



## **TERMS & CONDITIONS OF SALE of NanAucat™ Gold Oxidation Catalyst**

### **1 DEFINITIONS**

In these Conditions, the following definitions apply:

“the Contract”:	the Contract between the Supplier and the Customer for the sale and purchase of the Product in accordance with these Conditions
“the Customer”:	the person, firm or company who purchases the Product from the Supplier
“the Product”:	NanAucat™ Gold Oxidation Catalyst
“the Order”:	the Customer’s order for the Product
“the Supplier”:	Premier Chemicals Limited, a company incorporated in England and Wales, company number 06135849.

### **2 BASIS OF CONTRACT**

- 2.1 These Conditions apply to the Contract to the exclusion of any other terms which the Customer seeks to impose or incorporate, or which might otherwise be implied by trade, custom, practice or course of dealing.
- 2.2 A quotation for the Product given by the Supplier shall not constitute an offer. Quotations are valid only for 30 days from date of issue.
- 2.3 An Order constitutes an offer by the Customer to purchase the Product in accordance with these Conditions. A Contract comes into existence only when the Supplier issues a written acceptance of an Order.
- 2.4 Any samples, descriptive material or advertising issued by the Supplier and any descriptions or illustrations contained in the Supplier’s catalogues or brochures are issued or published for general information purposes only, and will not form part of the Contract.

### **3 APPLICATION OF THE PRODUCT**

- 3.1 It is the responsibility of the Customer to satisfy itself that the Product is suitable for the Customer’s intended application. The Supplier cannot accept responsibility for the use of the Product for specific applications as the Customer will have specific expertise in the application field.
- 3.2 The Customer must on request provide the Supplier with a general description of the intended field of application of the Product, and the Supplier may report such information to the manufacturer of the Product.

### **4 PRICE AND PAYMENT**

- 4.1 The price of the Product will be confirmed in the Supplier’s acceptance of the Order.
- 4.2 The Supplier may, by notice to the Customer before delivery, increase the price of the Product to reflect any increase in the cost of the Product due to –
- (a) any factor behind the Supplier’s control, including foreign exchange fluctuations, increases in taxes and duties, and increases in manufacturing costs;
  - (b) any request by the Customer to change the delivery date or quantities; or
  - (c) any delay caused by any instructions of the Customer or failure by the Customer to give adequate or accurate information or instructions.
- 4.3 The Supplier’s prices are exclusive of costs and charges of packaging, insurance and delivery of the Product to the Customer’s nominated delivery address.
- 4.4 Prices are exclusive of Value Added Tax.
- 4.5 The Supplier may require payment with Order. Where the Product is supplied on credit terms, the Supplier may invoice the Customer for the Product at any time from 7 days before delivery.
- 4.6 Where the product is supplied on credit terms, invoices are payable in full and in cleared funds 30 days from invoice date. Payment must be made to the bank account nominated by the Supplier. Invoices must be paid in full without any deduction or withholding, except any withholding required by law.
- 4.7 Interest is payable (both before and after any court judgment) on unpaid amounts at a rate equal to 4% per annum above Barclays Bank plc base rate from time to time. If that Bank ceases to exist or ceases to publish a base rate, the Supplier may specify a reasonably comparable rate of interest.

### **5 DELIVERY**

- 5.1 The Supplier will provide its best estimate of delivery date on acceptance of the Order, and use all reasonable endeavours to deliver the Product by that date. However, time of delivery is not of the essence and the Supplier shall not be liable for any delay in delivery of the Product, however caused.
- 5.2 Delivery shall be completed on arrival of the Product at the Customer’s specified delivery address.
- 5.3 The Customer must fully inspect the Product on delivery. Defective Products must be returned to the Supplier within 30 days from delivery, failing which the Products will be deemed to have been accepted by the Buyer.
- 5.4 The Supplier may deliver the Order by instalments, which shall be invoiced and paid for separately. Each instalment delivery shall constitute a separate Contract.

