



## General Terms and Conditions of Delivery and Trade

### 1. General Aspects

These General Terms and Conditions of Delivery and Trade (T&Cs) are a constituent part of the contract. General Terms and Conditions of the contractual partner that contradict ours shall not be recognised, the exception being should the contractor (Metachem) explicitly agree to these conditions in writing. The contractual partner is to provide written notification should he intend deviating from a certain condition.

### 2. Conclusion of the Contract

The contract comes into force with the written confirmation by the contractor. The contents of the written confirmation and these T&Cs have joint validity.

### 3. Offers

All offers are subject to change without notice with regard to the price, quantity, delivery periods and delivery possibilities.

### 4. Prices, Payment

All prices are deemed to be ex site of the contractor net of packing, transport costs and other incidental costs. A deviating rule only has validity if it is in writing. The contractor is entitled to increase prices reasonably in cases where a period exceeding 4 months expires between the contract being concluded and the goods being delivered or the other contractual performances being provided. A reasonable price increase is deemed to be justified should changes be made to the prices of raw materials or auxiliary materials, wages and salaries, freight duties and public charges. This also has validity should the agreed form of the contractual performance be subsequently amended at the request of the principal.

### 5 a. Delivery and Periods of Delivery/Freight and Packaging

The contractor shall do all in its power to deliver as fast as possible. No fixed periods of delivery exist however.

Should a fixed delivery date be agreed to as a deviation from the foregoing and this is confirmed by the contractor, the principal is to set a reasonable subsequent deadline in the event of a default occurring, this normally being a period of four weeks.

The date of delivery is deemed to be the date on which the goods leave the plant of the contractor.

A requirement for the default taking place is a proven culpability on the part of the contractor in each case. It is therefore the case that a default is not deemed to exist in cases where disturbances occur in the business operations through no fault of the contractor, this including strikes and lockouts, operations, traffic or shipping disruptions, fire damage, flooding, unforeseeable shortages of manpower, energy, raw materials or auxiliary material shortages, local orders or other hindrances that the contractor is not responsible for and which serve to delay, prevent or reduce the manufacturing acceptance or consumption, quantities stoppages, traffic disruptions or render such unacceptable, and in the case of the existence of a force majeure.

The goods are shipped on the account and at the risk of the principal. The risk of an accidental destruction or accidental worsening of the goods is transferred to the Principal upon them being handed to the carrier, notwithstanding whether the shipping takes place to the place of performance or who bears the freight costs. Should the Principal wish to have the goods covered by transport insurance or should he require a special form of transport (a certain transport route or mode of transport), this necessitates the conclusion of a se-

parate written agreement. The costs are to be borne by the Principal should nothing to the contrary be agreed to. The lack of a separate agreement results in the contractor having free choice of the transport route and the transport mode. The client shall attempt to select an inexpensive and fast transport route without it being under an obligation to do so, however.

### 5 b. Passing of the risk

The risk of destruction, loss or damage to the goods is transferred to the Principal upon them being shipped (handover to the carrier) or upon them being made available in cases where they are collected by the Principal.

### 6. Acceptance of Plants and other Work Performances

Plants or other work performances that are installed by the Contractor are to be accepted after their completion, within a period of 6 days at the latest when a request is made by the Contractor. Should no request be made for an acceptance, the plant or other work performances are deemed to have been accepted after expiry of a period of 12 workdays at the latest if the Contractor has provided the Principal with notification of the completion. In each case, the plant or other work performances are deemed to have been accepted if the Principal has independently taken the plant or the other work performances into use.

### 7. Warranty

The Principal is to inspect the delivered goods immediately after they have been received so that a determination can be made as to whether they are conform with the contract. The Principal has a full and comprehensive duty to inspect the goods and includes all measures that are required in order to detect any defects. Should the principal wish to complain that the delivery is incomplete or is affected by obvious defects, he is to inform the Contractor direct and in writing without delay but 7 days after receipt of the goods or their delivery at the latest. The expiry of this time limit results in warranty claims with regard to an incomplete or incorrect delivery or obvious defects no longer being valid. The period of limitation for all claims also expires at the end of this time limit, the exception being if the Contractor has acted with intent or should the claim be tortious.

The Contractor is to be sent a sample of the delivery that is the subject of complaint together with the notification of defects. The warranty claims are deemed to be invalid should the Principal not act accordingly.

The warranty is no longer valid should the goods be mixed, blended or connected in production facilities of the Principal, in as far as the Principal is able to furnish evidence that the products supplied by the Contractor are the sole cause of the damage that was caused. Should the Contractor be requested to conduct analytical and technical validations, the Principal is to remunerate such separately as long as it should not be determined that the fault lies by the Contractor.

The warranty does not cover damages that are incurred by the Principal as a result of natural wear, moisture, high temperatures in the rooms or other temperature or weather effects, in addition to an incorrect storage of the goods.

The Contractor can refuse to remedy defects for as long as the Principal should not meet his contractual obligations.

