

GENERAL CONDITIONS
of the private company with limited liability
Vivochem B.V.,
with registered office and principal place of business at Almelo (NL)

ARTICLE 1: VALIDITY

- 1.1 These conditions form part of all agreements to which we are party and shall furthermore apply during all negotiations (the pre-contractual phase) preceding a possible agreement.
- 1.2 These conditions shall also apply if the letterhead, the invoices and/or other documents of the other party refer to or state that his/her or other general conditions apply. Unless otherwise agreed in writing, the applicability of the general conditions or stipulations of the other party or third parties is excluded. In the event that these conditions deviate from the stipulations in the agreement the stipulations in the agreement shall prevail.
- 1.3 Supplementations, modifications, additional agreements or regulations, deviating stipulations to the agreement or these general conditions shall not be considered as agreed between parties as long as not confirmed by us in writing. We reserve the right at any time not to avail ourselves of the stipulations set forth in these general conditions.
- 1.4 The authorization of our representatives shall only include what is generally usual. Our representatives cannot deviate from these conditions without explicit written authorization to be issued for every individual agreement.
- 1.5 In the event that in future circumstances arise in which an agreement between parties and the applicable general conditions are (no longer) or (no longer) entirely appropriate, parties shall by mutual agreement try to find a solution to serve the interest of both parties as much as possible.

ARTICLE 2: OFFERS AND ORDERS

- 2.1 Our offers and official lists are not binding. All offers shall be valid for the term mentioned in the offer. If no term is mentioned the offer will hold for 30 days. Offers can be prolonged by us by written notice to the other party in which the prolongation term must be mentioned.
- 2.2 Values in our specifications, measurements and weights mentioned in our price lists, brochures and offers are not binding. Unless otherwise stated we do not guarantee the final use of the product. Whether or not the delivered product is suitable for a particular use falls under the other party's responsibility. We cannot be held liable for faults in specifications and analyses, measurements or weights stated in offers and/or order confirmations and we shall not be liable for any damages whatsoever. As regards values in specifications of all goods we invoke our or our suppliers' usual tolerances.
- 2.3 All documents provided by us as well as copies thereof, in particular specifications, material safety data sheets and analyses, as well as the right to use such documents,

remain our unalienable property and shall be returned to us on first demand whereas such documents shall not be copied nor made available to third parties without our written consent.

- 2.4 The other party warrants us at all times that the use of data or other things supplied by the other party shall not put us in contravention of statutory regulations or protected rights of third parties. The other party shall indemnify us against all direct or indirect consequences of claims, which a third party could enforce against us on account of violation of the aforementioned warranty.
- 2.5 Orders shall be considered accepted when confirmed by us in writing or executed by us after receipt. In case of sale ex warehouse the invoice may replace the written confirmation.

ARTICLE 3: PRICES

- 3.1 If not agreed otherwise our prices shall be ex warehouse or ex works in case of supply. Prices are exclusive of freight charges, import and export duties, station, storage, security and clearing costs, taxes or other levies. All payable freight charges, import and export duties, station, storage, security and clearing costs, taxes or other levies, also if they are introduced or increased after signing of the agreement, shall be for account of the other party as well as the results of exchange rate movements. For orders less than 250.00 euro we may charge administrative expenses.
- 3.2 For goods sold on call or for future delivery and goods which on receipt of the order are not or insufficiently available and which are listed for soonest delivery, we reserve the right to charge the current price at the time of delivery without further notice and irrespective of our previous confirmation.
- 3.3 If no price has been agreed (yet) the other party shall be charged our prices and rates prevailing at the time of delivery.

ARTICLE 4: CREDITWORTHINESS

- 4.1 If we have accepted an order wholly or partly the other party shall be obliged – which obligation forms an integral part of the agreement – to provide us on our demand to provide us with security as proof of his/her creditworthiness, either before delivery or thereafter, for the fulfilment of all his/her commitments, which security may to our satisfaction be furnished by for instance a cash deposit, bank guarantee, assignment, giving a pledge or mortgage right, etc. The size, amount and type of the appropriate security to be furnished by the other party shall not be limited and shall be determined by us. The obligation to furnish security mentioned in this article shall also apply for the obligation to pay damages in the event that we request the other party to pay damages caused by dissolution of the agreement or part thereof, which is imputable to the other party.

