



General Terms and Conditions of Sale and Delivery of CM Fine Chemicals GmbH, Buchs («CM Fine Chemicals»)

1. General

The Buyer acknowledges that these General Terms and Conditions of Sale and Delivery of CM Fine Chemicals ("GTCSD"), as amended from time to time, shall apply to all present and future contracts of the Buyer with CM Fine Chemicals as seller of goods and/or services. The Buyer agrees that deviations from the GTCSD, in particular purchasing terms or other general terms and conditions of the Buyer, are not valid and do not become part of the contract with CM Fine Chemicals without the explicit written confirmation by CM Fine Chemicals, even if CM Fine Chemicals does not explicitly oppose them. In the event of a conflict between provisions agreed individually in writing in, for example, the order confirmation, on the one hand and the present GTCSD on the other hand, the individually agreed provisions shall prevail.

2. Contract

Unless so confirmed, sales offers submitted by CM Fine Chemicals are not binding. Price information as well as technical specifications, in particular as found in price lists, brochures, on the internet etc., are not binding for CM Fine Chemicals, provided nothing to the contrary has been agreed upon in writing. Only if confirmed by CM Fine Chemicals in writing, a purchase order of the Buyer is deemed accepted, and thus a contract between the Buyer and CM Fine Chemicals is concluded. If the Buyer requests shortterm delivery without prior written confirmation by CM Fine Chemicals and CM Fine Chemicals agrees therewith, the Buyer agrees that the invoice, including the GTCSD, shall form the contract. Deviations from the purchase order in the order confirmation or the invoice of CM Fine Chemicals shall become part of the contract unless disputed by the Buyer in writing within five business days of receipt of the deviating order confirmation or the invoice.

3. Prices

Absent written arrangements to the contrary, all prices indicated by CM Fine Chemicals are understood to be net prices in Swiss francs, with no deductions of any kind. Buyer agrees that small-lot and short-term charges, customs as well as shipping, packing and insurance costs and costs of implementing special Buyer requirements shall be at the Buyer's expense and are invoiced separately. The Buyer shall likewise be exclusively liable for taxes, including value added tax. In the event of unforeseeable circumstances between the conclusion of the contract and delivery, in particular currency fluctuations and supplier prices, Buyer agrees that CM Fine Chemicals shall be entitled to adjust the prices accordingly.

4. Terms of Payment / No set-off

Absent other agreements in writing, payment shall be made by Buyer within 30 days from the date of the invoice (agreed due date). Buyer agrees that, after expiration of the payment period, the Buyer is in default without additional reminder and interest at the rate of 5% p.a. is due. The Buyer is not entitled and waives any rights to set-off claims of CM Fine Chemicals against alleged or proven counterclaims of the Buyer.

CM Fine Chemicals GmbH

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5. Delivery

The date of delivery specified in the order confirmation or invoice shall apply. Such dates of delivery are not to be deemed fixed deadlines unless so confirmed in writing by CM Fine Chemicals. The delivery date shall be extended if (i) CM Fine Chemicals does not timely receive the specifications required for the performance of the contract or if the Buyer subsequently alters the specifications and thereby causes a delay in delivery; or if (ii) Hindrances arises, e.g. delay of CM Fine Chemicals suppliers, delay in transit etc.) which CM Fine Chemicals cannot overcome despite application of due care, regardless of whether such hindrances arise at CM Fine Chemicals, at the Buyer or at a third party. In the event of late delivery, the Buyer shall have no right to indemnity, compensation for damages or additional performance. The Buyer agrees that, in case of delivery delays, the Buyer shall not have the right to withdraw from or rescind the contract. If CM Fine Chemicals is unable to deliver on time, or at all, due to events occurring at CM Fine Chemicals or its suppliers beyond its control, CM Fine Chemicals shall have the right to withdraw from the contract in whole or part. In particular, CM Fine Chemicals reserves the right to effect partial deliveries. For as long as the Buyer is in delay with a payment or its solvency is at risk, CM Fine Chemicals is entitled to hold back further deliveries. CM Fine Chemicals may withdraw from or rescind the contract if performance thereof is not ensured to CM Fine Chemicals' discretion within a reasonable time. Any additional claims of CM Fine Chemicals shall remain unaffected thereby.

6. Transfer of Benefit and Risk

Unless agreed otherwise in writing, benefit and risk shall pass to the Buyer no later than in the moment of the delivery of the goods to the carrier in which case CM Fine Chemicals has discharged its obligations. If dispatch is delayed at the Buyer's request or for other reasons not imputable to CM Fine Chemicals, risk shall pass to the Buyer at the time originally specified for delivery. From this moment on, the shipments shall be stored and insured at the Buyer's exclusive expense and risk.

