

General Terms and Conditions of Sale of

Daikin Chemical Europe GmbH

I. General Provisions; Scope of Application

The General Terms and Conditions of Sale of Daikin Chemical Europe GmbH (hereinafter called "DCE") shall apply in their respective version exclusively. Any terms and conditions of the customer contradicting or deviating from General Terms and Conditions of Sale shall not be accepted by DCE, unless DCE has given its express written consent to their applicability. The General Terms and Conditions of Sale of DCE shall also apply, if unreserved delivery is performed to the customer by DCE upon full knowledge of terms and conditions of the customer contradicting or deviating from DCE's General Terms and Conditions of Sale.

The General Terms and Conditions of Sale of DCE shall be automatically applied to all future deliveries to the customer without expressly taken as a basis of delivery again.

II. Offers

1. DCE's offers shall not be binding and without engagement, unless they are expressly confirmed as binding in writing.

2. Objections to DCE's order confirmations shall be raised immediately.

3. A sale on call must be effected within the specified period of time. Where the customer is in default with calling the purchased goods by DCE, DCE shall, on the grounds of the still unfulfilled part of contract, be free to either withdraw from the contract or to claim damages instead of performance.

4. The customer shall be responsible for compliance with any potential export regulations, if the customer exports DCE's products abroad.

III. Prices / Payment Conditions / Delay in Payment

1. Unless otherwise shown in DCE's order confirmation, all prices are invoiced in Euro, without engagement ex warehouse, including packaging costs and without insurance costs and other charges. The statutory value added tax (hereinafter called "V.A.T.") amount shall not be included in the prices; where a taxable operation is concerned, the statutory V.A.T. amount shall be separately specified in the invoice as per the date of invoicing.

2. DCE shall be entitled to charge the prices valid on the day of delivery, even if these prices deviate from the order confirmation.

3. Unless otherwise specified in DCE's order confirmation, a default occurs thirty (30) days after the date of invoice. In the course of default DCE shall be entitled to charge interest on the outstanding debt at eight (8) percentage points above the basic interest rate of the German Federal Bank. The right to assert further damage shall be reserved by DCE.

4. DCE shall be entitled to make delivery contingent upon advance payment or to perform delivery by way of c.o.d. shipment.

5. Eligible bills of exchange shall only be accepted on account of performance upon separate agreement. In case of payment effected by bill and cheque, contract performance shall, subject to receipt of payment, only be completed on the value date stated as the day when DCE may finally and unconditionally dispose of the amount of the cheque. For this, eight (8) banking days shall be deemed to have been agreed, while this agreement shall not deprive the customer of furnishing evidence of earlier unreserved availability.

All costs resulting from payment by cheques and bills shall be borne by the customer. No obligation to make due presentation and protest shall be assumed.

6. If, subsequent to contract conclusion, DCE gains knowledge of circumstances which considerably lower the credit standing of the customer or give occasion to fear non-compliance with the payment obligations, DCE shall be entitled to prohibit a resale of goods delivered under reservation of title and to demand the return of those goods at the expense of the customer. DCE may thereafter make the renewed delivery contingent upon advance payment, without putting the customer in a position to enforce the right of retention or rescission in that respect.

IV. Set-off; Retention

The customer may only claim a set-off in cases where the customer's counter-claims have been recognized by non-appealable declaratory judgment, or have not been contested or have been admitted by DCE. The right of retention shall also be excluded to the same extent.

V. Delivery Time; Delay in Delivery

1. Dates of delivery shall only be fixed dates, if they have been expressly confirmed as such in writing.

2. A statement of delivery periods shall be only approximate and not binding. However, DCE shall endeavor to grant compliance with the dates of delivery.

3. The period of delivery shall basically start to run on the date of the order confirmation by DCE, however at the earliest at a time when all details required for delivery are known to DCE. Furthermore compliance with the supply commitment of DCE shall be subject to the punctual and proper performance of the customer's obligations. The plea of non-performance of the contract shall be reserved.

4. The delivery period shall be duly observed, if the delivered articles have left the works prior to expiration of the time-limit, or if notice of readiness for dispatch was given to the customer.

5. Unforeseeable extraordinary events, which DCE was unable to avert in spite of exercising the care that can be reasonably expected under the circumstances of the particular case, such as operational breakdown, strike, lockout, government interference, war, disturbance of the energy supply or the provisioning with raw materials and similar events ("force majeure") shall entitle DCE to reasonably extend the delivery period, even if these events occur at sub-suppliers. If these events render the delivery impossible or unreasonable, DCE will be released from the supply commitment in whole or in part. If acceptance of delivery cannot be reasonably expected of the customer due to the delay, the customer may, by immediate statement, withdraw from the non-fulfilled part of the contract. The customer may not derive any claims for damages from the extension of the delivery period, the release of DCE from its supply commitment, or the own withdrawal from the contract.

6. If DCE is in default with delivery or performance, the regulations stipulated in section IX shall, in cases where fault is the decisive factor, apply to any claims for damages whatsoever that are due to the customer.

VI. Transfer of Risk; Packing

1. Unless otherwise separately agreed, deliveries shall be performed FCA ex warehouse of DCE, Incoterms 2010.

Incoterms 2010 shall also be applied in the separate agreements.

