



Oxyde Belgium bvba

Gloriantlaan 38, 2050 Antwerp, Belgium

TEL: +32-3-205 1650 ~ FAX: +32-3-205 1659 ~ E-MAIL: info@oxyde.eu

GENERAL SALES CONDITIONS

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1. EXCLUSIVE SALES CONDITIONS

All our sales are exclusively governed by the following general terms and conditions, which all Buyers are presumed to have accepted by the sole fact of ordering. Seller is only bound by the stipulations of the offer drawn up by the Seller and orders accepted by himself. General terms and conditions on the back of the Buyer's order forms or any other of his documents will not be considered as waivers. The following additional terms and conditions shall apply to this transaction between us unless specifically agreed in writing otherwise.

Any waiver by us to assert some or all of the present provisions must be regarded as an occasional tolerance and will in no event lead to an acquired right.

2. DEFINITIONS

The following terms shall have the following meanings:

2.1 "Affiliate" means, in relation to a Party, any entity which, at that time, directly or indirectly, controls or is controlled by or is under common control with such Party. For the purpose of this definition, "control" means the direct or indirect control of the majority of the voting rights in the general meeting of the entity or its equivalent.

2.2 "Buyer" means the legal entity specified in the relevant Contract to be the Buyer.

2.3 "Business Day" means a day when both Seller and Buyer are open for general business and, in the event of a payment due on such day, a day when major banks are open for general business in the place where payment is required to be received.

2.4 "Contract" means (a) any (spot) contract for the sale and purchase of Products resulting from an Order issued by a Party and accepted by the other Party in writing; and/or (b) any (term) contract for the sale and/or purchase of Products executed by Seller and Buyer (or proposed by one Party and accepted by the other Party in writing).

2.5 "Delivery" means the moment and place at the Delivery Point when the risk associated to the Product passes from Seller to Buyer according to the applicable delivery terms and as set out in Article 5.

2.6 "Delivery Point" means the place agreed in the Contract where Products are to be delivered to Buyer.

2.7 "Force Majeure" means any unforeseen circumstance reasonably beyond the control of the affected Party, including, but not limited to, acts of God, fire, flood, war, accident, explosion, breakdowns or labour trouble, embargoes or other import or export restrictions, shortage of or inability to obtain energy, equipment, transportation, raw materials or Product, breakdown or malfunctioning of production facilities, or good faith compliance with any regulation, direction or request (whether valid or invalid) made by any governmental authority or other person.

2.8 "Incoterms" means the International Commercial Terms 2000 as issued by the International Chamber of Commerce, including subsequent amendments as applicable on the date of the Contract.

2.9 "Order" means the document issued by Buyer to order Products for purchase from Seller (including any call off orders under a term Contract).

2.10 "Order Confirmation" means the document issued by Seller to Buyer in order to accept an Order.

2.11 "Party" shall mean each of Seller and Buyer and "Parties" shall mean Seller and Buyer.

2.12 "Product(s)" means the product(s) specified in the relevant Contract.

2.13 "Seller" means the legal entity specified in the relevant Contract to be the Seller.

3. RETENTION OF TITLE

3.1 Unless otherwise specified in writing and until the purchase price has been paid in full, Seller shall have a security interest in the delivered goods and the proceeds of the goods in order to secure payment due hereunder.

3.2 The rights to hold and use the Products shall automatically terminate without need of any notice in the event that a proceeding for suspension of payments, controlled administration, insolvency, bankruptcy, liquidation, winding-up, (or the equivalent under any jurisdiction) is initiated by or against Buyer, or Buyer enters into an arrangement with its creditors for its debts. Upon termination of such rights: (a) all sums owed by Buyer to Seller shall become immediately due and payable; (b) Seller shall be entitled to retake possession of the Products and/or to resell the Products, and for any such purposes it may enter Buyer's premises or seek an order by any court or other competent authority to this effect. Seller is allowed to recover the Products supplied without the need to inform Buyer or respect any other kind of formal acceptance

3.3 In the event that the Products are processed or otherwise mixed with other goods to form a new product, upon manufacture of such new product the security therein shall be vested in Seller pro-rata, on the basis of the value of the Products over the value of such new product or article.

