



Terms and Conditions of Sale of Applied Chemicals Handels GmbH

- 1. Applicability:** The following Terms and Conditions of Sale shall apply to all current and future contracts by and between us and our legal successors, on the one part, and our business partners who are no consumers but entrepreneurs and their legal successors, on the other part, unless otherwise expressly agreed in writing. To the extent that neither these express provisions nor our terms and conditions provide otherwise, for the rest, the law shall apply exclusively. Terms and conditions of purchase or sale of our contractors shall not be accepted by us and shall, therefore, not apply; the same shall apply to reservations made orally or in writing by contracting parties of ours, unless we expressly accept the same in writing.
- 2. Purchase order and acknowledgment of order:** The basis for all contractual relationships with our customers shall be the respective purchase order and acknowledgement of order and/or any other written selling agreement (framework agreements). Contractual relationships shall be established only if and when we possess two equal documents which bear the binding company signatures of all contracting parties and confirm that the parties' wills are in absolute conformity. If, however, an exchange of goods or services takes place or is commenced by us prior to receipt of such a confirmation (by placing a purchase order with our supplier or dispatching the ordered goods from our warehouse) the provisions contained in the documents prepared by us shall exclusively apply; in addition, any defect with respect to conclusion of the contract shall be cured thereby. In the case of framework agreements the relevant call-forward notice (including an oral one) shall suffice.
- 3. Execution of the order:** We undertake to duly fulfil the contractual obligations assumed by us. Likewise our customers shall be obliged to duly comply with the agreements concluded with us.
- 4. Prices:** Unless prices are expressly agreed to be fixed prices, prices agreed may be adjusted to the price level if the same changes between the date the purchase order is placed and the delivery date, provided that the change is due to circumstances which we can hardly influence or not influence at all. In particular, we may ask for a price adjustment if costs increase due to official interventions, such as increases in taxes of all kinds (customs duties, taxes, charges, incidental payroll costs, etc.), introduction of or increase in prescribed insurance contracts, introduction of other obligations (e.g., with respect to product safety). This shall also apply to increases in wages and/or salaries which are due to conclusion of collective bargaining agreements.
- 5. Invoices:** Unless otherwise agreed, invoices shall be due for payment within thirty (30) days of the date of the invoice without any deductions. Invoices shall be settled in the currency stated thereon, either in cash, by remittance or by cheque, and in any case at the costs of our contracting party. If our contracting party is in default of payment or objects to an invoice, we shall be entitled to make any further delivery (maintenance) dependent upon advance payment or furnishing of suitable security and we shall then not be in default. This shall also apply in the case that the financial situation of our contracting party deteriorates in such a way that we must fear that he will not be able to settle his accounts payable. In the case that cash or similar discounts which were not granted by us are deducted single-handedly or if the payment period is exceeded, our contracting party shall lose all rebates and discounts which were granted to him by contract and pay the outstanding amount plus interest at the rate prescribed by law for transactions between entrepreneurs.
- 6. Delivery/duty to inspect:** We will deliver the goods manufactured or traded by us at the earliest date possible to the address advised by the customer; if applicable, upon our instruction, directly from the manufacturer's. Delivery periods shall be deemed non-binding approximate periods, unless we have expressly promised in writing that they are fixed delivery periods. Also in the latter case the goods shall still be deemed delivered in time if they were dispatched in such a timely manner that they would have arrived on time if things had gone normal and if they are still

received within a reasonable period (that was prolonged by practically inevitable circumstances), or if they are dispatched by the manufacturer or from the warehouse before a written notice from the customer to the effect that he no longer needs the goods and we are still able to stop shipping of the goods without any costs.

7. Special duties of our customers: At the place of delivery our customer shall ensure proper taking delivery of the goods by members of staff who are skilled and experienced in handling deliveries. The contracting party shall be responsible for immediate inspection of the chemical quality and quantity in a professional manner and for giving notice of defect, if any, also on our behalf. This shall include proper storage in a way that is adequate for the respective substance. Complaints, if any, shall immediately be made in writing and shall include a description of the defect and the lots affected. If this duty is not observed our contracting party shall lose all claims on grounds of warranty, damages, avoidance on account of mistake, enrichment and/or other claims vis-à-vis us or others, but without being released from his duty to satisfy our claims. If the goods are rejected (because they were not ordered or are not in order) they shall still be kept safe and stored properly until we will dispose of them.

