

The English language text below is a translation of our "allgemeine Verkaufsbedingungen" [General Terms & Conditions of Sale]. The original German document is authoritative in case of any discrepancies between the English translation and the German original. We do not accept liability for reliance on the English translation or for any errors, omissions or misunderstandings relating to the translation.

## 1. General information and scope of application

1.1. The following general terms & conditions of sale (GTCS) shall be applicable to all our business relationships with our customers unless other terms and conditions are specifically agreed. Our GTCS are only valid for business entities within the meaning of Article 1 (2) KSchG [Konsumentenschutzgesetz - Austrian Consumer Protection Act].

1.2. Our GTCS are applicable in all cases unless we specifically acknowledge the customer's terms and conditions in writing. This provision also applies in cases where we make delivery even though we are aware that the customer's terms and conditions, or those of a third party, are contradictory to or at variance with our own. Even if we make reference to documents that contain or refer to the customer's or a third party's terms and conditions of business, such reference does not imply that we agree that such terms and conditions of business are applicable.

1.3. Our GTCS are also valid for all future business transactions with the customer without the necessity for us to again make any particular reference to them.

## 2. Information and advice, documents

Information and advice regarding our products is provided on the basis of our experience to date. The stated attribute values, including in particular those pertaining to our products' possible applications, are merely attributes and do not represent a representation of properties relating to the products. We cannot assume any obligation to exactly match the attributes and application possibilities. Should the customer nevertheless be entitled to damages, item 6 of these GTCS shall apply.

## 3. Conclusion and content of the supply contract

3.1. Our offers are always non-binding and without obligation, unless we specify a period of validity that is binding on us or a specific time limit for acceptance. A supply contract is only deemed to have been concluded if we expressly confirm the customer's order in writing or make the delivery without a separate confirmation. The content of the supply contract is defined by our order confirmation; in the event of delivery without a separate order confirmation, our delivery note shall be regarded as the order confirmation. Oral declarations or promises made before a contract is entered into are non-binding in all cases and are superseded by the written contract.

3.2. All information about our products, particularly data contained in our offers and publications such as any illustrations or drawings, and any representations made concerning their quality, quantity, weight, measurement, and performance, represent only approximate attributes and are not representations as to the properties attributable to them. If no limits to permitted variations are specified in the order confirmation and none are contained in expressly acknowledged customer specifications, then any variations that are customary in the trade shall be permissible in each instance. The properties, suitability, qualification, function and intended use of our products are determined exclusively by our performance descriptions and technical qualifications. Public statements, endorsements, or advertisements made by us or third parties are not representations of properties attributable to our products.

3.3. Appropriately identified usage of products in accordance with the European Community Directive REACH does not constitute either agreement to any contractually agreed product properties or constitute usage that is assumed under the terms of the contract.

4. Guarantees of the properties or shelf life of our products must be expressly identified as such in our order confirmation. If samples or specimens are delivered, the properties attributable to them shall not be regarded as guaranteed unless the order confirmation expressly provides otherwise. The same shall apply to any analytical data provided.

## 4. Prices/payment terms

4.1. Our prices do not include statutory value-added tax; the respective amount is shown separately on the face of the invoice. Our prices include standard packaging. We do not take back any packaging that is included in the selling price or any other normal packaging. Packaging that is provided on loan shall be returned to us, carriage paid, immediately after the contents have been removed, at the latest within thirty (30) days. If this time limit is exceeded, we will charge for the cost of any packaging provided on loan.

4.2. All prices quoted are ex works unless otherwise stated in the order confirmation. All shipping costs are borne by the customer if nothing else has been agreed in writing. The applicable carriage rates, rates of duty, and other fees associated with the shipment are those that are in effect on the date on which the shipment is dispatched.

4.3. Deduction of cash discounts is only permissible if previously agreed in writing.

4.4. We reserve the right to adjust our prices accordingly if cost reductions or cost increases occur after the conclusion of the contract, especially if changes occur to procurement costs, material costs etc. Amongst other things, this provision applies to state-related duties (e.g. customs duties or taxes) - where these are introduced or increased, increases in transportation and insurance costs, high-tide or low-tide surcharges etc. Evidence of such costs will be provided to customers upon request.

4.5. The customer shall only be entitled to enforce rights of set-off or rights of retention if the counterclaim or the right of retention has been legally established, is uncontested and has been acknowledged by us in writing.

4.6. The purchase price is payable within thirty (30) days of the invoice date. At the end of this period the customer will be in default.

4.7. If payment is not received by the due date, we will demand interest, as defined in Article 456 UGB [Unternehmensgesetzbuch - Austrian Commercial Code] amounting to 9,2% p. a. above the base interest rate of the European Central Bank, whereby a claim for higher damages may be made if proven.

