



Preamble

In principle, we supply entrepreneurs as defined by section 14 of the German Civil Code [BGB], legal entities under public law and special funds under public law only pursuant to the following Terms and Conditions of Sale and Delivery. The application of other terms and conditions by way of exception, especially the Buyer's terms and conditions of purchase, shall be subject to our prior express written acknowledgement.

§ 1 Tender and Acceptance

- a) Our tenders shall be subject to change without notice. Orders shall only be binding upon us if and in so far as we have acknowledged them in writing or we have begun to carry them out. Agreements, promises and guarantees made verbally by our employees - except for executive bodies, duly authorised signatories and executive managers - in connection with the conclusion of the contract shall become binding only upon our written acknowledgement. Even a waiver of the written form requirement itself must be in writing.
- b) Supplementary phrases for describing goods, such as "approx.", "as supplied before" or similar additions in our tenders relate exclusively to the quality or quantity of the goods, but not to the price. Such details in purchase orders shall be understood by us as having such a meaning and, where applicable, any acknowledgement shall be meant as such.
- c) Quantity details shall always be deemed approximate. Deviations of +/- 10 % for safety reasons and/or due to differences in filling height shall be deemed to be in conformity with the contract in the case of deliveries in demountable, fixed tanks or silo vehicles. Such deviations in quantity shall be fully taken into account in the invoice, reducing or increasing the invoiced amount accordingly.

§ 2 Purchase Price and Payment

- a) In principle, our prices shall be subject to statutory value-added tax. Prices shall be calculated on the basis of quantities or weights determined by us or our supplying factory. However, prices may be calculated on the basis of quantities or weights determined by the consignee, provided that these were determined using calibrated scales, and the goods were transported at our risk.
- b) The purchase price shall be payable net, cash on delivery of the goods, unless otherwise agreed upon in writing.
- c) We reserve the right to charge interest on arrears at the rate of 5 percentage points above the base interest rate from the due date.
- d) In the event of default, we shall charge default interest at the rate of 8 percentage points above the base interest rate. We reserve the right to claim damages over and above this.
- e) Bills of exchange and cheques shall be accepted on account of performance. They shall be deemed payment when unconditionally honoured / cashed. Expenses customary in banking shall be chargeable to the Buyer.
- f) The Buyer may set off against our purchase-money claim only with undisputed claims or claims declared final and absolute. The Buyer shall only have the right to withhold payment to the extent that this right is based on the same contractual relationship.
- g) If the Buyer defaults on payment of one of our invoices in a sum that is not insignificant for the business relationship (20 % of the sum invoiced in one month, calculated as the average over the 12-month period prior to the commencement of default), our entire claims arising from the business relationship shall become immediately due, regardless of the acceptance of any bills of exchange. We shall then be further entitled to demand payment in cash before any delivery.
If default in payment is still not remedied within a reasonable additional period, we shall be entitled to cancel the contract and claim compensatory damages for delay in performance or for non-performance. This shall especially apply to follow-on transactions agreed upon, but not yet carried out.
- h) If we become aware of facts indicating a fundamental deterioration in the Buyer's financial circumstances, we shall be entitled to demand payment in cash before the delivery of goods, even if otherwise agreed upon beforehand, and to declare due and payable our non-time-barred claims arising from the current business relationship.
- i) The sales price is subject to change if unexpected fiscal expenses should occur, exchange rates have changed since the order has been placed or tariffs have been raised. The Buyer will be notified of a price change due to the mentioned circumstance in due time.

§ 3 Delivery

- a) Agreed delivery periods and dates shall always be deemed approximate, unless a fixed date has been expressly agreed upon.



b) In the case of deliveries that do not involve our works (direct sales), the delivery date and/or period shall be deemed met if the goods leave the supplying factory in sufficient time for the consignment to arrive at the consignee within the stipulated period, assuming normal transportation time.

c) Events of force majeure, including restrictions under public law as well as strike and lockout, shall entitle us to cancel the contract. In such cases, compensatory damages for breach of duty shall be excluded. This shall equally apply in the event that our suppliers fail to supply us in due time through no fault of our own. We shall be obliged to inform the Buyer of such events without undue delay. The Buyer shall then equally be entitled to cancel the contract.

d) If we default on delivery, the Buyer shall be obliged to fix a reasonable additional period and may cancel the contract after this period has expired to no avail. The Buyer may claim compensatory damages for breach of duty after the additional period has expired to no avail only if default in delivery has occurred and this was at least caused by a negligent breach of fundamental contractual duties on the part of our official representatives or one of our agents in performance.

