

General Terms and Conditions of Sale of Flint (“GTC Sale”)

- 1. Definitions and Scope of Application**
- 1.1 Flint means:
- Flint CPS Inks New Zealand Limited**, (registered at New Zealand Companies Office, registration no. 7118454) which registered office is at 1/59 Walls Road, Penrose, 1061, Auckland, New Zealand; or
- Flint Group NZ Limited**, (registered at New Zealand Companies Office, registration no. 613234) which registered office is at 1/59 Walls Road, Penrose, 1061, Auckland, New Zealand.
- 1.2 All sales and deliveries of Flint’s products (“**Products**”) by Flint and any contracts/agreements or obligations connected therewith, shall be made exclusively on the basis of these GTC Sale, without separate written agreement being necessary. The application of customer’s conflicting or supplementary terms and conditions shall be excluded, even if Flint does not expressly object to such terms and conditions. Deviation from these GTC Sale require the explicit written approval of Flint.
- 1.3 In case a separate written agreement is not concluded, these GTC Sale shall be deemed as accepted by customer by placing of an order or at latest, upon the delivery.
- 2. Conclusion of Contract**
- Flint’s quotations are not binding offers but must be seen as invitations to customer to place a binding order. The contract is concluded by customer’s written order and Flint’s written confirmation of an order or in case there is no such written confirmation, at the latest with the delivery of the Products. In case the confirmation differs from the order, such confirmation constitutes a new non-binding offer of Flint. Verbal contracts or promises shall only be valid if an authorized employee of Flint has confirmed them in written form.
- 3. Quality of Products**
- 3.1 The quality of the Products is exclusively determined by the product specifications which Flint shall make available to customer upon request. Any additional, more detailed and/or deviating specifications require an explicit written agreement between Flint and customer.
- 3.2 Flint reserves the right to amend the product specifications.
- 3.3 Information provided in sales catalogues, price lists and any other informative literature provided by Flint or any other descriptions of the Products (such as shelf-life data) shall under no circumstances constitute a guarantee for any specific quality of the Products; such specific quality or durability guarantees must expressly be made in written form. Identified uses under the European Chemicals Regulation (REACH) relevant for the Products or other equivalent applicable international legislation relevant for the Products, shall neither represent an agreement on the corresponding contractual quality of the Products nor the designated use under this contract.
- 3.4 Any advice rendered by Flint is given to the best of its knowledge. Any advice and information with respect to suitability and application of the Products shall not relieve customer from undertaking his own investigations and tests.
- 3.5 Any applications with the Products are in the sole responsibility of customer and customer must ensure that the Products are suitable and appropriate for the intended purpose.
- 4. Limitation of Resale**
- Customer may not sell, resell, share, provide or otherwise make available to any third party, including any subsidiaries and affiliates, the Products or any component thereof without Flint’s prior written approval. Without prejudice to any other rights and remedies, customer’s non-compliance with this limitation of resale entitles Flint to suspend performance of any of its contractual obligations with immediate effect without liability to customer.
- 5. Delivery Terms**
- 5.1 Delivery shall be made with regards to the respective **Incoterms 2020**. Unless otherwise agreed in written form, the delivery is made under **FCA Incoterms 2020**.
- 5.2 Unless otherwise agreed in written form, delivery shall be made according to the lead time appointed by Flint. Lead time means the period from the date of order confirmation to the delivery date in accordance with agreed Incoterm (“**Lead Time**”).
- 5.3 Delivery dates and delivery periods are only binding if they have been agreed in written form.
- 5.4 If deliveries by Flint are delayed, customer shall only be entitled to rescind the contract if (i) Flint is responsible for the delay and (ii) a reasonable grace period set by customer has expired.
- 5.5 Flint may make partial deliveries for good reason if and to the extent this is reasonable for customer.
- 5.6 Unless otherwise agreed in written form, the risk of loss shall pass to customer according to respective Incoterm.