7. Reservation of Ownership/Title

Until receipt of the entire payment, the goods sold to the Buyer shall remain the exclusive property of CM Fine Chemicals. CM Fine Chemicals is authorised to register this reservation of title in the Swiss Registry of Reservations of Title or in corresponding registries in other countries, and the Buyer shall be obliged to cooperate and execute upon first demand all the steps required for such registration.

8. Packaging Material

CM Fine Chemicals does not take back packaging and transport material unless a legal duty to do so exists. The Buyer agrees to dispose of the packing material at its own expense.

9. Place of Fulfillment

Place of fulfillment for goods and services shall be the place indicated by CM Fine Chemicals.

10. Inspections and Acceptance of Shipments

The Buyer shall inspect shipments within five business days of receipt and shall notify CM Fine Chemicals in writing and in reasonable detail of any defects within this term. After the elapse of this term and absent any such written defect notice the goods are considered accepted by Buyer.

11. Warranty

The warranty period shall commence upon arrival of the shipment at the place of fulfillment and shall, as a rule, last for 12 months, subject to an earlier lapsing due to the expiration date of a product (e.g. any kind of reagents etc.). The warranty given by CM Fine Chemicals is limited to the agreed materials, workmanship and appearance as specified in the certificate of analysis or in the order confirmation. No warranty is given for consumable materials. The Buyer's claim shall be limited to replacement or repair of the defective goods or reduction of the price, which is at the sole discretion of CM Fine Chemicals. Recession of the contract and abatements are excluded. The warranty shall expire early if the Buyer or a third party improperly undertakes or attempts alterations or repairs or if the Buyer, in the event of a defect, does not immediately give CM Fine Chemicals the opportunity to remedy the defect. CM Fine Chemicals shall not be liable for defects arising from inaccurate or imprecise information provided by the Buyer. CM Fine Chemicals shall further not be liable for defects arising in consequence of natural wear and tear, improper maintenance, improper use, excessive load or other causes not imputable to CM Fine Chemicals. Any additional liability of CM Fine Chemicals is excluded to the maximum extent permissible by law, in particular for indirect and consequential losses such as lost profits, unrealized savings or third party claims and, in particular, also for losses caused by officers, employees or auxiliary persons utilized by CM Fine Chemicals. In the event that a product liability claim is lodged against CM Fine Chemicals by a third party in respect of a defect not imputable to CM Fine Chemicals, the Buyer shall hold CM Fine Chemicals harmless for all costs incurred thereby.

12. Liability

CM Fine Chemicals shall only be liable in case of intention and gross negligence. Any liability of CM Fine Chemicals for negligence, for acts of auxiliary persons as well as indirect and consequential losses are excluded to the maximum extent permissible by law.

13. Confidentiality

Information supplied by CM Fine Chemicals to the Buyer for purposes of contract performance may not be used for other purposes of the Buyer nor disclosed to third parties. CM Fine Chemicals shall likewise not disclose the Buyer's confidential information and trade secrets to third parties.

14. Force Majeure

Interruptions of operations of the parties or of third parties, delays in delivery, failures of CM Fine Chemicals suppliers to deliver, lack of raw material or energy, interruptions in traffic, to the extent that such events were not foreseeable, as well as war, riots, strikes, lockouts, official orders and other cases of force majeure shall release the affected party from its obligations, in particular, the obligation to deliver or accept, as long as the interruption lasts and to the extent that it affects the party. If the delivery or its acceptance is thereby delayed by more than one month, the parties shall agree on how to proceed. If no agreement is reached, then at the earliest after another month, the parties may resort to the competent court pursuant to Art. 16, below, which shall then decide.



15. Import and Operating Permits and Restrictions

The Buyer shall obtain import or operating permits, if applicable, at its own expense and risk, provided nothing to the contrary has been explicitly agreed upon in writing. The Buyer shall be liable for import restrictions and similar official regulations.

16. Applicable Law, Jurisdiction, Collection Proceedings

Swiss law shall be applicable to any sale made by CM Fine Chemicals, to the exclusion of the Convention of the United Nations on Contracts regarding International Sales of Goods dated April 11th, 1980 ("Vienna Sales Law"). For Buyers domiciled abroad, Buchs/SG shall be the recognized and agreed place for debt collection proceedings. The courts in St. Gall shall always have jurisdiction over disputes arising out of and in connection with any agreement concluded between CM Fine Chemicals and the Buyer, including applicability and validity of the GTCSD. CM Fine Chemicals reserves the right to initiate debt collection or other proceedings against the Buyer in any other place provided by law.

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