4.8. Our claims become due immediately, regardless of the term of any bill of exchange accepted towards performance, if the customer does not comply with contractual agreements. In the event of payment delay, protest of a bill of exchange, or suspension of payment by the customer, we may demand immediate payment of our entire claim - including any claims deriving from circulating bills of exchange - regardless of the stipulated due date. This shall also apply if circumstances become known to us that give rise to reasonable and significant doubts as to the customer's ability to pay or creditworthiness, even if these circumstances already existed when the goods were ordered but were not known to us or need not necessarily have been known to us. In all of the above-mentioned cases, we are also entitled to make deliveries that are still outstanding only against payment in advance or on provision of security and, if no advance payment is made or if no security is furnished within two weeks, to withdraw from the contract without setting another time limit. Further claims shall remain unaffected.

4.9. The customer is not entitled to assign claims arising under this contract to third parties without our written consent.

## 5. Delivery and transfer of risk

5.1. In cases where the order confirmation includes delivery periods and delivery dates that are not explicitly defined as being fixed, but are only regarded to be approximations, the customer may, two weeks after the expiry of these delivery periods and dates, fix a reasonable period for the delivery. Only at the end of this additional period will we be in default.

5.2. If delivery is delayed or proves to be impossible, we shall be liable for damages only in accordance with item 6 of these GTCS. The loss from delay to be compensated by us - as per item 6 of these GTCS - shall be limited to 0.5% of the value of the delayed delivery or partial delivery for each completed week, but to no more than 5% of the value of the delayed (partial) delivery.

5.3. In cases of force majeure, such as business disruption, transport delays, measures in connection with labour disputes - particularly strikes and lockouts - and in the case of non-delivery, incorrect or delayed delivery by our suppliers for whatever reason (self-supply reservation), as well as in case of other obstructions to delivery for which we are not responsible, we may postpone the delivery for the duration of the impediment and a reasonable lead time thereafter.

5.4. If the impediment is expected to be a lasting one, we shall have the right to refuse delivery of all or a part of the goods. We will provide written notice to the customer if such a circumstance arises. In this case the customer shall have no claim to damages against us. The customer is then released from his responsibility of reciprocal performance and any consideration already provided will be returned.

5.5. We are entitled to make partial deliveries if the customer is able to use the partial delivery for the contractually intended purpose, delivery of the remainder of the ordered goods is assured and the customer does not thereby incur any significant additional expenditure or additional costs (unless we declare that we are willing to assume such costs). The place of performance is always Vienna.

5.6. If delivery on call is stipulated, the call-offs must be made within three months after the contract is entered into, unless otherwise agreed in writing. In the event the call for delivery is not made within the agreed period, item 5.8 of these GTCS shall apply accordingly.

5.7. All sales are ex works. Shipping and transport are always at the customer's risk. The risk passes to the customer in this case - even for partial deliveries - as soon as the shipment has been handed over to the person performing the transport, regardless of whether this person belongs to our company or is an outside entity, or as soon as the shipment has left our factory for the purpose of dispatch, unless item 5.8 of these GTCS becomes applicable.

5.8. If the customer refuses to accept the goods, or if there is a delay in dispatching the shipment for other reasons attributable to the customer, the passing of risk shall occur with the beginning of the customer's default in acceptance. The customer shall bear any storage costs incurred after risk is passed. We shall be entitled to charge for storage costs at a flat rate of 0.5% of the invoice amount for each month or alternatively to charge for any actual loss, unless the customer can prove that the actual loss is lower. Besides this, we may grant the customer an extension of fourteen (14) days and, after expiry of the extension period to no avail, we may withdraw from the contract or demand damages in lieu of performance.

## 6. Warranty and liability

6.1. The customer has the responsibility to carefully inspect the goods delivered immediately upon arrival at their destination, even if samples or specimens were sent beforehand. In particular, the condition of the goods shall be examined. If delivery is made in packing cases, cardboard boxes, or other containers, then a random sample is to be taken. The delivery shall be considered approved if no notification of the defects, including an exact description of the defect, is received by us in writing, or by fax, within two (2) weeks after receipt of the goods at the destination or, if the defect was not detectable during the inspection, within two (2) weeks after its discovery.

6.2. The aforementioned duty of disclosure also applies for over-deliveries and under-deliveries as well as possible wrong deliveries.

6.3. The carrier must be informed immediately of damage incurred during transport; the Standard Austrian Freight Forwarders' Terms and Conditions [Allgemeine Österreichische Spediteurbedingungen - AÖSp] are applicable in this respect.

