

### Article 1 - General

- 1.1 **THE APPLICABILITY OF THE GENERAL CONDITIONS USED BY THE BUYER IS HEREBY EXPLICITLY REJECTED.**
- 1.2 These conditions shall apply to all legal relations of the Seller acting as seller or potential seller of products and/or provider of services with the buyer of the products and/or user of the services ("Buyer").
- 1.3 In the event a specific agreement between the Seller and the Buyer is concluded to which these General Sale Conditions apply, the provisions of such specific agreement shall prevail in case of a conflict between the provisions of such specific agreement and the provisions of these General Sale Conditions.
- 1.4 Any reference to 'article' in these General Sale Conditions shall mean a reference to an article in these General Sale Conditions, unless stated otherwise.
- 1.5 Whenever "written" or "in writing" is used in these General Sale Conditions it shall mean by fax, e-mail, Electronic Data Interchange, internet or by means of any other electronic medium.

### Article 2 - Agreement

- 2.1 All offers by Seller are made without any engagement.
- 2.2 Information given in data sheets, brochures, etc. is only given as guidance and shall not be binding upon Seller.
- 2.3 The Seller is not obliged to make inquiries after the intended use of the products or the circumstances under which the products will be used by the Buyer.
- 2.4 Unless agreed otherwise in writing, all offers are based on the assumption that the order of the Buyer will be executed under normal labour conditions and during normal working time.
- 2.5 The Seller is entitled to terminate any negotiations with the Buyer at any time, without any compensation being due.
- 2.6 An agreement between the Seller and the Buyer is concluded, if the Seller accepts the Buyer's order (made verbally or in writing) in writing, or if the Seller commences the execution of the order placed by the Buyer.
- 2.7 The Seller is entitled to reject an order placed by the Buyer in whole or in part within 14 days after the receipt of such order in writing. In that event no compensation whatsoever shall be due by the Seller.
- 2.8 Verbal promises or agreements are only binding if confirmed in writing by the Seller.

### Article 3 - Packing materials and/or packaging

- 3.1 Returnable packing materials and/or packaging will remain Seller's property.
- 3.2 In case returnable packing materials and/or packaging is made available by Seller to Buyer, Seller is entitled to charge a deposit.
- 3.3 Buyer will return such returnable packing materials and/or packaging at its own expense in an undamaged condition to a place of destination to be determined by Seller within a reasonable term set by Seller. Buyer shall comply with all

applicable laws with respect to the transport of such packing materials and/or packaging. Buyer is not entitled to modify the returnable packing materials and/or packaging or keep such returnable packing materials and/or packaging for its own use.

- 3.4 Any deposit paid by Buyer for such packing materials and/or packaging will not be refunded if the obligation of undamaged return is not fulfilled within the term set. If no deposit has been asked for, the Buyer shall at Seller's first request compensate Seller for the value mentioned on the invoice or for the value, quoted by Seller at a later date, of the packing materials and/or packaging which have been returned damaged or outside the term set.
- 3.5 Buyer shall be liable to compensate for the damage the Seller suffers if returnable packing materials and/or packaging is damaged or not returned by Buyer.

### Article 4 - Weights and Measurements

- 4.1 The measurements and weights as shown on the certificate of measurement or weight submitted by Seller, determine the quantity supplied.
- 4.2 Buyer is always entitled to be present or represented at the measurement or weighing.
- 4.3 Minor deviations with respect to the agreed quantities, weight, measures and/or composition shall be accepted by the Buyer.
- 4.4 Samples of the products provided to the Buyer serve only as an indication, to which the products to be delivered need not necessarily conform.

### Article 5 - Delivery and risk

- 5.1 Delivery shall be made EX WORKS (INCOTERMS 2020 or – if that is not the latest version – the latest version) Seller's plant or warehouse.
- 5.2 The times for delivery indicated by the Seller will only serve as an estimate and are not of the essence. The Seller will only be in default after having received a written notice of default specifying a reasonable time for delivery and if it has failed to comply within such specified time.
- 5.3 The Seller is entitled to deliver in consignments and to invoice such deliveries separately.
- 5.4 Seller is entitled to sub-contract, the products to be delivered/the services to be provided, to any other company with whom the Seller has a partnership. These General Sale Conditions will also apply to these deliveries.

