

- within three (3) months of receipt by the Buyer, may be eligible for a credit to be used against purchases of Goods within twelve (12) months of the date of award of such credit. If such credit is not used within that period, it shall lapse. -0@DUN shall have no obligation to accept the return of containers or pallets that are in any way damaged.
- 16.4 If the Buyer elects to retain the containers or pallets it must remove all reference to JM Clark branding on them.
17. **INTELLECTUAL PROPERTY**
- 17.1 The Buyer shall indemnify JM Clark against all costs, claims, losses, expenses and damages incurred by JM Clark, or for which it may be liable due to or arising directly or indirectly out of any infringement, or alleged infringement, of all and any Intellectual Property occasioned by the importation, manufacture or sale of the Goods if made to the specification or special requirements of the Buyer.
- 17.2 Unless otherwise agreed in writing with JM Clark:-
- 17.2.1 JM Clark shall be the exclusive proprietor of copyright in all original documents supplied or produced by JM Clark to the Buyer in connection with the Contract;
- 17.2.2 all Intellectual Property in or relating to the Goods shall (subject to any existing rights of any third party in any Intellectual Property incorporated or used in the design of the Goods) be the exclusive property of JM Clark and neither the Buyer nor any agent, contractor or other person authorised by the Buyer, shall at any time make any unauthorised use of that Intellectual Property, including for the avoidance of doubt on any containers or pallets supplied by JM Clark which the Buyer retains for its own use after purchase of the Goods.
18. **CLAIMS**
- 18.1 The Buyer shall inspect the Goods as soon as is practicable after the Time of Delivery and shall give to -0@DUN and the carrier in writing, before the end of the next working day, after the Time of Delivery, notice of any claim for any defect, shortage, damage or loss to the Goods whilst in transit. If the Buyer fails to do so or the Buyer makes use of the Goods after giving such notice, the Goods shall be conclusively presumed to have been received and accepted by the Buyer without any claim for any defect, shortage, damage or loss.
- 18.2 In the event of a valid claim for defect, loss, damage, or non-compliance with the Contract or non-delivery, -0@DUN undertakes at its option either to repair, reprocess or replace the items concerned at its expense but shall not be under any further or other liability in connection with such non-delivery, loss, damage or non-compliance.
- 18.3 The provisions of this Clause 18 shall only apply where any claim for any defect, shortage, damage or loss to the Goods is apparent on visual inspection.
19. **HEALTH AND SAFETY AT WORK**
- 19.1 Where required by law and available to -0@DUN will supply safety data sheets and other information regarding the health and safety attributes of the Goods including (without limitation) those required under REACH.
- 19.2 The Buyer will comply with health and safety legislation. In particular but without limitation, the Buyer shall fully and effectually indemnify -0@DUN against any costs, claims, losses, expenses and damages incurred by JM Clark or for which it may be liable due to or arising directly or indirectly out of:-
- 19.2.1 an Unexpected Defect in the Goods meaning a defect in the Goods other than a failure by the Goods to meet the relevant JM Clark specification or any formal written specification indicated in the Order Acknowledgement.;
- 19.2.2 a failure to use the Goods in accordance with the health and safety legislation or with the information regarding the health and safety attributes of the Goods supplied by or on behalf of JM Clark (whether such failure is on the part of the Buyer's employees, contractors or agents, or a third party to whom the Buyer has supplied the Goods);
- 19.2.3 a failure to comply with the Buyer's obligations under REACH.
- 19.3 The Buyer represents warrants and undertakes to JM Clark that it shall fully comply with its obligations under REACH and shall promptly provide to JM Clark such information as may reasonably be required from time to time in order for JM Clark to obtain and maintain REACH Compliance in respect of the Goods.
- 19.4 The Buyer undertakes to ensure that all information provided or made available by JM Clark to the Buyer concerning the use, handling, processing, storage or transportation of the Goods (hereinafter the "**Use of the Goods**"), including without limitation all information concerning any risks to health or safety to which the Use of the Goods may give rise and any conditions necessary to ensure that the Use of the Goods will be without risk to health, shall be brought to the attention of all employees of the Buyer and others involved in the Use of the Goods. The Buyer further undertakes to impose a similar requirement upon any third party to whom the Goods are sold or supplied.
- 19.5 The Buyer shall promptly inform JM Clark of any incident of which the Buyer becomes aware in which the Use of the Goods has or may have given rise to risks to the health or safety of any person.
20. **EXPORT SALES**
- 20.1 The provisions of this Clause 20 shall apply only where the Order Acknowledgement indicates that an Incoterm applies to the Contract.
- 20.2 The sale of the Goods is subject to the Incoterm (if any) stated in the Order Acknowledgement.
- 20.3 The Buyer shall be responsible for complying with any legislation or regulations governing the importation and use of Goods into the country of destination and for the payment of any duties on them. JM Clark will not be liable if the Buyer breaches any such legislation or regulations.
- 20.4 Unless otherwise agreed in writing, JM Clark shall be under no obligation to give notice under Section 32(3) of the Sale of Goods Act 1979.
- 20.5 Where JM Clark has agreed to invoice for the Goods in a currency other than sterling, JM Clark may at any time prior to delivery revise the price of the Goods to take account of any variation in exchange rates.

