

**LIANCO LIMITED**  
**GENERAL TERMS CONDITIONS OF SALE AND SUPPLY OF SERVICES**

**1. Preliminary**

(a) Lianco Limited ("the Company") contracts with its customers ("the Customer") subject to and upon the following terms and conditions which shall exclusively govern the sale of all the Company's goods ("Goods") and the provision of any services ("Services") notwithstanding any terms or conditions, whether oral or written, or purported variations contained on any order or other correspondence submitted by the Customer to the Company save to the extent that such variation is expressly agreed and accepted in writing by a duly authorised officer of the Company. All Customer orders are subject to acceptance by the Company and the Company reserves the right to sub contract in fulfillment of the order or any part thereof. Save as hereinbefore provided no officer, employee or agent of the Company has authority to vary, add to or depart from the terms and conditions hereof or make any representations in relation to the Goods sold hereunder or any services provided in connection therewith or the contract made herein.

(b) All contracts for the sale of goods by the Company incorporate these conditions. Any term or condition in the Customer's order which is inconsistent with these conditions shall be of no effect.

**2. Statutory Rights**

The provisions of these General Conditions of Sale shall not prejudice such statutory rights (if any) as may, notwithstanding these Conditions of Sale, be guaranteed to the Customer by virtue of the Sale of Goods Act 1893, as amended by the Sale of Goods and Supply of Services Act 1980, save (if the Customer is not dealing as a consumer or in the case of an international sale of goods) to such extent as it may be lawful to exclude same in relation to any particular sale.

**3. Delivery and Risk**

(a) The Company shall endeavour to keep to any stated despatch, delivery, installation or completion date but the Company shall not be liable for any loss, damage or expense resulting from any delay in same whether such delay is caused by circumstances over which the Company has control or otherwise.

(b) Dates or periods for delivery are approximate and are given for information only and shall under no circumstances be essential terms. A delay in delivery including delivery later than the date or dates provided in the contract documents shall not constitute a breach of contract and shall not entitle the Customer to avoid the contract or to any other remedy unless the Company has guaranteed the date of delivery in a written warranty which expressly modifies the provisions of this condition

(c) Each part delivery or installment of the Goods shall be deemed to be sold under a separate contract and no default by the Company in respect of any part delivery or installment shall entitle the Customer to treat the contract as repudiated in regard to any balance or installment remaining deliverable.

(d) Unless otherwise agreed in writing the following shall constitute "a delivery" of the Goods to the Customer

(i) Where the Goods to be supplied are on the premises of the Company, upon the Goods leaving the premises of the Company irrespective of whether or not the actual transportation or cost of same is being provided by the Company or the Customer.

(e) Upon the delivery of the Goods to the Customer within the meaning of the preceding paragraph all risks whether insurable or not relating to the Goods shall pass to the Customer notwithstanding the provisions of Clause 5 (Reservation of Title) hereof. Notwithstanding the foregoing, where the Customer requests delivery of Goods to take place on a date specified by him and is subsequently unable or unwilling to accept delivery of the Goods by the Company on that date then all risks whether insurable or not relating to the Goods shall pass to the Customer on that date, notwithstanding the provisions of clause 5 hereof and payment for those Goods together with VAT shall be made by the Customer on that date. In addition, the Company may, at its discretion, charge the Customer in respect of storage of Goods pending acceptance of delivery by the Customer in such circumstances, such charge being payable by the customer in accordance with Clause 4.

**4. Prices and Specifications**

(a) The Company reserves the right to alter its prices as well as the specifications, composition or ingredients of the Goods at any time where notice has been sent to the Customer in writing notifying the Customer of same. The entering of an order and its acknowledgment by the Company shall not be construed as its acceptance at any particular price.

