

# Standard Terms and Conditions of Sale of ChemSynergy GmbH

## 1. Scope

- 1.1. All supplies of goods and related services by ChemSynergy GmbH (hereinafter referred to as "CHEMSYNERGY") will be made exclusively on the basis of these Standard Terms and Conditions of Sale (hereinafter referred to as the "Terms and Conditions"). These Terms and Conditions only apply, however, if the Purchaser is an entrepreneur (§ 14 of the German Civil Code (*Bürgerliches Gesetzbuch – BGB*)), a legal person under public law or a special fund under public law.
- 1.2. Unless otherwise agreed, these Terms and Conditions apply as a framework agreement in the version valid at the time that the Purchaser places an order, in any case, in the most recent version provided to it in writing or electronically. They also apply as a framework agreement to future contracts without it being necessary for CHEMSYNERGY to make reference to them again in each individual case.
- 1.3. CHEMSYNERGY hereby rejects the incorporation by reference of the Purchaser's Terms and Conditions. Any provisions in the Purchaser's Terms and Conditions which conflict with, vary from or add to these Terms and Conditions will only become a part of the contract if and to the extent that CHEMSYNERGY has expressly consented to them. This requirement of consent will, in any case, even apply where CHEMSYNERGY provides its goods and services despite being aware of the Purchaser's terms and conditions.
- 1.4. Where any specific agreements are made with the Purchaser (including ancillary agreements, supplementary agreements and amendments) in individual cases, they will, in all circumstances, take precedence over these Terms and Conditions. Subject to any evidence to the contrary, a written contract or CHEMSYNERGY's written confirmation will be essential evidence of the content of such agreements.

## 2. Offer and Acceptance

- 2.1. All quotations by CHEMSYNERGY are subject to change and non-binding, and are to be regarded as an invitation to the Purchaser to submit an offer to purchase.

- 2.2. Orders placed by the Purchaser are deemed binding offers to enter into a contract. The contract is concluded through the placing of the order by the Purchaser (offer) and its acceptance by CHEMSYNERGY. If the acceptance differs from the order, it will be considered a new and non-binding offer from CHEMSYNERGY.

## 3. Product Characteristics, Samples and Specimens, Guarantees

- 3.1. Unless otherwise agreed, the characteristics that CHEMSYNERGY's goods must have are exclusively determined by the product specifications.
- 3.2. Relevant "identified uses" for the goods pursuant to the European Chemicals Regulation (REACH Regulation) do not constitute an agreement that the goods will have the relevant characteristics nor that they are suited for the contractually intended use.
- 3.3. The characteristics of samples and specimens will only be binding if it has been expressly agreed that CHEMSYNERGY will deliver goods with the same characteristics.
- 3.4. Statements regarding the characteristics and durability of the goods as well as other statements will only qualify as guarantees (*Beschaffenheits- und Haltbarkeitsgarantie*) if they are expressly agreed and designated as such.
- 3.5. Where the parties did not agree that the goods would have a certain characteristic, the question whether or not its absence constitutes a defect will be determined in accordance with the law. CHEMSYNERGY assumes no liability for public statements by third parties unless the Purchaser has informed CHEMSYNERGY that such statements were decisive for its decision to purchase the goods.

## 4. Advice

- 4.1. Any advice provided by CHEMSYNERGY is provided according to the best of its knowledge.
- 4.2. The fact that CHEMSYNERGY provides particulars and information about the suitability and application of the goods does not exempt the Purchaser from carrying out its own tests and trials.

# Standard Terms and Conditions of Sale of ChemSynergy GmbH

## 5. Prices

- 5.1. CHEMSYNERGY reserves the right to make reasonable adjustments to its prices if changes in the market price or production costs occur after the conclusion of the contract. Upon request from the Purchaser, CHEMSYNERGY will provide proof of cost increases.
- 5.2. In the event of a price increase of more than 5%, the Purchaser will be entitled to rescind the contract within 14 days from the notification of the price increase.

## 6. Applicability of INCOTERMS, Partial Deliveries, Delivery Periods, Default in Delivery

- 6.1. Delivery will be made in accordance with the commercial clause set out in the individual contract. The ICC INCOTERMS in the version valid at the time of the conclusion of the contract will apply to its interpretation.
- 6.2. CHEMSYNERGY may make partial deliveries if the Purchaser is able to use the partial delivery for the contractually intended purpose, the delivery of the remainder of the order is ensured and such partial deliveries do not result in considerable additional work or additional costs for the Purchaser (unless CHEMSYNERGY agrees to assume these costs).
- 6.3. Unless a fixed delivery period or date for delivery has been expressly promised or agreed to by CHEMSYNERGY, delivery periods and dates indicated by CHEMSYNERGY for goods and services are only estimates and subject to change.
- 6.4. For the purposes of determining whether CHEMSYNERGY is in default of delivery, the statutory provisions will apply. In any case, a reminder notice sent by the Purchaser is required.
- 6.5. If CHEMSYNERGY is in default of delivery, the Purchaser may demand liquidated damages for the delay. Liquidated damages will amount to 0.5% of the net price (delivery value) for each complete calendar week of delay; however, not to exceed in total 5% of the delivery value of the goods delivered late. CHEMSYNERGY may provide evidence that the Purchaser did not suffer any damage at all or that the damage suffered was in an amount below the amount of liquidated damages mentioned above.

## 7. Loss or Damage During Transport

The Purchaser must report transport damage directly to the carrier and forward a copy of the report to CHEMSYNERGY.

