

# General Terms of Sale Prime Polymers

## Section 1: General provisions

These terms and conditions apply to all tenders, offers, agreements and ensuing deliveries of Prime Polymers with the exception of any terms and conditions applied by the buyer.

Any deviating agreements do not apply notwithstanding our express written confirmation. The buyer may not derive rights for future agreements from deviations from these terms and conditions agreed on.

In these terms and conditions, the term 'written' has the following meaning: via letter, fax or e-mail.

Insofar as these terms and conditions have been drawn up in a language other than Dutch, the Dutch text shall prevail in the event of differences.

## Section 2: Conclusion of the agreement

- 2.1 All our tenders are without any engagement, even if a period for acceptance has been stated in a tender.
- 2.2 An order binds the buyer, but only binds the seller after a written order confirmation from the seller.
- 2.3 An agreement is always concluded on the suspensive condition that our information sufficiently proves the buyer's creditworthiness.

## Section 3: Measures and weights

- 3.1 The measures and weights, as mentioned in the measuring or weighing bills submitted by the seller, are determining for the quality delivered.
- 3.2 The buyer always has the right to be present or represented at the measuring or weighing in order to verify these.
- 3.3 Regarding all measures and weights, the seller always reserves the right to apply the margins that are customary within his company. This concerns 0.5% per bulk, 0.5% per bag, and 1% per barrel.

## Section 4: Delivery

- 4.1 The term of delivery is approximate only, and may not be considered as a fatal deadline. The seller is not in default regarding the term of delivery, unless he has been notified in writing thereof by the buyer, and the latter has granted the seller the opportunity to deliver within a reasonable term, and the seller has not complied with this term. Only if the term of delivery agreed is excessively exceeded, i.e., by more than four weeks, the buyer is entitled to terminate the agreement, unless such was caused by force majeure. However, the buyer can never claim any fines or compensation.
- 4.2 Delivery conditions are agreed per transaction. All delivery conditions apply in accordance with Incoterms 2010.
- 4.3 The seller is entitled to suspend or cancel the delivery of the entire order, or a part of the order, which have not been purchased by the buyer in the period that was originally agreed on, without prior notice to the buyer, notwithstanding all other rights of the seller. Such suspension or cancellation of the delivery does not influence any remaining part of the order that has been purchased by the buyer in time.
- 4.4 Non-compliance or non-timely compliance with the payment obligation on the part of the buyer suspends the seller's delivery obligation.
- 4.5 The term of delivery commences after we have received a written order confirmation and after we have received any advance payment from the buyer.
- 4.6 We reserve the right to deliver the order in parts, in which case the (payment) conditions set out below also apply to each partial delivery.

## Section 5: Warranty and liability

- 5.1 We guarantee that the goods sold by us comply with the standards applied by us, as well as with that which has been agreed on in writing about this. Under no circumstances does our liability extend beyond that which has been stipulated in this section.  
The buyer bears the risk and is liable for the consequences of use of the goods, regardless if they are used in separately or in combination with other goods.
- 5.2 If the goods have been treated and/or processed by a party other than the seller, the warranties mentioned will apply only to the goods in an unprocessed state.
- 5.3 The buyer is obliged to examine the goods upon delivery for visible and/or directly noticeable defects. The buyer is also obliged to verify if the delivered goods are in accordance with the order in other respects. The buyer has to notify the seller of complaints in writing within eight days after delivery. If no written complaints have been received by the seller within this term, he

is considered to have met all his obligations regarding the goods delivered. Complaints about invoices have to be filed in writing within eight days after the invoice date.

- 5.4 If a complaint is filed in time and if it is acknowledged by the seller, the latter is only obliged to either deliver the missing goods or to replace or take back the goods and to compensate the buyer for the invoice amount concerned. Under no circumstances is the seller obliged to compensate other costs and/or damage. Goods are only taken back after prior written consent from the seller.
- 5.5 The liability of the seller towards the buyer is limited to compliance with the obligations, as described in 5.4.
- 5.6 Except for instances of an intentional act or gross negligence on the part of the seller, and except for the statutory liability based on mandatory stipulations, the seller can never be held liable for damages incurred by the buyer. Liability for indirect damages, consequential damages, immaterial damages, trading loss or environmental damage, or damages as a result of liability towards third parties, is expressly excluded.
- 5.7 If and insofar as, despite the provisions of section 5.6, any liability lies with the seller, for whatever reason, this liability is limited to the amount equal to the net invoice value of the goods concerned, with the proviso that the seller can only be held liable for an amount not exceeding €50,000 per incident. In the application of this section, a series of connected loss-causing incidents counts as one incident.
- 5.8 After delivery, the buyer indemnifies the seller against all claims by third parties, including claims by third parties on account of product liability as a result of a defect of a good, which has been delivered to a third party by the buyer, and which (partially) consisted of goods delivered by the seller.