- 4.2 In the event that the other party fails to provide securities we shall not be obliged to fulfil or further fulfil our obligations towards the other party pursuant to current agreements, without prejudice to our entitlement to payment of the money due by virtue of the agreement, our right to damages and our right to claim such securities in legal action.

ARTICLE 5: DELIVERY

- 5.1 All deliveries will be made under retention of title as set forth in article 7. Delivery shall be understood to mean: placing the goods under the control of the other party.
- 5.2 All goods delivered to the other party shall be for risk of the other party from the moment they are received. The same shall apply from the moment when the other party fails to perform the activities to assist in the delivery. The other party shall be in default if he/she fails to take delivery of the goods at the delivery address immediately after expiry of the agreed term of delivery. The other party shall provide sufficient equipment and labour to ensure smooth and prompt unloading of the goods. Extra costs due to negligence of the other party, among which storage of undelivered goods shall be for risk and account of the other party. In all agreements and under all circumstances, including delivery free domicile, our warehouses, or in case of delivery on supply from third parties, the warehouses or the factories of such third parties shall be considered as place of delivery. The delivery date shall be the date on the consignment note on which the dispatch, be it by us or by third parties as referred to above takes place – or in case no date is stated the date on which the dispatch started – with the exception of goods that are collected, in which case the date on the delivery note shall apply.
- 5.3 We shall be free in choosing the cargo, transportation equipment and carrier, unless it has been agreed otherwise. The risk for the goods to be delivered to the other party shall be during the entire transport until the moment the other party takes delivery of the goods, also in case of delivery free domicile and irrespective of other stipulations on the documents relating to the carriage of the goods. We shall be entitled to charge the other party for packaging materials, which will be stated on the invoice. In the event that we provide the other party with returnable packaging material, the packaging conditions of the *Vereniging van de Nederlandse Chemische Industrie* and the *Verbond van Handelaren in Chemische Producten* prevailing at the signing of the agreement shall apply. In that case the aforementioned conditions shall be considered part of the agreement. In the event of contrariety between the packaging conditions and these conditions, the latter shall prevail. We shall never be liable for the consequences of mistakes in the manufacture or composition of returnable packaging material furnished by us. Loading or filling of transport means and/or packaging material provided by the other party shall be for risk and account of the other party, also if the loading or filling is done by us and/or we advised the other party on equipment or packaging or performed other activities. We shall be entitled to refuse to load or fill transportation equipment or packaging materials, which according to us do not meet the standards of safety and reasonableness. In the event of such refusal we shall not be liable for consequences arising from the delay. The third parties referred to in this article shall have the same herein mentioned rights and obligations.

- 5.4 Non-collected goods and goods of the other party, which for any other reason whatsoever remain in our warehouse during one month will upon expiry of that month be added to our stock, without the other party being allowed to exercise any right against us in respect of such goods.
- 5.5 Immediately upon delivery the other party shall inspect the goods in respect of quantity, quality, specification and any other deviations from the agreed.
- 5.6 Delivery terms shall be approximations only. Exceeding of the term of delivery shall not entitle the other party to dissolve the agreement, to refuse payment or not to meet her obligations otherwise. Exceeding of the term of delivery shall neither oblige us to compensation of damages in any way whatsoever.
- 5.7 We shall be entitled to deliver an order as a whole or in subsequent parts. In case of partial delivery we shall be entitled to invoice the other party for every partial delivery and to demand payment. If and so long the other party fails to pay a partial delivery we shall not be obliged to deliver the next partial delivery. In that case we shall at our option be entitled to partially or wholly dissolve the agreement without judicial intervention, without prejudicing our other rights among which our right to compensation.

