

# **General Conditions of Sale / Export**

Mannheim, 04.2020

The lower half of the page features a decorative graphic consisting of several overlapping, semi-transparent light blue triangles of various sizes and orientations, creating a complex geometric pattern.

## 1. Offer and Acceptance

Our offers are not-binding.

## 2. Prices and Credit frames

2.1 Should we change in the time between contract end and delivery our prices of the product to be delivered in general, we are entitled to apply the price valid in the delivery date. In case of a price increase the buyer is entitled to withdraw within 14 days after communication of the price increase from the contract.

2.2 Within five (5) business days of receipt of a request to that effect, the Buyer shall provide the Seller with such evidence of its (the Buyer's) financial position as the Seller may reasonably require from time to time and shall promptly notify the Seller of any events that may adversely affect its (the Buyer's) business or financial position. If Seller, in its sole discretion, determines that Buyer's financial position or creditworthiness is insufficient or unsatisfactory, or Buyer's available credit facility becomes insufficient, Buyer will confirm its willingness to prepay the value of the Goods in excess of its credit facility prior to shipment. If such confirmation has not been received by the Seller within three (3) calendar days after the Seller has informed the Buyer of the insufficiency of creditworthiness, the Seller may, without incurring any liabilities or fines, take one of the following actions:

(a) require payment of any amounts owed by Buyer to Seller under the Contract and under any single transaction earlier than originally agreed;

(b) by way of written notice, change the terms of payment, including requiring Buyer to pay cash in advance;

(c) temporarily suspend delivery to Buyer of the Goods in excess of Buyer's available credit limit;

(d) discontinue shipment of the unpaid Goods in transit to Buyer;

(e) require Buyer to provide (a) surety(s) from a reliable guarantor (the creditworthiness of the guarantor being solely defined and assessed by Seller) to guarantee performance of Buyer's payment obligations; or

(f) take any combination of the above. If the Buyer fails to co-operate with the Seller and resolve the credit issue within three (3) calendar days, the Seller may, in addition to all the rights set forth above and otherwise legally or equitably available to it, and without incurring any liability or penalty, take any or all of the following actions:

- immediately suspend or terminate the Agreement in whole or in part by means of written notice;

- exercise its lien; or

- exercise its right of resale. Nothing done (or omitted) by the Seller under this paragraph shall constitute a waiver by the Seller of its rights to enforce performance by the Buyer of the Buyer's obligations under this Agreement, including, but not limited to, the Buyer's obligation to make the payments contemplated by the Agreement.

2.3 The Seller shall notify the Buyer in writing of the Buyer's credit limit before or on the date of the entry into force of the Contract, specifying the amount and duration of the credit and the payment terms in respect of the Goods. The method of payment of the goods agreed under the contract is adapted to the payment terms of the buyer's credit line. The seller may occasionally inform the buyer in writing of his available credit line.

2.4 Our invoices are due on 10. of the month following the month of delivery. No cash payments are made.

## 3. Product information

Deviations from product information are permitted if they are insignificant or unavoidable despite all care.

### **Delivery, Weight of Delivery, Damage in Transit**

3.1 The net weight determined at the point of loading will form the basis for all documents.

3.2 Quoted delivery dates are best estimates only and are not binding.

3.3 Delivery shall be effected as agreed in the contract. General Commercial Terms such as CIF, FOB, CFR etc. shall be

interpreted in accordance with the Incoterms as published by the International Chamber of Commerce on the date the contract is concluded.

3.4 Notice of claims arising out of damage in transit must be lodged by Buyer directly to the carrier within the period specified in

the contract of carriage, providing Seller with a copy thereof. Claims have to be assessed by a claims agent while unloading the

merchandise at the latest. The assessment has to include the development, the nature and the extent of the damage.

## 4. Loading weight, delivery, transport damage

4.1 In case of loading ex works, warehouse or shipping point, the net weight determined there shall be decisive.

4.2 Delivery times are generally subject to change.

4.3 In the case of agreed delivery &quot; carriage paid to named place of destination"; (CPT), the risk of loss of or damage to the goods shall pass to the buyer as soon as the goods have been handed over to the carrier. This shall also apply if the goods were handed over to the carrier at a place other than the place of performance.

4.4 Complaints due to transport damage must be made in writing by the buyer or the party accepting the goods on behalf of the buyer without culpable delay directly to the transport company and/or the captain of the ship with a copy to us. At the same time, we must also be informed in writing in order to enable the support and involvement of the cargo insurer. In the case of ship deliveries, a case of damage must be recorded by an independent average adjuster at the latest during the unloading of the cargo according to its origin, nature and extent.

