

# **GENERAL CONDITIONS OF SALE 2008**

## **Article 1 General**

These General Conditions of Sale shall apply to all sales and deliveries of chemical products ("the products") by Seller and shall form an integral part of Seller's quotations and order confirmations and the sales agreement between Seller and Purchaser. No differing or supplemental terms or conditions shall be applicable unless expressly agreed to by Seller in writing.

## **Article 2 Formation of the contract**

Quotations made by Seller are not binding unless explicitly stated otherwise. The agreement ("sales agreement") between Seller and Purchaser, shall be formed by Seller's written acknowledgement of Purchaser's order.

## **Article 3 Delivery**

- 3.1 Unless otherwise stated herein delivery terms shall be interpreted in accordance with the INCOTERMS latest published by the International Chamber of Commerce. Title to the products shall pass to Purchaser in accordance with Article 4 below.
- 3.2 Quantities are stated with a tolerance of  $\pm 0,5\%$ . The quantities stated in shipping documents such as weight certificates, bills of lading, sea-way bills, liner-way bills, and freight receipts, shall be deemed correct unless proven to be incorrect.
- 3.3 Any given delivery time shall be deemed approximate unless explicitly confirmed by Seller.
- 3.4 Reusable packaging material shall be returned to Seller promptly after unloading of the products, freight prepaid, failing which Seller shall be entitled to charge Purchaser a lease fee according to Seller's standard charge.
- 3.5 If Purchaser's shipping instructions are delayed or provide for later delivery than specified in the sales agreement, delivery shall be deemed completed and Seller will store the products for Purchaser at Purchaser's expense.

## **Article 4 Transfer of Title**

- 4.1 The title to the products delivered shall remain vested in Seller until the price has been paid in full. During the period the title is retained by Seller, Purchaser shall hold the products in trust for Seller. If Purchaser fails to pay the purchase price of the products in accordance with the payment terms stated on the invoice, Seller shall have the right to repossess the products, without any prior notice being required.
- 4.2 Notwithstanding Section 4.1 Purchaser shall be entitled to use the products as an intermediate in its normal course of production before the price has been paid in full and the reservation of title will apply on the portion of the products which is intact from time to time.
- 4.3 The risk of loss of or damage to the products shall pass to Purchaser upon delivery thereof in accordance with the agreed delivery term pursuant to Section 3.1.

## **Article 5 Price**

- 5.1 The price is exclusive of VAT and any applicable VAT will be charged in addition to the price.
- 5.2 The price is based on the exchange rates as well as the duties, taxes and other public charges applicable at the time of the formation of the sales agreement. In case of any change in the relevant exchange rates, or in the applicable duties, taxes or public charges after the date of formation of the sales agreement, Seller shall have the right to adjust the price accordingly.
- 5.3 In case of an increase in the prices of energy, raw materials or other resources necessary for the manufacture of the product occurring prior to the

agreed date of delivery, Seller shall have the right to increase the price of the product ordered in proportion thereto by giving written notice to Purchaser provided that Purchaser shall have the right to cancel the sales agreement within seven days of following receipt of such notice.

## **Article 6 Payment**

- 6.1 The price shall be paid in accordance with the payment terms stated on the invoice to a bank account designated by Seller. If Purchaser fails to pay any amount when due, then Seller will in addition to any other remedies available be entitled to:
  - a) default interest of one percent (1%) per commenced month on the amount outstanding;
  - b) compensation from Purchaser of all costs incurred in order to obtain payment of the amount due;
  - c) suspension of its performance until payment of all outstanding debts has been received.
- 6.2 Amounts paid by Purchaser shall be credited by Seller against the debts receivable by Seller from Purchaser (including those pursuant to Section 6.1) in the chronological order of the due dates of the debts.