(b) Goods are supplied subject to the following terms:-

(i) Such taxes or assessments as may be in force from time to time in respect of the Goods so that such taxes and/or assessments shall be for the Customer's account from the date on which the Goods are delivered, notwithstanding that the title to the Goods remains vested in the Company as provided in Clause 5 ("Reservation of Title") hereof;

(ii) Prices, conditions and interest charges ruling at the date of invoice;

(iii) Availability of Goods, ingredients, or raw materials;

(c) Payment for all Goods and/or Services together with VAT at the appropriate rate shall be made in cash by the Customer to the Company upon delivery of the Goods or the delivery date requested by the Customer, whichever is the earlier, or upon completion of provision of the Services. Such payment shall be made in Irish pounds or in such other currency as may be specified by the Company prior to contract. The Customer shall pay interest from the date of delivery on any outstanding balances due in respect of Goods supplied by the Company at such rates as may be fixed by the Company from time to time, currently 5% above the base rate of Bank of Ireland. Such interest shall be calculated and charged on a day to day basis on all outstanding balances until payment in full has been received in respect of the invoice(s) in question. The Customer may apply to the Company's registered office for details of the rates of interest currently chargeable on overdue accounts. The Company reserves the right at any time in its absolute discretion to vary any payment terms and conditions agreed with the Customer and to withhold the supply of Goods or provision of Services in the event of non-compliance by the Customer with such terms and conditions.

**5. Reservation of Title**

(a) The property and title in all goods supplied by the Company to the Customer whether arising out of this or any other contract (hereinafter referred to as "the Goods") shall notwithstanding delivery and passing of risk remain in the Company until the entire of the purchase price in respect of such Goods and all other sums on any account due by the Customer to the Company have been paid in full.

(b) For so long as the title and property in Goods remains in the Company the Customer shall store the Goods safely in suitable storage and so as to clearly show them to be the property of the Company and clearly identifiable as the Company's property with all identifying marks intact and legible. The Customer shall insure the Goods from the date of delivery at its own expense for their full replacement value against all risks, and any monies received by the Buyer, on foot of any insurance policy in respect of damage, deterioration, loss or destruction of the Goods shall be held in trust for the Company.

(c) Notwithstanding the foregoing, whilst the title and property in the Goods remain in the Company and provided no notice in writing to the contrary has been served by the Company on the Customer, the Customer may deal with the Goods in the ordinary course of business including selling or otherwise disposing of same provided that:

(i) The Customer shall not be entitled to pledge or create any lien, charge or other encumbrance whatsoever on the Goods;

(ii) If the Customer shall sell or otherwise dispose of the Goods for a cash consideration the Customer shall ensure that at all times it holds a sum equal to the monies owing to the Company in trust for the Company and undertakes to place any such monies received in a separate bank account and upon request shall provide details of such monies and such accounts to the Company; and

(iii) If the Customer shall sell or otherwise dispose of the goods for a non cash consideration the Customer shall ensure that at all times it holds such of the said non cash consideration as equals the value of the monies due by the Customer to the Company in trust for the Company and undertakes to store such non cash consideration so that it is clearly identifiable and shall insure same and shall provide details of such consideration on request by the Company.

Provided always that the total value of the monies held in trust pursuant to sub paragraph (ii) above and of the non cash consideration held in trust pursuant to sub paragraph (iii) above shall not exceed the monies owing by the Customer to the Company at any one time.

(d) In the event of the Customer mixing the Goods (the title and property in which remain with the Company) with other Goods then provided the Goods supplied by the Company remain an identifiable and separate constituent of such mixed goods the title and property in the Goods supplied by the Company shall notwithstanding such mixing remain in the Company with the consequent obligations on the Customer under this clause 5(c) in relation to the portion of any proceeds of sale of the mixed goods referable to the identifiable and separate constituent Goods supplied by the Company the title and property in which remain with the Company.

(e) The Company may without prejudice to the foregoing and as part of the consideration for the sale of the Goods require the Customer to assign any claim to any party nominated by the Company which the Customer may have against any third party who may have purchased the Goods whether in respect of the proceeds of sale or otherwise.

(f) The provisions of this clause shall not entitle the Customer either to refuse or delay payment or to require the Company to accept the return of the Goods on the ground that the title and property in the Goods remains in the Company as aforesaid.