4. OFFER AND ORDER

Unless otherwise expressly agreed in writing, Seller's offer shall lapse after a two week period. Each order by Buyer not corresponding to a written offer by Seller, shall only be binding on Seller, provided it was accepted in writing by Seller. Orders issued by Buyer shall become binding on Seller only upon written acceptance by Seller at its full and absolute discretion by issuance of an Order Confirmation, or upon Delivery of the Products, whichever is earlier. No changes to an Order issued by Buyer shall be binding unless explicitly approved by Seller by issuing a new Order Confirmation or upon delivery of the Products, whichever is earlier.

In the event that an Order Confirmation differs from an Order, such changes shall be binding on Buyer only if explicitly approved by Buyer or upon Buyer taking delivery of the Products, whichever is earlier.

5. PRICE

The price is the one stipulated in the offer and can only be modified by foregoing written agreement. The price is valid in the currency mentioned in the offer and excludes VAT, taxes, duties, insurance and transport unless clearly offered as such.

6. MARITIME CONDITIONS

ASBTATANKVOY maritime conditions will apply unless specific alternate conditions have been agreed in writing.

7. QUANTITY AND QUALITY

7.1 Subject to the terms and conditions set forth in these SALES CONDITIONS, Seller shall deliver to Buyer and Buyer shall take from Seller the quantity of Products specified in the relevant Contract. The Contract may specify a range of tolerance on the volume of Products to be delivered and taken and the Party entitled to the option to deliver or take Products within such range of tolerance. Seller shall make reasonable commercial efforts to inform Buyer in advance on the actual quantity expected to be delivered. In any event Buyer shall pay Seller the price for the quantity of Products actually delivered and taken or retained.

7.2 Quantity measurements of the Products delivered by vessels or barges, the quantity shall be determined and a quantity certificate shall be issued by an independent surveyor (to be nominated by Seller and to be accepted by Buyer) and the related costs shall be borne equally by the Parties.

7.3 Buyer shall notify Seller in writing of any claim related to delivered quantities as soon as practicable and in any event within 5 (five) Business Day following Delivery, failing which the quantity shall be deemed accepted and any right to raise any quantity claim waived.

7.4 Seller shall not be liable for any special indirect or consequential damages or loss of profit from resale of product.

7.5 No legal proceeding or demand for arbitration arising under this contract shall be maintainable against Seller unless commenced or made within 180 days after passing of title of product or failure to deliver product hereunder.

8. DEFECTS:

Seller undertakes that the Product will at the time of delivery meet Sellers Sales Specifications. Any other condition or warranty as to the quality of the Product supplied or its fitness for any particular purpose is excluded. The goods shall be deemed accepted by Buyer 5 days after the delivery, unless Buyer has notified Seller by registered mail of any claim for damages on account of condition, quality or grade of the goods, with a detailed specification of the claim, within the aforementioned period of 5 days. Failure of Buyer to comply with these conditions shall constitute irrevocable acceptance of the goods by Buyer.

Seller's liability shall under no circumstances exceed the invoice price of any delivery of goods for which the claim is made.

Seller is not liable for indirect damages or loss of profits.

9. PAYMENT

Seller's invoices are latest payable in full on the due-date and at the registered office of Seller. Any delay in payment shall give rise by law and without formal notice, to the payment of 10% interest starting on the due-date of the invoice. Each overdue payment of any invoice on the due date shall immediately give rise to the payment of any and all outstanding invoices.

10. CREDIT TERMS

Upon request, Buyer shall promptly provide Seller with information or authorize third party release of information required to determine Buyer's creditworthiness. Seller may suspend deliveries hereunder if Buyer's creditworthiness changes or if maximum credit exposure limit is exceeded or if Buyer becomes delinquent on outstanding indebtedness regardless of cause. If open credit terms are not granted by Seller, Buyer agrees to provide a payment in advance of delivery or a letter of credit or other security guaranteeing payment that may be mutually agreed.

