

General Terms & Conditions

General Terms & Conditions of Sale and Delivery

Definitions

Seller Rotterdam Chemicals Group B.V. current location Rotterdam (hereafter also called 'we' 'us' etc.).

Purchaser The contracting party.

Goods The tangible goods subject to the contract of sale.

Article 1 Applicability

- a) Unless otherwise agreed in writing, all quotation by, orders to and agreements with the seller are subject to the following conditions.

Article 2 Offers, agreement and amendments

- a) All offers made by the seller are without obligation, unless otherwise agreed in writing.
- b) Any offers, or parts thereof, made by the seller are valid for a maximum of the remaining of the working day of issue (Dutch time). Seller has the rights to alter, postpone or retract the offer even after acceptance, in which case both parties are freed from any obligation, and no compensation to the other party will be due.

Article 3 No warranties as to fitness for purpose

- a) Seller does not bear any responsibility, give no warranty or have other obligations regarding the express or implied fitness of the goods for a) a particular purpose purchaser may imply or state or mention at or before the concluding of the contract and b) for the purposes for which goods of the same description would not ordinarily be used in the Netherlands.

Article 4 Hazardous goods

- a) The purchaser acknowledges that any or all products supplied under this contract may be or become or considered a hazardous material under various governmental laws and regulations and that purchaser or its agents are familiar with any hazards of the product and its applications and handling of the various modes that the product may be transported in.



Article 5 Weight and quantity

- a) The measurements and weights as stated on the seller's weights or measures bill, define the quantity supplied. In the case of non-bulk deliveries, no weights and measures bill is required.
- b) The purchaser has the right to supervise the weighing and measuring of the goods before delivery.
- c) Purchaser is obliged to accept 5% overweight and underweight, to which the price will be adjusted accordingly.

Article 6 Incoterms / Delivery

- a) Unless otherwise agreed in writing, deliveries shall be made in accordance with the Incoterms 'Ex Works' without prejudice to the seller's conditions of ownership.
- b) Ex Works and other terms of trade shall have the meaning as set forth in the INCOTERMS 2020.
- c) Any agreed delivery date is approximate only and thus does not constitute a final or fatal delivery date. Failure to meet the deadline for delivery will not entitle the purchaser to compensation.
- d) If the purchaser fails to provide transport or to accept the goods at the point of destination within seven working days from the date on which the goods were available for acceptance, the seller may, at his discretion, cancel the agreement or part thereof, without prejudice to its right to damages, which will be set at an amount equal to 50% of the contract price, notwithstanding the right of seller to claim damages in excess of this amount.

Article 7 Return of Equipment

- a) Purchaser shall take immediate delivery of the goods when presented. If the goods have been shipped in tank trucks made available by the seller these shall be unloaded, fully emptied and cleaned upon arrival without delay. Tank trucks made available by the seller shall be returned to the transporting company within 24 hours after arrival at the destination, free of charge and cleaned. Late redelivery can cause demurrage/lay time, or other costs for which purchaser is fully liable.
- b) If transport equipment (tank trucks, isotanks, dry box containers etc.) from third parties is handed over to the purchaser, the purchaser shall comply with all the contract conditions and instructions by the respective transport companies.

Article 8 Loading/filling

- a) The loading or filling of vehicles and/or containers made available by the seller – except in cases of deliberate or gross negligence on the part of the seller – shall be the sole responsibility of the purchaser, even if carried out by the seller and/or if he has issued instructions regarding the vehicle or container or has performed any work on them. The seller may refuse to load a vehicle or fill a container, if in his opinion it falls short of reasonable safety requirements. The seller shall not be liable for any delay resulting from such refusal.



Article 9 Conditions of ownership

- a) All goods supplied by the seller remain the property of the seller until all payments to the seller have been fully settled.
- b) As long as the goods remain the property of the seller, the purchaser may use, process or pass on the goods only in the normal course of this business. If, however, he uses the goods supplied by the seller to acquire other goods, the ownership of such goods is automatically transferred to the seller if the purchaser fails in his obligation toward the seller for whatever reason.
- c) If the purchaser fails to pay for the goods in time, the seller may re-possess the goods without further notice, proof of default or legal intervention, without prejudice to the seller's rights regarding overdue payment.

Article 10 Payments

- a) Unless a different term of payment has been specifically agreed, payment must be made within 30 days from the date of invoice.
- b) If a letter of credit is required, this letter of credit will always be subject to the final and continuing approval of the seller.
- c) If the purchaser fails to fulfil any of the clauses of these conditions or other agreement, he shall be in default without further notification.
- d) Failing to pay any amount timely, be it the purchase price, penalty or damages, the purchaser shall pay to seller the legal trade interest plus 3% (Article 6:119a DCC) over the amount due.
- e) If the purchaser relinquishes the right to set off one debt against another and to any discount.
- f) If the purchaser is a group or more than one legal entity, all members of the group are jointly and severally responsible for purchaser's obligations to seller.
- g) All legal and extra-judicial costs resulting from claims on the purchaser shall be charged to the purchaser. Extra-judicial costs will be deemed to constitute at least 15% of the claim.

Article 11 Warranties by Seller

- a) Seller must deliver the goods, hand over the agreed documents and transfer the property in the goods, as required by the contract.
- b) Subject to the limitations mentioned below, we hereby undertake to replace the goods delivered by us in case they are proven not to be in conformity with the specifications agreed to, damaged, or in any aspect do not meet the standards agreed to.
- c) Purchaser is obliged to inspect the goods regarding completeness, conformity, damage etc. before using them or delivering these to third parties, but in any case within seven days from delivery to the purchaser.



