

TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS BY BENOIL SERVICES LIMITED

The customer's attention is drawn particularly to **CLAUSE 9 Limitation of Liability**

1. Interpretation

1.1 Definitions:

Benoil	Benoil Services Limited (registered in England and Wales with company number 01946620).
Business Day	a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
Business Hours	the period from 9.00 AM to 5.00 PM on any Business Day.
Conditions	the terms and conditions set out in this document (as amended from time to time in accordance with clause 14.5).
Contract	the contract between Benoil and the Customer for the sale and purchase of the Goods in accordance with these Conditions.
Customer	the person or firm who purchases the Goods from Benoil.
Delivery Location	Benoil's premises at Kennet Building, Trade Street, Woolton Hill, Newbury, RG20 9UJ, United Kingdom or such other location as may be specified by Benoil prior to accepting the Order.
Delivery Terms	all prices are quoted, and delivery shall take place, Ex-Works (EXW) at the Delivery Location pursuant to Incoterms® rules published by the International Chamber of Commerce (ICC) current at the time of the Contract.
Force Majeure Event	an event, circumstance, or cause beyond a party's reasonable control.
Goods	the goods (or any part of them) set out in the Order.
Losses	all liabilities, damages, losses (including loss of profits, loss of business, loss of reputation, loss of savings and loss of opportunity), fines, expenses and costs (including all interest, penalties, legal costs (calculated on a full indemnity basis) and reasonable professional costs and expenses).
Order	the Customer's purchase order for the Goods or otherwise the Customer's written acceptance of Benoil's quotation.
Relevant Requirements	all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption as set out in the Benoil Services Limited Anti-Bribery policy (as may be updated from time to time).
Specification	any specification for the Goods, including any related plans and drawings, that is agreed in writing by the Customer and Benoil.

1.2 Interpretation

- 1.2.1 A **person** includes a natural person, corporate or unincorporated body.
- 1.2.2 A reference to **writing** or **written** excludes fax but includes email.

2. Basis of contract

- 2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.2 The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions.
- 2.3 The Order shall only be deemed to be accepted when Benoil issues a written acceptance of the Order, at which point and on which date the Contract shall come into existence.

- 2.4 Once the Order has been accepted in accordance with clause 2.3 above, it may not be amended or cancelled except by agreement in writing signed by an authorised representative of Benoil.
- 2.5 The Customer waives any right it might have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions.
- 2.6 Any samples, drawings, descriptive matter or advertising produced by or on behalf of Benoil and any descriptions or illustrations contained in Benoil's catalogue (whether digital or otherwise) are produced for the sole purpose of giving an approximate idea of the Goods referred to in them. They shall not form part of the Contract nor have any contractual force.
- 2.7 A quotation for the Goods given by Benoil shall not constitute an offer. A quotation shall only be valid for a period of 30 calendar days from its date of issue.

3. Goods

- 3.1 The Goods are described in Benoil's catalogue or product specification documents as modified by any applicable Specification.
- 3.2 To the extent that Benoil manufactures (or appoints a third party to manufacture) the Goods in accordance with a Specification supplied by the Customer, the Customer shall indemnify Benoil against all Losses incurred by Benoil as a result of any claim that Benoil's use of the Specification infringes the intellectual property rights of any third party. This clause 3.2 shall survive termination of the Contract.
- 3.3 Benoil reserves the right to amend the Specification if required by any applicable law or regulatory requirement and shall notify the Customer in any such event.

4. Delivery

- 4.1 Unless otherwise agreed in writing by Benoil, all goods are sold and delivered EXW (Ex Works) at the Delivery Location Incoterms® 2020.
- 4.2 Delivery is completed when the Customer is informed that the Goods are available for collection at the Delivery Location.
- 4.3 Benoil shall ensure that each delivery of the Goods is accompanied by a packing list that shows the date of the Order, the type and quantity of the Goods (including the serial number of the Goods, where applicable), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered.
- 4.4 The Customer, or their authorised representative, shall collect the Goods from the Delivery Location.
- 4.5 Where Benoil agrees in writing to arrange carriage on the Customer's behalf, it shall do so as agent of the Customer only, at the Customer's cost and risk. Benoil shall have no liability for the acts or omissions of any carrier so appointed.
- 4.6 The Goods may be identified with product codes and batch numbers and/or packaged with labels to provide this information as part of providing traceability of the Goods.
- 4.7 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. Benoil shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event, the Customer's failure to provide Benoil with adequate instructions, or any delays caused by any supplier of Benoil.
- 4.8 If Benoil fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available.
- 4.9 Benoil shall not be liable for any failure to deliver the Goods that is caused by a Force Majeure Event or the Customer's failure to provide Benoil with adequate instructions or any other instructions that are relevant to the supply of the Goods.
- 4.10 If the Customer fails to accept delivery of the Goods, then except where such failure is caused by a Force Majeure Event or Benoil's failure to comply with its obligations under the Contract in respect of the Goods:

- 4.10.1 delivery of the Goods shall be deemed to have been completed at 9.00am on the third Business Day after the day on which Benoil notified the Customer that the Goods were made available for collection or on delivery in accordance with clause 4.3; and
 - 4.10.2 Benoil shall store the Goods until collection takes place, and shall, without limiting its rights, be entitled to charge the Customer for all related costs and expenses.
- 4.11 If twenty Business Days after the date on which Benoil notified the Customer that the Goods are available for collection, the Customer has not arranged collection of them, Benoil may resell or otherwise dispose of part or all of the Goods.
- 4.12 Benoil may deliver the Goods by instalments, which it shall invoice and which the Customer shall pay for separately. Each instalment shall constitute a separate contract. Any delay in delivery of or defect in an instalment shall not entitle the Customer to cancel any other instalment.

5. Quality

- 5.1 Benoil warrants that upon the Goods being made available for collection in accordance with clause 4 above, the Goods shall:
 - 5.1.1 conform in all material respects with their description or Specification;
 - 5.1.2 be free from material defect in design, material, and workmanship; and
 - 5.1.3 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979).
- 5.2 The warranty given at clause 5.1 shall cease to apply once the Goods have been used by the Customer (provided the Goods have not been damaged by the Customer prior to such use).
- 5.3 Subject to clause 5.4, if:
 - 5.3.1 the Customer gives notice in writing to Benoil within 7 days of the date of delivery that some or all the Goods do not comply with the warranty set out in clause 5.1; and
 - 5.3.2 Benoil is given a reasonable opportunity to examine such Goods provided that the Goods have been returned to Benoil's place of business at the Customer's expense in the same condition as they were received by the Customer,

Benoil shall, at its option and to the extent that it agrees that such Goods do not comply with the warranty set out in clause 5.1, repair or replace the defective Goods, or refund the price of the defective Goods in full.
- 5.4 Benoil shall not be liable for the Goods' failure to comply with the warranty set out in clause 5.1 if:
 - 5.4.1 the Customer makes any further use of such Goods after giving notice in accordance with clause 5.3;
 - 5.4.2 the defect arises because the Customer failed to follow Benoil's oral or written instructions regarding the storage, commissioning, installation, use of the Goods, or (if there are none) good trade practice regarding the same;
 - 5.4.3 the defect arises because of Benoil following any drawing, design, or specification supplied by or on behalf of the Customer;
 - 5.4.4 the Customer alters or repairs such Goods without the written consent of Benoil;
 - 5.4.5 the defect arises because of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions.
- 5.5 Except as provided in this clause 5, Benoil shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 5.1.
- 5.6 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 5.7 These Conditions shall apply to any repaired or replacement Goods supplied by Benoil.

6. Additional certifications

- 6.1 Where agreed in writing with the Customer, Benoil may certify Goods, that have not already been certified by Benoil, to conform to other standards or specifications, for which a charge may apply.

- 6.2 Where required for export to specific destinations, Benoïl will obtain and supply appropriate documentation such as certificates of origin and chamber of commerce certificates or equivalent documentation, and a charge shall apply.

7. Title and risk

- 7.1 The risk in the Goods shall pass to the Customer when they are delivered to the Customer in accordance with clause 4.
- 7.2 Title to the Goods shall not pass to the Customer until the earlier of:
- 7.2.1 Benoïl receiving payment in full (in cash or cleared funds) for the Goods and any other goods that Benoïl has supplied to the Customer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums;
 - 7.2.2 Benoïl issuing an invoice to the Customer for the Goods with payment terms previously agreed in writing between Benoïl and the Customer; and
 - 7.2.3 the Customer resells the Goods, in which case title to the Goods shall pass to the Customer at the time specified in clause 7.4.
- 7.3 Until title to the Goods has passed to the Customer, the Customer shall:
- 7.3.1 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as Benoïl's property;
 - 7.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - 7.3.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
 - 7.3.4 notify Benoïl immediately if it becomes subject to any of the events listed in clause 10.1.2 to clause 10.1.4; and
 - 7.3.5 give Benoïl such information as Benoïl may reasonably require from time to time relating to the Goods, and the Customer's ongoing financial position.
- 7.4 Subject to clause 7.5, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before Benoïl receives payment for the Goods. If the Customer resells the Goods:
- 7.4.1 it does so as principal and not as Benoïl's agent; and
 - 7.4.2 title to the Goods shall pass from Benoïl to the Customer immediately before the time at which resale by the Customer occurs.
- 7.5 At any time before title to the Goods passes to the Customer, Benoïl may:
- 7.5.1 by notice in writing to the Customer, terminate the Customer's right under clause 7.4 to resell the Goods or use them in the ordinary course of its business; and
 - 7.5.2 require the Customer to deliver up all Goods in its possession and control that have not been resold or irrevocably incorporated into another product, and if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored, to recover them.