6.4. In the event of a legitimate defect and timely notification thereof, at our choice, we shall either subsequently effect remedy through rectification of the defect or through replacement delivery of goods without a defect. If the subsequent remedy is not successful, the customer has the choice to either demand a reduction of the purchase price (right of reduction) or to rescind the contract (right of rescission). However, if the defects are only slight, the customer shall have no right to rescind the contract. If, upon subsequent failure to remedy the defect, the customer chooses to withdraw from the contract, then the customer shall not additionally be entitled to damages because of the defect.

6.5. The preceding provisions define the extent of the warranty for our goods conclusively. In particular, our liability - on whatever legal grounds - for any other claims to which the customer may be entitled because of, or in connection with, defects in the delivered goods is governed exclusively by items 6.7 and 6.11 of these GTCS.

6.6. In so far as we have provided a warranty with respect to the properties attributable to our product, our liability is governed by the relevant statutory provisions.

6.7. For claims to damages deriving from culpable acts, on whatever legal grounds, including default (or delay), faulty deliveries, breach of duties arising out of an obligation or deriving from contract negotiations, tortious acts, product liability (with the exception of liability under the Austrian Product Liability Act [Produkthaftpflichtgesetz], we shall be liable only for damage caused intentionally or by gross negligence, unless the provisions apply that are stated in item 6.9 below of these GTCS.

6.8. Except for personal injury, we are only liable if at least gross negligence is proven by the injured party. Claims for damages shall become time-barred 6 months after knowledge of the damage and the damaging party, in any case 3 years after performance of the service or delivery. Any personal liability on the part of our legal representatives, vicarious agents and employees deriving from damage caused by slight negligence, with the exception of personal injury, on their part is excluded; moreover, any liability in such cases is also subject to limitation in accordance with the aforementioned provisions.

6.9. Before making a claim against us, the customer is obliged to first pursue all possible claims against our own supplier. To this end we agree to assign to the customer any warranty and compensation claims against our own supplier to which we may be entitled. The customer is also obliged to pursue the claims judicially. If the claim against our own supplier is unsuccessful, the customer shall be entitled to make a claim against us in accordance with items 6.7, 6.8, 6.9 and 6.11 of these GTCS.

6.10. Any warranty claims of the customer are limited to a period of up to one year after delivery of the goods. In so far as the prerequisites for recourse, as defined by Article 933b (1) ABGB [Allgemeines Bürgerliches Gesetzbuch - Austrian Civil Code], are complied with, then the corresponding limitation period defined in Article 933b (2) ABGB is applicable.

6.11. We are not liable for any terms agreed between the customer and the buyers of his goods that exceed the related statutory warranty provisions.

6.12. The seller is not liable in cases where fulfilment of the delivery obligation is impossible or cases where there is a delay in the fulfilment of the delivery, if the reasons for the impossibility of fulfilment or for the delay in fulfilment derive from proper compliance with regulatory requirements related to the European Chemical Directive (REACH).

6.13. Recourse claims within the meaning of Article 12 PHG [Produkthaftungsgesetz - Austrian Product Liability Act] are excluded unless the party entitled to recourse proves that the defect was caused in our sphere and was at least caused by gross negligence.

## 7. Reservation of title

7.1. We retain the title to any goods delivered by us until the customer has settled all claims deriving from the entire business relationship. This includes any existing claims as well as any claims arising after the contract is concluded.

7.2. If our goods are processed or combined, the products resulting from this process are to be regarded as processed goods. These are considered to be reserved goods as per item 7.1 of these GTCS. We acquire joint ownership of this conditional commodity to secure our claims mentioned in item 7.1, which the customer hereby transfers to us. The customer must store the objects subject to our joint ownership free of charge as a contractual accessory obligation. The amount of the joint ownership share is determined in proportion to the value of our product (calculated on the basis of the final invoice amount including VAT) and the object created by the production or combination at the time of processing or combination. This provision shall apply analogously to products which have been created by combining, blending, mixing or in any other way.

7.3. The customer is obligated at all times to keep the reserved goods fully insured against all usual risks and to provide evidence of such insurance to us upon request. The customer hereby assigns any claim entitlement deriving from the insurance to us.

7.4. The customer shall hold the reserved goods for us in safe custody. We shall be allowed upon request to perform an inventory count and appropriately label or mark the goods at the storage site at any time. The customer must immediately inform us of seizures or other impairments of our rights by third parties, stating all of the particulars that will enable us to take action against such acts by all legal means.

