



TIBCHEMICALS

General Sales Terms & Conditions of TIB Chemicals AG

(As at 04/2017)

1. General

1.1 Our deliveries, services and quotes are made in the version valid at the time of the conclusion of the contract - including for future use - solely in accordance with the following sales terms and conditions ("ST&Cs"), even if we do not refer to them specifically in individual cases. These ST&Cs apply only if the client is a business (Section 14 of the German Civil Code (BGB)), a legal entity or a special fund under public law.

1.2 Individual agreements made on a case-by-case basis with the buyer (including subsidiary agreements, additions and amendments), take precedence over these ST&Cs. Subject to evidence to the contrary, a written contract and our written confirmation is authoritative for the content of such agreements. The written format can also be transmitted via telefax or email.

1.3 Any terms and conditions of the buyer or of third parties do not apply, even if we have not expressly objected to these and/or have made the delivery, provided the service or accepted payments without reservation.

2. Quotes, contracts

Our quotes are non-binding, even if they have been provided at the request of the buyer. Independently of the above, sales orders or purchase orders, including information on the scope, type and time of delivery, are binding. A contract first comes into force with our order confirmation in writing or when purchase orders have been issued by us. Regardless of other contractual or legal (cancellation) rights the buyer is not entitled to cancel binding orders.

3. Prices

3.1 Our prices do not include — insofar as nothing else has been contractually agreed — the costs for packaging, insurance, freight and VAT.

3.2 Mark-ups and recalculation of invoices on the agreed price are permissible, if circumstances such as: the cost of materials; wage and energy costs increases; rises in public charges etc. compel them, and the delivery or service is to take place more than 4 months after the conclusion of the contract. With such price increases the buyer has the right to withdraw within 14 days from receiving notice of the price increase, in the case where the list price has risen considerably higher than the general cost of living.



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4. Payment, compensation

4.1 Unless otherwise agreed, the buyer must pay us the purchase price within 14 days from the date of issue of the invoice and delivery of the goods or provision of the service. In the event of default on payment of an invoice denominated in euros, interest on the outstanding amount of 9 percentage points above the base rate as published by the German central bank at the time the default occurs, shall accrue. We reserve the right to assert further damages. The buyer may only offset these with undisputed or legally binding counter-claims.

4.2 Non-payment of due invoices or other circumstances which lead to a material deterioration in the financial situation of the buyer after conclusion of the contract, entitle us to immediate repayment of all receivables that are dependent upon that legal relationship. If the buyer, despite the corresponding request, is not prepared to make an advance payment, or to provide suitable security for the service, then we are entitled to rescind the contract, as long as we have not yet provided the service.

5. Location of service provision

The location of the service provision for the delivery is the site of our supplier plant or warehouse, for the buyer's payment obligation it is Mannheim.

6. Shipping, deliveries, risk transfer

In principle the delivery shall take place at the plant. Insofar as nothing else has been agreed, we send the goods at the buyer's cost and risk; in doing so we have the duty of discretion to determine the method of shipping, the route for shipping and the freight forwarder. We are not obliged to insure the goods against damages during transportation. Partial deliveries are permissible. The risk is transferred to the buyer at the latest when the goods are handed over to the carrier, freight forwarder or otherwise to third parties in order to fulfil their dispatch. This shall also apply if partial deliveries are made and we have taken on other services (shipping in particular). Wreckage or damage to the goods after transfer of risk to the buyer does not release it from its obligation to fully settle the invoice for the purchase price.

7. Date of delivery, delay, returns

7.1 Times and dates for deliveries and services provided by us are only approximate, unless a fixed deadline or date has been expressly confirmed or agreed upon. Provided that dispatch has been agreed, delivery deadlines and dates refer to the handover to the carrier, freight forwarder or to a third party otherwise commissioned with transportation.



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7.2 If an agreed delivery date is missed for reasons attributable to us, the buyer must inform us in writing of an extended deadline for the delivery. This extended deadline shall be at least three weeks. If the delivery does not happen after the extended deadline has expired, and if, for the above-mentioned reasons, the buyer wishes to rescind the contract or to demand damages in place of the delivery, it is obliged to notify us of this expressly in writing, by giving an appropriate further deadline, upon request, for delivery. The buyer shall be obliged, at our request, to declare within a reasonable period, whether or not he will terminate the contract due to the delay in the delivery and/or will demand damages instead of provision of the service or the delivery.

