

STANDARD TERMS AND CONDITIONS FOR SALE

1. Interpretation

1.1

“**Buyer**” means the person who buys or agrees to buy the goods set out all contracts and orders from Seller.

“**Conditions**” means the terms and conditions of sale set out in this document.

“**Delivery Date**” means the date specified by the Seller when the goods are to be delivered.

“**Goods**” means the articles set out all contracts and orders which the Buyer agrees to buy from the Seller.

“**Seller**” means SurTec MMC Japan KK of the address set out all contracts and orders.

2. General

2.1 All orders for Goods shall be deemed to be an offer by the Buyer to purchase Goods pursuant to these Conditions. Acceptance of delivery of Goods shall be deemed conclusive evidence of the Buyer's acceptance of these Conditions.

2.2 These conditions contain the entire agreement of the parties and override any terms or conditions implied by any course of dealing or custom or stipulated, purportedly incorporated herein or referred to by the Buyer. Save as otherwise expressly stated herein all guarantees, representations, warranties and conditions whatsoever whether express or implied and as to merchantability, fitness for purpose or otherwise are excluded.

2.3 No waiver by the Seller of any breach of these terms and conditions shall relieve the Buyer of responsibility for any prior, subsequent or contemporaneous breach hereof.

3. The Goods

3.1 The quantity and description of the Goods shall be as set out all contracts and orders. Any variation of quantity of the Goods within the range of 3% shall be permissible under these Conditions.

4. Price

4.1 The Buyer shall pay the Price set out all contracts and orders.

4.2 Unless otherwise agreed in writing between the Seller and the Buyer, the Seller reserves the right to invoice the Buyer for the Price of Goods prevailing on the Delivery Date without prior notice. In particular, in the event of revision and/or new introduction of customs duties, taxes or other fees and/or changes in the prices of the raw material, the Price shall be revised accordingly to include these additional charges within terms of any contractual agreement.

5. Payment

5.1 The Price shall be paid in the currency stipulated unless otherwise agreed in writing between the Seller and Buyer.

5.2 The Buyer may not set off against any sums due to the Seller whether under these Conditions of sale or otherwise any lawful set-off or counterclaim to which the Buyer may at any time be entitled.

5.3 If the Buyer fails to make any payment on the due date then without prejudice to any of the Seller's other rights, after efficient communication with common understanding, the Seller may suspend or cancel any other contract with the Buyer and/or suspend or cancel deliveries of any Goods due to the Buyer.

6. Delivery of Goods

6.1 Delivery of the Goods shall be made on the Delivery Date to the address set out in all contracts and orders. The risk in the Goods shall pass to the Buyer upon such delivery taking place (except for the products quality problems). The Buyer shall make all necessary arrangements to take delivery of the Goods whenever they are tendered for delivery,

6.2 The Seller may deliver the Goods by separate installments in accordance with the agreed delivery schedule. Each separate installment shall be invoiced and paid for in accordance with these conditions. The failure of the Buyer to pay for any one or more of the said installments of the Goods on the due dates shall entitle the Seller without notice to suspend further deliveries of the Goods pending payment by Buyer, and/or to treat these Conditions as repudiated by the Buyer.

6.3 The Seller shall not be liable for any consequential, indirect or punitive loss or damage whatsoever due to failure by the Seller to deliver the Goods (or any of them) promptly or at all. Notwithstanding that the Seller may have delayed or failed to deliver the Goods (or any of them) in accordance with the delivery schedule, the Buyer shall be bound to accept delivery and to pay for the Goods in full provided that delivery shall be tendered at any time within 14 days of the Delivery Date.

6.4 No claim for damaged Goods for shortages or for non-delivery will be accepted by the Seller unless written notice of such damage, shortage or non-delivery is received by the Seller within 7 days of receipt of the Goods by the Buyer, or within 7 days of the defect being discovered where the defect could not reasonably have been discovered earlier, or in case of non-delivery, 7 days from the Delivery Date. The Seller's sole responsibility shall be to make up for the shortage or non-delivery or to repair or replace the damaged Goods.

