

## 1. GENERAL

These general conditions apply to each offer made and each agreement concluded by us, unless and to the extent that our written order confirmation evidences otherwise. The general conditions of Bax Chemicals Export Overseas BV have been filed at the office of the Trade Register, Chamber of Commerce for Noordwest-Holland in Alkmaar.

In these general conditions, Bax Chemicals Export Overseas BV is referred to as the 'seller' and the other party as the 'buyer'. Purchase conditions of the buyer never apply, unless and to the extent that the seller's order confirmation evidences otherwise.

## 2. OFFERS & ORDERS

All offers are without obligation, unless they have been expressly confirmed by the seller by letter, fax or e-mail.

In the absence of such confirmation, the agreement will be deemed concluded by and at the time of our actual performance of the agreement.

The seller will as much as possible meet the delivery times set out in the order confirmation, but its failure to meet a deadline for delivery will not entitle the buyer to termination of the agreement and/or compensation.

Offers do not apply automatically to subsequent orders, unless the parties have agreed otherwise in writing.

## 3. PRICING

All our prices are net prices, excluding the turnover tax applicable at the time of conclusion of the agreement and excluding the costs of packaging, unless the parties have agreed otherwise. Import duties, taxes, etcetera, introduced or increased during the performance of the agreement are payable by the buyer. The price quoted is based on the purchase price and other cost items. If any of these unforeseeable cost items is increased after the offer, but prior to the delivery, the seller may reasonably pass the increase on to the buyer.

## 4. RISK, DELIVERY IN THE EVENT OF SALE

- a. The risk in the goods passes from the seller to the buyer in accordance with the agreed delivery conditions, as set out in the latest edition of the Incoterms published by the International Chamber of Commerce.
- b. The seller has fulfilled its delivery obligation:
  - I. at the time when the goods are offered at the agreed delivery address;
  - II. if it has been agreed that the goods are collected, at the time when the goods are ready for collection.
- c. The seller reserves the right to make partial deliveries. Such deliveries will be deemed made under separate agreements. The buyer is obliged to take receipt of the goods at the time of delivery. Costs and damage arising for the seller from the buyer's refusal to take receipt of (a part of) the goods ordered by it, including the costs of storage, are payable by the buyer.
- d. An agreed delivery time does not count as deadline, unless the parties have expressly agreed otherwise. The agreed delivery time is only indicative. The delivery time does not count as deadline, so that the seller has the right to make the delivery around the agreed delivery time.

- e. If the seller purchases or obtains services, it will agree uniform delivery times with the other party. These delivery times count as deadline.

## 5. PACKAGING

- a. Non-reusable packaging is not taken back.

## 6. MEANS OF TRANSPORT

The buyer must immediately unload and release the means of transport used by the seller to avoid that delays cause costs or damage for the seller and the buyer must comply with any instructions given by the seller with regard to the returning of the means of transport. If the buyer fails to do so, it will be obliged to compensate the seller for any damage caused thereby the delay. The means of transport must be unloaded under the supervision and in the presence of the buyer.

## 7. PAYMENT

- a. Payment must be made within the agreed payment period, without any deduction or setoff, unless the parties have agreed otherwise in writing.
- b. If no payment period has been expressly agreed, payment must be made within fourteen days after the invoice date.
- c. The buyer will automatically be in default vis-à-vis the seller by the expiry of the period within which it should have paid, therefore without any warning or notice of default being required. The seller shall never be deemed to have waived its rights under this provision if it nevertheless sends a warning to the buyer.
- d. In the event of default, in the form of late payment as set out above, the buyer will owe the seller a penalty of 12.5% of the relevant invoice amount or the unpaid portion thereof, which penalty will become due and payable by the mere occurrence of the default.
- e. Furthermore, the buyer will owe the current statutory interest on the principal or the unpaid portion thereof from the date it is in default vis-à-vis the seller until the date of full payment.
- f. The seller has the right to apply payments received first to the penalty referred to under d. and then to the interest payable under this provision and finally to the outstanding (portion of the) principal.
- g. All goods delivered remain the property of the seller until the buyer has fully fulfilled all the obligations resting on it under the agreement and these general conditions, including those regarding the payment of the penalty and interest amounts stipulated in this article. If the buyer nevertheless wishes to dispose of the property of the seller for the purpose of its business operations, it can do so legally against simultaneous payment to the seller of all the amounts payable, or pursuant to the prior written consent of the seller, given in response to a request of the buyer. The seller may at any time, insofar as necessary under these conditions with the irrevocable authorisation of the buyer, inspect and/or take possession of its property, even if it is located on a site or in a building used by the buyer.

