

Standard Terms and Conditions

1.1 Definitions

<p>“Contract”</p>	<p>means any contract entered into between Exwold and the Customer on the basis of these Conditions;</p>		<p>of registration, whether subsisting now or in the future in England and Wales or any other part of the world and including all applications and rights to apply for any of the same together with all goodwill relating to the same;</p>
<p>“Customer”</p>	<p>means the party seeking to place an order based on these Conditions;</p>	<p>“Know-how”</p>	<p>any know-how relating to the manufacturing process of the Product which the Customer provides to Exwold</p>
<p>“Customer’s Property”</p>	<p>means any property which is the subject of this Contract whether it is the property of the Customer or of any third party (including but not limited to any Know-how, the packaging and the Product);</p>	<p>“Order Acknowledgement”</p>	<p>the order acknowledgement issued by Exwold confirming the Customer’s order for the Services;</p>
<p>“ECHA”</p>	<p>the European Chemicals Agency or any successor body;</p>	<p>“Product”</p>	<p>means any finished product manufactured by Exwold for the Customer in the performance of the Services;</p>
<p>“Enforcing Authority”</p>	<p>any person in any EU Member State empowered to enforce the obligations imposed on any person pursuant to the REACH Regulation;</p>	<p>“Reach Regulation”</p>	<p>means the REACH (Amendment etc.) (EU Exit) Regulations 2019 as may be amended from time to time;</p>
<p>“Exwold”</p>	<p>means “Exwold Technology Limited”, company number: 02735432, registered office PO Box 270, Brenda Road, Hartlepool, Cleveland, TS25 2BW;</p>	<p>“Services”</p>	<p>means the services described in the order and may include without limitation, receipt, processing, packing and delivery of the Customer’s Property and in specified cases raw material purchase;</p>
<p>“Intellectual Property”</p>	<p>any and all of the following: (a) rights in inventions, patents, registered designs, know-how, trade marks and service marks; (b) any rights in any trade, brand or business name and any distinctive sound used to differentiate the goods and services of a business; (c) utility models; (d) copyright (including all such rights in computer software and databases); (e) moral rights; (f) any rights or forms of protection of a similar nature to any of the above and having equivalent or similar effect to any of them; (g) any other intellectual or industrial property rights; in each case whether or not registered or capable</p>	<p>“Specification”</p>	<p>means the specification agreed by the parties relating to the Services and the Customer’s Property; and</p>
		<p>“Storage Charges”</p>	<p>means £2.20 per pallet per week or part thereof, subject to any contrary written agreement.</p>
		<p>1.2</p>	<p>The reference to “indemnify” in these conditions means to indemnify on demand and to keep indemnified, and hold harmless, Exwold on an after tax basis.</p>
		<p>2.</p>	<p>BASIS OF SALE</p>
		<p>2.1</p>	<p>Exwold shall sell and the Customer shall buy the Services subject to the terms of the Contract, and the Contract contains the only terms on which Exwold is prepared to provide the Services to the Customer.</p>

2.2 The Contract shall supersede any other terms which may govern the supply of the Services to the Customer to the exclusion of any terms and conditions which the Customer purports to apply or which are implied by trade, custom or course of dealing.

2.3 No terms or conditions endorsed upon, delivered with or contained in the Customer's order or other document will form part of the Contract simply as a result of such document being delivered to Exwold or referred to in the Contract.

2.4 Any variation to these Conditions is of no effect unless agreed in writing by a director of Exwold.

3. QUOTATIONS, ORDERS AND SPECIFICATIONS

3.1 A quotation by Exwold is not an offer. Quotations issued by Exwold are valid for 30 days unless otherwise stated on the quotation and subject to withdrawal or revision at any time before acceptance of the Customer's order by Exwold.

3.2 Each order for Services by the Customer is an offer by the Customer to purchase the Services subject to these Conditions and acceptance by Exwold.

3.3 No order submitted by the Customer will be accepted by Exwold until Exwold confirms its written acceptance of that order by issuing an Order Acknowledgement or (if earlier) Exwold supplies the Services to the Customer.