## **5. Packaging**

We deliver our goods in our standardised packaging materials.

## **6. Default**

6.1 If the buyer is in default of payment, we shall be entitled to charge interest on arrears at the base rate applicable at the time the default occurs plus 8 %, but at least 9 %.

6.2 An invoice shall be deemed to have been received no later than three days after the invoice date.

## **7. Advice and information**

We provide advice to the best of our knowledge based on our research and experience. All data and information about suitability and application of our goods are non-binding. They do not release the buyer from his own checks and tests.

## **8. Claims for defects**

8.1 Complaints due to defects must be made to us in writing without delay - in the case of recognisable defects at the latest, however, 3 days after receipt of the goods - insofar as these can be determined by reasonable inspections.

8.2 In case of justified complaints, we will deliver missing quantities or exchange the goods. If we are unable to exchange the goods or if the replacement delivery is defective, we will take back the goods or grant a price reduction at the buyer's option.

8.3 The information and statements on the products are based on our current state of knowledge and have been prepared to the best of our knowledge and belief. However, they are not binding and do not claim to be complete. A guarantee or liability for the correctness and topicality of the information or Statements in the publication, especially with regard to future developments, are excluded as far as legally possible. The buyers or Users of the products are responsible for their suitability and usability in compliance with legal and/or official regulations. We do not assume any liability for the improper use of the products in violation of the law or regulations, in particular not after mixing or combining the products with or processing them into other products.

## **9. Liability**

9.1. We are liable for damages resulting from injury to life, body or health if we are responsible for the breach of duty and for other damages based on our intentional or grossly negligent breach of duty.

We are liable to the same extent for vicarious agents. Otherwise claims for damages are excluded.

9. 2. Our liability is in any case limited to the compensation of foreseeable damages.

9. 3 in the event of failure of correct or timely delivery to ourselves, we shall be entitled to postpone or cancel the delivery obligation concerned.

## **10. Statute of limitations**

Claims for defects by the buyer shall become statute-barred one year after the delivery of the purchased item.

## **11. Force Majeure**

All events and circumstances whose prevention does not lie in our power as for example natural phenomena, war, labour disputes, shortage of raw materials and energy lack, inevitable traffic blocks and operational disturbances, fire damage and explosion damages, orders of high hand as well as all other cases of higher power release us for the duration of the disturbance and in the extent of her effects from our contractual obligations. This is also valid, as far as the events and circumstances make the realisation of the affected business for foreseeable time with lasting effect uneconomical or are given with our presuppliers. If these events last longer than 3 months, we are entitled to withdraw from the contract.

## **12. Set-off, rights to refuse performance and rights of retention; securities**

12.1 The offsetting of counterclaims other than undisputed or legally established counterclaims as well as the exercise of rights to refuse performance and rights of retention due to counterclaims other than undisputed or legally established counterclaims require our consent.

12. 2 In the event of justified doubts about the solvency of the Buyer, in particular in the event of payment arrears, we may, subject to further claims for further deliveries, demand advance payments or securities and revoke payment terms granted.

### **13 Retention of title**

13.1 We retain title to the delivered goods as long as we are still entitled to claims from the current and future business relationship with the buyer.

13.2 If the Buyer processes our goods, we shall be deemed the manufacturer and shall acquire ownership of the newly created goods. If the processing is carried out together with other materials, we shall acquire co-ownership in the ratio of the invoice value of our goods to that of the other materials. If, in the event of our goods being combined or mixed with an item belonging to the purchaser, this is to be regarded as the main item, co-ownership of the item is transferred to us in the ratio of the invoice value of our goods to the invoice value or - in the absence of such - to the market value of the main item. In such cases, the buyer shall be deemed to be the custodian; custody shall be free of charge.

13.3 The buyer is entitled to dispose of the goods owned by us in the ordinary course of business as long as he fulfils his obligations arising from the business relationship with us in due time.

All claims arising from the sale of goods to which we are entitled to ownership rights are hereby assigned to us by the purchaser as security in proportion to our share of ownership of the goods sold. The purchaser hereby assigns to us any acknowledged balance claims from current account agreements in the amount of our then still outstanding claims.

13.4 At our request, the Buyer shall provide all necessary information on the stock of goods in our ownership and on the claims assigned to us in accordance with 13.3 and shall inform his customers of the assignment.