- d) Any claim should be presented within 8 days from delivery, and should be made in writing accompanied by a report by an independent surveyor of good standing. Seller shall have the right to and access to all information, communication, etc. disbursed by Purchaser or other parties to the surveyor. Purchaser shall grant seller and an appointed surveyor by seller full access to the mentioned information regarding the alleged non-conformity/damage etc. and full access to the goods for a counter-survey.
- e) Once the goods have been used or re-sold they are deemed to have been accepted in good order, and purchaser loses all rights to rely on a lack of conformity of the goods. Similarly, in case of bulk deliveries transfer into a tank, reservoir or similar, the goods are deemed to have been accepted in good order.
- f) Goods may be returned to seller only with the preceding express written permission from the seller.

Article 12 Warranties by Purchaser

- a) Purchaser warrants that there is no legal or practical impediment of any kind as to the delivery to the agreed delivery place and transporting mode. Purchaser will upon a breach of this warranty be liable for all damages seller may suffer, including all legal costs and expenses made.
- b) Purchaser warrants that the goods will not be used, resold or intended for any use in violation of any government rule, embargo or similar, be it UN- , US- , EU-, national or international laws.
- c) In case of breach of the warranty sub b), purchaser will hold harmless seller and its directors, shareholders, employees and/or contractors against any action by authorities, institutions or third parties. Purchaser will upon a breach of this warranty forfeit a penalty to seller of 1.000.000 euro's, and will be liable for all damages seller and its directors, shareholders, employees and/or contractors may suffer, including all legal costs and expenses made, in excess of the penalty.

Article 13 Liability of Seller

- a) We, our employees and other persons whose services we use are not liable for any damage whatsoever, either material or moral, with regard to the works performed in the broadest sense, or goods delivered under the contracts to which the terms and conditions apply.
- b) Without prejudice to the provisions laid down in paragraph a, we will only be liable for damage if the contracting party proves that the occurrence of the damage is attributable to wilful misconduct or gross negligence of the board of Seller. We do not provide indemnification for wilful misconduct or gross negligence of our staff or other persons whose services we use, nor do we indemnify the contracting party against claims from third parties.
- c) We will not be liable, under any circumstances whatsoever, for consequential damage of whatever nature, whoever suffered them, including in particular loss of profits and/or time lost. The seller is in no way liable for damages or loss, in any form, if it is the result of improper and/or inexpert use of the goods supplied. The other party must be able to prove that the goods were used in a proper manner.



- d) The seller shall not be liable for damage to the goods sustained during the loading or filling of the transport medium by the other party or by the other party's personnel.
- e) Seller does not guarantee the accuracy, completeness or conformity with regulations/laws of the specifications supplied to him by his suppliers of goods sold or bought, and is never liable with regard to any inaccuracies, incompleteness in or non-conformity of the specifications.
- f) The purchaser shall indemnify seller against all claims by third parties, whoever they may be, regarding damage and/or loss which might befall the third party in connection with the goods supplied or to be supplied by the seller.
- g) Without prejudice to any other provision of these terms and conditions, our liability will never exceed the contract price of the goods concerned, but in any case will not exceed a maximum of 5.000 euro's.
- h) All claims against seller shall lapse after one year from (intended) delivery has passed, or failing such date, one year starting from the date the claim became due.

Article 14 Force Majeure

- a) If the seller cannot reasonably be expected to fulfil one or any of his obligations because of one or any of the circumstances mentioned in paragraph b, he may without legal intervention terminate the agreement altogether or in part by means or written declaration, or delay its execution altogether or in part without incurring any liability whatsoever.
- b) The aforementioned circumstances include government restrictions of any kind, epidemics, mobilization, war, revolution, strikes, confiscation, production stoppages, shortage of raw materials, semi-manufacturers, ancillary products and/or power, pandemics, natural disasters, part of total failure by third parties to supply goods or services and any other circumstance which the seller could not reasonably have foreseen or influence, and because of which, had he been aware of it at the time the contract was concluded, he would not have agreed to it, or in any case not on the same conditions.
- c) If the contract is fulfilled despite any or several of the circumstances described in the second paragraph, this does not affect the right to postpone or terminate the contract if these circumstances would occur again.

Article 15 Transfer of rights and obligations

- a) The purchaser may not, without prior written permission by the seller, transfer his rights and obligations or part thereof to another party or to have the agreement carried out, in full or in part, by another party.

Article 16 Termination

- a) Any failure in the performance of any obligation of the contracting party entitles us to terminate the contract(s) by written notice, without prejudice to our right to compensation.
- b) The contracting party waives all rights to termination of the contract, unless termination in accordance with the provisions laid down in paragraph c of this article is agreed on.



- c) Termination by the contracting party is only possible with our permission. In that case, the contracting party must pay us a compensation of 50% of the contract/purchase price (exclusive of VAT), unless the damage, including the costs and loss of profits, exceeds 50% of the contract/purchase price (exclusive of VAT), in which case the compensation will be the total amount of damage, interest and costs. In the event of termination by the contracting party, the contracting party does not have any rights to that what has been performed by us and that what has been performed by us will have to be removed at the expense of the contracting party, at our discretion.

Article 17 Applicable law and arbitration

- a) All offers and contracts concluded under these terms and conditions and the consequences thereof are exclusively governed by Dutch law. The applicability of the Vienna Sales Convention is excluded.
- b) Any dispute between us and the contracting party arising from any contract, preparatory agreement or other legal relationship whatsoever will be exclusively submitted to the Court of Rotterdam, the Netherlands. The Judge in Preliminary Relief Proceedings of the Court of Rotterdam has exclusive jurisdiction with regard to a preliminary injunction.