4. CANCELLATION

Following acceptance in accordance with Condition 3.3, no order may be cancelled by the Customer except with Exwold's written agreement and any cancellation shall be on the basis that the Customer indemnifies Exwold on an after tax basis against all loss and expenses incurred by Exwold in preparing to fulfil the order and in relation to cancellation of the order, including, without limit, costs of purchasing materials in connection with the provision of the Services.

5. TRANSPORT

Subject to Condition 16.2 Exwold may agree as detailed in the order, to arrange for the carriage of the Customer's Property. The Customer shall pay to Exwold the entire cost of such carriage and also of any incidental costs including (but without prejudice to the generality of the foregoing) the costs of packaging and any other handling costs plus VAT as quoted separately by Exwold.

6. DELIVERY AND PERFORMANCE

6.1 Subject to Condition 5 and any express agreement in the order, within 7 days of receiving written notice that the Services have been performed and the Customer Property is ready for collection, the Customer will collect the Customer's Property from Exwold.

6.2 If the Customer does not collect the Customer's Property in accordance with Condition 6.1, the Customer may, at Exwold's discretion, be required to pay the Storage Charges accrued in respect of the Customer's Property stored by Exwold.

6.3 Packaging of the Customer Property on collection shall be appropriate to the Customer Property as determined by Exwold if the Customer specifies any particular packaging requirements, Exwold reserves the right to charge the Customer for such packaging.

6.4 Any dates for delivery and/or performance are approximate only.

7. TIME

Dates and times indicated by Exwold for completion of any part of the Services are approximate only and though given in good faith may be altered by Exwold unilaterally upon notice to the Customer.

8. PAYMENT

8.1 Following performance of the Services, Exwold shall issue an invoice to the Customer and all charges are to be paid within thirty (30) days of Exwold's invoice unless otherwise agreed in writing. All payments due in accordance with Condition 4 are due and payable immediately upon receipt of an invoice detailing any costs or fees incurred, such invoice shall be issued on cancellation or termination of the Contract.

8.2 All charges are exclusive of any costs of delivery and any applicable VAT.

8.3 Time of payment is of the essence. For the purposes of these Conditions, payment is received when Exwold receives it in cleared funds.

8.4 If the Customer fails to pay on the due date, the total amount due becomes due and payable on demand and Exwold may cancel the Contract, and suspend further Services; and claim statutory interest and debt recovery costs.

9. DELAYS AND STORAGE

- 9.1 Any extra costs incurred on account of delays, interruptions or suspension of work due to the Customer's instruction or lack of instructions shall be added to the Contract price and paid in accordance with Condition 8
- 9.2 The Customer shall pay to Exwold the Storage Charges for any period subsequent to 10 days from the date on which Exwold indicates that the Customer's Property has been processed and may be collected by or delivered to the Customer during which the Customer fails or neglects for whatever reason to accept the Customer's Property or remove it from Exwold's premises.

10. LIEN, RIGHT OF SALE, SET-OFF

Without prejudice to any rights of action which Exwold may have against the Customer:

- 10.1 Exwold may refuse to deliver up to any person the Customer's Property or any of it unless all sums of money owned by the Customer to Exwold under this Contract or otherwise have been paid;
- 10.2 If any sums of money owed by the Customer to Exwold under this Contract or otherwise have not been paid within six months after becoming due Exwold may upon giving the Customer one month's notice in writing of its intention so to do unless all such sums have been paid in the meantime sell by auction or otherwise any of the Customer's Property in its control and apply the proceeds of such sale paying the outstanding sums. Any balance shall be paid to the Customer;
- 10.3 Exwold may deduct from any sums due or becoming due from Exwold to the Customer any sums due from the Customer to Exwold; and
- 10.4 The Customer shall indemnify Exwold against any liability it may incur to any person by reason of any action taken by Exwold under this Condition where the Customer's Property belongs to any person other than the Customer.
- 10.5 Not with standing delivery and the passing of risk in the goods, or any provision of the Terms & Conditions, legal and beneficial title of the Goods remain with Exwold until Exwold has received payment in full for the contracted price of the Service.
- 10.6 The Customer's right to procession of the Goods in which Exwold maintains legal and beneficial title shall terminate if:

- 10.6.1 the Customer commits or permits any material breach of his obligations under the Terms & Conditions outlined.
- 10.6.2 the Customer is or becomes the subject of a bankruptcy order or takes advantage of any other statutory provision for the relief of insolvent debtors.

