



TERMS AND CONDITIONS OF PURCHASE

Edition effective from October 2016

1. Definitions

In these terms and conditions ("Conditions") the following words have the following meanings:

- a) "Contract" means a contract for the sale and purchase of Goods and the supply of Services in accordance with these Conditions.
- b) "Delivery" shall mean delivery of the Goods and/or Services to the point specified in the Order.
- c) "Goods" shall mean goods of any description but not limited to plant, machinery, equipment, vehicles and materials (whether raw or partly or wholly manufactured).
- d) "Order" shall mean the purchase order form completed by the Purchaser and directed to the Seller for the supply of Goods and/or Services specified therein on the basis only of these Conditions.
- e) "Seller" means the person or firm or company to whom the order is addressed including its successors and approved assignees.
- f) "Services" shall mean services of every kind to be performed by and/or work to be done by the Seller under the Order.

2. Application

- a) These Conditions constitute the sole terms and conditions under which the Purchaser will purchase from the Seller the Goods and Services specified in any Order. Written acceptance of an Order, or any other conduct consistent with acceptance of an Order, such as the commencement of work on the Goods or performance of the Services, shall constitute acceptance by the Seller at any time and any conditions of contract imposed or sought to be imposed by the Seller at any time and any conditions attached to any quotation or otherwise subject to which an Order is accepted. The signing by the Purchaser of the Seller's documentation shall not imply any modification of these Conditions.
- b) These Conditions shall remain in force until such time as the Purchaser shall advise the Seller in writing that it has adopted revised Terms and Conditions of Purchase in substitution for these Conditions.

3. Documentation and Delivery

- a) The Seller shall clearly show the Order number and its unique supplier reference number on all delivery notes, invoices, advice notes and other correspondence relating to the Order. Any failure, may result in late payments.
- b) Goods shall be delivered to, and the Services performed at, the address specified in the Order, and during usual business hours.
- c) Delivery of Goods or the supply of Services by the date shown and to the address specified is at the Seller's

cost. Time is of the essence; if the Seller does not deliver the Goods or provide Services by the time specified or otherwise in accordance with the Order, the Purchaser, in addition to its other rights, has the right to cancel the Order. The Seller must notify the Purchaser immediately if it cannot supply on time or anticipates that it will not be able to do so, and must take every possible step to supply on the original date or any later date that has been agreed. Any increased costs required to meet the original or agreed rescheduled supply time are the seller's responsibility.

- d) When no date is specified in the Order, the Seller shall give the Purchaser reasonable notice of the delivery date.
- e) The Purchaser may cancel the Order if it is not accepted by the Seller within 5 days of the date of despatch.

4. Despatch and Packing Instructions

- a) Goods must be packed to protect them before, during and after delivery.
- b) Unless otherwise agreed, goods shall be delivered carriage paid and containers and packing shall be supplied free by the Seller.
- c) A delivery note must be included with each delivery.
- d) Export licences, certificates of origin and any other governmental authorisations or other necessary documentation must have been obtained, and all dues and taxes must be paid prior to delivery to the Purchaser.

5. Price and Payment

- a) All prices shown on the Order are fixed, save for any discounts or other reductions which are to be given retrospectively by the Seller, and not subject to escalation.
- b) The Seller will aim to give the Purchaser 6 months notice of any price changes and 12 months notice of any obsolescence.
- c) Unless otherwise agreed in writing a separate invoice must be rendered against each Order.
- d) All invoices must state the Order number to which they relate and, where it has one, the Seller's unique supplier reference number. Any failure of the Seller to comply with this requirement shall entitle the Purchaser to return the invoice, unpaid, to the Seller.
- e) The Purchaser will pay in 60 days from receipt of a correct VAT invoice stating the Order number to which it relates is received, always provided that the Seller shall not issue an invoice before the Goods are delivered or Services completed, unless otherwise agreed in writing.
- f) Nothing shall oblige the Purchaser to accept or pay for Goods and Services in excess

of or less than Goods and Services covered by an Order.

- g) The Purchaser shall be entitled to set off against the price any sums owed to the Purchaser by the Seller.