(g) The Customer's power of use and/or sale of the Goods shall terminate:-

(i) Forthwith on notice from the Company, if the Customer is in default of any of its obligations under this or any other contract with the Company, or if the Company has reasonable doubt as to the ability or willingness of the Customer to pay any sum due to the Company on the due date;

(ii) Automatically upon the occurrence of any of the following:-

(a) if the Customer calls a meeting or makes any arrangement or composition with its creditors; or

(b) if the Customer commits an act of bankruptcy (within the meaning of section 7 of the Bankruptcy Act, 1988) or being a Company, appears unable to pay its debts (within the meaning of Section 213 of the Companies Act, 1963); or

(c) if there is presented a petition for the winding up of the Customer or for the appointment of an Examiner to it or to a Related Company (within the meaning of the Companies (Amendment) Act 1990); or

(d) if the Customer has a Receiver, Receiver and Manager or an Examiner appointed to it or undertaking or a winding up order made against it or it goes into voluntary liquidation (otherwise than for the purpose of a bona fide reconstruction or amalgamation of a solvent company).

(iii) Upon suspension and revocation or determination of the Customer's power of sale and use under this Condition the Customer shall place all the Goods in its possession or under its control at the Company's disposal and shall be deemed irrevocably to authorise the Company to enter upon any of the Customer's premises, with or without vehicles, for the purpose of removing such goods. The Company shall not be liable for any loss or damage howsoever arising (including loss of data incurred as a result of the removal of such Goods, including the removal of equipment which has been integrated into or connected to the Customer's computer system. Storage of such data shall not prevent removal of Goods).

(h) The Company may, at any time on giving prior notice, enter the Customer's premises for the purpose of inspecting the Goods and identifying them as the Company's property and the Customer

irrevocably authorises the Company to enter upon its premises for that purpose.

#### 6. Safety Instructions

The Customer undertakes with the Company that it will ensure compliance so far as is reasonably practicable by its employees, agents, licensees and customers with any instructions given by the Company for the manufacture for the purpose of ensuring that the goods will be safe and without risk to health when properly used and will take any other steps or precautions, having regard to the nature of the goods, as are necessary to preserve the health and safety of persons handling, using or disposing of them.

#### 7. Services

Installation and Commissioning Services rendered by or on behalf of the Company will be performed on the Customer's premises unless in the opinion of the Company the work must be performed in one of its service workshops. The Customer agrees to give the Company's representatives full and free access to the Goods or to the equipment in question (in either case "the Equipment") and to comply with all reasonable requests of the Company and its representatives in the testing of the Equipment and the Customer's system where the Equipment is connected to other devices or equipment.

8. The Services to be provided are limited to those referred to in clause 7 and shall not be added to or extended unless the Company agrees to any such addition or extension in writing to carry out services not so described, and the Customer pays on request the extra fee required by the Company for such additional services and in any case any addition or extension shall be subject to the terms and Conditions of Sale and Supply of Services.

9. The Company shall not be liable in respect of any failure on its part to provide the Services due to causes beyond its control.

10. The Company reserves the right to charge additional fees in each of the following circumstances (in each case being such additional fee as is reasonable having regard to the extra cost of the Company of performing the contract):

(i) Where increased expenditure is incurred by the Company in the performance of the service due to factors beyond its control including alteration of tax legislation, or rate, provided reasonable notice if practicable is given by the Company of its intention to charge additional fees.

(ii) Where the salaries of the Company's Technical Staff are increased, provided one months notice is given by the Company of its intention to charge additional fees.

(iii) Where services provided outside the Republic of Ireland will be at an additional charge except where any such service is agreed and specifically included in the offer made to the Customer.

#### 11. Claims

(a) The Customer shall inspect the Goods immediately upon delivery thereof. As a condition precedent to recovery for total or partial loss of or defects or shortages in or damage to any Goods or Services supplied hereunder every claim for same must be made in writing by the Customer by prepaid ordinary post to the Company Secretary within seven days after the receipt of such Goods or Services by or on behalf of the Customer and the Customer must also preserve whatever rights of action he may have against third parties in respect of such loss, defects, shortages or damage to the Goods. In addition, the Customer must afford the Company the opportunity to inspect the Goods or workmanship if so requested by the Company for the purpose of assessing such a claim.