- 6. Prices**
- 6.1 Unless otherwise agreed in written form, the prices shall be **FCA Incoterms 2020 (“Base Price”)**, plus any costs for packaging, freight, insurance, disposal, any additional expenses and VAT, if applicable.
- 6.2 Unless otherwise agreed in written form, the Base Price shall be determined by the price list of Flint as applicable at the date of the conclusion of the contract.
- 6.3 If, after the conclusion of the contract, Flint has incurred unforeseeable cost increases with regard to the Products beyond its control, Flint shall be entitled to pass on such higher costs by increasing the agreed Base Price on a pro rata basis.
- 7. Payment Terms**
- 7.1 Unless otherwise agreed in written form, invoices of Flint shall be due for payment without any deductions within thirty (30) days from the date of invoice. If this period for payment lapses without Flint receiving payment, customer shall be in default. Payments by customer shall not be deemed to have been made until Flint has received such payment.
- 7.2 All payments shall be made directly into Flint’s bank account. Bills of exchange, checks and any other specific arrangements with regard to payment shall only be accepted when agreed in written form and without any costs for Flint.
- 7.3 Regardless of the place of delivery of the Products, the place of payment shall be Flint’s place of business.
- 7.4 All payments shall be set-off against the outstanding invoices/receivables in chronological order (oldest invoices first and most recent invoices last).
- 7.5 Flint is entitled to issue partial invoices for partial deliveries as defined in clause 5.5 hereof.
- 7.6 In case customer is in default of payment of an invoice (i) Flint is entitled to charge default interest on the amount outstanding at the maximum rate permitted by applicable mandatory law, whereas any claims for further damages due to the default shall remain unaffected; and (ii) Flint may suspend or cease further supply of Products to customer, without any liability to the customer.
- 7.7 If there are reasonable doubts as to customer’s ability to pay, especially if payments are in arrears, Flint may revoke credit periods and make further deliveries dependent on advance payments or other security. If such advance payments or security have not been rendered even after the expiry of a reasonable grace period, Flint may partially or totally rescind individual or all of the affected contracts. Flint shall remain entitled to assert further rights.
- 8. Retention of Title and Personal Property Securities Act 1999**
- 8.1 Customer acknowledges that the terms and conditions of these GTC Sale constitute a security agreement which creates a security interest in favour of Flint in all the Product supplied by Flint to Customer from time to time and in the proceeds relating to that Product for the purposes of the Personal Property Securities Act 1999 (NZ) (“**PPSA**”) and to better secure Customer’s performance of its obligations under these GTC Sale.
- 8.2 Customer undertakes to:
- promptly do all things, execute all documents and/or provide any information which Flint may reasonably require to enable Flint to perfect and maintain the perfection of its security interest (including by registering a financing statement);
 - give Flint not less than fourteen (14) days prior written notice of any proposed change in its name and/or any other change of its details; and
 - immediately on request by Flint (and at Customer’s expense) obtain from any third party such agreements and waivers of any security interest that third party has in respect of the Product to ensure that at all times Flint has a first ranking security interest in the Product.
- 8.3 Customer waives its rights to receive a copy of any verification statements under the PPSA and agrees that as between Flint and Customer, to the extent the law permits:

- a) Customer will have no rights under (or by reference to) sections 114(1)(a), 116, 120(2), 121, 125, 126, 127, 129, 131, 133 and 134 of the PPSA; and
- b) where Flint has rights in addition to those in Part 9 of the PPSA, those rights will continue to apply.
- 8.4 For the purposes of this clause 8, "proceeds" includes, where the context permits, any proceeds for purposes of the PPSA, and the terms "security interest", "perfection", "verification statement" and "financing statement" each have the meaning given to those terms in the PPSA.
- 9. Defective Products**
- 9.1 At the time that risk of loss passes to customer the Products shall be of the quality determined in the product specifications (see clause 3.1 above).
- 9.2 Customer's rights in case of defects of the Products shall require that customer inspects the Products upon delivery without undue delay and notifies Flint of any defects without undue delay but no later than fourteen (14) days following receipt of the Products. In case of hidden defects, Flint must be notified without undue delay but no later than fourteen (14) days after the defect was detected and no later than one (1) year after receipt of the Products.