### Article 6 - Warranty and indemnification

- 6.1 Seller warrants only that at delivery the products comply with the standard norms as maintained by Seller and with the contents of any warranty explicitly made by Seller in writing.
- 6.2 Buyer bears the risk of and is liable for the usage of the products, irrespective of whether these products have been used in combination with other products or alone.
- 6.3 The Seller never warrants the absence of defects which are the consequence of complying with any mandatory laws

and regulations regarding the nature or the quality of the raw materials and/or materials applied in the delivered products.

6.4 The Buyer cannot claim under this warranty after it has processed, confused the delivered or part of the delivered products with products delivered by third parties or other products delivered by the Seller, or has delivered the products to third parties.

6.5 Any other warranty is explicitly excluded.

#### **Article 7 - Complaints**

7.1 The Buyer is obliged to inspect the products at delivery in order to evaluate whether they conform to the agreement and are free from defects. If this is not the case, the Buyer loses its right to claim that the products do not conform to the agreement or are defective, if it has not informed the Seller thereof as soon as possible in writing by giving reasons, and in any case within 7 days after delivery of the products or after such moment that the defect or deviation should reasonably have been detected.

7.2 The products in question shall remain available to the Seller in their state at the time the Seller receives a written notice referred to in article 7.1. If a claim of the Buyer under this article 7 is considered to be justified by the Seller, the Seller is, at its discretion, only obliged to either deliver the lacking part or quantity, replace the products delivered or to credit the Buyer the purchase price paid for the relevant products. The Buyer is obliged to follow the Seller's instructions with respect to the storage and/or return of the products to be replaced.

7.3 Any claim and/or defence and/or default, based upon facts that would justify the claim that the products delivered do not conform to the agreement or are defective, expires one (1) year after the date of delivery.

7.4 This provision does not apply in case of a mandatory right of recourse of Buyer.

#### **Article 8 - Limitation of Liability**

8.1 Except in case of gross negligence and wilful intent of the Seller or its directors, the Seller shall only be liable to compensate for damages and losses up to the invoice amount paid by the Buyer with respect to the products that caused the relevant damage and losses.

8.2 The Seller shall never be liable for consequential losses or damage, including but not limited to loss of profits, incurred losses and costs, loss of contracts, loss of savings or losses caused by disruption or stoppage of the production and/or the business.

8.3 The Seller is not liable for damage and losses caused by gross negligence or wilful intent of its employees ("*ondergeschikten*") and/or its independent contractors ("*niet-ondergeschikten*").

8.4 If the damage and losses referred to in article 8.1 are insured under the business liability insurance taken out by the Seller, the limitation of liability in article 8.1 shall not apply. The Seller shall only be liable to compensate for damage and losses up to the amount which will be paid out under its business liability insurance in the matter concerned, plus the amount of the deductible which must be borne by the Seller pursuant to the applicable business liability insurance in the matter concerned.

8.5 The Seller stipulates all legal and contractual defences that it can invoke in respect of its liability towards the Buyer also for

the benefit of its employees and independent contractors for which it can be held liable by law.

8.6 Seller will not be liable for damage caused by its employees or independent contractors.

8.7 The Buyer is obliged to indemnify and hold the Seller harmless against any and all claims of third parties relating to the products in the event the Buyer has formulated, packaged and/or finished the products itself in any manner whatsoever. Any such claims shall include but are not limited to claims, costs, legal costs and liabilities that are based upon or arise in connection with (i) article 6:162 or articles 6:185-193 of the Dutch Civil Code or (ii) any similar statutory provisions which have been enacted in a Member State of the European Union other than the Netherlands as a result of the implementation of the European Council Directive of July 25, 1985, concerning liability for defective products (85/374/EEC), or (iii) any similar statutory provisions of the laws of any other jurisdiction.

8.8 The foregoing provisions do not affect liability based on mandatory law.

#### **Article 9 - Force majeure**

9.1 Except as hereinafter provided, no party shall be liable for any reasonable default or delay in the performance of the terms of these General Sale Conditions where such failure is due to force majeure (as hereinafter defined) affecting that party.

9.2 The term "force majeure" referred to in these General Sale Conditions shall mean any circumstances the cause of which is not reasonably within the control of the party claiming force majeure and which affect the performance by it under these General Sale Conditions and shall include, without limitation, strikes or other labour conflicts, lock-outs or industrial disputes or disturbances, civil disturbances, any default of third parties affecting the performance of the agreement, hindrances, restrictions or obstructions in respect of the extraction, production, supply and/or importation of raw and auxiliary materials for the product and/or the manufacturing of the product and/or the transportation of the materials for the product, breach of contract by suppliers, strikes by employees of the parties or by others, fire, storm, floods, explosions, measures by any public authority, the inability to obtain or retain necessary authorisations, permits, easements or rights of way.