## **Article 7 Warranties**

- 7.1 Seller warrants that the product shall meet the specifications referenced in the sales agreement, that Seller will convey good title thereto, and that such product shall be delivered free from any lawful security interest or encumbrance unknown to Purchaser. **SELLER MAKES NO OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED NOR DOES SELLER WARRANT THAT THE PRODUCT IS MERCHANTABILITY OR FIT FOR ANY PARTICULAR PURPOSE UNLESS CONFIRMED IN WRITING IN ACCORDANCE WITH SECTION 7.2.**
- 7.2 Recommendations or statements about the products shall not constitute a warranty unless confirmed in writing. Purchaser must determine for itself by tests or otherwise, the suitability of the products for the intended use with due regard to all factors influencing such use. If Seller has agreed to carry out tests or research on behalf of Purchaser no responsibility is assumed for:
  - a) use of the results for a certain purpose unless such use has been clearly confirmed in writing;
  - b) interpretation of developed data other than explicitly stated; and
  - c) deviations from the results because of factors other than defined parameters or appearing outside the laboratory environment.

## **Article 8 Limitations of liability**

Seller shall not be liable for loss of profits, loss of production, indirect, or other special, incidental or consequential damages, regardless of negligence. Other than the remedies attributable to product liability set forth in Article 9 below, Seller's liability and Purchaser's exclusive remedy for any cause of action arising out of the sale, use, or non-delivery of the products or under any warranty, is expressly limited to replacement of non-conforming products or refund of the price in the event of justified cancellation of a specific order caused by prolonged delay in delivery thereunder.

## **Article 9 Product liability**

Seller shall indemnify and hold Purchaser harmless for any costs incurred by Purchaser because of injuries or physical damages caused by defective products provided that the Purchaser has used the products for a purpose in respect

of which the products are suitable and strictly in accordance with the product information submitted by Seller and provided further that Purchaser is maintaining continuous production control including regular inspection and tests of all intermediates and end-products. If not otherwise is expressly agreed in writing the liability for injuries or physical damages shall be limited to 1 million € per occasion and 2.5 million € per year. Other possible claims by third parties attributable to Purchaser's use of the products are falling outside Seller's responsibility and Purchaser shall indemnify and hold Seller harmless if such claims would be directed against Seller.

**Article 10 Inspection, claims, notification**

Upon receipt of the products, Purchaser shall inspect the same, by analysis or otherwise, exercising such care as is customary or appropriate in the circumstances. Any claims concerning the quantity or apparent quality of the products delivered shall be submitted by Purchaser to Seller within 30 days from the date of receipt of the products. Any claims concerning inherent defects in the products shall be submitted by Purchaser to Seller within 6 months following receipt of the products. Purchaser's failure to give notice of any claim beyond the stated time periods shall constitute a waiver by Purchaser of all claims with respect thereto. Defective products shall not be destroyed or returned to Seller without prior written consent of Seller.

**Article 11 Force Majeure**

Non-performance of a party is excused, and that party is relieved from any liability, if the non-performance was caused by an impediment beyond the party's reasonable control. Such impediments include war, extensive military

mobilization, act of terrorism or sabotage, act of authority, natural disaster, epidemic, explosion, fire, labour disturbance, break-down of transport telecommunication, electric current, destruction of machine, equipment or factory and any kind of installation. A party invoking this clause shall take reasonable actions to limit the effects of the impediment.

**Article 12 Hardship**

If, prior to the date of delivery of the products, the circumstances that existed at the date of conclusion of the sales agreement should change to such an extent that the fulfilment of one or more of the obligations under the sales agreement should become unreasonably burdensome and such change could not have been reasonably foreseen by the affected party, then Seller and Purchaser shall seek to remove such hardship with the objective to preserve the original intention and balance between the parties. If no agreement is reached within a reasonable time, the affected party shall be entitled to terminate the sales agreement with respect to non-performed shipments.

**Article 13 Applicable Law, Competent Court**

The sales agreement shall be governed by the substantive law of Sweden. Any dispute, controversy or claim arising out of or in connection with the sales agreement, or the breach, termination or invalidity thereof, shall be finally settled by arbitration in accordance with the Arbitration Rules of the Arbitration Institute of the Stockholm Chamber of Commerce. The seat of arbitration shall be Gothenburg and the language to be used in the arbitral proceedings shall be English.