11. CUSTOMER'S PROPERTY

- 11.1 The Parties acknowledge and agree that the Customer shall be the legal owner and retain title to the Customer Property at all times.
- 11.2 The Customer shall on or before delivery of the Customer's Property to Exwold notify Exwold in writing of any of the Customer's Property of such a nature as to require special care stating precisely the precautions which should be applied to it and also indicating any action which must be taken by Exwold in order to comply with any statutory provisions relating to the Customer's Property in force at the relevant time.
- 11.3 The Customer shall notify Exwold prior to the delivery of the Customer's Property to Exwold whether the Customer is acting on behalf of a third party or whether any of the Customer's Property belongs to any party other than the Customer.
- 11.4 The Customer's Property shall be properly and adequately packed and marked showing the precise nature of the contents before it is delivered to Exwold.

12. WARRANTIES

Exwold does not warrant that the Services or the output of the Services are fit for any purpose and in particular. Exwold warrants that the Services will meet the specification issued by Exwold and the Customer undertakes to accept the Services on an "as seen" or "as performed" basis (as applicable) (the "**Warranty**").

13. REMEDIES

- 13.1 If the Customer can demonstrate that the Services do not comply with the requirements of the Warranty in all material respects, Exwold shall:
 - 13.1.1 re-perform the portion of the Services which are non-compliant within a reasonable period of time; or
 - 13.1.2 refund the charges paid by the Customer for the portion of the

- Services which are non-compliant.
- 13.2 The foregoing provisions of this Clause 13 are the Customer's only remedy in respect of a breach of the Warranty or otherwise in respect of the provision of the Services by Exwold.
- 14. INTELLECTUAL PROPERTY**
- 14.1 Subject to Condition 11.1, the Parties acknowledge and agree that Exwold shall be the legal owner and retain full title to all Intellectual Property Rights arising from or in connection with the performance of the Services at all times.
- 14.2 The Customer warrants that to the best of its knowledge, information and belief the use of the Specification and the Customer Property by Exwold in performing the Services will not infringe Intellectual Property Rights of any third party.
- 14.3 The Customer shall indemnify Exwold against all actions, proceedings, costs, claims, losses, penalties, fines, awards arising as a result of any claim or allegation that the use by the Customer of the Specification or any information provided by the Customer during or after the provision of the Services constitutes an infringement of any third party Intellectual Property Rights. This indemnity shall survive expiry or termination of the contract formed between the parties in respect of the provision of the Services.
- 15. LIABILITY**
- THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CONDITION
- 15.1 The following provisions of this Condition 15 sets out the entire liability of Exwold (including any liability for the acts or omissions of its employees, agents or subcontractors) to the Customer in respect of any breach of the Contract, any representation or statement made or act or omission relating to or done in connection with the Contract and in respect of any contemplated performance or lack of performance including negligence and other tortious liability.
- 15.2 All warranties save to those given in Condition 12 above, conditions or other terms implied by statute, common law, trade usage or otherwise are excluded to the fullest extent permitted by law.
- 15.3 Nothing in these Conditions excludes or limits Exwold's liability for death or personal injury caused by Exwold's negligence or for fraudulent misrepresentation or excludes or limits any other liability to the extent such liability may not be excluded or limited as a matter of law.
- 15.4 Subject to Conditions 15.2 and 15.3
- 15.4.1 Exwold shall not be liable to the Customer for:
- (a) any loss of profit, loss of production, financial loss, depletion of goodwill; and
- (b) any indirect loss, damage, costs or expenses whatsoever.
- in each case which arise out of or in connection with the Contract or its contemplated performance or lack of performance; and
- 15.5 Subject to Conditions 15.3, Exwold's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the performance or contemplated performance or lack of performance of the Contract shall be limited to the greater of:
- 15.5.1 an amount equal to 100% of the charges paid and payable by the Customer under the Contract; and
- 15.5.2 Fifty thousand pounds sterling (£50,000).
- 15.6 The Customer agrees to indemnify Exwold against any damages, losses, costs, claims or expenses incurred by Exwold, whether directly or as a result of a third party claim, arising out of or in connection with any defect or inherent vice or undisclosed characteristic in the Customer's Property, requiring special care in the performance of the Services.
- 15.7 No claim of whatsoever nature will be upheld from the Customer or any other person unless made in writing within 3 months of the facts upon which the claim is based coming to the notice of the person making the claim.
- 15.8 Exwold relies on the Customer's instructions when performing the Services. The checking and quality control of the Customer's Property after the performance of the Services shall be in accordance with the testing methodologies agreed between the parties and contained in Specification.