13.5 If the buyer is in default of payment, we shall be entitled to demand the temporary surrender of the goods in our ownership at the buyer's expense, even without exercising the right of withdrawal and without setting a grace period. This shall also apply if we become aware of circumstances which jeopardise punctual payment. For this purpose, the buyer already now allows us unhindered access to the goods for the purpose of removal.

13.6 If the value of the securities exceeds our claims by more than 15%, we shall release securities of our choice to this extent at the request of the Buyer.

### **14. Incoterms**

For the interpretation of trade terms, the version of the Incoterms valid at the time of conclusion of the contract shall apply.

### **15. Place of performance and jurisdiction**

Place of fulfilment of the achievements of the Buyer is Mannheim. If the Buyer is an independent commercial agent, legal venue is Mannheim or – after our choice - the general legal venue of the buyer.

### **16. COVID-19**

The Parties acknowledge that, as of the date of this Contract, there is a global pandemic of COVID-19 and agree that, notwithstanding anything to the contrary in the Contract and/or the Conditions, the following shall apply:

16.1 In the event that the Seller is unable to perform and/or is hindered in performing and/or is delayed in performing any of its obligations (including but not limited to supply and delivery obligations) under the Contract and/or the Conditions for any reason related to COVID-19 (including but not limited to any reason resulting from sickness or absence of workers and/or production or inventory difficulties and/or administrative or legal restrictions, controls or other measures imposed or recommended by any public authority and/or the prohibition or restriction of working practices, transportation or delivery), the Seller shall not be liable to the Buyer for any loss, injury, damage, claim or expense of whatsoever nature resulting from such inability, hindrance or delay and the Seller shall be entitled to extend the time for delivery by a period equal to any delay.

16.2 The Seller shall provide to the Buyer notice promptly after the Seller becomes aware that it is unable to perform and/or will be hindered and/or delayed in performing its obligations.

16.3 In the event of any notice being given in accordance with the foregoing provision, both Parties shall, in good faith, discuss and attempt to reach agreement in order to find a way acceptable to both Parties to perform the Contract.

16.4 In the event that the Parties do not reach agreement and the Seller is unable to perform and/or is hindered and/or delayed in performing any of its obligations under the Contract and/or the Conditions for a continuous period of ninety (90) days from the date notice was given in accordance with Clause 16.2 above, the Seller may terminate the Contract immediately upon notification to the Buyer and such termination of the Contract shall be effective upon receipt of such notice by the Buyer.

### 17. General shipping conditions

In addition, our General Terms and Conditions of Dispatch in the respective current version shall apply.

### 18. Measures to prevent Bribery/Corruption

The Buyer will:

- a) comply with all applicable laws, regulations, orders and codes relating to the prevention of bribery and corruption, including, but not limited to, the principles of the Bribery Act 2010 (England and Wales) and the Foreign Corrupt Practices Act 1977 (USA) ("the relevant requirements")
- b) refrain from any activity, practice or conduct that would constitute a violation of the applicable requirements would represent;
- c) have implemented and maintain its own policies and procedures during the term of the Agreement, including to ensure that the requirements in question are met and, where appropriate, enforce them;
- d) immediately inform EuroChem of any improper financial or other advantages of any kind which it has received in has been associated with the performance of the contract; and
- e) ensure that any person providing services or goods in connection with this contract does so only on the basis of a contract drawn up in writing which subjects that person to provisions and requires him to comply with provisions equivalent to those imposed in this paragraph.

### 19. Conflict of interests

The buyer undertakes to cause no conflicts of interests with EuroChem, and will inform EuroChem immediately in writing of all really or possibly existing conflicts of interests.

### 20. Compliance with sanctions laws

I. The Parties represent and warrant that

- a) the Goods will be used only for agricultural, technical or any other (specify)) purpose and not for any activity in furtherance of the proliferation of nuclear, chemical or biological weapons or missile technology or otherwise in violation of any applicable laws, statutes, rules and regulations;
- b) none of the Party nor its agent connected with the Contract (the "Agent") nor an off-taker of the Goods (the "Off-taker") nor any of the Party's and/or the Agent's and/or the Off-taker's affiliates, officers, directors or employees:
  - is a Sanctions Restricted Person or is in any way connected or affiliated with a Sanctions Restricted Person;
  - has violated or is violating any Sanctions Laws;
  - shall directly or indirectly release, sell, provide, export, re-export, transship, transfer, divert, loan, lease, consign, transfer through, allow access to or otherwise make available the Goods to any Sanctions Restricted Person or any Restricted Country, State and Territory in violation of applicable law or to the extent that such actions may result in the respective Party violating any applicable law, including, but not limited to Sanctions Laws; or
  - shall use the Goods to produce products that directly or indirectly will be shipped, sold, or supplied to any Sanctions Restricted Persons or any Restricted Country, State and Territory in violation of applicable law or to the extent that such actions may result in Party violating any applicable law, including, but not limited to Sanctions Laws.
  - shall directly or indirectly transfer to or otherwise make available the Party's funds paid to the other Party, to or through any Sanctions Restricted Person or any Restricted Country, State and Territory in violation of applicable law or to the extent that such actions may cause other Party to be in breach of any applicable law, including, but not limited to Sanctions Laws.

