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## **CHEMTEC Chemicals GmbH GENERAL SALES CONDITIONS**

### **1. APPLICATION**

1.1 These general sales conditions shall apply exclusively. They shall be acknowledged by the PURCHASER when the order is placed, but at the latest when the first delivery or service is accepted. Differing or contrary terms shall not apply except if expressly agreed upon in writing.

1.2 These general sales conditions shall also govern all future transactions between the parties and shall also apply if CHEMTEC performs delivery despite its knowledge of differing or contrary terms.

1.3 These general sales conditions shall only apply vis á vis entrepreneurs, governmental entities, or special governmental estates within the meaning of sec. 310 para. 1 BGB (German Civil Code).

### **2. QUOTATION, ACCEPTANCE**

2.1 CHEMTEC's quotations or offers, including those in brochures, advertisements and similar, are always non-binding and can be subject to change, also with regard to price quotations and delivery periods. CHEMTEC reserves the right to make technical changes as well as changes in form, color or weight within reasonable limits.

2.2 Insofar as the order constitutes a quotation within the meaning of sec. 145 BGB, CHEMTEC is entitled to accept the quotation within two weeks. The contract shall only come into existence through CHEMTEC's written or textual (e.g. by fax or e-mail) order confirmation; if no order confirmation is issued, the contract shall in any case come into existence through delivery based on the terms of CHEMTEC's invoice.

### **3. PRICES, PAYMENT**

3.1 Prices only include delivery to the agreed destination and the arrangement of a barge by CHEMTEC if expressly agreed upon or stated in CHEMTEC's quotation or order confirmation. Prices are exclusive of the respective statutory VAT, if any, and include costs of packaging, except as otherwise expressly agreed upon.

3.2 The purchase price is due and payable net within fourteen (14) days from the date of the invoice, except as otherwise expressly agreed upon. An early payment discount is not granted. In case of default, interest in the amount of nine (9) % above the respective base interest rate p. a. shall accrue from the due date. We reserve all further rights, especially to claim further damages for delay.

3.3 CHEMTEC is entitled to only deliver in whole or in part after prepayment, if stated at the latest in the order confirmation.

3.4 The PURCHASER shall be entitled to netting (sec. 387 BGB) or retention (sec. 287 BGB, 320 BGB) only insofar as the PURCHASER's counterclaim is acknowledged, undisputed or assessed in a legally binding judgement. The PURCHASER has a right of retention only to the extent such rights are based on the same transaction.

### **5. DATE OF DELIVERY**

5.1 The date and place of delivery will be expressly agreed upon. As far as CHEMTEC indicates a date, this is an approximate estimate. If CHEMTEC is unable to meet binding delivery deadlines for reasons for which CHEMTEC is not responsible (e.g. non-availability of the service), CHEMTEC shall inform the PURCHASER of this without delay and at the same time inform the PURCHASER of the expected new delivery date. If the service is not available even within the new delivery deadline, CHEMTEC shall be entitled to withdraw from the contract in whole or in part; CHEMTEC shall immediately refund any consideration already paid by the PURCHASER.

5.2 The occurrence of CHEMTEC's delay in delivery shall be determined in accordance with the statutory provisions. In any case, however, a reminder from the PURCHASER is required.

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## 6. DELIVERY, TRANSFER OF RISK, DEFAULT OF ACCEPTANCE

6.1 Handover takes place ex works. At the request of the PURCHASER, the goods will be shipped to another destination (shipment purchase). Unless otherwise agreed, CHEMTEC shall be entitled to determine the type of shipment (in particular transport company, shipping route, packaging) itself.

6.2 The risk of accidental loss and accidental deterioration of the goods shall pass to the PURCHASER at the latest upon handover. In case of shipment purchase, however, the risk of accidental loss and accidental deterioration of the goods and the risk of delay shall pass upon delivery of the goods to the forwarding agent, carrier or other person or institution designated to carry out the shipment (Sec. 447 BGB).

6.3 In case of default in acceptance or other breach of duties to cooperate by the PURCHASER, CHEMTEC is entitled to claim any resulting damage including but not limited to additional expenses, if any. Further damages are reserved. In this case, the risk of loss or damage to the goods passes to the PURCHASER at the time of default of acceptance (Sec. 293 BGB) or breach of duty to cooperate.

## 7. RETENTION OF TITLE

7.1 CHEMTEC retains title to the goods until full payment of the purchase price (*Eigentumsvorbehalt*). In case of breach of contract by the PURCHASER including, without limitation to, default in payment, CHEMTEC is entitled to take possession of the goods after having set a reasonable deadline for performance.