16. RISK AND INSURANCE

- 16.1 The Customer's Property whether held on Exwold's premises or in course of transit to or from Exwold's premises is so held or transported at the Customer's risk and Exwold shall not be liable to the Customer or to any other person in respect of any claim arising out of any damage or loss of the Customer's Property howsoever caused and (without prejudice to the generality of the foregoing) whether caused by or contributed to by:
- 16.1.1 explosion, fire, tempest, storm, flood and dampness or impact with any motor or other vehicle;
 - 16.1.2 industrial action lock-outs burglary that civil commotion riot rebellion act of war or wanton destruction;
 - 16.1.3 any delay by Exwold or any other person in receiving the Customer's Property, providing the Services, or otherwise carrying out the instructions of the Customer or any other person or in performing this Contract;
 - 16.1.4 pest, bacteria, vermin animals or any inherent defect of or in the Customer's Property whether Exwold was aware of such defect or not, save to the extent that such damage or loss arises as a result of the negligence of Exwold.
- 16.2 Other than where agreed in writing in advance of delivery of the Customer's Property to Exwold, Exwold does not insure the Customer's Property and the Customer should make arrangements to cover the Customer's Property against all risks to the full insurable value thereof.
- 16.3 The restrictions on liabilities contained in Condition 15 shall apply to all Contracts unless otherwise agreed, in writing, by Exwold.
- 16.4 The restrictions on liability and indemnities contained in this Condition 16 and Condition 15 are considered reasonable by the parties but in the event of any such restrictions or indemnities being found to be void which would be valid if some part thereof were deleted or the period of application altered such restrictions shall apply with such modifications as may be necessary to make the valid and effective.
- 16.5 With effect from the commencement date of the Contract until such time that the Products are despatched from Exwold's premises or collected from by the Customer,

all risk of loss or damage to the Products shall be the responsibility of the Customer.

17. TERMINATION

- 17.1 Exwold shall be entitled to terminate the Contract without liability to the Customer by giving notice to the Customer at any time if the Customer:
- 17.1.1 is in material breach of any obligations outlined in these conditions and that breach cannot be remedied;
 - 17.1.2 is in material breach of any obligations outlined in these conditions and that breach can be remedied but Customer fails to do so within 30 days starting on the day after receipt of notice from Exwold;
 - 17.1.3 is unable to pay its debts as they fall due, makes any arrangement with its creditors or any person takes any step to appoint an administrator of it or it goes into liquidation or bankruptcy or an encumbrancer takes possession or a receiver or administrative receiver is appointed, of any of its property or assets.

18. REACH

- 18.1 The Customer warrants that it shall:
- 18.1.1 comply with its obligations under the REACH Regulation; and
 - 18.1.2 ensure, to the extent it is legally required to do so under the REACH Regulation, that the Customer's Property will be registered within the appropriate timescale.
- 18.2 The Customer shall indemnify Exwold on demand from and against all actions, proceedings, claims, demands, costs, expenses, losses and damages whatsoever arising out of or in connection with the performance by the Customer of its respective duties and/or obligations under the REACH Regulation and whether arising directly or indirectly. The indemnity contained in this Condition
- 18.3 is a continuing obligation, separate from the other obligations of the Customer and shall survive termination of the Contract.
- 18.4 In Condition 18.2 the expression "costs, expenses, losses and damages" includes the cost of complying with any direction, regulation, requirement or request made by

or under or by virtue of any legislation (primary or secondary), order of any government department or by-law.