11. INCOTERMS

Where not in conflict with the other conditions in this contract, INCO TERMS 2000 to apply.

12. MSDS

Upon request Seller will provide Buyer Material Safety Data Sheets (MSDSs) and Buyer will provide the MSDS's to all those required by law to receive them. Buyer acknowledges it is familiar with the product(s) and will take such precautions for hazards identified in MSDS's and properly handle, manage and dispose of wastes and residues resulting from the purchase thereof in accordance with applicable laws and regulations.

13. GOVERNING LAW

Any and all differences and disputes of whatsoever nature arising out of this agreement shall be governed by the laws of Belgium. The UNITED NATIONS CONVENTION OF CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS shall NOT in any way apply to, or govern, this agreement.

14. BINDING ARBITRATION

Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by the American Arbitration Association (AAA) under its commercial arbitration rules and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The arbitration proceeding shall be heard and determined by one (1) arbitrator to be chosen by the parties hereto. If the parties hereto are unable to agree on the appointment of an arbitrator within thirty (30) days of the initial arbitration demand, the AAA shall make the appointment. The decision of the arbitrator on any point or points shall be final. Until such time as the arbitrator formerly closes the hearings, either party shall have the right by written notice served on the arbitrator and on the other party to specify further disputes or differences under this contract for hearing and determination. The arbitrator may grant any relief which he or she, deems just and equitable and within the scope of the agreement of the parties, including, but not limited to, specific performance. Awards made pursuant to this clause may include costs, including interest and a reasonable allowance for attorney's fees. All arbitration proceedings shall take place in Houston, Texas.

15. CONFIDENTIALITY

All elements of this contract are to be kept private and confidential by all parties concerned.

16. WARRANTIES AND LIABILITIES

16.1 In no event shall Seller or Buyer be liable for indirect or consequential damages or for specific performance.

16.2 Except for the warranty of title, no conditions or warranties, express or implied, including without limitation, of merchantability, fitness or suitability of the material for any particular purpose or otherwise, are made by Seller other than that the material conforms within any tolerances stated, to the description stated herein.

16.3 In no event shall any party be liable to the other party for any indirect, consequential or special damages (including but not limited to loss of production, revenues, profit, reputation, share value).

17. FORCE MAJEURE:

Neither Seller nor Buyer shall be liable in damages or otherwise for any failure or delay in performance of any obligation hereunder (other than an obligation to make payment) caused by force majeure, being any event, occurrence or circumstance reasonably beyond the control of that party, including, without prejudice to the generality of the foregoing, acts of god, strike, fire, flood, war (whether declared or not), riot destruction of the material, delay of carrier due to breakdown, adverse weather or other exception clause contained in the ASBATANKVOY charter party, peril of the seas, public acts or regulations, accident, breach of contract by a subcontractor does not amount to force majeure. If in the event of force majeure the shipment shall be delayed or prevented for more than 60 days, each party may terminate the contract by giving written notice thereof to the party.

18. HARDSHIP

In the event of unforeseen circumstances, other than those described in the clause relating to the definition of force majeure, which adversely affect to a large extent the economic interests of one of the parties, the parties shall negotiate in good faith a price adjustment, in order to place the parties in a position similar to the one existing at the time of formation of the contract. In the event the parties do not reach an agreement within 15 days after the request for adjustment, each party shall have the right to terminate the agreement without any indemnity whatsoever, provided that a notice period with a duration of 1 month shall be notified to the other party by registered mail. During this notice period, the contractual terms shall remain in effect without prejudice

19. ENTIRE AGREEMENT

This contract/telex confirmation constitutes the entire contract and represents our understanding of the terms and conditions of our agreement. Any discrepancies or omissions should be brought to our notice by fax/telex within close of business of the next working day following the date of this confirmation.