parties which are enforceable against either or both the Buyer or Seller and the effect of any legislation which may grant such rights to third parties is excluded in respect of the terms of this Agreement.

**19.** If any provision of this Agreement shall be determined by any court or other tribunal of competent jurisdiction to be void or unenforceable all other provisions of this Agreement shall nevertheless continue in full force and effect.

**20.** This Agreement shall be read and construed in accordance with the laws of England and Wales and be subject to the exclusive jurisdiction of the English Courts. Both parties waive any objections on the grounds of venue or forum non conveniens or any similar ground. Translation of the Agreement into any language other than English shall only be for the convenience of the parties, and in all cases interpretation of this Agreement shall be controlled by the English text. In the event of any dispute in the first instance the Seller and Buyer shall in good faith attempt to mutually resolve the dispute. In the event no resolution can be reached within five working days from the date of first notice of the dispute either party shall have the right to invoke legal proceedings in accordance with this clause without further recourse to the other.