8. Warranty/damages/contractual penalty: In the case that goods ordered by us are defective as regards quality or quantity, we shall be given an opportunity to repair such defects through replacement in kind within a reasonable period of time. A reasonable period of time shall mean a period in which the goods can be obtained in the market, if applicable after they have been manufactured again, and delivered. Cancellation of contract may be claimed only if repair of defects fails. In the case of defects in quantity and if we fail to repair the same a price reduction may only be claimed pro rata the short shipment. For the rest, any and all warranty claims, claims for damages, claims on account of mistake and liability claims based on whatsoever grounds shall be excluded to the extent permitted by law. In any case claims for damages and claims on account of mistake shall be limited to the amount invoiced for the (partial) delivery concerned. Compensation for lost profit, indirect damage or consequential damage (e.g., caused by production downtime) shall be expressly excluded. Such exclusions of liability shall also apply in the case of cancellation or rescission of contract. In the case of defects only that portion of the invoice amount may be withheld that is affected by the defect or an amount necessary for repairing the defect. If, as an exception, we agree in writing to pay a contractual penalty, the amount of the contractual penalty shall in any case be limited to ten (10) per cent of the invoice amount of the affected (partial) delivery. No additional damages shall be claimed; likewise, no contractual penalty shall be payable if the customer suffered no or only an insignificant financial loss.

9. Miscellaneous: The customer undertakes to comply with all statutory provisions in the course of using, warehousing and re-exporting the products delivered by us or on our behalf. This shall include but not be limited to handling those substances in compliance with all safety regulations in the course of manufacturing, processing, storing and transportation of the goods, in particular compliance with the labelling obligation and attaching of warnings (both under EU law and local regulations). If the customer notices that our labels are not in line with the regulations applicable in his region, he shall be obliged to inform us thereof.

10. Retention of title: We shall retain title to the goods delivered by us until full payment. If the goods are processed we shall acquire co-ownership of the processed product if it is commingled with other products, provided that the processed product has a positive market value. Otherwise processing of goods shall not be permitted until full payment. If the goods are resold, the customer shall transfer our retention of title to his customer and the customer's purchase price claim shall be deemed assigned to us in the amount of our account receivable; the customer's customer shall immediately be informed thereof. In that case the customer and his customer shall be jointly and severally liable for settlement of our account receivable.

11. Assignment/Set-off: The customer shall not be entitled to assign claims under this contractual relationship unless by way of transfer of ownership of his enterprise. No set-off against counterclaims or non-payment of (partial) invoices on the ground of complaints that refer to other (partial) invoices shall be permitted.

12. Framework agreements: The customer shall be obliged to call off the minimum quantity stipulated in the agreement within the agreed period of time. If the customer fails to fulfil this duty he shall be obliged nevertheless to pay us the amounts he would have had to pay if he had called off the goods. In addition, we may cancel the framework agreement in the case of default on the part of the customer, without prejudice to the customer's obligation to pay the consideration by the end of the term of contract.

13. Machine engineering: To the extent that we supply the customer with plants, machines and concepts for processing of chemical products our Terms and Conditions of Sale shall also apply to those transactions. We shall be entitled to exchange liability covers granted by us for bank guarantees and to issue partial invoices. In the case of defects only that portion of the purchase price may be withheld that is necessary for repairing the defect. If in connection with supply of such products one or several framework agreement(s) has/have been concluded, it shall be deemed well understood that the term and scope of such framework agreement had an important influence on the pricing, which means that in the case of early termination of the framework agreement we shall be entitled to subsequently charge the differential amounts as compared to our list prices.

14. Loyalty: The contracting parties promise to consider their mutual needs. Accordingly, they will not entice away staff of the other party or, in the case of a change in staff or if staff members open their own business(es), terminate or restrict the business relationship solely or mainly for that reason, nor try to do business directly with our contracting parties by circumventing our company and making use of the contacts established through our efforts or information made available through our efforts without paying for it.

15. Written form: Under this contract the requirement of written form shall be fulfilled by any form of notification, unless it is only made orally, i.e., including but not limited to fax or e-mail or other media which may be printed on paper. In the case of (e-mail) messages stored in mail boxes periods shall commence to run not earlier than on the working day following the day on which the message is received on that medium. Messages which are received on a Saturday, Sunday, on Good Friday or any other public holiday shall trigger legal consequences (commencement of periods) only as of the following working day.

16. Place of performance, place of jurisdiction, choice of law, severability clause: Vienna shall be the exclusive place of performance and exclusive place of jurisdiction for all disputes arising out of our contractual relationships, including disputes over their coming into existence. As an exception we may also resort to any other court if that court has jurisdiction due to mandatory statutory provisions or if otherwise a judgment rendered in Austria would not be enforceable in the defendant's home country. Austrian law shall exclusively apply to all disputes, including disputes over validity/coming into existence of this Agreement, and the conflict of laws rules and UN Sales Law shall be excluded. If individual provisions of these Terms and Conditions are ineffective, this shall not affect the validity of the contractual relationship. In that case the contracting parties shall be obliged to agree on a different provision that comes as close as possible to the economic purpose of the ineffective provision.