ARTICLE 6: DELIVERY ON CALL

- 6.1 The following additional conditions apply to goods to be sold on call:
Goods sold on call should be divided as much as possible in equal parts and spread over the term set for delivery. The last call should reach us latest 2 weeks before the expiry of the term of delivery. Failing to do so the other party shall be in default without notice of default being required. In that case we shall be entitled to dissolve the agreement wholly or partially without judicial intervention, without prejudicing our other rights among which our right to compensation and our right to demand securities as referred to in article 4.

ARTICLE 7: RETENTION OF TITLE

- 7.1 All goods delivered and to still to be delivered shall remain our property until all claims we have or will have on the other party as referred to in article 3:92 section 2 of the Dutch Civil Code have been settled in full.
- 7.2 As long as the title to the goods has not been transferred to the other party the latter shall not be allowed to pledge the goods or give any other right in respect of the goods to third parties, except within the ordinary course of his/her business. The other party undertakes to cooperate on our first demand to establish a pledge on claims, which the other party obtains or may obtain on his/her buyers pursuant to resale of goods.
- 7.3 The other party shall be obliged to keep the goods delivered under retention of title with the appropriate care and recognizable as our property.
- 7.4. We shall be entitled to repossess the goods delivered under retention of title and still under the control of the third party if the latter is in default of fulfilling his/her payment obligations or gets or is likely to get into payment problems. The other party

shall at any time give us free access to his/her premises and/or buildings for inspection of the goods and/or exercising our rights among which repossession of our goods.

- 7.4 Payments shall be used firstly to reduce the claims in respect of delivery of goods, which are (no longer) subject to retention of title, as well as claims pursuant to activities and damages referred to in article 3:92 section 2 of the Dutch Civil Code.

ARTICLE 8: PAYMENT

- 8.1 All amounts due to us by the other party by virtue of the agreement shall be wholly and immediately payable at whole or partial delivery of the goods or if this is earlier from the date of invoice. All amounts to be paid by the other party shall in any case be claimable from the date on which the other party is bankrupt, is granted suspension of payments or applies for a debt rescheduling arrangement.
- 8.2 All payments to be made by the other party shall be made at our office and without any deduction, set-off, discharge, suspension or settlement whatsoever and on whatever account. This shall not change by a disposition on our side. If payment is made in any other way, for instance by transfer to one of our bank or giro accounts, such payment will be considered as a payment at our office.
- 8.3 Invoices must be paid within 30 days from invoice date. In case payment is not, not timely or not fully made within the aforementioned term the other party shall be in default by operation of law without notice of default being required. The other party shall also be in default in the event referred to in article 8.1, last sentence. From the moment that the other party is in default of payment of any amount, she shall have to pay interest on the payable amount of 1 ½ % a month or part of a month. In case of default the other party shall have to pay extrajudicial costs amounting to 15% of the principal sum, which will be at least 250.00 euro.
- 8.4 Complaints about invoices should reach us in writing within 30 days from the invoice date. If no complaints are filed within the aforementioned term the invoice shall be irrevocable and considered unconditionally accepted by the other party. Possible legal actions must under penalty of cancellation be instituted latest one year after timely submission of a complaint.
- 8.5 In the event of default we shall also be entitled to wholly or partially dissolve all current agreements with the other party without judicial intervention. The other party shall be responsible for all costs and damages resulting from such dissolution. Moreover, in such case all credits granted will be cancelled whereupon all amounts pursuant to other agreements shall become immediately payable.
- 8.6 From the single fact that we have secured the assistance of a third party it is obvious that the other party shall be liable for extrajudicial costs.
- 8.7 If we institute bankruptcy proceedings against the other party, the latter shall have to pay the principal sum, interest, extrajudicial collection costs and the costs of the bankruptcy petition.

- 8.8 In the event that we are proved wholly or partially right in a litigation all expenses made by us in connection with the litigation shall be for account of the other party despite a possible apportionment of the costs.
- 8.9 All payments to be made by the other party shall be made at our office and without any deduction, set-off, discharge, suspension or settlement whatsoever and on whatever account. This means that the other party explicitly relinquishes these rights.