§ 4 Dispatch and Acceptance

a) The Buyer shall always bear the risk of transportation from the place of delivery, even in the case of delivery carriage paid or free domicile, except where we carry out transportation from our works or warehouse using our own vehicles.

b) In the case of collection from the place of delivery, the Buyer or its representative shall be responsible for loading the vehicle and complying with legal regulations concerning the transportation of dangerous goods.

c) In any event, the Buyer shall be responsible for unloading and loading the goods.

d) In the case of delivery in tank vehicles and demountable tanks, the consignee shall ensure that its tanks or other storage containers are in faultless technical condition and shall, under its own responsibility, arrange for filling pipes to be connected to its receptacle system. Our obligation shall be limited to operating the vehicle's own facilities.

e) If, over and above this, our employees assist in unloading and drawing off, and damage to the goods or other damage is caused thereby, they shall be deemed to have acted at the Buyer's sole risk and not as our agents in performance.

f) The above provisions shall apply accordingly in the case of supplying by third-party carriers, where liability on the part of the Seller could be derived from their conduct. The third party's liability shall remain unaffected.

§ 5 Packaging

a) Where our deliveries are made in loaned packing drums, the Buyer shall return these to us in emptied, faultless condition on its account and at its risk no later than within 30 days after arrival at the Buyer or shall, where applicable, give these back to our vehicle free of charge against acknowledgement of receipt

b) If the Buyer fails to meet in due time the obligation mentioned under a., we shall be entitled to charge a reasonable fee for the period in excess of 30 days. After the period for returning the packing drums has expired to no avail, we shall be entitled to claim the replacement value, crediting the aforementioned fee.

c) Affixed labels must not be removed. Loaned packaging must not be exchanged, nor filled with other goods. The Buyer shall be liable for any depreciation in value, exchange and/or loss, regardless of fault. The result of the incoming inspection at our works shall be decisive. It shall not be permissible to use loaned packaging as a storage container, nor to pass loaned packaging on to third parties, unless agreed upon in writing beforehand.

d) In the case of delivery in tank wagons, the Buyer shall under its own responsibility ensure that these are emptied and returned to us or to the specified address as quickly as possible. If tank wagons are retained at the Buyer's works for an extended period through the fault of the Buyer, the incurred rental fee for the tank wagon in this connection shall be chargeable to the Buyer

§ 6 Reservation of Title

a) Title to the goods shall pass to the Buyer when the purchase price and all other receivables, including future receivables, arising from the business relationship with us have been fully paid. This shall apply even if payments are made towards specified receivables. In the case of a running account, the property under reservation of title shall be deemed to be security for our balance due on the running account. Title shall pass to the Buyer no later than the time when we indisputably have no further claim against the Buyer.

b) As long as the Buyer duly meets its liabilities to us, the Buyer shall be authorised to reuse goods under reservation of title in the normal course of business, on condition that its receivables arising from reselling pass to us pursuant to a).



- c) If the Buyer fails to meet its obligations to pay, even within a fixed additional period, we shall be entitled to reclaim possession of the goods under reservation of title without any further fixed additional period and without any declaration of cancellation. Where necessary, we shall be entitled to enter the Buyer's business premises for the purpose of taking back goods under reservation of title.
- d) Any treatment or processing of goods under reservation of title shall occur on our behalf, without placing us under any obligation. We are deemed to be a manufacturer as defined by section 950 of the German Civil Code [BGB] and shall acquire title to intermediate products and end products in the ratio of the invoiced value of our goods under reservation of title to the invoiced values of third-party goods. In this respect, the Buyer shall act as a custodian on our behalf in trust and free of charge. The same shall apply in the event that goods under reservation of title are combined or mixed with third-party goods as defined by sections 947 and 948 of the German Civil Code [BGB].
- e) To secure all our receivables, the Buyer hereby assigns to us claims against third parties arising as a result of reselling goods under reservation of title. If the Buyer sells goods that we only partly own pursuant to letter d), the Buyer shall assign to us the claims against the third party for the corresponding partial amount. If the Buyer uses goods under reservation of title within the framework of a contract for work (or a similar contract), the Buyer shall assign to us the due compensation (for work) in the sum of the invoiced value of our goods used in this connection.
- f) The Buyer shall be authorised to collect, in the normal course of business, receivables arising from reselling goods under reservation of title. If we become aware of facts indicating a fundamental deterioration in the Buyer's financial circumstances, the Buyer shall at our request notify its customers of the assignment of receivables, refrain from disposing of the receivables in any way, give us all necessary information on the stock of goods that we own and the receivables assigned to us and hand over to us documents for claiming the assigned receivables. Any third-party seizure of goods under reservation of title and/or assigned receivables shall be made known to us without undue delay.
- g) If the value of the security to which we are entitled exceeds the total sum of receivables from the Buyer by more than 10 %, we shall at the request of the Buyer be obliged to release security for our goods to this extent.