2. Unless otherwise agreed packing material and packaging shall not be taken back by DCE.

VII. Reservation of Title

1. DCE reserves title to the delivered goods until receipt of all payments under the business relationship with the customer. If the customer acts in breach of contract, especially due to default in payment, DCE shall be entitled to take the object of sale back. A withdrawal of the object of sale imply a rescission of the contract. DCE may realize the object of sale after having taken it back. The result from realization shall be allowed as credit against the liabilities of the customer, less reasonable cost of use.

2. In case of attachments of property or other interventions by third parties, the customer must immediately inform DCE in writing, so as to enable DCE to take legal action in accordance with § 771 of the Code of Civil Procedure (ZPO). If said third party is unable to reimburse DCE for the judicial and extrajudicial costs of a legal action pursuant to § 771 ZPO, the customer shall be liable for the loss sustained by DCE.

3. The customer shall be entitled to resell the object of sale in the ordinary course of business. However, the customer shall, hereby, assign to DCE all debts in the amount of the invoiced final sum (including V.A.T.) of DCE's claim, accruing to the customer from the resale against the customer's purchasers or third parties, regardless of whether the object of sale was resold without or after processing. The customer shall remain authorized to recover the said debt even subsequent to the assignment. This shall not affect the power of DCE to recover the debt by itself. DCE shall undertake, however, not to recover the debt as long as the customer complies with its payment obligations out of the collected proceeds, is not in default with payment, and particularly as long as no insolvency petition has been filed or payments have been suspended. Should this be the case, DCE may demand that the customer inform DCE of the assigned debts and their debtors, specify full particulars required for recovery, deliver all pertinent records and communicate the assignment to the third party debtors.

4. The processing or transformation of the object of sale by the customer shall be done for DCE. If the object of sale is processed with other articles or materials which are not owned by DCE, DCE shall acquire a co-owner's interest in the new object in proportion to the value of the object of sale (invoiced final amount including V.A.T.) as compared to the other processed articles at the time of processing. For the rest the same shall apply to the object arising from processing, as to the object of sale delivered with reservations.

5. If the object of sale is inseparably mixed with other articles not belonging to DCE, DCE shall acquire a co-owner's interest in the new object in proportion to the value of the object of sale (invoiced final amount including V.A.T.) as compared to the other mixed articles at the time of mixing. If the mixture is done in such a manner that the object of the customer is to be regarded as the main object, the parties agree that the customer shall transfer co-ownership to DCE on a proportionate basis. The customer shall preserve the resulting sole or joint ownership for DCE.

6. If the value of the article serving DCE for security purposes and delivered with reservation of title exceeds the total claim of DCE against the customer by more than ten percent (10%), DCE shall insofar be committed to retransfer the security at the customer's request. DCE shall be entitled to select the security which is to be retransferred.

VIII. Liability for Defects

1. The customer shall immediately inspect the delivery in order to detect any defects, damage to goods in transit, any faulty delivery and variation in quantity. The warranty shall be excluded, if the customer fails to immediately assert recognizable defects in writing, however not later than within eight (8) days following receipt of the goods. Written notice of non-recognizable defects must be given immediately upon their discovery.

2. In the event of a defect, a subsequent performance of the contract shall at DCE's option either be effected through elimination of the defect, or through delivery of a new faultless article. Where the subsequent performance goes wrong, the customer shall, at its option, be entitled to cancel the contract or claim the reduction of the purchase price.

3. DCE shall be liable for damages in accordance with section IX below.

4. The limitation period for claims based on defects shall be twelve (12) months, calculated from the date of the transfer of risk. This shall not affect the period of limitation for cases of recourse claims for delivery according to §§ 478, 479 German Civil Code.

IX. Limitation on Liability for Damages

1. DCE shall be according to the statutory provisions liable for damages, based on any legal ground whatsoever, in particular negligent conduct upon contract conclusion, other breaches of duty or claims in tort, if the customer has asserted claims for damages caused intentionally or by gross negligence, including intentional or grossly negligent acts of DCE's representatives or vicarious agents. DCE shall be furthermore liable under the statutory provisions, if DCE has violated a substantial contractual obligation through culpable action. If DCE is not blamed for any intentional breach of contract, the liability for damages shall be limited to the foreseeable damage typically occurring. The foregoing limitations shall also apply in cases where the customer claims compensation for useless expenses instead of claiming compensation of the damage in lieu of contract performance.

2. The liability for culpable injury to life, health or for personal injury shall remain unaffected; this shall also apply to the mandatory liability under the Product Liability Act.

3. Any further liability for damages, going beyond the liability stipulated in section IX paragraphs 1 and 2 above, shall be excluded.

4. Where the liability for damages vis-à-vis DCE is excluded or limited, this shall also apply with regard to the personal liability for damages of DCE's employees, personnel, staff, representatives and vicarious agents.

X. Jurisdiction / Place of Performance / Discrepancy

1. The place of jurisdiction for all disputes arising from the supply relationship between DCE and the customer shall be the registered place of business of DCE. DCE shall be, however, also entitled to take legal action before the court having jurisdiction over the seat of the customer.

2. The governing law shall be the law of the Federal Republic of Germany, to the exclusion of the conflict of laws provisions. The applicability of the U.N. Sales Convention is excluded.

3. Unless otherwise specified in the order confirmation, the place of performance for the obligations under the supply relationship shall be the registered place of business of DCE.

4. In case of any inconsistency or discrepancy between the English version and the German version, the German language version shall prevail.