ARTICLE 9: CHANGE OF LEGAL FORM

- 9.1 If the other party changes the legal form of his/her company or if there is a change in the legal form because of other circumstances like for instance death, the company, both under the old and under the new legal form, shall jointly and severally be liable, meaning that if the one pays the other shall be discharged, for debts each of them has, had or shall have to us. Every other party shall be obliged to inform us of a change in legal form.

ARTICLE 10: NON-ATTRIBUTABLE FAILING

- 10.1 In the event of non-attributable failing we shall be entitled to wholly or partially dissolve the agreement for the non-performed part or suspend the performance for the duration of the non-attributable failing. Non-attributable failing shall include: fire, strike, lockouts, sabotage, commotions, riots, mobilisation, war, threat of war, state of war, state of siege, congestion, road, sea and air traffic jams, flood, floating ice and other traffic inhibiting circumstances, government measures, economical non-attributable failings and EU obligations, extraordinary price increases of energy and natural resources, as well as invocation by our suppliers on particular clauses for long-term contracts, energy cuts, not or not well functioning of telephone, telex, fax networks and other communication or company equipment (computers etc.), bankruptcy or suspension of payment of contractors and whole or partial failure of third parties supplying goods or services, without us being obliged to prove the effect of such circumstances on the non-performance or delay.
- 10.2 Non-attributable failing shall also apply in case we order the goods to be delivered from a third party who for whatsoever reason fails to make the delivery. In case materials are ready but cannot be transported to the place of destination owing to circumstances beyond our control we shall be entitled to store such materials for risk and account of the other party and demand payment for such storage.
- 10.3 In the event of non-attributable failing our contractual obligations shall be suspended for as long as such non-attributable failing continues without being liable to pay damages. The other party shall never be entitled to suspend his/her obligation to pay because of non-attributable failing on our side.

ARTICLE 11: CLAIMS AND LIABILITY

- 11.1 Submitted claims of whatsoever nature do not exempt the other party from his/her obligation to pay. We only accept complaints that are submitted by registered letter within 30 days after delivery of the goods. Upon expiry of the aforementioned term the delivered goods are considered as irrevocably and unconditionally accepted by the other party. Possible legal actions must under penalty of cancellation be instituted latest one year after timely submission of a claim. The burden of proof that the complaint was timely submitted lies upon the other party. The other party can only prove the correctness on the basis of the goods. Furthermore the other party has to prove that the goods are those delivered by us and that they are in the condition in which they left our warehouse or the warehouses or works of third parties. We only accept goods returned to us on our request and of which a respective claim has been accepted by us. Goods shall be returned for risk and account of the other party. In the event of a claim, which has been substantiated by the other party and considered well-founded by us we can at our option replace the spare parts or articles to which the complaint relates or credit the other party's account accordingly, with the exclusion of any other right of the other party to claim damages.
- 11.2 Recommendations from us or on our behalf as regards quality, designs, measurements and the like shall be given to the best of our knowledge, but without accepting any liability whatsoever.
- 11.3 For chemicals the right to claim damages shall lapse six months after the chemicals are delivered. If the damage arises because of incorrect compounds of the chemicals and this could have been prevented when carrying out an entrance control, the other party has no right to claim compensation. The other party is required to carry out an entrance control when using chemicals.
- 11.4 We accept no liability for consequential loss like lost sales, lost profit, missed advantages, interest for overdue payment, missed orders, stagnation losses and spent working hours.
- 11.5 In the event that we should be obliged to pay damages, such damages shall be limited to the compensation under our business liability insurance. Liability for damages not covered by our business liability insurance shall be excluded.

ARTICLE 12: WARRANTY

- 12.1 The warranty for delivered goods shall be limited to the manufacturer's warranty. We ourselves give no guarantee for goods sold and delivered by us. We shall mediate and assist whenever the other party invokes the manufacturer's warranty provided of course that the other party has paid us the full purchase price.

ARTICLE 13: DISPUTES

- 13.1 All disputes shall be settled amicably or if such proves impossible by the Court with subject-matter competence in the Almelo district. We shall however be entitled to submit a dispute to another competent Court.

13.2 All agreements, general conditions and additional agreements, as well as all disputes arising there from shall be subject to Netherlands law.