7.5. The customer may sell the reserved goods, but only in the ordinary course of business according to the customer's normal terms and conditions, if it is ensured that the customer's claims arising from the resale shall pass to us in accordance with the provisions contained in items 7.6 to 7.8 of these GTCS.

7.6. The customer hereby now assigns to us any claims, including all ancillary rights, arising from the resale of the reserved goods, including resale under the terms of contracts for work or services, or contracts for the delivery of movable things to be made or manufactured. They serve as security for us to the same extent as the reserved goods. The customer is only entitled to assign the claims to third parties with our prior written consent.

7.7. If the customer sells the reserved goods together with other goods not delivered by us, then the assignment of the claim arising from the resale shall be valid only in the amount of the invoiced value of our reserved goods at the time of delivery. For the resale of goods in which we share ownership, as per items 7.2 of these GTCS, the assignment of the claims shall be valid in the amount of this co-owned share.

7.8. Should the assigned claim be included in a current invoice, the customer hereby now assigns to us a portion of the balance, including the closing balance of a current account, corresponding to the amount of that claim.

7.9. The customer has the right, until it is revoked, to collect claims arising from any resale in accordance with the provisions contained in items 7.6 to 7.8 of these GTCS. This is without prejudice to our authority to collect the claim ourselves.

7.10. If the customer does not fulfil obligations under this agreement or other agreements with us, or if circumstances become known to us that diminish the customer's creditworthiness, then we may prohibit the resale, processing and restructuring of the reserved goods, or the mixing or combination of those goods with other goods;

- we may withdraw from this agreement; the customer's right to possession of the reserved goods shall then expire and we may reclaim the reserved goods;

- we shall then be entitled to enter the customer's business premises and take possession of the reserved goods at the customer's expense, and, notwithstanding the customer's payment obligations or other obligations, sell those goods for the highest possible price through sale on the open market or by auction; we shall set off the proceeds of the sale, after incurred costs are deducted, against the customer's liabilities; we shall pay out to any surplus to the customer.

- the customer shall, upon request, inform us of the name of the debtor of the claims assigned to us so that we may disclose the assignment and collect the amounts claimed; all proceeds from the assignments to which we are entitled shall be forwarded to us immediately upon receipt if - and as soon as - claims on our part against the customer become due for payment;

- we shall be entitled to revoke any respective direct-debit mandate that has been granted.

7.11. If the realisable value of the collateral security to which we are entitled exceeds the total amount of our claims by more than 10%, then we are obliged, at the customer's request, to release a respective part of the collateral security; the choice of the collateral security to be released shall be made at our discretion.

7.12. Under the condition that a segregation of our joint ownership share of the reserved goods is possible, the customer is obligated in case of late payment, to immediately return the reserved goods to us at our request. If segregation is not possible, we reserve the right to take over the whole object or to leave the object to the customer against compensation of the increasing value.

## **8. Place of performance/applicable law/jurisdiction/data protection/secretcy**

8.1. The relationship between ourselves and the customer is governed by the laws of the Republic of Austria. Neither the UN Convention on Contracts for the International Sale of Goods (CISG) nor any other existing or future bilateral or international treaties, even if adopted into Austrian law, shall be applicable.

8.2. The place of jurisdiction for all disputes arising from or in connection with the business relationship to our customer shall be, at our choice, either the Commercial Court of Vienna or the registered place of business of the customer; for lawsuits filed by the customer, the place of jurisdiction shall be exclusively the Commercial Court of Vienna. Any statutory provisions regarding exclusive jurisdictional competence shall remain unaffected. This jurisdiction clause is inapplicable to customers who are not a business entity as defined in Article 1 UGB.

8.3. The customer's personal data relating to business transactions are processed within the permissible framework of the provisions of the General Data Protection Regulation (GDPR) and the Austrian Data Protection Act (DSG). For further details, please refer to the **data protection regulations** of the TER GROUP <https://www.terchemicals.com/datenschutz.html>.

8.4. The customers undertake to treat all non-public, business and technical details, which become aware to them through the business relationship, as business secrets. The customer's employees shall be obligated accordingly.

## **9. Concluding provisions**

9.1. Amendments and additions to this agreement, including this written form clause, must be in writing to be effective. The same shall apply to collateral and supplementary agreements.

9.2. Business transactions conducted with entities organised under public law and special funds governed by public law shall be treated in the same manner as business transactions with business entities.

9.3. If a provision of this agreement should be or should become ineffective in whole or in part, the ineffectiveness of this provision shall not affect the effectiveness of all other provisions of this agreement. The ineffective provision shall be replaced with a legally valid provision that comes as close to realising the economic purpose of the ineffective provision as is legally permissible. The same shall apply to any gaps in this agreement.