CLEANSING SOLUTIONS (TRADING STYLE OF JM CLARK LIMITED) GENERAL CONDITIONS OF SALE as at Sept 2018

21. **CONFIDENTIALITY**
- The Buyer and JM Clark undertake that they will not at any time hereafter use, divulge or communicate to any person, except to their professional representatives or advisers or as may be required by law or any legal or regulatory authority, any confidential information concerning the business or affairs of the other party which may in future come to their knowledge. The Buyer and JM Clark shall use their reasonable endeavours to prevent the publication or disclosure of any confidential information concerning such matters.
22. **ENTIRE AGREEMENT**
- The Contract and these Conditions (together with all the other documents to be entered into pursuant to it) sets out the entire agreement and understanding between the parties relating to the matters contemplated by the Contract, and all conditions, terms and warranties, whether express or implied, are excluded if they are not expressly set out in the Contract.
23. **ASSIGNABILITY**
- The Buyer shall not be entitled to assign the benefit or burden of the whole or any part of any Contract without the prior written consent of JM Clark may subcontract the performance of its obligations as it sees fit, provided always that JM Clark shall remain responsible for the acts and omissions of its subcontractors.
24. **WAIVER**
- Save in respect of a waiver granted in writing, the failure of JM Clark at any time to enforce a provision of the Contract shall not be deemed a waiver of such provision or of any other provision of the Contract or of Brenntag's right thereafter to enforce that or any other provision of the Contract.
25. **SEVERABILITY**
- If a provision in these Conditions or a Contract is determined by a Court or tribunal of a competent jurisdiction to be wholly or partly unenforceable for any reason:-
- 25.1 such unenforceability shall not affect the rest of the Contract; and
- 25.2 the parties shall in good faith amend and if necessary novate the Contract to reflect as near as may be the spirit and intention behind such unenforceable provision or provisions so that the same comply with the laws of that jurisdiction.
26. **STATUS**
- Nothing in these Conditions shall create any joint venture, agency or partnership between JM Clark and the Buyer.
27. **VARIATIONS**
- All variations to any Contract or to these Conditions must be made in writing and be signed by both parties and in the case of JM Clark by a director as shown on Brenntag's records at Companies House. Each party shall at its own cost do and execute, or arrange for the doing and executing of, each necessary act, document and thing reasonably requested of it by the other party to implement the Contract.
28. **THIRD PARTY RIGHTS**
- The provisions of the Contract (Rights of Third Parties) Act 1999 shall not apply to the Contract and the Contract shall not confer any right on a third party under that Act or otherwise.
29. **PROPER LAW**
- Every Contract to which these Conditions apply shall be construed and take effect in accordance with the laws of England and the parties hereby accept the exclusive jurisdiction of the English Court.