- 9.3 Notification must be in written form and must precisely describe the nature and extent of the defects. In case customer failed to inspect the Products or does not submit the notices in time or not in a proper written form, the delivery and performance made by Flint shall be deemed defect-free.
- 9.4 In the event of a notification of a defect, Flint shall have the right to inspect and test the respective Products. Customer will grant Flint the required period of time and opportunity to exercise such right.
- 9.5 If the Products are deemed as defective by Flint and customer has duly notified Flint in accordance with the foregoing terms:
- a) Flint has the right to choose whether to remedy the defect or supply customer with non-defective replacement products;
- b) Flint shall have two (2) attempts to remedy the defect or supply replacement products. Should these attempts fail to conform with these GTC Sale, customer may either rescind the contract or demand a reduction in the purchase price and/or claim either damages pursuant to section 12.
- 9.6 Customer's rights in case of defects shall be excluded in the case of: (i) natural wear and tear, (ii) defects of the Products due to reasons for which customer bears responsibility or (iii) customer making further use of such Products after giving notice in accordance with section 9.2.
- 10. Claims Limitation Period**
- Customer's claims for defective Products are subject to a period of limitation of one (1) year from receipt of the Products. In the following cases the statutory periods of limitation apply instead of the one-year period:
- a) claims for damages caused by Flint intentionally or by gross negligence;
- b) defects concealed by Flint in bad faith or caused intentionally;
- c) claims for damages due to culpably caused personal injuries;
- d) claims under applicable product liability law.
- 11. Set-off Rights**
- Customer may only set off claims from Flint if its counterclaim is undisputed, ready for decision or has been finally adjudicated. Same applies for any kind of potential customer's rights of retention.
- 12. Limitation of Liability**
- 12.1 Unless otherwise agreed in written form, Flint's maximum aggregate liability in relation to the contractual relationship shall be limited to the value of the respective Products that directly caused the damage.
- 12.2 Customer shall take all reasonable measures necessary to avert and reduce damages. Flint shall not be liable for loss or damage suffered by reason of use of the Products after customer becomes aware of defect or other circumstances which should reasonably have indicated to customer the existence of a defect.
- 12.3 Flint shall not be liable for any consequential, incidental, collateral or indirect damages, which arise out of or in connection with the contractual relationship.
- 12.4 Flint' liability for any loss or damage caused by any test or trial products manufactured by Flint and delivered to customer is excluded.
- 12.5 Any other liability, all warranties, conditions and other terms implied by statute imposed on Flint, are excluded from the contractual relationship, to the fullest extent permitted by law.
- 12.6 The above stated liability limitations shall not apply to damages (i) caused intentionally or (ii) by gross negligence or wilful misconduct, (iii) culpably caused death or personal injuries, (iv) any breach of the respective product liability law (v) nor to any other liability which cannot be excluded or limited by mandatory applicable law.
- 13. Intellectual Property Rights**
- 13.1 The term "Intellectual Property Rights" is defined to include all intellectual and industrial property rights including inventions, patents, trade secrets, know-how, registered trademarks, registered designs, utility models, applications for and rights to apply for any of the foregoing, unregistered design rights, unregistered trademarks, rights to prevent passing off unfair competition, copyright, database rights, topographies of integrated circuits, blueprints, projects, formulations, and any other rights in any invention, discovery or process, globally and together with all renewals and extensions.
- 13.2 All Intellectual Property Rights to Products and/or any other materials, including Advertising Materials, provided to customer by Flint are vested solely in Flint or its licensors.
- 13.3 Nothing in these GTC Sale shall be construed as granting customer, expressly or impliedly, any rights or licenses to Flint's Intellectual Property Rights or other proprietary information.