(b) The Customer shall not be entitled to withhold payment of any amount payable under the contract to the Customer because of any disputed claim of the Company in respect of defective goods or any other alleged breach of the contract, nor shall the Customer be entitled to set off against any amount payable under the contract to the Company any monies which are not then presently payable by the Company or for which the Company disputes liability.

(c) The Customer shall satisfy itself that the goods are suitable for any product or application for which they are to be used before the goods are incorporated into such product or application.

#### 12. Warranty and Limitations

(a) Subject to the provisions of these conditions goods supplied by the Company will comply with specification and standard, if any, agreed in writing between the Company and the Customer for the purpose of the Contract which the goods are expressly described as complying with

(b) Unless the parties have expressly agreed in writing to modify this condition then, notwithstanding the provisions of this clause 12(a) the following shall apply:

(i) Other than Section 12 of the Sale of Goods Act, 1893 (as amended), all warranties, conditions and representations, express or implied, statutory or otherwise, in relation to the quality or fitness for any particular purpose of the Goods are hereby excluded. All implied conditions and warranties other than those arising under section 12 of the Sale of Goods Act 1893 (as amended) are hereby excluded in relation to any Goods supplied by, but not manufactured by the Company, but the Company will endeavour to assist the Customer in obtaining from the Supplier of any Goods supplied to the Company from time to time such warranty as the supplier has given or may be prepared to give to the Company in respect of such Goods. The Company shall not be liable to the Customer for the observance of the terms of such Warranty.

(ii) The Customer hereby acknowledges that he has not been induced to enter into this contract by any representation as to the quality or fitness for any purpose or any representation or warranty as to performance or other attributes of the Goods. The description of the Goods given by the Company has been given by way of identification only and such description shall not constitute or be deemed to constitute in this contract a sale by description.

(c) The Customer shall be responsible for any expenses of transportation, labour or other costs which may be involved in relation to any claim hereunder save to such extent as the Company may agree in writing in any particular case.

(d) No warranties, implied, statutory or otherwise shall extend to any Goods which have deteriorated because of age or which have been accidentally damaged or which have been repaired, altered, improperly handled neglected or used in any way so as to affect adversely their utility or reliability or quality or uses under normal conditions, or from which the seal or labels have been removed or tampered with.

(e) In the event of there being any dispute as to whether or not the Goods are defective at the time of delivery or as to the cause of any defect the Company shall be entitled to apply or have applied such tests to the Goods as may be necessary but the Company shall not be responsible for any loss occurring or for any damage to the Goods or to any other goods occasioned by or in the course of such tests.

(f) Notwithstanding that a sample of the Goods has been exhibited to and inspected by the Customer it is hereby agreed and declared that such sample was so exhibited and inspected solely to enable the Customer to judge for himself the quality, condition or fitness of the Goods and not so as to constitute a sale by sample under this contract. The Customer shall take the Goods at his own risk as to their corresponding with the said sample and as to their quality, condition or fitness for any purpose.

(g) Where circumstances arise which may give rise to a claim under this warranty, the Customer shall furnish within seven days of the date thereof all details of the claim to the Company by prepaid ordinary post addressed to the Company's Secretary at the address specified on the face of the invoice and every claim shall specify the date and place of purchase, the date on which the Goods were delivered, the circumstances in which the alleged defect(s) became apparent and such further details as may be relevant to the claim. Subject to the terms of clause 12(a) and notwithstanding the express exclusion in clause 12(b), if by any reason of any defect in the Goods or Services there shall be a breach of any implied condition or warranty applicable thereto, then provided the Customer has complied with this clause 12(g), the Company shall at its option replace the item, issue credit to the Customer or repair the item. Nothing contained in this paragraph shall by implication create any liability or obligation on the part of the Company or effect or diminish any disclaimer or liability elsewhere contained herein.

