

Aquasol Nutri – Standard Terms and Conditions of Sale

1. The applicant/purchaser/agent/buyer/signatory hereinafter called the 'Purchaser' hereby confirms that
 - a. these terms and conditions of sale together with the credit application(if applicable), constitutes the whole Agreement between the Purchaser and AQUASOL AGROCOM S.A.(PTY) LTD t/a AQUASOL NUTRI (hereinafter referred to as “the Company”) and no changes or amendments or additions to this Agreement shall be valid and binding unless agreed upon between the parties and recorded in a written document, signed by a director of the Company.
 - b. this Agreement shall be, *mutatis mutandis* applicable to any consignment stock not otherwise regulated by a separate written agreement, signed by a director of the Company.
 - c. this Agreement shall regulate all existing and future transactions and contractual obligations between the parties.
2. The Purchaser acknowledges that he has perused these conditions, understands and deems them binding upon him, notwithstanding the fact that these conditions may not be recorded in his native tongue and/or notwithstanding the fact that it may be in conflict with his own order terms.
3. The Purchaser warrants that the person representing it and whose signature appears on this document was properly authorized to enter into this agreement.
4. The person whose signature appears on this document on behalf of the Purchaser, binds himself in his personal capacity as co-debtor *in solidum* for the whole amount due by the Purchaser to the Company at any relevant time and agrees thereto that these standard conditions of sale will *mutatis mutandis* be applicable to him.
5. The Purchaser acknowledges that, save as recorded herein, no promises, undertakings, warranties or representations were made by the Company or its representatives in respect of the products manufactured and/or supplied by the Company, which led to the conclusion of this agreement.
6. It shall be the sole responsibility of the Purchaser to determine whether the products purchased from the Company are appropriate for the purpose for which it is utilized or shall be utilized and the Company gives no warranties or undertakings of any nature in respect of the suitability, qualities or properties of such products.
7. The Purchaser accepts that neither the Company, nor any of its employees, directors or agents will be liable for any negligence (including gross negligence) or misrepresentations made to the Purchaser.
8. All products shall be deemed to be delivered to the Purchaser and the risk of all loss or damage shall be the sole risk of the Purchaser from the moment that such products are removed from the manufacturing premises or other storage facility of the Company, irrespective thereof that the Company arranged transport on behalf of the Purchaser on terms and conditions suitable to the Company and notwithstanding the fact that the product may still be in transit on the way to the Purchaser.
9. The Company may, in its sole discretion, supply generic products, apportion the delivery of any order in smaller deliveries and determine the dates of such deliveries and may claim payment for each individual delivery separately and the Company shall not be liable for any losses or damages incurred by the Purchaser originating, directly or indirectly, from the late delivery of any products.
10. The Company or its Industrichem division may supply industrial and technical products, which are not registered for sale to agricultural end users (Act36/1947) and the Purchaser's conditions of use, applications and recommendations of these products are beyond our control. The Company hereby specifically disclaims any responsibility or liability relating to the

- use and recommendations of these products and shall under no circumstances whatsoever, be liable for any special, incidental or consequential damages which may arise from such use.
11. All products shall at all times remain the property of the Company and notwithstanding delivery of the product to the Purchaser, ownership in and to such products shall not pass to the Purchaser until it is paid for in full and in this regard the Company reserves the rights to exercise its right of retention at any time.
 12. The Purchaser shall not be entitled to use or alienate any of the products without the prior written consent of a director of the Company, unless it has been paid for in full.
 13. All orders, whether in writing or not, shall be binding and subject to these standard conditions of sale. The Company reserves the right to refuse any order, without the furnishing of reasons, and every order shall be subject to written acceptance by the Company.
 14. All orders shall be subject to availability of products ordered on minimum quantity provisions and the Company does not warrant the availability of any product on any given date. Any price quoted on an order otherwise shall at all relevant times be subject to fluctuations of raw material prices and the Company reserves the right to execute any order at the then ruling price, irrespective of the price originally quoted or appearing on the order form.
 15. The Company reserves the right to refuse any order, with or without the furnishing of reasons, or to cancel it on account of a cause outside the control of the Company, including (but not limited to) force majeure, inability to obtain raw materials, labour problems, electricity supply problems, war civil unrest, strikes, fire, floods, legislation, breakages, installation problems, down times and the like.
 16. The Company gives no warranties in respect of the products other than as set out herein or agreed upon in writing with any director of the Company and the Purchaser shall report all defective products to the Company within 7 (seven) days of receipt thereof, by way of a registered letter sent to the Company's address appearing on this document and in the event that the Company reasonably comes to the conclusion that such products are defective, it shall be the Company's only obligation to replace the defective product within 90 (ninety) days of receipt of notice.
 17. In no circumstances shall the Company be liable for any direct, indirect or consequential loss or damage of any nature which might arise from the use, application or storage of any product, irrespective thereof that the use, application or storage of the product by the Purchaser occurred according to the prescriptions of the Company and the Purchaser hereby indemnifies the Company from any such claims.
 18. The Purchaser shall not under any circumstances whatsoever be entitled to cancel or return any products to the Company, after delivery of such products as stipulated in 8. No credit or refund shall be considered for correctly supplied products and the Purchaser shall remain liable for full payment of properly delivered products.
 19. The Company's terms of payment are strictly cash with order, or 30 (thirty) days/statement on a pre-approved account and subject to the available credit limit and the terms and conditions of the credit application. Prescription products are payable cash in advance and payments are non-refundable. The Purchaser undertakes to pay the due amount at the offices of the Company in Potchefstroom either by cash with order or with the written approval of any director of the company, by way of an approved cheque with order or otherwise on the terms of payment set out in a written agreement, signed by any director of the Company. In the event of the Purchaser defaulting payment, the Purchaser irrevocably and unconditionally authorize the Company and the Purchaser's Bank to effect electronic payment on demand, in full or in instalments, from any of the Purchaser's banking accounts to the Company's nominated banking account, over and above and in addition to whatever legal remedies are available to recover any outstanding amounts of any order.
 20. The Purchaser agrees that, in the event that full payment is not effected in terms of 19 above, any outstanding amounts shall be immediately due and payable to the Company and that the