7. Acceptance of the Goods

7.1 The Buyer shall be deemed to have accepted Goods after delivery to the Buyer and shall have no right to cancel, return, reject or make any claim against the Seller in respect of the Goods unless a written notice setting out details of the claim shall have been transmitted by the Buyer to the Seller within 7 days after delivery of the Goods but before any installation, implementation, Processing, use or resale of the Goods.

7.2 If the Buyer properly rejects any of the Goods which are not in accordance with the contract, the Buyer shall nonetheless pay the full Price for such Goods unless the Buyer promptly gives written notice of rejection to the Seller pursuant to Clause 7.1 above and returns such Goods to the Seller before the date when payment of the Price is due.

7.3 No Goods delivered to the Buyer which are in accordance with the contract will be accepted for return without the prior written approval of the Seller on terms to be determined at the absolute discretion of the Seller. Such Goods must be returned by the Buyer carriage-paid to the Seller in their original shipping carton or packing. Goods returned without prior written approval of the Seller may at the Seller's absolute discretion be returned to the Buyer or stored at the Buyer's cost without prejudice to any rights or remedies the Seller may have. Until the Goods are returned and received by the Seller, the risk in the Goods shall remain with the Buyer.

7.4 The Seller, upon receipt of any Goods returned from the Buyer pursuant to this Clause 7, shall endeavour to repair the same or provide a replacement thereof to the Buyer. In the event neither repair nor replacement is possible, desirable or satisfactory, the Seller is only liable to return the Price and the handling charge to the Buyer without interest but shall not be liable for any consequential or other loss and damage incurred by the Buyer as a result thereof.

8. Title and Risk

8.1 The Goods shall be at the Buyer's risk as from delivery, except for the products quality problems.

8.2 In spite of delivery having been made, property in the Goods shall not pass from the Seller until the Buyer have paid the Price and no other sums whatever shall be due from the Buyer to the Seller, but this do not affect or limit the normal use of the goods by buyer, if the parties have controversial matters, the property accountability will be equivalent of responsibility to products value only.

8.3 Until property in the Goods passes to the Buyer in accordance with Clause 8.2, the Buyer shall hold the Goods and each of them on a fiduciary basis as bailee for the Seller. The buyer shall store the Goods at its own cost separately from all other goods in its possession and marked in such a way that they are clearly identified as the Seller's property.

8.4 Notwithstanding that the Goods (or any of them) remain the property of the Seller, the Buyer may sell or use the Goods in the ordinary course of the Buyer's business at full market value for the account of the Seller. Any such sale or dealing shall be a sale or use of the Seller's property by the Buyer on the Buyer's own behalf and the Buyer shall deal as principal when making such sales or dealings. Until property in the Goods passes from the Seller, the Buyer shall hold the entire proceeds of sale or otherwise of the Goods in trust for the Seller and such proceeds shall not be mixed with other money or paid into any overdrawn bank account and shall be at all material times identified as the Seller's money.

8.5 Until such time as property in the Goods passes from the Seller, the Buyer shall upon request return such of the Goods which are in the possession, custody or control of the Buyer. If the Buyer fails to do so the Seller may enter upon any premises owned occupied or controlled by the Buyer where the Goods are situated and repossess the Goods. On the Seller making such request, the rights of the Buyer under Clause 8.4 shall cease.

8.6 The Buyer shall not pledge or in any way charge by way of security for any indebtedness any of the Goods if such Goods remain the property of the Seller. Without prejudice to the other rights of the Seller, if the Buyer contravenes this Clause, all sums whatever owing by the Buyer to the Seller under this and any other contracts with the Seller shall forthwith become due and payable.

9. Warranties and Liability

9.1 The Seller warrants that the Goods will at the time of delivery correspond to the description given by the Seller (When the Seller have made the description in time, complete, accurate, and sufficient). All other warranties, conditions or terms relating to fitness for purpose, merchantability or quality/condition of the Goods and whether made by the Seller, its servants or agents or implied by statute or common law or otherwise are excluded.