#### 13. Limitation of Liability

(a) The Company shall have no liability to the Customer for indirect or consequential loss, damage, injury or expense of any nature or description, howsoever arising.

(b) Save and to the extent expressly provided herein, the Company shall have no further liability whatsoever for injury, death, loss, damage or expense incurred by the Customer resulting from defects in materials and/or workmanship in the Goods or Services supplied hereunder howsoever arising.

(c) If, notwithstanding the foregoing, liability can be implied on the Company, the Company's aggregate liability for any claim, whether in contract, tort (including negligence) or otherwise, for any loss or damage arising out of or in connection with or resulting from the manufacture, sale, delivery, re-sale, replacement or use of any of

the Goods or supply of the Services shall in no case exceed the price paid by the Customer to the Company for the Goods/Services which give rise to the claim or £5,000.00 whichever is the lesser, plus expenses of customs, taxes, freight and insurance. In no event shall the Company be liable for any loss of profits, or special or consequential damages suffered by the Customer, including interest charges. Nothing contained in this paragraph shall by implication create any liability or obligation on the part of the Company or effect or diminish any disclaimer or liability elsewhere contained herein.

(d) The issue of any certificate or report shall not increase the liability of the Company or in any way affect the limitations and conditions precedent aforesaid.

#### 14. Termination

The Company shall be entitled without prejudice to its other rights and remedies either to terminate wholly or in part any or every contract between itself and the Customer or to suspend any further deliveries under any or every contract in any of the following events:-

(a) If any debt is due and payable by the Customer to the Company but is unpaid;

(b) If the Customer has failed to provide any letter of credit, bill of exchange or any other security required by the contract provided that in such event the aforesaid rights of termination or suspension shall apply only in regard to the particular contract in respect of which the Customer shall have so failed;

(c) If the Customer has failed to take delivery of the goods under any contract between it and the Company otherwise than in accordance with the Customer's contractual rights;

(d) If the Customer becomes insolvent or enters into any composition or arrangement (including a voluntary arrangement) with its creditors or, being a body corporate, has passed a resolution for voluntary winding up except where solely for the purpose of reconstruction or if a petition has been presented for an order for its winding up or for a Receiver or Examiner to be appointed or if any such order or appointment is made or if, being an individual or partnership the Customer suspends payment of his or their debts in whole or in part or if an application has been made for an Interim Order or a petition has been presented for a Bankruptcy Order or if any such order is made or if the Customer, whether or not a body corporate, shall carry out or be subject to any analogous act or proceedings under foreign law.

The Company shall be entitled to exercise its aforesaid rights of termination or suspension at any time during which the event or default giving rise thereto has not ceased or been remedied and, in the event of any such suspension, the Company shall be entitled as a condition of resuming delivery under any contract between it and the Customer to require prepayment of, or such security as it may require for the payment of, the price of any further delivery.

#### 15. Force Majeure

The Company shall not be liable for any loss, damage, injury or expense whatsoever incurred by the Customer arising or resulting from acts of God, Government orders, strikes, lockouts or other industrial action, inability to secure labour, materials or supplies at commercially justifiable rates, accidents, plant or vehicle breakdown, war, civil commotion or any other circumstances (whether of the foregoing class or not) beyond the control of the Company and every contract between the Company and the Customer is subject to suspension, variation or cancellation by the Company as may be necessary due to force majeure aforesaid.

#### 16. Indemnity

The Customer shall at all times keep the Company indemnified against any claims for loss, damage, expense, injury or death to third parties arising out of or connected with the subject matter of the contract herein contained with the Customer or resulting from the supply of Goods or services supplied hereunder.

#### 17. Conciliation

Subject to Clause 18, any dispute or difference which may arise at any time after the date of this Agreement between the Company and the Customer touching the construction of this Agreement or the rights and liabilities of the parties shall be submitted to the following non-binding conciliation procedures:-

(i) The parties shall agree on a conciliator, and failing agreement within 10 working days of either party serving written notice of its proposed conciliator, shall request the President of the Law Society to appoint a conciliator.