- 13.4 The Customer shall not, and shall not authorize any third party to, engage in any act that may jeopardize Flint's Intellectual Property Rights. In particular, the Customer shall not attempt to reverse engineer, duplicate, or otherwise copy any of the Products or materials provided by Flint, in whole or in part, nor allow or instruct any third party to do so. The Customer is also prohibited from analyzing the chemical characteristics or composition of the Products, or from having any Products analyzed or using the results of such analysis. Without Flint's prior written consent, the Customer is further prohibited from providing the Products to third parties for analysis, comparison, or any other purpose. For the avoidance of doubt, this provision also applies to Products samples, regardless of whether they were provided by Flint or another source.
- 14. Trademarks and Advertising**
- 14.1 Customer shall not obscure, alter or remove in any way any trademarks and/or other distinctive marks, whether imprinted or attached to the Products or other materials provided by Flint, and shall not include or attach any other marks to the Products or other materials provided by Flint without the prior written approval of Flint.
- 14.2 All promotional, advertising and sales materials ("Advertising Materials") provided by Flint shall remain the sole property of Flint. Customer may only use the Advertising Materials in accordance with Flint's instructions provided together with the Advertising Materials and only in connection with the sale of the Products, subject to the restrictions set out in clause 4. Customer shall not authorize any third party to use the Advertising Materials.
- 14.3 Customer shall not be entitled to use any trademarks and/or other distinctive marks of Flint without Flint's prior written approval.
- 15. Compliance and Sustainability**
- 15.1 Flint conducts its business in a sustainable and ethical way and adheres to internationally recognized fundamental standards for occupational health and safety, environmental protection, labor and human rights as well as responsible corporate governance. Flint complies at all times with its Code of Conduct, which is available at <https://flintgrp.com/en/codeofconduct/>.
- 15.2 Flint expects customer to comply at all times with the principles contained in the Flint Code of Conduct, which is available at <https://flintgrp.com/en/codeofconduct/>.
- 15.3 Each party shall ensure that, at all times, (i) it has and maintains all licences, permissions, authorisations, consents and permits that it needs to carry out its obligations with regard to contractual relationship; (ii) all of its products and/or services are in compliance with all applicable laws and regulations relevant for the intended use of the products and/or services; and (iii) to the extent it processes personal data, it shall comply with its obligations under the General Data Protection Regulation (EU 2016/679) or other equivalent applicable legislation relating to the processing of personal data.
- 15.4 Each party shall comply with all applicable laws, rules, regulations and administrative requirements with respect to its activities pursuant to this contractual relationship, including those governing trans-border sales, importation, storage, shipments, transfers of products, economic sanctions and export controls.

- The foregoing expressly includes anti-boycott, embargo, anti-bribery and corrupt practices laws, including without limitation the Bribery Act 2010 (U.K.), the Foreign Corrupt Practices Act 1977 (United States), and any additional anti-bribery, corruption, commercial bribery, money laundering, or terrorist financing laws applicable to the respective party. Each party including any subsidiary, affiliate, and employee thereof, shall comply with applicable export control and economic sanctions laws imposed, administered or enforced from time to time by (i) the United States, (ii) the United Nations Security Council, (iii) the European Union and any member state thereof (iv) the United Kingdom, (v) the Channel Island of Jersey or (vi) the respective governmental institutions of any of the foregoing including, without limitation, His Majesty's Treasury, the Office of Foreign Assets Control of the US Department of the Treasury, the US Department of Commerce, the US Department of State and any other agency of the US government ("**Trade Rules**"). Each party shall take no action, which would subject the other party to penalties.
- 15.5 Without prejudice to any other rights and remedies, one party's non-compliance with the compliance obligations above entitles the other party to suspend performance of any of its contractual obligations and/or terminate the contractual relationship in written form with immediate effect, without liability to the non-compliant party.
- 16. Personal Data Privacy**
- 16.1 When processing personal data ("**Personal Data**") under or in connection with the parties' cooperation, each party shall determine, in its sole discretion and not jointly with the other party, the purposes and means of such processing. Each party shall therefore act as a separate data controller.