7.3 We are entitled to make partial deliveries, if the partial delivery is applicable for the client within the scope of the contractual intended use; delivery of the remainder of the goods ordered is ensured and there are no significant overheads or additional costs for the buyer in this regard. If we fall behind with a delivery or service or if a delivery or service is not possible for us, for whatever reason, then our liability for damages under these ST&Cs is accordingly limited.

7.4 If the shipment of the ordered goods is delayed through circumstances for which the buyer is responsible (including delays in, or refusal of, acceptance), the risk of accidental damage to the ordered goods at the time of the delay is transferred to the buyer. If the ordered goods are accidentally lost during delay in acceptance by the buyer, we shall be exempted from the performance obligation. However the buyer's obligation to pay remains in full.

8. Retention of title

8.1 We shall retain the right of title of the delivered goods up until the purchase price has been paid in full.

8.2 Goods delivered (reserved goods) shall remain our property until fulfilment of all claims (including all balance claims from the current account) from the business relationship, that are outstanding from the buyer now, or in the future.

8.3 If the goods are processed or reworked by the buyer, this is done for us (without the buyer being entitled to make claims against us). Our retention of title shall extend across all new items. Where there is processing of, connection to or mixing with external items by the buyer, we shall acquire joint ownership of the new goods in the ratio of the invoice value of our delivered goods (incl. VAT) to that of the other items at the time of processing, connecting or mixing.

8.4 If the retained goods are connected to or mixed with a principal item belonging to the buyer or to a third party, then the buyer has already transferred to us its rights to the new item. Accordingly it shall be taken as agreed that the buyer shall transfer joint ownership of the principal item to us in the ratio of the invoice value of our delivered goods (incl. VAT) to that of the other items at the time of the connection or mixing. The buyer shall safeguard the resulting sole or joint ownership for us free of charge.



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8.5 The buyer is entitled to resell the goods subject to the title retention in the course of its orderly business, as long as it complies with its obligations to us under the business relationship in a timely manner. If the buyer resells these goods on its own behalf, without having received the entire purchase price upfront or by matching payment with delivery of the purchased item, it shall agree with its client a retention of property title in accordance with these conditions. At the time of conclusion of the contract the buyer shall assign to us its claims arising from this resale and the rights arising from the retention of title agreed by it. The buyer shall not be entitled to any other disposal of the reserved goods. In particular the right to use the reserved goods shall be deemed to be revoked if insolvency proceedings are applied for, or if liquidation is initiated, over the assets of the buyer. If the reserved goods are resold by the buyer together with goods from third parties, the assignment of receivables from the resale shall apply, but only in the amount of our invoice for the respective reserved goods sold. If goods in which we have a share are resold, the assignment of receivables in the amount of these shares, shall apply. The same applies to other receivables which replace the reserved goods or otherwise arise with respect to the reserved goods, such as, for example, insurance claims or claims resulting from a criminal action in the case of loss or destruction. We accept the respective assignments.

8.6 At our request, the buyer is obliged to disclose to us the assignment to the customer and to provide us with the information necessary to enforce our rights against the customer, and to hand over documents to us. Despite the assignment, the buyer is only authorised to seize the receivables from the resale, as long as it properly fulfils its obligations to us, and we do not revoke this authorisation. We shall only make use of our right of revocation in cases where insolvency proceedings have been initiated against the buyer, and in cases where its creditworthiness has been reduced.

8.7 A mortgage or assignment as security of the reserved goods by the buyer is not permitted. If the value of the existing insurance exceeds the value of the secured receivables by more than 10%, we are obliged to release security at our discretion if requested by the customer. Only in the event of an assertion of the retention of title by us, can the contract be rescinded if we have expressly declared this in writing beforehand. In the event of a seizure of goods or any other risk or impairment to our property and receivables rights by a third party, the buyer shall inform us immediately in writing and, on its part, do everything possible to protect our rights, in particular it is obligated to protect our property. If the third party is not able to reimburse to us judicial and non-judicial costs arising in this regard, the buyer is liable for these.