8. Price and payment

- 8.1 The price of the Goods shall be the price set out in the Order, or, if no price is quoted, the price specified in the quotation relating to the order.
- 8.2 Benoïl may, by giving notice in writing to the Customer at any time before the Customer's purchase order is accepted, increase the price of the Goods.
- 8.3 The price of the Goods excludes amounts in respect of value added tax (VAT), which the Customer shall additionally be liable to pay to Benoïl at the prevailing rate, subject to the provision of a valid VAT invoice and excludes the costs and charges of packaging, insurance, and transport of the Goods, which shall be paid by the Customer.
- 8.4 Benoïl may invoice the Customer for the Goods on or at any time after the completion of delivery pursuant to clause 4.1. The Customer shall pay each invoice submitted by Benoïl in advance of

collection from the Delivery Location or in accordance with any credit terms agreed in writing by Benoil, in full and in cleared funds to a bank account nominated in writing by Benoil, and time for payment shall be of the essence of the Contract.

- 8.5 If the Customer fails to make a payment due to Benoil under the Contract by the due date, then without limiting Benoil's remedies under clause 10, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- 8.6 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding including the Customer's bank charges, transfer fees and other transaction costs levied by the Customer's bank in connection with any payment made to Benoil (other than any deduction or withholding of tax as required by law).
- 8.7 Where the Customer's bank deducts any such charges from a payment prior to receipt by Benoil, Benoil reserves the right to add the amount of such deduction to the Customer's next invoice.

9. Limitation of liability

- 9.1 Benoil's total liability to the Customer shall not exceed the value of the relevant Order.
- 9.2 The Customer is responsible for making its own arrangements for the insurance of the Goods.
- 9.3 References to liability in this clause 9 include every kind of liability arising under or in connection with the Contract including liability in contract, tort (including negligence) or otherwise.
- 9.4 Nothing in the Contract limits any liability for:
- 9.4.1 death or personal injury caused by negligence;
 - 9.4.2 fraud or fraudulent misrepresentation;
 - 9.4.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979;
 - 9.4.4 defective products under the Consumer Protection Act 1987;
 - 9.4.5 any liability that cannot legally be limited; or
 - 9.4.6 the Customer's payment obligations under the Contract.
- 9.5 Subject to clause 9.4, the following types of loss are wholly excluded:
- 9.5.1 loss of profits (including loss of anticipated savings);
 - 9.5.2 loss of sales or business;
 - 9.5.3 loss of agreements or contracts;
 - 9.5.4 loss of use or corruption of software, data or information;
 - 9.5.5 loss of or damage to goodwill; and
 - 9.5.6 indirect or consequential loss.
- 9.6 This clause 9 shall survive termination of the Contract.

10. Termination

- 10.1 Without limiting its other rights or remedies, Benoil may terminate the Contract with immediate effect by giving written notice to the Customer if:
- 10.1.1 the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 20 working days of it being notified in writing to do so;
 - 10.1.2 the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or

action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

10.1.3 the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or

10.1.4 the Customer's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.

10.2 Without limiting its other rights or remedies, Benoïl may suspend supply of the Goods under the Contract or any other contract between the Customer and Benoïl if the Customer becomes subject to any of the events listed in clause 10.1.2 to clause 10.1.4, or Benoïl reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under the Contract on the due date for payment.

10.3 Without limiting its other rights or remedies, Benoïl may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.

10.4 On termination of the Contract for any reason the Customer shall immediately pay to Benoïl all of Benoïl's unpaid invoices and interest and, in respect of Goods supplied but for which no invoice has been submitted, Benoïl shall submit an invoice, which the Customer shall pay immediately on receipt.