18.5 The Customer shall comply with its obligations under the REACH Regulation, including but not limited to those obligations set out under Title IV (Information in the Supply Chain) and Title V (Downstream Users).

18.6 Without prejudice to any of its other rights or remedies, Exwold may terminate the Contract immediately without any liability to the Customer if Exwold receives written notice from ECHA or any other competent body, or if Exwold in its reasonable opinion decides, that the registration of the Customer's Property is invalid or will not be obtained within the appropriate timescale.

19. FORCE MAJEURE

19.1 A party, shall not be in breach of this Agreement, nor liable for any failure or delay in performance of any obligations under the Contract arising from or attributable to acts, events, omissions or accidents beyond its reasonable control ("**Force Majeure Event**"), including but not limited to any of the following: i) acts of God, including but not limited to fire, flood, earthquake, windstorm or other natural disaster; ii) epidemic or pandemic; iii) war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, import or export controls, breaking off of diplomatic relations or similar actions; iv) terrorist attack, civil war, civil commotion or riots; v) nuclear, chemical or biological contamination or sonic boom; vi) compliance with any law; vii) any action taken by a government or by a public or regulatory authority; viii) any adverse effects of the United Kingdom ceasing to be a full member of the European Union or (if later) the expiry of any transition or implementation period agreed with the European Union during which European Union law is applicable to and in the United Kingdom; ix) fire, explosion or malicious or accidental damage; x) collapse of building structures, failure of plant machinery, machinery, computers or vehicles; xi) any labour dispute, including but not limited to strikes, industrial action or lockouts; xii) non-performance by suppliers or subcontractors; and xiii) interruption or failure of utility service, including but not limited to electric power, gas, water, internet or data services.

19.2 [If the Force Majeure Event prevails for a continuous period of more than [six] months, any party may terminate the Contract by giving [14 days'] written notice to all the other parties. On the expiry of this notice period, the Contract will terminate. Such termination shall be without prejudice to the rights of the parties

in respect of any breach of the Contract occurring prior to such termination.]

20. GENERAL

20.1 Each right or remedy of Exwold under the Contract is without prejudice to any other right or remedy of Exwold, whether or not under the Contract.

20.2 If any provision of the Contract (including any provision of Condition 15 is found by any competent authority to be invalid, unenforceable or unreasonable, it shall be severed from the remainder of the Contract which shall continue in full force and effect.

20.3 Failure or delay by Exwold in enforcing or partially enforcing any provision of the Contract is not a waiver of any of its rights under the Contract.

20.4 Any waiver by Exwold of any breach by the Customer is not a waiver of any subsequent breach.

20.5 The Contract does not create, confer or purport to confer any benefit or right enforceable by any person not a party to it by virtue of the Contracts (Rights of Third Parties) Act 1999.

20.6 The Customer may not assign the Contract or dispose of or deal in any manner with any of its rights or beneficial interests under it.

20.7 When the Customer is not himself the owner of any property the subject matter of this Contract the Customer is deemed to enter into this Contract on behalf of the owner of such property as well as on his own behalf.

20.8 Notices shall be given by either party in writing addressed to the other party at the last known address of the party to whom the notices is being sent and any such notice being so given shall be deemed to have been given at the time when it would be delivered in the ordinary course of post or transmission as the case may be.

20.9 The contact details for the purposes of regulation 7 of the Provision of Services Regulations 2009 are as follows: Exwold Technology Limited, PO Box 270, Brenda Road, Hartlepool, Cleveland, TS25 2BW, 01429 230 340.

20.10 The information required to be made available under regulation 8 of the Provision of Services Regulations 2009 can be accessed via the following address: www.exwold.com.