9. Force Majeure

If a force majeure event occurs our delivery obligations are suspended; if a material change occurs in the relationship existing at the time of the contract's conclusion, we are entitled to rescind the contract. The same shall apply in the event of energy or raw materials' shortages, labour disputes, labour shortages; or raw materials, administrative decrees, transportation or operational interferences of all types, if sub-suppliers do not deliver to us in a timely and proper manner, unless we are responsible for this. Nor are we obliged to procure the goods from third parties. In the case of obstacles of a temporary duration, the delivery or service-provision periods are extended or the delivery or service-provision dates are postponed for the period of the hindrance plus an appropriate start-up period. The buyer can request clarification from us, as to whether we



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are rescinding the contract or whether we want to fulfil the contract within an appropriate deadline. If we do not provide clarification, the buyer can rescind the contract.

10. Product data

Data concerning our products and devices as well as information on our systems and processes consist of comprehensive research work and technically applicable experience. We impart these results, without accepting any additional liability with regard to the respective individual contract, to the best of our knowledge, in written and verbal form, however these are subject to technical changes in the course of product development. Our product descriptions and information only describe the nature of our products and our services and are therefore not a guarantee of the properties or durability within the meaning of Section 443, BGB, unless we have expressly confirmed this to the buyer in writing beforehand. This, however, does not release the user from testing our products and processes itself, for its own application and use. This shall also apply with regard to adhering to the protection rights of third parties and to applications and procedures.

11. Complaints

All complaints, in particular notification of defects, that are discernible during the usual examinations, must be received by us immediately, and at the latest within 10 days upon receipt of goods (for hidden defects, immediately, and at the latest within 10 days from their discovery), in writing, specifying the type and extent of the alleged defect. If the buyer does not notify us of the defect or make the complaint in the agreed written form in a timely manner, our delivery and service shall be deemed to be free from defects, with regard to the lack of complaint or defect notification in the proper way and within the agreed timely manner. If the buyer accepts our delivery or service in the knowledge of a defect, his rights in respect of this defect shall only be accepted if they are expressly reserved in writing.

12. Liability for defects

The buyer cannot derive any rights of liability for defects from our delivery and service, to the extent that there is merely an insignificant reduction in the value or serviceability of our delivery and service. If our delivery and service is defective and the buyer has duly complained about it, we shall, at our discretion, either replace it with another delivery or remedy it (rectification). We shall always be given the opportunity to do this within a reasonable period of time. We reserve the right to two attempts at rectification. If the rectification fails or if it is unreasonable to the buyer, the buyer may rescind the contract or reduce payment for it. Furthermore the buyer may request reimbursement of the expenditure necessary for the purpose of rectification. This is excluded insofar as the expenditure increases because the object of the delivery has subsequently been transferred to a place other than the customer's establishment, unless the shipment corresponds to its intended use. The buyer's statutory right of recourse against us only exists to the extent that, as the buyer, it has not entered into any additional agreements with its end-client other than the statutory claims for defects. With regard to the reimbursement of expenses, the corresponding current



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legislation shall apply. The warranty period for our goods and deliveries is one year from delivery of the goods. This shall not apply insofar as the law prescribes longer time limits pursuant to Section 438 para. 1, no. 2 (buildings and objects for buildings), 479 para. 1 (recourse claim) and 634a para. 1, no. 2 (construction defects) of the German Civil Code (BGB) Neither shall the one-year period apply in cases of liability for intent, in the case of malicious concealment of a defect, to claims for damages resulting from injury to life, body or health resulting from a negligent breach of duty on our part or a deliberate or negligent breach of duty by our legal representatives or vicarious agents, to claims for other damages resulting from a grossly negligent breach of duty on our part, or from an intentional or grossly negligent breach of duty by one of our legal representatives or vicarious agents, and in the event of the buyer's recourse due to the regulations covering the purchase of consumer goods.