Company shall be entitled without notice, in addition to any other remedy available to it at law or under any agreement, to obtain summary judgment against the Purchaser at the cost of the Purchaser, to attach the products delivered to the Purchaser and to claim damages, notwithstanding the fact that the products were delivered to the Purchaser with novation of, or without the full compliance within any of the credit terms or terms of payment of the Company. The Purchaser indemnifies the Company against any claims of whatever nature, in respect of damages (including consequential damages), which relates to the attachment of products by the Company.

21. The Purchaser confirms that whenever payment is effected by cheque, he shall be authorized to issue the cheque. In addition, the Purchaser undertakes that there is and shall be sufficient funds available to honour such cheque/s and that there shall be no unforeseen circumstances which could lead to the dishonouring of such cheque/s.
22. The Purchaser shall not be entitled to withhold payment for any reason whatsoever or to apply set-off in respect of any moneys that may be due by the Company to the Purchaser.
23. A certificate signed by any director of the Company, whose authority, qualification or appointment need not to be proved, setting out the amount of any indebtedness of the Purchaser to the Company, shall be prima facie proof of the indebtedness.
24. The Purchaser shall pay account maintenance charges, which may include underwriting fees and interest, at 2% (two percent) per month or part thereof as from the first month on all overdue accounts which are paid late, irrespective thereof that the late payment was approved or allowed by the Company.
25. Weighbridge tickets, delivery notes and concentrations supplied by the Company are final confirmation of quantities supplied. Any dispute regarding quantities, concentrations, product condition, damaged products/bags etc. must be noted on the delivery note at the time of delivery and the Company must be notified telephonically at 018 294 8901, as well as in writing, within 24(twenty four) hours after delivery took place.
26. In the event of the Purchaser not meeting any of its obligations in terms of this agreement, or in the event of any allegation in respect of the validity and enforce ability of this agreement and the conditions contained herein, the Purchaser shall be liable for and shall refund the Company for all legal costs (including debt collection costs and bar council fees) incurred by the Company, all attorney's fees being calculated on the attorney and client scale.
27. The Purchaser shall furnish proper security in respect of all the Company's legal costs in any legal action by or against the Purchaser.
28. The Purchaser hereby agrees that the Company shall not be required to give security in any legal proceedings in terms of Rule 62 of the court rules of the Magistrates Court or Rule 47 of the court rules of the High Court.
29. The Company reserves the right to institute any actions in either the Magistrates Court or the High Court, in its sole discretion.
30. The Purchaser chooses as his *domicillium citandi et executandi* for the purposes of this agreement, the physical address appearing on this document or in the event of no physical address being furnished, then such other address given on this document.
31. Any document shall be deemed to be properly delivered to the Purchaser within 7 (seven) days of sending it per prepaid registered mail to the Purchaser's *domicillium citandi ex executandi* address or within 24(twenty-four) hours after transmitting it to the Purchaser's fax number.
32. The Purchaser acknowledges and consents thereto that no novation or concession, of any nature or to any extent, which the Company may allow or give, shall in any manner affect the terms and conditions contained herein or shall in any way be a renunciation to the conditions contained herein, or shall constitute or implicate any renunciations of any of the rights of the Company.

33. In the event that any clause or part of a clause of this agreement is invalid or unenforceable, it shall not affect the validity of the balance of the clauses contained in the agreement in any manner whatsoever.