- 16.2 Customer acknowledges and agrees that Flint may process Personal Data of customer and its representatives, including name, address, telephone number, email address, for the purpose of fulfilling Flint's rights and obligations under these GTC Sale, particularly ensuring the proper delivery of the Products. In this case, Flint is considered the data controller of the Personal Data provided by customer and will process the received Personal Data in accordance with Flint's Privacy Statement available at <https://flintgrp.com/en/privacy-statement/>.
- 16.3 Customer affirms that the Personal Data collected by customer will be provided to Flint in accordance with the applicable data protection legislation and that the individuals whose Personal Data is provided by or on behalf of customer have been duly informed and, where necessary, have provided valid approval for Flint to process their Personal Data for the purposes outlined in [clause 16.2](#) above.
- 17. Confidentiality**
- 17.1 The term "**Confidential Information**" means information regarding (in whole or in part and whether directly or indirectly) either of the parties and/or any of their affiliates, which is disclosed to the other party including, but not limited to, know-how, trade secrets, plans, designs, processes, formulae, recipes, substances of the Products (for example in the form of statement of compositions), samples, manufacturing methods and techniques, inventions and ideas, product specifications, machinery, drawings, photographs, equipment, devices, tools and apparatus, sales and marketing data, financial, pricing and cost information, business plans and business opportunities and all other technical or business information of whatever nature, whether written, verbal or electronic. The terms and conditions of the business relationship and any documents, summaries, extracts, transcripts, recordings, analyses, reports and other records that use, concern or are based on, or derived from any of the information described as Confidential Information also constitutes Confidential Information.
- 17.2 If the written agreement entered into by the parties contains separate provisions relating to Confidential Information, or if the parties have entered into an effective non-disclosure agreement, such provisions or non-disclosure agreement shall prevail over the provisions hereof, shall be binding and shall apply in their entirety unless otherwise agreed in written form by the parties.
- 17.3 The parties shall not disclose any Confidential Information to any person or entity without the prior written approval of the respective other party, except if mandatory laws or regulations require otherwise.
- 17.4 Each party agree to keep in a secure place or system all Confidential Information entrusted to or disclosed by the other party and to keep such Confidential Information in accordance with the applicable commercial rules.
- 18. Force Majeure**
- Any incident or circumstances that are unforeseeable, unavoidable and beyond the control of any party and sphere of influence and for which the party does not bear responsibility, such as natural occurrences, war, pandemics, strikes, cyberattacks, lock-outs, shortages of raw materials and energy, obstruction of transportation, interruption in the supply chain, breakdown of manufacturing equipment, fire, explosion, any law or acts of government or public authority, including imposing an export or import restriction, quota or prohibition, shall relieve the affected party for the duration of such incident from its obligations under the contract to the extent the affected party is prevented from performing such obligations. Delivery and performance periods and dates, as the case may be, shall be extended or rescheduled, as applicable, until the affected party declares readiness to perform its obligations again, and the other party shall be informed of the occurrence of such disturbance in a reasonable manner. If the end of the aforementioned occurrences is not foreseeable, or should it last for a period of more than four (4) months, each party is entitled to rescind from the contract.
- 19. Severability**
- If any provision of these GTC Sale is invalid, in whole or in part, the validity of the remaining provisions shall remain unaffected hereby.
- 20. Assignment**
- These GTC Sale shall be binding upon and inure to the benefit of the parties of the contract and their respective successors and assignees, provided that customer may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written approval of Flint.
- 21. Leading Language**
- To the fullest extent not prohibited by applicable law, the applicable language shall be English ("**Leading Language**"). If these GTC Sale are also available in another language, this is merely done for customer's convenience. In case of differences of interpretation, the version in the Leading Language shall be binding.
- 22. Applicable Law and Jurisdiction**
- 22.1 Any dispute arising out of or in connection with the contract shall be heard at the court having jurisdiction over Flint's principal place of business or, at Flint's option, at customer's principal place of business.
- 22.2 These GTC Sale and the contractual relationship of customer and Flint shall be governed by the laws of New Zealand to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).

Edition: 2024, v. 2604