13. Shortfalls

With incomplete or incorrect deliveries or if we contravene any other obligation (secondary obligation) in a way which we are responsible for, the buyer shall set out in writing an appropriate deadline for us to deliver the shortfall or the goods owing or to remedy the breach of duty. However the buyer cannot derive any rights from insignificant quantity match variances. We shall deliver significant shortfalls subsequently, as far as can be reasonably expected. Otherwise we will issue a credit note.

14. Indemnity

We shall only be liable for damages, irrespective of the legal basis, in particular for breach of obligations arising from the contractual relationship and from criminal actions, if our legal representatives or our vicarious agents have acted intentionally or with gross negligence or if the breach of duty for the purpose of the contract is of material relevance (primary duty). With slight negligent breaches of primary duty, our liability for indemnity shall be limited to typical, foreseeable, contractual damages and shall not exceed twice the invoice value for the goods concerned. In the event of simple negligence of insignificant contractual obligations our liability is excluded. Exclusion or limitation of liability shall not apply insofar as we are compulsorily liable for negligence towards life, body or health, or for damage to privately used items in accordance with product liability law or for other reasons. Insofar as the buyer is entitled under section 15 to indemnity claims, these shall lapse with the expiry of the applicable limitation period for claims for defects set out in section 13.

15. Rescission, credit insurance, security

We reserve the right to withdraw from the contract, via written notice to the buyer, if our credit insurance and/or other companies inform us, that there is no sufficient limit available for deliveries to the buyer, or a limit has been cancelled, that the buyer is not insured, that it has suspended payments or it has provided inaccurate information with regard to its creditworthiness and this inaccurate information is of considerable importance. The buyer can prevent withdrawal if, within eight days from our notice of withdrawal to it, it can provide a corresponding alternative form of security for the purchase price, which is acceptable to us.



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16. Export restrictions, rescission

We are entitled to withdraw from the contract if the buyer or the country in which it has its registered office is subject to export restrictions, in particular, the United States, the European Union and Germany, insofar as they relate to export, re-export, transfer of and resale of products. Withdrawal shall be declared by us within seven days from the date the export restriction becomes known to us. The same shall apply if the country in which the company to be supplied or the buyer has its registered office, imposes import restrictions.

17. Confidentiality

The buyer undertakes not to transmit any business or operational secrets that may become known to it during the course of our business relationship (documents, drawings, plans, specifications, confidential information, expertise, production methods and the like), without our consent, and neither to make use of this information nor to share it with third parties. At our request, all available business or operational secrets of a material nature shall be returned to us. An exception to this is information that is publicly and lawfully accessible or information that was already known to the buyer before documentation was made available to it. The obligation to confidentiality shall also apply to the time after the end of our business relationship.

18. Jurisdiction

If the buyer is a merchant, a legal entity under public law or a special fund under public law, or if it has no general jurisdiction in the Federal Republic of Germany, then the exclusive jurisdiction shall be that of the registered office of our company. If we institute legal proceedings, the buyer's general jurisdiction shall also apply. Mandatory legal rulings over exclusive jurisdictions remain unchanged by this provision

19. Relevant law

For all legal relationships between ourselves and the buyer the law of the Federal Republic of Germany shall apply exclusively. The United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG) does not apply.

20. Commercial clauses

Insofar as commercial clauses pursuant to the International Commercial Terms (INCOTERMS) are agreed, the 2010 INCOTERMS shall apply.



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21. Final provisions

21.1 Should individual terms of these business conditions be, or become, wholly or partially ineffective in a legal sense, the effectiveness of the remaining terms and conditions shall remain unaffected. A legal, permissible provision shall replace the ineffective condition or fill the contractual omission that, as far as possible, corresponds to what the contractual partners had intended or, would have intended in the meaning and purpose of these terms of business, if they had identified the contractual omission.

21.2 Note: The buyer is aware of the fact that we store data on the contractual relationship pursuant to Section 28 of the Data Protection Act (Bundesdatenschutzgesetz) for the purpose of data processing and reserve the right to transfer the data to third parties (e.g. insurance companies and banks) as far as necessary for the fulfilment of the contract.

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