II. Each of the representations and warranties above is made on the date of this Contract and is deemed to be repeated on the date of each shipment (purchase order) and date of each payment.

III. The Parties shall have the right to terminate the Contract immediately upon notice to the other Party when (i) the respective Party is in breach of the foregoing representations and warranties or (ii) the Party has reasons to believe that the other Party may or will be in breach of such representations and warranties or (iii) the Party has reasons to believe that any activities of or business with the other Party or the Agent or delivery to an Off-taker will cause the Party (or Party's subsidiary or an affiliate if any) to be in violation of any applicable laws (including but not limited to Sanctions Laws), statutes, rules and regulations. The Party waives its right to claim the other Party for all damages, losses, liabilities and related costs and expenses which the respective Party may have as a result of such termination; and the Party shall have the right to pursue any legal rights in relation thereto against the other Party.

IV. Nothing in this Contract shall be construed as a requirement or an agreement of either party to comply with any laws that would be penalizable or prohibited under laws applicable to the parties.

**Definitions**

“Governmental Authority” any relevant governmental or regulatory authority, institution or agency which administers applicable economic, sectoral, financial or trade sanctions of applicable jurisdictions, including, but not limited to:

- a) the United Nations,
- b) the United States of America,
- c) the European Union,
- d) the United Kingdom,
- e) Switzerland, or
- f) the respective governmental institutions and agencies of any of the foregoing including the OFAC, the United States Department of State, the United States Department of Commerce, Her Majesty’s Treasury, the Hong Kong Monetary Authority, the World Bank, the State Secretariat for Economic Affairs (SECO) of Switzerland,

“Sanctions Laws” mean any economic, sectoral, financial or trade sanctions laws, regulations, embargoes adopted, administered, enacted or enforced by any Governmental Authority

“Sanctions Restricted Person” means any person or entity that is:

- (a) listed in any Sanctions Laws related list of designated persons maintained by any Governmental Authority;
- (b) organised or resident in a country, state and territory which is the subject or target of any country-wide Sanctions Laws or resident in a country, state and territory nominated by the respective Party as a “Restricted Country, State and Territory”;
- (c) directly or indirectly owned or controlled by any person or entity listed in paragraphs (a) and (b) above;

“Restricted Country, State and Territory” means any country, state and territory listed below:

**Unrecognized states**

Nagorno-Karabakh Republic (Republic of Artsakh)

Republic of Somaliland

Islamic State of Iraq and the Levant

Territory known as “temporary uncontrolled by Ukraine, including territory of Lugansk region and Donetsk region”

Azad Jammu and Kashmir

**States with limited recognition**

Turkish Republic of Northern Cyprus

Republic of South Ossetia

Republic of Abkhazia

Sahrawi Arab Democratic Republic

State of Palestine

Republic of Kosovo

**High Risk Countries**

Iran

Iraq

Syria

Sudan

Cuba

North Korea

Zimbabwe

Somalia

Lebanon

Burundi

Libya

Venezuela

or any other country, state and territory notified by the respective Party in writing.

## **21. Termination**

**Seller shall be entitled to terminate the Contract with immediate effect (i) if Buyer files a petition in bankruptcy with any competent authority, or (ii) if a resolution is passed by the corporate body of such party in respect of such petition, or (iii) if Buyer becomes insolvent, or (iv) if winding-up proceedings have been initiated by a final and legally binding court judgment, or (v) if the Buyer suspends delivery or payment, or (vi) if the Buyer breaches any of the foregoing representations and warranties, or (vii) if the Buyer breaches Section (Measures to Prevent Bribery/Corruption), Section (Conflicts of Interest) and Section (Compliance with Sanctions Laws).**

Registered Office: Mannheim, HRB 706561 AG Mannheim  
Managing Directors: Jürgen Buss and Marc Hechler