9.3 Upon the occurrence of an event constituting force majeure, the party affected by this event shall take all measures which may reasonably be required to perform its obligations under the agreement as quickly as possible. The parties shall, if necessary, jointly examine the measures to be taken to limit the effect of force majeure.

9.4 In the event that a party wishes to rely on a condition of force majeure, that party shall notify the other party already as soon as reasonably possible, but in no case later than 72 hours after discovery of such condition.

#### **Article 10 - Retention of title**

10.1 The Seller retains title relating to the products delivered or to be delivered, until the Buyer has fulfilled its payment and/or any other obligations with respect to all products delivered or to be delivered under the agreement(s) and with respect to all claims based on breach of such agreement(s).

10.2 The Buyer shall notify the Seller immediately, if:

- (a) third parties exercise rights to the products referred to in article 10.1 or if the Buyer becomes aware of the fact that third parties wish to do so;
  - (b) an application for a provisional suspension of payment or a suspension of payment is made by the Buyer or granted, or if any arrangements with the Buyer's creditors are made;
  - (c) an application for bankruptcy is filed with regard to the Buyer or the Buyer is declared bankrupt.
- 10.3 In case the Buyer fails to fulfil any of its payment obligations, the Seller has the right, without prior notice being required, to repossess the products delivered. The Buyer herewith irrevocably authorises the Seller, or any third party designated by the Seller, to enter those premises of the Buyer where the products have been stored. All costs relating to the repossession of the products are borne by the Buyer.
- 10.4 The property law aspects of retention of title ("*goederenrechtelijke gevolgen van eigendomsvoorbehoud*") to the products shall be governed by Dutch law or, at the Seller's discretion, by the laws of the country of destination of the products, provided that (i) the laws of such country in respect of retention of title provide better protection to the Seller than Dutch law and (ii) the products are actually imported into that country of destination.

**Article 11 - Suspension and termination**

- 11.1 In case the Buyer fails to comply with any of its obligations under the agreement(s) within 30 days after having received a written notice of default, which written notice of default is not required in case such failure cannot be remedied, or if a suspension of payment or provisional suspension of payment in respect of the Buyer is applied for or granted, an arrangement is made with the Buyer's creditors, a petition for the Buyer's bankruptcy is filed or the Buyer is declared bankrupt, the Buyer is wound-up or dissolved, the Buyer ceases its operations, control over the Buyer or the Buyer's business is transferred within the meaning of the SER Merger Code 2015 (*SER-Fusiegedragsregels 2015*) (or the latest version), irrespective of whether this applies, or if, after the agreement was entered into, the Buyer's circumstances change in such a way that (i) there is good cause to fear that the Buyer will not properly or not timely fulfil his obligations, or (ii) the Seller would not have entered into the agreement at all or not under the same conditions, the Seller shall be entitled to terminate an agreement with the Seller in whole or in part with immediate effect or to suspend the performance of its obligations under the agreement(s), all such without prejudice to any other rights or remedies the Seller may have and without any compensation being due by the Seller.
- 11.2 In case the Seller terminates or rescinds the agreement(s) in accordance with article 11.1, without prejudice to any other rights or remedies the Seller may have, any and all claims the Seller may have vis-à-vis the Buyer shall become immediately due and payable.

**Article 12 - Prices**

- 12.1 The prices quoted are in Euros, exclusive of VAT and based on delivery EX WORKS (INCOTERMS 2020 or – if that is not the latest version – the latest version), thus exclusive of

taxes and levies and costs for packing materials and/or packaging, transport and insurance.

- 12.2 In case, upon the formation of the agreement, alterations occur in one or more of the factors constituting Seller's cost price, such as, but not limited to, costs of materials, measures by the Government, wages, premiums, freights, exchange rates and taxes, Seller is entitled to command that the prices will be increased accordingly. Seller will inform Buyer in writing of the price increase. Buyer will be deemed to have accepted the price increase unless it has informed Seller within 14 days after receipt of such notice that it wishes to terminate the agreement.