6. Title and Risk

- a) Risk and title in Goods shall pass to the Purchaser upon Delivery unless payment has already been made in which case title shall pass upon payment. The Purchaser along with the Purchaser's customer, reserves the right, on giving notice, to inspect the goods at any reasonable time at the premises where the goods are manufactured or stored. Furthermore, all requirements of this contract may be subject to GQA (Government Quality Assurance). You will be notified of any GQA activity to be performed.
- b) Where the Purchaser free issues any Goods to the Seller, the Goods remain the sole property of the Purchaser and must be labelled as property of the Purchaser. Should the Seller become insolvent, suffer the appointment of a receiver, commence bankruptcy or winding up proceedings or suffers such proceedings to be commenced or otherwise ceases or threatens to cease to carry on business or where the Purchaser believes this is likely to occur, the Purchaser's Goods will not form part of the Seller's assets and will be immediately returned to the Purchaser.

7. Defects after Delivery

In addition to any other rights or remedies of the Purchaser.

- a) The Seller shall promptly make good at its cost by repair or replacement, defects or any shortfall in the Goods and/or Services occurring within twelve months of Delivery caused by defective design, materials or workmanship;
- b) The Seller shall be responsible for the costs of any dismantling, removal and reinstallation necessary to correct any defect and making good any damage or loss caused by such works. The Purchaser shall be entitled to reject any Goods or Services and return the same to the Seller at the Seller's risk and expense;
- c) The Purchaser may return, at the Seller's cost, Goods delivered in excess of or less than the quantity ordered.

8. Conditions

- a) In addition to the terms implied by the Sale of Goods Act 1979 or the Supply of Goods and Services Act 1982 as amended by the Sale and Supply of Goods Act 1994, the Seller warrants that the Goods and Services (including any packaging and transport) provided shall:
- i) strictly comply with the descriptions and specifications contained or referenced in the Order;
 - ii) strictly comply with all applicable laws and regulations including, without limitation, those relating to the manufacture, packaging, packing and delivery of the Goods and the performance of the Services, and food, health and safety and environmental laws and regulations;
 - iii) not in any way infringe the rights of any third parties;
 - iv) be free from all defects, including defects in design, material and workmanship, and be fit for their purpose, including any purpose that the Purchaser has made known to the seller expressly or by implication or of which the Seller ought reasonably be aware;

- v) match the quality of any sample approved by the Purchaser.

- b) The Seller warrants its expertise and confirms the accuracy of all statements and representations made in respect of the Goods and/or Services prior to the submission of each Order and acknowledges the Purchaser's reliance upon those statements.
- c) The Seller warrants that its obligations will be performed by appropriately qualified and trained personnel, with due care and diligence and to such high standard of quality as it is reasonable for the Purchaser to expect in all the circumstances. In addition, the Seller shall operate a suitable quality assurance or other system for inspection and quality control in the preparation of and manufacture of the Goods and for the performance of the Services including, but not limited to, quarantining any suspect or counterfeit materials and ensuring that they do not enter the supply chain.
- d) The Seller warrants that it will abide by all relevant regulations and legislation including but not limited to legislation on equality, slavery and bribery.
- e) The Seller shall indemnify the Purchaser against all liability or alleged liability to their parties and all loss liabilities and expenses arising from or in connection with the Seller's breach of these Conditions or any negligence or other default by itself, its agent or employees, including, without prejudice to the generality of the foregoing, loss, liability and expense in respect of claims that the Goods or Services infringe any of the intellectual property rights of any third party save and to the extent that such claims are directly attributable to the Purchaser's design or specifications. The Seller's obligation to indemnify the Purchaser will survive the expiration or termination for any reason of the Contract.

9. Confidential Information

Both parties acknowledge that all information relating to or used in each other's business or that of any associated company (including the fact of and terms of a Contract) which is not public knowledge (and which did not become public knowledge through breach of an obligation of confidentiality) is confidential. The parties agree not to disclose confidential information to any person (save that the Purchaser may disclose such information to companies of which the ultimate holding company is Analox) nor to use it for any other purpose than fulfilling its obligations under a Contract. Each party shall be responsible for any unauthorised disclosure made by any of its employees or agents and shall take all reasonable precautions to prevent such disclosures.