10.5 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.

10.6 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.

11. Force majeure

Neither party shall be liable for any delay or failure in the performance of its obligations for so long as and to the extent that such delay or failure results from a Force Majeure Event. If the period of delay or non-performance continues for 60 days, the party not affected may terminate the Contract by giving not less than 30 days' written notice to the affected party.

12. Sanctions compliance

12.1 The Customer shall not use, export or re-export any Goods to any country, territory, or entity subject to sanctions and shall at all times comply with Benoïl's Sanctions Compliance Policy (as amended from time to time), which is available upon request.

12.2 The Customer shall not transfer, resell or otherwise dispose of the Goods to any third party where the Customer knows, or has reasonable grounds to believe, that such third party would use, export or re-export the Goods in breach of this clause 12 or Benoïl's Sanctions Compliance Policy.

13. Anti-bribery and anti-corruption

13.1 The Customer shall:

13.1.1 comply with the Relevant Requirements;

13.1.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 as if such activity practice or conduct had been carried out in the UK;

13.1.3 promptly notify Benoïl (in writing) if it becomes aware of any breach of clauses 13.1.1 or 13.1.2 or has reason to believe that it has received a request or demand for any undue financial or other advantage;

13.1.4 ensure that its agents, consultants, contractors, subcontractors and any other persons engaged in performance of the Customer's obligations under the Contract do so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Customer in this clause 13 (**Relevant Terms**). The

Customer shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to Benoil for any breach by such persons of any of the Relevant Terms; and

- 13.1.5 ensure not to transfer, resell or otherwise dispose of the Goods to any third party where the Customer knows, or has reasonable grounds to believe, that such third party intends to use the Goods in connection with any activity which would constitute a breach of the Relevant Requirements or an offense under sections 1, 2 or 6 of the Bribery Act 2010.

- 13.2 Breach of this clause 13 shall be deemed a material breach.

14. General

14.1 Assignment and other dealings

- 14.1.1 Benoil may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.
- 14.1.2 The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of Benoil.

14.2 Confidentiality

- 14.2.1 Each party undertakes that it shall not at any time during the Contract, and for a period of ten years after termination of the Contract, disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party, except as permitted by clause 14.2.2.
- 14.2.2 The Customer shall keep confidential and shall not disclose any information disclosed by or on behalf of Benoil in connection with the Order, including drawings, product specifications, product performance data, pricing, trade secrets and other confidential information of a commercial or technical nature, without the prior written consent of Benoil to make such disclosures. This clause 14.2.2 shall apply without limit in time.
- 14.2.3 Each party may disclose the other party's confidential information to its employees, officers, representatives, contractors, subcontractors, or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations in connection with the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 14.2; and as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 14.2.4 Neither party may use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

14.3 Policies

The Customer acknowledges that Benoil operates in accordance with a number of internal policies, including but not limited to its sanctions compliance policy, anti-bribery policy, code of conduct policy, conflict minerals policy, cyber security policy and Quality and HSE policy. Such policies are available upon request and may be updated by Benoil from time to time. The Customer agrees to cooperate with Benoil in giving effect to such policies to the extent relevant to the performance of these Conditions.

14.4 Entire agreement

The Contract constitutes the entire agreement between the parties. Each party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it has no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

14.5 Variation

No variation of the Contract shall be effective unless it is in writing by Benoil.

14.6 Waiver

A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A delay or failure to exercise, or the single or partial exercise of, any right or remedy does not waive that or any other right or remedy, nor does it prevent or restrict the further exercise of that or any other right or remedy.

14.7 Severance

If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision or part-provision of the Contract is deemed deleted under this clause 14.7, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

14.8 Notices

14.8.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by next working day delivery service or email at its registered office (if a company) or its principal place of business (in any other case).

14.8.2 Any notice shall be deemed to have been received:

14.8.2.1 If delivered by hand, at the time the notice is left at the proper address; or

14.8.2.2 A notice delivered by email must be sent to **sales@benoil.com** and is deemed to have been received by Benoil at the time of transmission, provided the Customer does not receive an automated system message stating that the email was not delivered or that the recipient is out of the office. If an email is sent outside of 9:00 AM to 5:00 PM (local time of the recipient) on a Business Day, it shall be deemed received at 9:00 AM on the following Business Day; or

14.8.2.3 If sent by next working day delivery service, at 9:00 AM on the second Business Day after posting.

14.8.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

14.9 Third party rights

The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract. The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

14.10 Governing law

The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

14.11 Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its matter or formation.