**Article 13 - Payment**

- 13.1 Unless otherwise agreed in writing, payment must be made within 14 days after the invoice date. Payment by the Buyer shall be made in the currency set out in the invoice and without set-off, discount and/or suspension.
- 13.2 If payment is not received by the due date, the Seller shall be entitled, without prejudice to any other rights and remedies that the Seller may have, and without any written notice of default being required, to charge statutory interest over the outstanding amount(s) until full payment is received. The Seller shall in such case also be entitled to request immediate payment of all invoices, irrespective whether these are due, and to immediately suspend performance of all of its obligations.
- 13.3 All costs with respect to payment, including but not limited to costs with respect to the provision of security, shall be for the Buyer's account and expense.
- 13.4 All reasonable extra-judicial and judicial costs which the Seller might incur pursuant to a default of the Buyer shall be borne by the Buyer, with a minimum of ten percent (10%) of the principal amount.
- 13.5 Payments by the Buyer shall be deemed to have been made first to settle judicial and extra judicial costs as stipulated in article 13.4, accrued interest as stipulated in article 13.2, thereafter they shall be charged to the oldest debt, irrespective of any indications made by the Buyer.

**Article 14 - Security**

- 14.1 In case Seller has good reason to believe that the Buyer will not strictly or timely fulfil its obligations vis-à-vis Seller, the Buyer is obliged to provide at Seller's first request satisfactory security in any form requested by Seller, including but not limited a pledge on receivables, with respect to the fulfilment of Buyer's payment obligations.
- 14.2 In case the Buyer fails to comply with Seller's request mentioned in this article within 7 days after having received such a request, any and all payment obligations of the Buyer, irrespective of the title thereof, shall become due and payable, and Seller is entitled to suspend immediately fulfilment of all its obligations, without prejudice to any other rights or remedies Seller may have.

**Article 15 – Industrial/intellectual property rights, confidentiality**

- 15.1 The Buyer may only use the trade names, logos, patents, copyrights, trademarks and/or any other intellectual property rights of Seller for the purpose of resale of the products and under the conditions set forth by and

- instructions obtained from Seller, to which the Buyer shall strictly adhere.
- 15.2 The Buyer shall not disclose to any third party in any manner whatsoever any confidential information relating to the products and/or the business of Seller save to the extent required under applicable law.
- 15.3 The Buyer is obliged to indemnify and hold the Seller harmless against any and all claims of third parties relating to the alleged infringement of intellectual property rights in the event the Buyer has formulated, packaged and/or finished the products itself in any manner whatsoever.

**Article 16 - Miscellaneous**

- 16.1 It is expressly and irrevocably agreed that any rights of Seller under these General Sale Conditions, including but not limited to the limitation of liability in article 8, shall also be for the benefit of all other companies which belong to the Seller's group of companies.
- 16.2 If any provision of these General Sale Conditions, or part thereof, cannot be invoked, or is invalid or null and void, the other provisions, or part thereof, shall remain in full force. The parties agree to replace the invalid or null and void provision by a provision whose content and effect corresponds as much as possible to the provision that is invalid or null and void.
- 16.3 English language words used in these General Sale Conditions intend to describe Dutch legal concept only and the consequences of the use of those words in English law or any other foreign law shall be disregarded.

- 16.4 These General Sale Conditions have been filed with the Chamber of Commerce in Groningen under number 02048288, can be consulted at [www.chemcom.eu](http://www.chemcom.eu) and will be sent upon request free of charge.

**Article 17 - Governing law and competent court**

- 17.1 These General Sale Conditions and all legal relationships between Seller and Buyer shall be governed by and construed in accordance with the laws of the Netherlands.
- 17.2 Any dispute arising out of or in connection with these General Sale Conditions and/or any other legal relationship between Seller and Buyer shall
- (1) if the Buyer is domiciled in a member state of the EU or in Iceland, Norway or Switzerland, be exclusively settled by the competent court of Amsterdam, the Netherlands;
  - (2) if the Buyer is domiciled in other countries than the countries mentioned under (1) finally settled in accordance with the Arbitration Rules of the Netherlands Arbitration Institute (NAI). The arbitral tribunal shall be composed of three arbitrators and the place of arbitration shall be Amsterdam. The arbitral procedure shall be conducted in English. Seller remains however entitled to institute preliminary proceedings at the court of Rotterdam against the Buyer in case the dispute relates to payment obligations of Buyer.