10. Intellectual Property

- a) If the Goods or Services are manufactured or supplied to the Purchaser's designs or specifications, or where the Purchaser has paid or is to pay the Seller for design or research and development work, ownership of such works, designs, data, inventions and improvements including all intellectual property rights shall belong solely to the Purchaser and the Seller will, upon request, take all necessary steps to vest such rights in the Purchaser and shall procure that any moral rights in relation thereto are waived.
- b) The Seller shall not, without the Purchaser's prior written consent, use the Purchaser's trade marks or trade names, or any derivative, or anything confusingly similar for advertising, promotional or other trade purposes.

c) Nothing in these Conditions shall be construed as conferring upon the Seller any right or interest in any trademarks owned by the Purchaser, Analox Ltd or any subsidiary of Analox Ltd. The Seller agrees to comply with the Purchaser's instructions as to the use of its trade marks and not to do anything which might jeopardise their validity or registration. The Seller will notify the Purchaser immediately upon becoming aware of any infringement by any third party of any of the purchaser's trade marks. The Purchaser shall have the sole conduct of any proceedings relating to its trademarks and the Seller will co-operate fully with the Purchaser for such purposes.

11. Breach, Termination and Suspension

a) The Purchaser may, in the event of failure by the Seller to comply with these Conditions, take any one or more of the following courses of action without prejudice to any other right it may have:

- i) recovery of damages for delay or non-delivery of Goods and Services
- ii) return of faulty or defective Goods at the expense of the Seller, the Seller to refund the full purchase price thereof
- iii) return of faulty or defective Goods for repair or replacement by and at the expense of the Seller.
- iv) repair of any defective goods by the Purchaser at the expense of the Seller
- v) termination of the Contract

b) In addition to the foregoing, either party may terminate the Contract immediately:

- i) if there is a breach by the other which the other has not remedied within 14 days of being given notice to do so to the satisfaction of the other;
- ii) if the other is repeatedly in breach and having been given notice that any further breach may result in termination, is in breach again;
- iii) if the other party becomes insolvent, suffers the appointment of a receiver, commences bankruptcy or winding up proceedings or suffers such proceedings to be commenced or otherwise ceases or threatens to cease to carry on business;
- iv) the other reasonably apprehends that any of the above events is likely to occur in relation to the other and notifies the other accordingly.

c) If either party is, or anticipates being, prevented from complying with its obligations by circumstances beyond its reasonable control, it shall immediately notify the other in writing. The Contract will be suspended immediately on the giving of this notice and if performance is not resumed within 14 calendar days, the other party may in writing terminate the Contract. The Purchaser may purchase the supplies elsewhere during any period of suspense; if it does so, it may require the order quantity to be reduced accordingly, and the Seller shall be responsible for extra costs reasonably incurred by the Purchaser.

d) On termination of this Contract, the Seller will refund advance payments for Goods and Services not yet supplied. On request, on termination, or at any other time, each party will return any property belonging to the other. The Purchaser shall have the right to retake possession of its property at any time by entry onto any land or premises where it is kept.

12. General Operation (Assignment, Variation, Insurance)

a) No assignment or sub-contracting of a Contract or any part thereof is permitted without prior written agreement, except for an assignment by the Purchaser to any subsidiary (as defined in section 736 of the Companies Act 1985 (as amended) of Analox Ltd. Agreement by the Purchaser to sub-contracting is dependent on all terms of the Contract being included in any sub-contract and does not relieve the Seller of any of its obligations towards the Purchaser.

b) On receiving written instructions from the Purchaser, the Seller shall use its best endeavours to make any variation required to the Goods or Services offered. Any costs reasonably incurred, or saving that should reasonably have been made by the Seller in making the variation, shall be charged or credited to the Purchaser. The rates or price specified in an Order shall be used as the basis of calibration of such cost or saving.

c) The Seller will insure against risks and to a level at which it is commercially prudent to insure against its liabilities under these Conditions and all claims resulting from any Services or Goods supplied with a reputable firm of insurers. On request the Seller will provide evidence of such insurance, including proof of payment of premium, to the Purchaser and will arrange for the purchaser's interest to be noted on the policy.

d) No variation to a Contract or these Conditions shall be binding unless agreed in writing between the authorised representatives of the Seller and the Purchaser.

e) No waiver or forbearance or indulgence by the Purchaser of any breach of these Conditions by the Seller shall prejudice the Purchaser's rights or be considered a waiver of that breach or of any subsequent breach by the Seller.

13. Applicable Law

These Conditions and all Contracts are subject to English Law and both parties submit to the exclusive jurisdiction of the English Courts provided that nothing in these Conditions shall prevent the enforcement of any court order or other award in any other jurisdiction.