

# General Conditions of Sale

## BASF SE



### 1. Scope of Application

All supplies and the services associated with them shall be provided exclusively on the basis of these General Conditions of Sale. References made by Buyer to his general terms and conditions are hereby rejected. These General Conditions of Sale shall also apply to all future business. Deviation from these General Conditions of Sale require the explicit written approval of BASF SE (hereinafter "BASF").

### 2. Offer and Acceptance

BASF's quotations are not binding offers but must be seen as invitations to Buyer to submit a binding offer. The contract is concluded by Buyer's order (offer) and by BASF's acceptance. In case the acceptance differs from the offer, such acceptance constitutes a new non-binding offer of BASF.

### 3. Product quality, specimens and samples; guarantees

#### 3.1

Unless otherwise agreed, the quality of the goods is exclusively determined by BASF's product specifications. Identified uses under the European Chemicals Regulation REACH relevant for the goods shall neither represent an agreement on the corresponding contractual quality of the goods nor the designated use under this contract.

#### 3.2

The properties of specimens and samples are binding only insofar as they have been explicitly agreed to define the quality of the goods.

#### 3.3

Quality and shelf-life data as well as other data constitute a guarantee only if they have been agreed and designated as such.

### 4. Advice

Any advice rendered by BASF is given to the best of his knowledge. Any advice and information with respect to suitability and application of the goods shall not relieve Buyer from undertaking his own investigations and tests.

### 5. Prices

If BASF's prices or BASF's terms of payment are generally altered between the date of contract and dispatch, BASF may apply the price or the terms of payment in effect on the date of dispatch. In the event of a price increase, Buyer is entitled to withdraw from the contract by giving notice to BASF within 14 days after notification of the price increase.

### 6. Delivery

Delivery shall be effected as agreed in the contract. General Commercial Terms shall be interpreted in accordance with the INCOTERMS in force on the date the contract is concluded.

### 7. Damage in Transit

Notice of claims arising out of damage in transit must be lodged by Buyer directly with the carrier within the period specified in the contract of carriage and BASF shall be provided with a copy thereof.

### 8. Compliance with legal requirements

Unless specifically agreed otherwise, Buyer is responsible for compliance with all laws and regulations regarding import, transport, storage and use of the goods.

### 9. Delay in Payment

#### 9.1

Failure to pay the purchase price by the due date constitutes a fundamental breach of contractual obligations.

#### 9.2

In the event of a default in payment by Buyer, BASF is entitled to charge interest on the amount outstanding at the rate of 9 percentage points above the base interest rate announced by the German Federal Bank at the time payment is due if the amount is invoiced in euros, or, if invoiced in any other currency, at the rate of 9 percentage points above the discount rate of the main banking institution of the country of the invoiced currency at the time the payment is due.

### 10. Buyer's rights regarding defective goods

#### 10.1

BASF must be notified of any defects that can be discovered during routine inspection within four weeks of receipt of the goods; other defects must be notified within four weeks after they are discovered. Notification must be in writing and must precisely describe the nature and extent of the defects.

#### 10.2

If the goods are defective and Buyer has duly notified BASF in accordance with item 10.1, Buyer has its statutory rights, provided that:

- a) BASF has the right to choose whether to remedy the defect or supply Buyer with non-defective replacement goods.
- b) BASF may make two attempts according to lit. a) above. Should these fail or cause unreasonable inconvenience to Buyer, Buyer may either withdraw from the contract or demand a reduction in the purchase price.
- c) With regard to claims for compensation and reimbursement of expenses on a defect, item 11 applies.

#### 10.3

Buyer's claims for defective goods are subject to a period of limitation of one year from receipt of the goods.

In the following cases the legal periods of limitation apply instead of the one-year period:

- a) liability for wilful misconduct,
- b) fraudulent concealment of a defect,
- c) claims against BASF relating to the defectiveness of goods that when applied to a building in the ordinary manner caused it to be defective,
- d) claims for damage to life, body and health caused by BASF's negligent breach of duty, or by wilful or negligent breach of duty on the part of BASF's legal representative or vicarious agent,
- e) claims for other damage caused by BASF's grossly negligent breach of duty, or by wilful or grossly negligent breach of duty on the part of BASF's legal representative or vicarious agent,
- f) in the event of a Buyer's recourse claim based on consumer goods purchasing regulations.

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### 11. Liability

#### 11.1

BASF shall be generally liable for damages in accordance with the law. In the event of a simple negligent violation of fundamental contractual obligations, however, BASF's liability shall be limited to compensation for typical, foreseeable losses. In the event of a simple negligent violation of non-fundamental contractual obligations, BASF shall not be liable. The foregoing limitations on liability do not apply to damage to life, body or health.

#### 11.2

BASF is not liable to Buyer in case of impossibility or delay in the performance of its supply obligations if the impossibility or the delay is due to orderly compliance with regulatory and legal obligations in connection with the European Chemicals Regulation REACH being triggered by Buyer.