§ 7 Warranty Rights, The Buyer's Duties to Examine and Give Notice of Defects

- a) We shall be liable for defects of quality pursuant to legal regulations, either by rendering supplementary performance (remedying defects or delivering a replacement) or by reducing the purchase price, provided that the following prerequisites are met in addition to legal prerequisites:
- 1) Without undue delay upon delivery, the Buyer shall examine the goods and their packaging in accordance with customary trade practices. If the goods are delivered in packages, the Buyer shall additionally check the labelling of each individual package as to compliance with the purchase order. Additionally, the Buyer shall satisfy itself of the contractually agreed quality of the goods by taking a sample in accordance with customary trade practices prior to drawing off.
 - 2) The Buyer shall without undue delay give written notice of defects discovered during the examination.
 - 3) If the Buyer fails to carry out the respective examination, or fails to give without undue delay notice of a defect discovered or a discoverable defect, the goods shall be deemed approved. The same shall apply in the case of mistaken incorrect delivery, that is, where the deviation is so considerable that approval of the goods by the Buyer must be regarded as out of the question.
 - 4) In the case of a hidden defect, the Buyer shall be required to give notice of the defect without undue delay upon discovery. Otherwise, the goods shall equally be deemed approved in this respect.
- b) The Buyer's right to cancel the contract in the event of a defect of quality subject to the prerequisites laid down in section 437 (2) of the German Civil Code [BGB] shall remain unaffected.
- c) In the case of defects of quality, we shall be liable for compensatory damages or for the reimbursement of wasted expenditure pursuant to the following No. 8.



§ 8 Liability for Damages

- a) The following terms and conditions shall not affect regulations laid down in the Product Liability Act [Produkthaftungsgesetz], nor cases where we are also liable for negligent breaches of contract in the event of loss of life or injury to body or health.
- b) We shall be liable as follows for damages caused to the Buyer's legally protected interests, including its assets, as a result of defects in the object of sale, mistaken incorrect delivery or defects in the packaging:
- 1) In so far as damages could have been avoided if the Buyer had complied with its duties to examine, all liability of any kind on our part shall be excluded, unless damages are due to intentional misconduct on the part of our official representatives. The above provision does not entail a change in the burden of proof to the disadvantage of the Buyer.
- 2) In so far as damages arise despite the Buyer having complied with its duties to examine, we shall be liable only for intentional or grossly negligent breach of contract.
- c) In the case of damages other than those defined above, such as tort or breach of contractual duty, we shall be liable only if the damages were caused by intentional or grossly negligent action on our part or on the part of one of our agents in performance.
- d) Nor shall we be liable for the fitness of goods for the purposes intended by the Buyer, unless the intended purpose has become part of the contract in writing. Where we give technical advice on applications, provide information or give recommendations etc., we shall be liable for incorrect advice, information or recommendations on account of gross negligence only to the extent that such advice, information or recommendations were given in writing.
- e) Claims in respect of defects in products delivered shall become time-barred after one year.
- f) Risks to the buyer resulting from legal restrictions of use: As a downstream user in accordance with paragraph 37 of the REACH regulations, the buyer must check and abide by any legal restrictions concerning the use of our products in a particular application. Our obligations are limited to the passing on of information according to paragraphs 31 and 32 of the REACH regulations. We are not liable in any way for any damages caused by legal restrictions in the use of our products.
- g) Risks resulting from a failure to register: It is beyond our control if a supplier to us stops importing or supplying a chemical substance or product due to the fact that he has failed to successfully register the product, and in this case we will inform our customers as soon as we are aware of the situation and make every effort to find an alternative supplier. If we are unable to find an alternative source, then both we and the buyer are allowed to cancel the contract and neither party has a right to compensation of any kind. The same is valid if we import a chemical substance or product and we cannot continue importing because of a failure to successfully register the product. If it becomes clear that a substance or product will no longer be available as a result of a failure to register either by us or our suppliers, then we will inform our customers without delay.
- h) Risks resulting from a lack of authorisation are analagous to those due to a failure to successfully register. Paragraphs 8.f) and 8.g) are also valid if the substance or product is registered, but there is no subsequent authorisation of the use of the product.

§ 9 Place of Jurisdiction, Governing Law, Escape Clause

- a) Our registered place of business is the place of jurisdiction.
- b) The governing law is the law of the Federal Republic of Germany, excluding the UN Sales Law (United Nations Convention on Contracts for the International Sale of Goods, CISG, of 11 April 1980) as amended.
- c) If individual clauses above are or become ineffective, terms and conditions that are ineffective shall be replaced with provisions that come closest to the commercial purpose of the contract in due consideration of the interests of both Parties. These terms and condition are based upon the non-committal letter of recommendation of the alliance of chemical traders [Verband Chemiehandel e.V.]. They have been announced at the Federal Cartel Office [Bundeskartellamt] and were made public in the German Federal Gazette [Bundesanzeiger] dated 06.12.2003.