

# BASF Catalysts Germany GmbH

## General Conditions of Sale

### 1. Scope of Application

All supplies and the services associated with them shall be provided exclusively on the basis of these General Conditions of Sale. These General Conditions of Sale shall also apply to all future business. Deviations from General Conditions of Sale require the explicit written approval of BASF Catalysts Germany GmbH (hereinafter "BCG"). Any references by the Buyer to its own Terms and Conditions are hereby rejected.

### 2. Conclusion of Contract and Contracting Party

#### 2.1

BCG's quotations are not binding, but they must be seen as an invitation to the Buyer to submit a binding offer to BCG. The contract is concluded by Buyer's order (offer) and by BCG's acceptance. In case the acceptance differs from the offer, such acceptance constitutes a new non-binding offer of BCG.

#### 2.2

Unless otherwise agreed in writing, the sales contract partner of BCG, i.e. the debtor, will be considered the purchaser.

### 3. Product quality, specimens and samples, Guarantees

#### 3.1

Unless otherwise agreed, the quality of the goods is exclusively determined by BCG's product specifications. Identified uses under the European Chemicals Regulation REACH relevant for the goods, shall neither represent an agreement on the corresponding contractual quality of the goods nor the designated use under this contract.

#### 3.2

The properties of specimens and samples are binding only insofar as they have been explicitly agreed to define the quality of the goods.

#### 3.3

Quality and shelf-life data as well as other data constitute a guarantee only if they have been agreed and designated as such.

### 4. Advice

Any advice rendered by BCG is given to the best of its knowledge. Any advice and information with respect to suitability and application of the goods shall not relieve Buyer from undertaking his own investigations and tests.

### 5. Prices

If more than four (4) months lie between date of contract and dispatch and BCG's prices or terms of payment are altered, BCG may apply the price or the terms of payment in effect on the date of dispatch.

In the event of a price increase, Buyer is entitled to withdraw from the contract by giving notice to BCG within fourteen (14) days after notification of the price increase.

### 6. Delivery

Deliveries shall be effected according to the relevant commercial term agreed in the individual contract. Basis for the interpretation of the respective commercial term shall be the INCOTERMS applicable at the date of the contract conclusion.

### 7. Damage in Transit

Notice of claims arising out of damage in transit must be lodged by Buyer directly with the carrier within the period specified in the contract of carriage and BCG shall be provided with a copy thereof.

### 8. Compliance with Legal Requirements

Unless specifically agreed otherwise, Buyer is responsible for compliance with all laws and regulations regarding import, transport, storage and use of the goods.

### 9. Delay in Payment

#### 9.1

Failure to pay the purchase price by the due date constitutes a fundamental breach of contractual obligations.

#### 9.2

In the event of a default in payment by the Buyer, BCG is entitled to charge interest on the amount outstanding at the rate of 9 percentage points above the base interest rate announced by the German Federal Bank at the time payment is due if the amount is invoiced in euros, or, if invoiced in any other currency, at the rate of 9 percentage points above the discount rate of the main banking institution of the country of the invoiced currency at the time payment is due.

### 10. Buyer's Rights regarding Defective Goods

#### 10.1

BCG must be notified of any defects that can be discovered during routine inspection within four (4) weeks of receipt of the goods; other defects must be notified within four (4) weeks after they are discovered. Notification must be in writing and must precisely describe the nature and extent of the defects.

#### 10.2

If the goods are defective and Buyer has duly notified BCG in accordance with item 10.1, Buyer has its statutory rights, provided that:

- a) BCG has the right to choose whether to remedy the defect or supply Buyer with non-defective replacement goods.
- b) BCG may make two attempts according to lit. a) above. Should these fail or cause unreasonable inconvenience to Buyer, Buyer may either withdraw from the contract or demand a reduction in the purchase price.
- c) With regard to claims for compensation and reimbursement of expenses due to a defect, clause 11 applies.

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### 10.3

Buyer's claims for defective goods are subject to a period of limitation of one year from receipt of the goods.

In the following cases the legal periods of limitation apply instead of the one-year period:

- a) liability for willful misconduct,
- b) fraudulent concealment of a defect,
- c) claims against BCG relating to the defectiveness of goods that when applied to a building in the ordinary manner caused it to be defective,
- d) claims for damage to life, body and health caused by BCG's negligent breach of duty, or by willful or negligent breach of duty on the part of BCG's legal representative or vicarious agent,
- e) claims for other damage caused by BCG's grossly negligent breach of duty, or by willful or grossly negligent breach of duty on the part of BCG's legal representative or vicarious agent,
- f) in the event of a Buyer's recourse claim based on consumer goods purchasing regulations.

### 11. Liability

#### 11.1

BCG shall be generally liable for damages in accordance with the law. In the event of a simple negligent violation of fundamental contractual obligations, however, BCG's liability shall be limited to compensation for typical, foreseeable losses. In the event of a simple negligent violation of non-fundamental contractual obligations, BCG shall not be liable. The foregoing limitations on liability do not apply to damage to life, body or health as well as the liability according to the German product-liability-law (*Produkthaftungsgesetz*). Regardless and irrespective of any culpability, our potential liability arising from the acceptance of a guarantee or purchasing risk shall remain unaffected.