### 8. Liability

The Contractor only assumes liability for intent and gross negligence. In cases of gross negligence, the compensation shall be restricted to the damage that was foreseeable at the time the contract was con-



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cluded. The Contractor does not assume liability for a loss of profits, consequential damages or possible non-fulfilment damages incurred by the Principal from contractual relationships that the Principal has with third parties. In the case of an impossibility of performance, the Contractor has an entitlement to a reasonable remuneration of the partial performance.

The Contractor does not assume any liability for defective deliveries or performances from external companies in as far as no proof can be furnished that the Contractor breached its duty of care when selecting the external company concerned. The Contractor shall assign the rights that are required for the assertion of claims to the Principal. The assignment is carried out in lieu of performance in all cases.

Under no circumstances does the Contractor assume liability for its products being suitable for the purposes of the Contractor when they interact with other chemicals that it has not supplied.

The analytical and technical advice that is provided verbally, in writing and in the form of tests is provided to the best of our knowledge but it nevertheless only serves as non-binding information, including with regard to third party property rights and this does not release the Principal from its obligation to test the products supplied by the Contractor itself with regard to their suitability for the intended processes and purposes. The Contractor does not have any control possibilities with regard to the applying, using and processing of the products so that such are exclusively within the scope of responsibility of the Principal.

Should special advice be given, the Contractor only assumes liability up to the value of the counter performance that the Principal paid for the provision of the advice.

### 9. Right to Repudiate

The Contractor has a right to repudiate

- should the Principal be in default with its payment obligations;
- should the Principal be in default with its payment obligations from other business transactions entered into with the Contractor;
- should the Contractor gain knowledge of the Principal having payment difficulties towards third parties as a result of information being provided or judicial or extrajudicial settlements, enforcement proceedings being conducted by third parties, insolvency proceedings, etc.

The Contractor has the right to declare all receivables that are not due as being due should the Principal not provide adequate collateral in the form of a bank guarantee for example without delay, in addition to it only making outstanding deliveries or providing outstanding performances should payment be made in advance. In the event of a non-fulfilment of the contract, the Contractor is entitled to demand payment of 20% of the total price net of Value Added Tax as lump-sum compensation. The Contractor is also entitled to a higher compensation payment should proof thereof be furnished. The Principal has the right to furnish proof that the loss is lower.

### 10. Reservation of Title

The deliveries remain the property of the Contractor until such time as all obligations arising from all contractual relationships with the Principal have been discharged. Should the Principal be in default, the Contractor is entitled to demand that the Principal return all of the reserved goods without this constituting a repudiation or the granting of a subsequent time limit being necessary. The taking of

the reserved goods back is not deemed to be a repudiation of the contract by the user, the exception being should this be explicitly declared. The Principal has an obligation to enabling a returning of the reserved goods under all circumstances. Should the Principal process reserved goods then he does so for the Contractor without it being able to assert claims against the Contractor on the basis of this work. In this case, the reserved property of the Contractor is extended to include the processing of resulting products. In the case of the processing, the co-ownership share held by the Contractor is calculated as being the ratio of the value of the reserved goods to the value of the resulting product. This also has validity in cases where the reserved goods are blended, processed or mixed with third party property. The Principal already assigns the claims it has against its customers at this moment in time in order to secure the claims that the Contractor has on the basis of its reservation of title. When requested to do so, the Principal is to provide full information concerning the customers and its contractual relationships with the customers without delay.

### 11. Terms of Payment

Invoices are due and payable 30 days from the date of invoice net. Should nothing to the contrary be agreed to, the Contractor is entitled to demand partial payments in the same amount as the value of partial performances for orders placed for plants. Deposit payments shall not be subjected to interest. Bills of exchange shall not be accepted, the exception being that this is explicitly agreed to. The acceptance of a bill of exchange is only made on account of payment. Should the payment be made by payment order documents such as cheques, bills of exchange, etc., the Principal shall bear the costs incurred for the discounting and the collection. The Contractor decides which claims are settled with payments made by the Principal. The Principal is deemed to be in default upon the payment being due. There is no necessity for the Contractor to issue a dunning notice. The Contractor has the right to demand suitable collateral such as a bank guarantee or one that is just as suitable, from the Principal at all times, even before the payment is due.

### 12. Place of Performance and Legal Venue

The place of performance for deliveries and payments is the legal domicile of the Contractor. The legal venue for both parties is the legal domicile of the Contractor. The Contractor is also entitled to assert its claims before the general legal venue of the Principal. The legal relationship is governed by German law.

### 13. Data Protection

The processing of contracts available under the contract personal data is in compliance with the German Federal Data Protection Act (BDSG) and the superordinate European Data Protection Regulation (EU-DSGVO). For further details, in particular on the rights of data subjects, please refer to our detailed privacy policy at: <https://www.metachem.de/en/data-security>.

### 14. Final Provisions, Severability Clause

Should a provision in these T&Cs be invalid in part or in its entirety, this has no effect on the validity of the remaining provisions. Should a provision be invalid, the parties shall find a provision that comes as far as possible to meeting the regulatory purpose of the invalid provision.