7.2 As long as the purchase price has not been paid in total, the PURCHASER shall immediately inform CHEMTEC in writing if the goods become subject to rights of third persons or other encumbrances.

## 8. EXAMINATION, WARRANTY, GUARANTEE, USE OF GOODS, TIME-BARR

8.1 Regarding the quality of goods, only CHEMTEC's product description shall be considered. Public statements, promotions or advertising do not constitute any additional contractual information on the quality or nature of goods.

8.2 The purchased goods must be examined carefully immediately after delivery to the PURCHASER or to the third party designated by him. With regard to obvious defects or other defects that would have been identifiable in an immediate, careful inspection, they shall be deemed to have been approved by the PURCHASER if CHEMTEC does not receive a written notice of defects within five (5) business days after delivery. With respect to other defects, the purchased goods shall be deemed to be approved by the PURCHASER if CHEMTEC does not receive a written notice of defect within five (5) business days after the date on which the defect became apparent; however, if the defect was apparent at an earlier time during normal use, such earlier time shall be decisive for the commencement of the period for giving notice of defect. Upon PURCHASER's request, any delivered goods complained of, shall be returned to CHEMTEC on PURCHASER's cost. If the complaint is justified, CHEMTEC shall reimburse the costs of the cheapest shipping route; this shall not apply if the costs increase because the purchased good is located at a place other than the place of intended use.

8.3 Warranty claims (*Gewährleistungsansprüche*) shall be time-barred after twelve (12) months from the risk's passage (Sec. 6.2).

8.4 In case of defects of the goods CHEMTEC is entitled to alternative performance in the form of subsequent improvement or delivery of conforming goods. If such alternative performance has failed, the PURCHASER is entitled to reduce the purchase price. If not only a minor defect or infringement is given, Purchaser can withdraw from the contract.

8.5 CHEMTEC doesn't warrant (*gewährleistet*) and gives no guarantee (*Garantie*) of the suitability of sold goods for a particular purpose, nor any other express or implied guarantee. In particular CHEMTEC doesn't warrant or guarantee a specific cleaning result. The PURCHASER is obligated to check the suitability of sold goods for his purposes himself. In particular the PURCHASER is obligated to verify that the producer of the tank coating has approved the use of the specific cleaning chemical for the coating at the time of application by checking the current website or contacting the producer of the tank coating. The verification must include the concentration, mixing ratios and application of the cleaning chemical. Furthermore he has to test the sold goods on his ship tanks. All advice given in relation to the use of goods is non-binding and does not establish any liability. The PURCHASER assumes all risk and liability resulting from use of the goods delivered hereunder, whether used solely or in combination with other products.

8.6 Sold goods may be toxic, corrosive, poisonous or otherwise hazardous. PURCHASER and its employees are obligated to establish their own and follow all statutory safety regulations that allow a secure handling of such goods.

## 9. LIABILITY, DAMAGES

9.1 In case of intent or gross negligence on CHEMTEC's part or by CHEMTEC's agents or assistants in performance we are liable according to the provisions of applicable law. In case of breach of fundamental contract obligations we are also liable for simple negligence; apart from that our liability for simple negligence is excluded. CHEMTEC's liability for simple negligence shall be limited to the damage which is typically predictable. Fundamental are all contractual obligations whose fulfilment is essential for the proper execution of the contract and on which the contractual partners may rely.

9.2 CHEMTEC's liability for culpable damage to life, body or health as well as CHEMTEC's liability under the Product Liability Act shall remain unaffected. The aforementioned limitation of liability shall also not apply in case of fraudulent withholding of a defect and insofar as we have assumed a guarantee for the quality of the goods.

9.3. Insofar as our liability for damages is excluded or limited, this shall also apply with regard to the personal liability for damages of our employees, workers, staff, representatives and agents.

## 10. APPLICABLE LAW, JURISDICTION, FINAL PROVISIONS

10.1 This contract shall be governed by the laws of the Federal Republic of Germany (excluding the Convention on Contracts for the International Sale of Goods).

10.2 Place of performance and exclusive place of jurisdiction for all disputes arising out of or in connection with this contract shall be Dassendorf, Germany.

10.3 An invalidity of individual provisions of this agreement shall not affect the validity of the other provisions. The invalid provision shall be deemed to be substituted by a provision which complies with the concurrent intention of the parties. Sentence 1 and 2 shall apply accordingly with regard to unintentional gaps within the agreement.

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