#### 11.2

BCG is not liable to Buyer in case of impossibility or delay in the performance of its supply obligations if the impossibility or the delay is due to orderly compliance of regulatory and legal obligations in connection with the European Chemicals Regulation REACH being triggered by Buyer.

### 12. Set off

Buyer may only set off claims from BCG against an undisputed or adjudicated counterclaim.

### 13. Securities

If there are reasonable doubts as to Buyer's ability to pay, especially if Buyer is in default of payment, BCG may, subject to further claims, revoke agreed credit periods and make further deliveries dependent on the provision of sufficient security (e.g. advance payment).

### 14. Retention of Title

#### 14.1 Simple Retention of Title

Title to the goods delivered shall not pass to Buyer before the purchase price has been paid in full.

#### 14.2 Expanded Retention of Title

In case Buyer has paid the purchase price for the goods delivered but not yet completely fulfilled other debts arising out of his business relationship with BCG, BCG retains, in addition, title to the goods delivered until all such outstanding debts have been completely paid.

#### 14.3 Retention of Title with processing clause

In the event Buyer processes the goods delivered by BCG, BCG shall be considered manufacturer and shall directly acquire sole title to the newly produced goods.

If the processing involves other materials, BCG shall directly acquire joint title to the newly produced goods in the proportion of the invoice value of the goods delivered by BCG to the invoice value of the other materials.

#### 14.4 Retention of Title with combination and blending clause

If the goods delivered by BCG are combined or blended with material owned by Buyer, which has to be considered the main material, it is deemed to be agreed that Buyer transfers to BCG the joint title to such main material in the proportion of the invoice value of the goods delivered by BCG to the invoice value (or, if the invoice value cannot be determined to the market value) of the main material. Buyer holds in custody for BCG any sole or joint ownership originating therefrom at no expense for BCG.

#### 14.5 Extended Retention of Title with blanket assignment

Buyer shall have, in the ordinary course of business, free disposal of the goods owned by BCG, provided that Buyer meets its obligations under the business relationship with BCG in due time. Buyer already assigns to BCG all claims in connection with the sale of goods to which BCG reserves the right of retention of title when concluding the sales agreement with BCG; should BCG have acquired joint title in case of processing, combination or blending, such assignment to BCG takes place in the proportion of the value of the goods delivered by BCG with retention of title to the value of the goods of third parties with retention of title. Buyer already assigns to BCG any future confirmed balance claims under current account agreements in the amount of the outstanding claims of BCG when concluding the sales agreement with BCG.

#### 14.6 Right of Access/Disclosure

At the request of BCG, Buyer shall provide all necessary information on the inventory of goods owned by BCG and on the claims assigned to BCG. Furthermore, at the request of BCG, Buyer shall identify on the packaging BCG's title to the goods and shall notify its customers of the assignment of the claims to BCG.

#### 14.7 Late Payment

In the event of late payment by Buyer, BCG is entitled, without rescinding the sales agreement and without granting a period of grace, to demand the temporary surrender of the goods owned by BCG at Buyer's expense.

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### 14.8 Partial Waiver Clause

Should the value of the securities exceed BCG's claims by more than 15%, BCG waives securities to this extent.

### 14.9 Delivery Abroad

In addition to items 14.1 to 14.8, the following applies to deliveries abroad:

- a) Items 14.1 to 14.8 apply if the goods are delivered before the full purchase price has been paid, provided that this is in compliance with the law of the country in which the goods are located.
- b) If retention of title is not permitted and the laws of the country in question include the possibility of retaining other rights to the goods, BCG will become holder of all such rights.
- c) Buyer is obligated to support BCG in enforcing its property right claims and any other rights taking their place and held in accordance with the corresponding law.

### 15. Force Majeure

To the extent any incident or circumstance beyond the BCG's control (including natural occurrences, war, strikes, lock-outs, shortages of raw materials and energy, obstruction of transportation, breakdown of manufacturing equipment, fire, explosion, acts of government), reduces the availability of goods from the plant from which the BCG receives the goods such that BCG cannot fulfill its obligations under this contract (taking into account on a pro rata basis other supply obligations), BCG shall (i) be relieved from its obligations under this contract to the extent BCG is prevented from performing such obligations and (ii) have no obligation to procure goods from other sources. The first sentence does also apply to the extent such incident or circumstance renders the contractual performance commercially useless for BCG over a long period or occurs with suppliers of BCG. If the aforementioned occurrences last for a period of more than three (3) months, BCG is entitled to withdraw from the contract.

### 16. Place of Payment

Regardless of the place of delivery of goods or documents, the place of payment shall be BCG's place of business.

### 17. Communication

Any notice or other communication required to be received by a party is only effective at the moment it reaches this party. If a time limit has to be observed, the notice or other communication has to reach the recipient party within such time limit.

### 18. Jurisdiction

Any dispute arising out of or in connection with this contract shall be heard, at BCG's option, at the court having jurisdiction over BCG's principal place of business or Buyer's principal place of business.

### 19. Applicable law

This contractual relationship shall be governed by the law of the Federal Republic of Germany, with the exclusion of German private international law and the United Nations Convention on Contracts for International Sale of Goods dated April 11, 1980.

### 20. Contract Language

If these General Conditions of Sale are made known to Buyer in another language, in addition to the language in which the contract has been concluded (Contract Language), this is merely done for Buyer's convenience. In case of differences of interpretation, the version in the Contract Language shall be binding.

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