## Section 6: Reserve of ownership

- 6.1 The ownership of all goods delivered by the seller is not passed on to the buyer until the latter has fulfilled all payment obligations arising from this agreement or other agreements, including any interest, fine and costs.
- 6.2 Goods delivered by the seller, which fall within the scope of reserve of ownership, in accordance with paragraph 1, may only be resold within the framework of ordinary business operations, and may never be used as means of payment.
- 6.3 The buyer is not authorised to pledge or encumber in any other way the goods that fall within the scope of the reserve of ownership.
- 6.4 The buyer hereby unconditionally and irrevocably grants the seller, or a third party to be appointed by the buyer, permission for entering any place where the seller's properties will be and to take those goods away, for all cases in which the seller wishes to exercise its right of ownership.
- 6.5 If third parties seize delivered goods that fall within the scope of the reserve of ownership, or if they want to establish or exercise a right to these goods, the buyer is obliged to inform the seller thereof as quickly as may reasonably be expected.
- 6.6 The buyer undertakes to take out insurance for the delivered goods that fall within the scope of the reserve of ownership and to keep them insured against fire, explosion damage, water damage and theft, and to produce the policy document for inspection upon first request.

## Section 7: Prices

- 7.1 Unless otherwise agreed upon, all prices apply free carrier, Tilburg or Oud Gastel, the Netherlands (FCA, Incoterms 2010).
- 7.2 Each price stated by the seller is based on cost price determining factors, such as the current monetary circumstances, labour costs, prices of raw materials, rights, taxes and other levies, subsidies and so on, which apply at the moment the agreement concerned is concluded. If changes occur in one or more of these cost price factors after the agreement has been concluded but before delivery, the seller is entitled to include the change(s) in the price.

## Section 8: Payment

- 8.1 If no advance payment has been agreed on, the seller must have received payment of the invoice amount, without deduction, suspension, payment discount or set-off, in its bank account no later than 30 days after the invoice date, unless expressly stated otherwise in writing. If payment has not taken place within the agreed payment term, the buyer is considered to be in default of payment without further notice of default or judicial intervention being required, and he immediately owes the seller interest of 1.5% per month. A month that has already started is considered to be a full month.

- 8.2 If the buyer fails to pay in time, the seller is entitled to suspend further deliveries, unless adequate security has been furnished. Furthermore, the seller is entitled to terminate the agreement with the buyer forthwith and without judicial intervention, without prejudice to the seller's right to compensation for damages incurred.
- 8.3 If the buyer fails to pay the amount owed in time, the buyer is bound to pay any judicial and extrajudicial costs ensuing from the recovery of the debt. The extrajudicial costs amount to at least 15 (fifteen) per cent of the invoice amount.
- 8.4 The seller is authorised at all times to require the buyer to furnish adequate security for the fulfilment of both his payment obligation and other obligations ensuing from the agreement. If the buyer refuses to furnish the required security, the seller is entitled to suspend his obligations and ultimately entitles him to terminate the agreement in full or partially without further notice of default or judicial intervention being required, without prejudice to his right to compensation for any damages incurred.

#### **Section 9: Force majeure**

- 9.1 The seller is relieved of any liability in case of force majeure. The performance of the agreement may be entirely or partially suspended or cancelled, in proportion to the part that has already been performed, without the buyer being obliged to pay any compensation.
- 9.2 The term 'force majeure' includes the following, among other things: war, risk of war, mobilization, state of siege, riot, strike or lock-out, fire, accident or illness of personnel, operational breakdown and reduction of production, lack of packaging material, transport stagnation, restrictions on import or on other goods and services by third parties which are used by the seller.

#### **Section 10: Cancellation**

- 10.1 In principle, the buyer may not cancel an order. Nevertheless, if the buyer fully or partially cancels an order, due to any reason, he is bound to compensate the seller for all reasonable costs incurred for the purpose of performance of the order, including costs for preparation, storage and so on, without prejudice to the seller's right to demand compensation for loss of profits and other damages. The buyer is also bound to compensate all costs ensuing from the cancellation.
- 10.2 The seller is entitled to cancel an order if the buyer has not yet fulfilled his earlier payment obligations in time at the moment of delivery, both in relation to the seller and to other creditors. The buyer may not derive any rights from such cancellations, and the seller can never be held liable by him.

#### **Section 11: Suspension and termination**

- 11.1 If the buyer fails to fulfil his obligations ensuing from the concluded agreement, or if he fails to fulfil his obligations in time, if there are grounds for fearing the buyer will not fulfil his obligations, or not in time, or if the buyer applies for a moratorium, files a winding-up petition, or dissolves his company, the seller is entitled to suspend or terminate the agreement concerned without a notice of default or judicial intervention being required, and the seller is not obliged to pay any form of compensation.
- 11.2 Any claim by the seller relating to a part of the agreement that has already been performed, or to damages incurred as a result of a suspension or termination, which includes loss of profit, becomes immediately due and payable.

#### **Section 12: Applicable law**

- 12.1 These terms and conditions and all tenders and offers issued by the seller, as well as any agreements concluded between the buyer and seller, are governed by Dutch law only.
- 12.2 The applicability of the Vienna Convention on international purchase agreements regarding movable items of 11 April 1980 is hereby expressly excluded.

#### **Section 13: Nullity**

- 13.1 If any of the provisions of this agreement is fully or partially void, the other provisions will remain in full force, in which case the parties are bound to replace the void provision with a new provision, which reflects as near as possible the intention of the void provision.

#### **Section 14: Competent judge**

- 14.1 Any dispute which might arise between the parties by reason of this agreement will be submitted to the District Court of 's-Hertogenbosch (the Netherlands), without prejudice to the seller's authority to submit the dispute to another competent judge, if desired.

These general terms and conditions of sale have been filed with the Chamber of Commerce in Breda under the number 20104502.