(ii) The conciliator shall require the parties to submit, in advance of the hearing, a brief written opening statement and appending the necessary documentation not later than 10 working days after his appointment. The parties should at the same time notify the conciliator of the names of the persons appearing at the conciliation.

(iii) The conciliator shall within 10 working days after receipt of the statements and documentation establish the order of the proceedings and shall arrange a convenient time, date and place for the hearing.

(iv) The conciliator may consider and discuss such solutions to the dispute as he thinks appropriate or as may be suggested by either party. All information given to the conciliator is confidential and shall remain so unless authorised by the party who supplied the information.

(v) The conciliator may, having informed the parties, consult independent third party experts.

(vi) The conciliator shall endeavour to commit the parties to reach a mutual settlement failing which he shall within 10 working days of the hearing, issue his recommendation. He shall not be required to give reasons. It shall remain confidential if rejected by either party.

(vii) If neither party rejects in writing the recommendation within 10 working days after its issue, it shall be and only then final and binding on the parties. If either party rejects in writing the recommendation, a request for Arbitration may be made under Clause 18.

(viii) Each party to the conciliation shall pay their own costs. The parties shall be jointly and severally liable for the conciliator's costs in equal shares, unless the conciliator decides otherwise.

(ix) Conciliations are settlement negotiations and are without prejudice to the rights of the disputants. All statement, information and material, made, given or exchanged, orally or in writing either during the conciliation or prior thereto or thereafter upon the request of the conciliator shall be inadmissible in any legal proceedings, in Court or Arbitration, to the maximum extent permitted by law.

Evidence which is otherwise admissible in legal proceedings shall not be rendered inadmissible as a result of its use in the conciliation. The disputants agree not to summon or otherwise require the conciliator to appear or testify or produce records, notes, or any other information or material in any legal proceedings, in Court or Arbitration, and no recordings or stenographic records will be made of the conciliation.

(x) Any agreement reached by the disputants through the conciliation shall be set down in writing and duly executed by their authorised representative.

#### 18. Arbitration

If a settlement of the dispute is not reached under the conciliation procedures, or, if the parties agree otherwise to proceed directly to Arbitration, the following shall apply:

(i) Any dispute or difference which may arise at any time after the date of this Agreement between the Company and the Customer touching the construction of this Agreement or the rights and liabilities of the parties shall be submitted to Arbitration under the Arbitration Rules of the Chartered Institute of Arbitrators - Irish Branch by one arbitrator appointed in accordance with the said Rules. The decision of such Arbitrator shall be final and binding upon the parties hereto. The award of the Arbitrator shall be made in writing. The costs of the Arbitration shall be in the Arbitrator's award.

#### 19. Waiver

The rights of the Company or the Customer shall not be prejudiced or restricted by any indulgence or forbearance extended by either party to the other and no waiver by either party in respect of any breach shall operate as a waiver in respect of any subsequent breach. Any variation in the terms of this contract must be agreed in writing between the parties.

#### 20. Conditions Binding

In the event that, for any reason, any provision or provisions in these conditions or any part thereof is or is held to be void, unenforceable or otherwise invalid, any contract made which incorporates these conditions shall continue to be fully binding and all other conditions herein, including the remainder of any condition where the effect of some part thereof is avoided, shall remain fully effective. Where any provision is adjudged to be void, unenforceable or invalid for whatever reason the said provision shall be given effect to in its reduced or modified form as may be decided by any court of competent jurisdiction (including but not limited to a Conciliator and/or an Arbitrator) and such voidness, unenforceability or invalidity shall not affect the validity of the remaining conditions or provisions.

#### 21. Headings

Paragraph headings in these Conditions of Sale are for ease of reference only and shall have no legal effect whatsoever.

UN/B/C/8388.3 General Conditions

Lianco Ltd

GENERAL TERMS CONDITIONS OF SALE AND SUPPLY OF SERVICES