9.2 Where the Buyer accepts or has been deemed to have accepted any Goods then the Seller shall have no liability whatever to the Buyer in respect of those Goods.

9.3 The Seller hereby specifically excludes its liability in the event of the failure of the Buyer, its employee, servants or agents or any third party to use the Goods in the manner(s) as stipulated in these Conditions, specified in the Seller's specifications guidelines or documents or as otherwise directed by the Seller or in the event of any improper treatment, handling, storage, use or installation the Goods by the Buyer, its employees, servants or agents or any third party. (Provided that the seller has already timely, completely, accurately and effectively provided the specifications, guidelines or file.)

9.4 In the event of any breach of these Conditions by the Seller, the remedies of the Buyer shall be limited to replacement of Goods or return of the Price (as the case may be). The Seller shall be under no liability whatsoever to the Buyer for any indirect loss and/or expenses (including loss of profit) suffered by the Buyer arising out of a breach by the Seller of these Conditions. Under no circumstances shall the liability of the Seller exceed the Price of the Goods.

10. Intellectual Property Rights

10.1 All intellectual property rights in all Goods and all wrappings, packings, documents, inventions, designs, samples, plans specifications or instructions therefore supplied by the Seller shall belong to the Seller and the Buyer shall not without the prior written consent of the Seller reproduce or substantially reproduce any such Goods or any such wrappings, packings, documents, inventions, designs, samples, plans specifications or instructions therefore or disclose to any third party any technical data obtained from the Seller.

11. Notices

11.1 All notice required to be served pursuant to these Conditions of sale shall be in writing and served by post, facsimile (to be followed by post) or by hand on the Seller at the address set out all contracts and orders or such other address as the Seller may from time to time notify to the Buyer and on the Buyer at the Buyer's registered office or principal place of business. The seller from time to time notifies to the buyer the other address or contactor by writing and confirmed by the buyer.

12. Insolvency or Other Default of Buyer

12.1 All sums outstanding in respect of the Goods pursuant to these Conditions of sale shall become payable immediately in the event:

- a) the Buyer fails to make payment for the Goods in accordance with these Conditions of sale;
- b) the Buyer commits any other breach of these Conditions of sale;
- c) any distress or execution be levied on the Buyer's goods;

- d) if the Buyer offers to make any arrangement with its creditors or commits any act of bankruptcy or if any petition in bankruptcy is presented against the Buyer;
- e) the Buyer is unable to pay its debts as they fall due;
- f) if being a limited company, any resolution or petition to wind up the Buyer (other than for the purpose of amalgamation or reconstruction without insolvency) shall be passed or presented;
- g) if a receiver, administrator, administrative receiver or manager shall be appointed over the whole or part of the Buyer's business or assets; or
- h) if the Buyer shall suffer any analogous proceedings under foreign law.

12.2 In the event any situation set out in Clause 12.1 shall take place, the Seller may, in its absolute discretion and without prejudice to any other rights which it may have, suspend all future deliveries of any goods or services under this or other contracts with the Buyer and/or terminate all contracts with the Buyer without liability upon its part and/or exercise any of its rights pursuant to Clause 8 herein.

13. Waiver

13.1 No waiver or forbearance by the Seller (whether express or implied) in enforcing any of its rights under these Conditions shall prejudice its right to do so in the future.

14. Force Majeure

14.1 The Seller shall not be liable to the Buyer for any default due to any act of God, war, Strike ,riot, lock-out, industrial, action, fire, flood, drought, tempest or other event beyond the reasonable control of the Seller.

15. Severance

15.1 Any provision of these Conditions which is or may be void or unenforceable shall to the extent of such invalidity or unenforceability be deemed severable and shall not affect any other provision of these Conditions.

16. Amendments

16.1 No amendment shall be made to these conditions unless agreed in writing by the Seller.

17. Governing Law and Courts

17.1 These Conditions are governed by the laws of Japan and the parties hereby submit to the jurisdiction of the Tokyo District Court of the domicile of the Sellers.