### 12. Set off

Buyer may only set off claims from BASF against an undisputed or adjudicated counterclaim.

### 13. Security

If there are reasonable doubts as to Buyer's ability to pay, especially if Buyer is in default of payment, BASF may, subject to further claims, revoke agreed credit periods and make further deliveries dependent on the provision of sufficient security.

### 14. Retention of Title

#### 14.1 *Simple Retention of Title*

Title to the goods delivered shall not pass to Buyer before the purchase price has been paid in full.

#### 14.2 *Expanded Retention of Title*

In case Buyer has paid the purchase price for the goods delivered but not yet completely fulfilled other debts arising out of his business relationship with BASF, BASF retains, in addition, title to the goods delivered until all such outstanding debts have been completely paid.

#### 14.3 *Retention of Title with processing clause*

In the event Buyer processes the goods delivered by BASF, BASF shall be considered manufacturer and shall directly acquire sole title to the newly produced goods. If the processing involves other materials, BASF shall directly acquire joint title to the newly produced goods in the proportion of the invoice value of the goods delivered by BASF to the invoice value of the other materials.

#### 14.4 *Retention of Title with combination and blending clause*

If the goods delivered by BASF are combined or blended with material owned by Buyer, which has to be considered the main material, it is deemed to be agreed that Buyer transfers to BASF the joint title to such main material in the proportion of the invoice value of the goods delivered by BASF to the invoice value (or, if the invoice value can not be determined to the market value) of the main material. Buyer holds in custody for BASF any sole or joint ownership originating therefrom at no expense for BASF.

#### 14.5 *Extended Retention of Title with blanket assignment*

Buyer shall have in the ordinary course of business free disposal of the goods owned by BASF, provided that Buyer meets its obligations under the business relationship with

BASF in due time. Buyer already assigns to BASF all claims in connection with the sale of goods to which BASF reserves the right of retention of title when concluding the sales agreement with BASF; should BASF have acquired joint title in case of processing, combination or blending, such assignment to BASF takes place in the proportion of the value of the goods delivered by BASF with retention of title to the value of the goods of third parties with retention of title. Buyer already assigns to BASF any future confirmed balance claims under current account agreements in the amount of the outstanding claims of BASF when concluding the sales agreement with BASF.

#### 14.6 *Right of Access/Disclosure*

At the request of BASF, Buyer shall provide all necessary information on the inventory of goods owned by BASF and on the claims assigned to BASF. Furthermore, at the request of BASF, Buyer shall identify on the packaging BASF's title to the goods and shall notify its customers of the assignment of the claims to BASF.

#### 14.7 *Late Payment*

In the event of late payment by Buyer, BASF is entitled, without rescinding the sales agreement and without granting a period of grace, to demand the temporary surrender of the goods owned by BASF at Buyer's expense.

#### 14.8 *Partial Waiver clause*

Should the value of the securities exceed BASF's claims by more than 15%, BASF waives securities to this extent.

### 15. Force Majeure

To the extent any incident or circumstance beyond the BASF's control (including natural occurrences, war, strikes, lock-outs, shortages of raw materials and energy, obstruction of transportation, breakdown of manufacturing equipment, fire, explosion, acts of government), reduces the availability of goods from the plant from which the BASF receives the goods such that BASF can not fulfill its obligations under this contract (taking into account on a pro rata basis other supply obligations), BASF shall (i) be relieved from his obligations under this contract to the extent BASF is prevented from performing such obligations and (ii) have no obligation to procure goods from other sources. The first sentence does also apply to the extent such incident or circumstance renders the contractual performance commercially useless for BASF over a long period or occurs with suppliers of BASF. If the aforementioned occurrences last for a period of more than 3 months, BASF is entitled to withdraw from the contract without the Buyer having any right to compensation.

### 16. Place of payment

Regardless of the place of delivery of goods or documents, the place of payment shall be BASF's place of business.

### 17. Communication

Any notice or other communication required to be received by a party is only effective at the moment it reaches this party. If a time limit has to be observed, the notice or other communication has to reach the recipient party within such time limit.

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### **18. Jurisdiction**

Any dispute arising out of or in connection with this contract shall be heard, at BASF's option, at the court having jurisdiction over BASF's principal place of business or Buyer's principal place of business.

### **19. Applicable law**

The contractual relationship shall be governed by the law applicable at the place of BASF's head office, including the provisions of the United Nations Convention on Contracts for the International Sale of Goods dated 11 April 1980 (CISG), irrespective of whether Buyer's place of business is in a CISG state or not.

### **20. Contract Language**

If these General Conditions of Sale are made known to Buyer in another language, in addition to the language in which the sales contract has been concluded (Contract Language), this is merely done for Buyer's convenience. In case of differences of interpretation, the version in the Contract Language shall be binding.

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