## 8. WARRANTY AND COMPLAINTS

- a. Statements by or on behalf of the seller concerning the quality, treatment in the broadest sense of the word, applications and general properties of the goods, only bind the seller if made in writing and made with the clear intent to give a warranty.
- b. Statements to the buyer with regard to the products as referred to **under a**, via the seller or otherwise, do not bind the seller, unless the seller has expressly declared to assume responsibility for them, provided that also in that event, the provisions **under a** apply.
- c. Without prejudice to the provisions hereinafter with regard to the term within which the buyer can complain, the buyer is in all cases obliged to inspect the goods delivered to it before using, applying or reselling them. The buyer must inspect bulk deliveries before transferring them to a reservoir.
- d. The inspection obligation set out in this provision includes inspection of the packaging of the goods delivered, where appropriate including the weight of the packaging.
- e. Complaints of the buyer must be submitted to the seller in writing, where appropriate accompanied by a sample, not later than eight days after arrival of the goods at the location specified by the buyer, or in the absence of a specified location not later than eight days after the goods have been taken into use, applied or resold, or if immediate inspection of the goods is impossible in connection with the risk of deterioration immediately after inspection, on pain of forfeiture of the right to complain.
- f. Complaints of the buyer must be based on the quality, condition or quantity of the goods at the time they left the plant or the warehouse. Use or resale of the goods always counts as acceptance.
- g. Notwithstanding the provisions under e, if a complaint is based on a warranty as referred to under a and b of this article, it must in any event be submitted within the warranty period. If no warranty period is expressly stated, a warranty period of six months applies, counting from the time when the goods leave the plant or the warehouse.
- h. Also in the case referred to under f, use or resale of the goods counts as acceptance, and use, application or resale of the goods leads to the lapse of any right the buyer may have to submit a complaint with regard to the goods delivered. In case of delivery in bulk, the transfer to a reservoir counts as acceptance.
- i. If a complaint has been found valid, the seller will grant a reasonable discount off the price or, upon return of the goods concerned, arrange for renewed delivery at the expense of the seller.
- j. Return of the goods is only permitted with the written approval of the seller. The seller will never be liable for compensation exceeding the invoice value of the goods concerned. The weight measured on shipment is binding for both parties. No compensation will be paid for loss of weight due to the fact that remains of the goods are left in the means of transport or the packaging.

- k. Claims of the buyer with regard to an attributable failure in the performance by the seller that lead to termination of the agreement or are based on an unlawful act, are excluded, except if and to the extent that the claim is for honouring the rights granted to the buyer in the preceding paragraphs of this article.

#### **9. LIABILITY AND INDEMNITY**

Except when a warranty is invoked or in the event of intent or gross negligence on our part, all liability of the seller for damage caused to the buyer or a third party by defects in or to the goods sold or the work carried out, is expressly excluded. Except in the event of intent or gross negligence, the seller is also not liable for staff or persons engaged within the framework of the performance of the agreement. Except in the event of express confirmation, the seller is in no way bound by agreements with subordinate members of the management board of the seller.

#### **10. FORCE MAJEURE**

The seller is not liable for damage resulting from force majeure. Force majeure means: restrictive government measures, mobilisation, war, revolution, strikes, attachment, interruption of the production, lack of raw materials, semi-finished products, consumables and/or energy, natural disasters, full or partial default of a third party from which goods or services must be received, and any other circumstance that the seller could reasonably not have foreseen. In the event of force majeure, the seller will be authorised to cancel the agreement insofar as not yet performed or extend the period of delivery for as long as the force majeure continues.

#### **11. TERMINATION**

If the buyer:

- I. fails to fulfil an obligation under an agreement with the seller on time or properly;
- II. is declared bankrupt;
- III. applies for its own bankruptcy or is subject to bankruptcy proceedings instituted by a third party;
- IV. applies for a (provisional) suspension of payments, is wound up or sees attachment levied of all or part of its assets;

the seller will be entitled to terminate each agreement with the other party with immediate effect, without judicial intervention being required and without prejudice to the other rights the seller may have in respect of the other party under these conditions, the agreement or the law, including the right to full compensation. In the event of termination of an agreement concluded with the seller by the buyer, the buyer cannot claim that performances already delivered by either party be undone, nor will such termination give rise to an entitlement to compensation if the nature of the performance excludes that it is undone.

**12. SECURITY**

On request of the seller, the buyer must furnish adequate security in respect of the claim that the seller has against the other party, in the form of an irrevocable bank guarantee or in the form of any other security that can reasonably be equated with a bank guarantee. As long as the other party has failed to comply, the seller will be entitled to suspend the fulfilment of its obligations.

**13. GOVERNING LAW/DISPUTES**

All agreements concluded by the seller are governed exclusively by Dutch law. Any dispute arising from an agreement shall, insofar as permitted under the relevant statutory provisions, be submitted to the competent court in the place of our registered office, to the exclusion of any other authority.

**14. INCONSISTENCY BETWEEN THE DUTCH TEXT AND THE TRANSLATION**

In the event of inconsistency between the text of these conditions in the Dutch language and in another language, the Dutch version will prevail.