### **6 TITLE AND RISK**

- 6.1 The risk in the Products shall pass to the Customer on completion of delivery.
- 6.2 Where the price is pre-paid with Order, title to the Products passes to the Customer on completion of delivery. Where Products are supplied on credit terms, title shall not pass to the Customer until the Supplier has received payment in full. Until title to the Products has passed to the Customer, the Customer shall –
- (a) hold the Products on a fiduciary basis as the Supplier’s bailee;
  - (b) store the Products separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier’s property;
  - (c) not remove, deface or obscure any identifying mark or packaging on or relating to the Product; and
  - (d) maintain the Products in satisfactory condition and keep them insured against all risks for their full price from the date of delivery
- but the Customer may re-sell or use the goods in the ordinary course of its business.

6.3 If before title to the Product passes to the Customer, the Customer becomes subject to any insolvency proceedings, then, provided the Products have not been re-sold or irrevocably incorporated into another Product, and without limiting any other right or remedy the Supplier may have, the Supplier may at any time require the Customer to deliver up the Products and may enter the Customer's premises where the goods are stored to recover them.

## 7. SUPPLIER'S WARRANTY

7.1 The Specification of the Product ("the Specification") is as follows:

Test	Specification
CO conversion efficiency (tested at 1,200 ppm, 92%RH, GHSV 137,000 hr-1)	> 97.5%
Density	0.4 – 0.5g/cc
Weight % gold	0.5 – 0.7%
Support particle size	12 x 20

Shelf life:	3 years from date of Product packaging if stored (unopened) below 30°C and 70% RH
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7.2 The Supplier warrants that the Products will meet the Specification on the date of shipment to the Supplier, and the Supplier will on delivery supply the Customer with a manufacturer's certificate of compliance with the Specification.

7.3 If a Product is proved to be defective, the Customer's exclusive remedy and the Supplier's sole obligation shall be to replace the quantity of the Product which is proved to be defective or to refund the purchase price of the quantity, at the Supplier's option. Any action for breach of warranty must be commenced within one year after the breach of warranty occurs.

7.4 The Supplier will have no obligation under its warranty with respect to any Product which has been modified or damaged through misuse, abuse, accident, neglect or mishandling by anyone other than the Supplier.

7.5 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract. In particular, the Supplier gives no warranty that the Product will be fit for use for any specific purpose intended by the Customer, as to which it is solely the Customer's responsibility to satisfy itself.

## 8. LIMITATION OF SUPPLIER'S LIABILITY

8.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for –

- (a) death or personal injury caused by its negligence, or the negligence of its employees or agent; or
- (b) fraud or fraudulent misrepresentation; or
- (c) any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.

8.2 Subject to clause 8.1 –

- (a) the Supplier shall not be liable to the Customer, whether in contract, tort, breach of statutory duty or otherwise, for any loss of profit or indirect or consequential loss arising under or in connection with the Contract; and
- (b) the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort, breach of statutory duty or otherwise, shall not exceed £50,000 or, if more, three times the price of the Products supplied under the particular Contract.

## 9. FORCE MAJEURE

9.1 Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a force majeure event.

9.2 A "force majeure event" means any event beyond a party's reasonable control, which by its nature could not have been foreseen or, if it could have been foreseen, was unavoidable, including (but not limited to) industrial disputes, failure of energy sources or transport networks, Act of God, war, terrorism, riot, civil commotion, armed conflict, national or international calamity, fire, flood, storm, extreme adverse weather conditions, or default of manufacturers, suppliers, or sub-contractors.

## 10. GENERAL PROVISIONS

10.1 The Supplier may at any time assign, transfer, subcontract or deal in any manner with all or any of its rights or obligations under the Contract.

10.2 Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party as its address for service, and may be delivered personally, sent by pre-paid post, fax or email. A notice or other communication shall be deemed to have been received –

- (a) if delivered personally, on delivery;
- (b) if sent by pre-paid first class post, on the second working day after posting;
- (c) if sent by pre-paid international post, on the fifth working day in the place of receipt after posting; and
- (d) if sent by fax or email, on the next business day in the place of receipt after transmission.

10.3 If any court or other competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal, or unenforceable, that provision or part provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected. If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

10.4 A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall, on its own, constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

10.5 A person who is not a party to the Contract shall not have any rights under or in connection with it.

10.6 Any variation to the Contract shall only be binding when agreed in writing and signed by both parties.

## 11. APPLICABLE LAW

The Contract, and any dispute or claim arising out of or in connection with the Contract or its subject matter or formation, shall be governed by and construed in accordance with English law. The parties irrevocably submit to the non-exclusive jurisdiction of the English courts.