## 8. Compliance with Legal Requirements Regarding Import, Transport, Storage and Use

The Purchaser is responsible for compliance with statutory and regulatory provisions concerning import, transport, storage and use of the goods.

## 9. Terms of Payment and Payment Default

- 9.1. The purchase price is due and payable within 14 calendar days from the issue of the invoice and delivery. However, CHEMSYNERGY will be entitled at any time – even where there is an ongoing business relationship – to make delivery partly or entirely subject to prepayment. Where this is the case, CHEMSYNERGY will inform the Purchaser of this, at the latest, at the time that it confirms the order.
- 9.2. If the Purchaser does not pay the purchase price when due, it will be in default of payment. Payment will only be effective once the full amount has been credited to CHEMSYNERGY.
- 9.3. If the Purchaser is in default of payment, CHEMSYNERGY will be entitled to demand default interest at the default interest rate in effect from time to time. CHEMSYNERGY reserves the right to claim further damages for delay. Where the Purchaser is a merchant (*Kaufmann*), the right in transactions between merchants to demand interest from the due date for payment will remain unaffected.

## 10. Delivery, Passing of Risk, Acceptance, Failure to Accept Delivery

- 10.1. Delivery is ex warehouse. This will also be the place of performance for the delivery and for curing any defective performance. At the request and expense of the Purchaser, CHEMSYNERGY will ship the products to another place of destination (shipment to a place other than the place of performance). Unless agreed otherwise, CHEMSYNERGY is entitled to choose the means of shipment (in particular, the carrier, shipping route and packaging).

## Standard Terms and Conditions of Sale of ChemSynergy GmbH

- 10.2. The risk of accidental loss or deterioration of the products will pass to the Purchaser, at the latest, when the goods are handed over to it.
- 10.3. However, if the goods are shipped to a place other than the place of performance, the risk of accidental loss or deterioration of the goods and of delay will pass to the Purchaser at the time that the goods are handed over to the carrier or freight forwarder or other person or agent appointed to handle the shipping. Where an acceptance procedure has been agreed, the risk passes upon acceptance. In all other respects, the statutory provisions governing works contracts will apply accordingly to an agreed acceptance. If the Purchaser fails to take delivery, the goods will nonetheless be deemed to have been handed over or accepted.
- 10.4. If the Purchaser fails to accept delivery or if it fails to perform an act to enable CHEMSYNERGY to deliver or if the delivery is delayed for other reasons for which the Purchaser is responsible, CHEMSYNERGY will be entitled to demand compensation for the resulting damage, including for additional expenses (e.g. storage costs).

### 11. Rights and Remedies of the Purchaser in the Event of Defects

- 11.1. The Purchaser may only exercise its warranty rights if it has duly performed its statutory obligations to examine the goods and to give notice of any defects in them (§ 377 of the German Commercial Code (*Handelsgesetzbuch* – HGB)). Where the goods are intended for further processing or commingling, they must in any event be inspected before processing or commingling.
- 11.2. Where the defects could be ascertained during a duly performed inspection, the Purchaser must report them to CHEMSYNERGY without delay or, at the latest, within one week from their delivery. Where defects could not be discovered during an inspection, the Purchaser must report them to CHEMSYNERGY without delay or, at the latest, within one week from their discovery. The report of the defects must be made in writing and must specify the nature and extent of the defects.
- 11.3. If the goods are defective and the Purchaser has duly reported this to CHEMSYNERGY in accordance with the foregoing sections, the

Purchaser will be entitled to the statutory rights and remedies subject to the following conditions:

- a) CHEMSYNERGY may, at its discretion, initially elect to remedy the defect or to replace the goods with ones free from defects (cure of its defective performance). CHEMSYNERGY's right to refuse to cure defective performance in accordance with the statutory requirements remains unaffected.
- b) CHEMSYNERGY reserves the right to make two attempts at curing defective performance. If CHEMSYNERGY's attempts to cure defective performance fail or a reasonable period for curing defective performance set by the Purchaser has expired without a cure being effected or if the law does not require a deadline to be set, the Purchaser may rescind the contract or reduce the purchase price. No right to rescission exists where defects are minor.
- c) Claims for damages and for reimbursement of wasted expenses as a result of defects in the goods will be based on section 12 and are otherwise excluded.

### 12. Liability

- 12.1. Unless provided otherwise in these Terms and Conditions, CHEMSYNERGY's liability for any breach of contractual or non-contractual obligations will be governed by the statutory provisions.
- 12.2. CHEMSYNERGY will be liable for damages – regardless of the legal basis – where its liability is fault-based and results from intentional wrongdoing or gross negligence.
- 12.3. In the event of a material breach of contractual duty due to slight negligence (i.e. a duty whose fulfillment is of the very essence for the proper implementation of the contract and upon whose fulfillment the other party has regularly relied or upon whose fulfillment the other party may regularly rely), CHEMSYNERGY's liability will be limited to the foreseeable damage that typically occurs. In the event of a minor breach of contract due to slight negligence, liability on the part of CHEMSYNERGY is excluded.
- 12.4. The limitations on liability do not apply
- a) in the case of damage arising from injury to life or limb or impairment to health;

## Standard Terms and Conditions of Sale of ChemSynergy GmbH

b) where CHEMSYNERGY has fraudulently concealed a defect;

c) where CHEMSYNERGY has expressly guaranteed that the goods have certain characteristics (*Beschaffenheitsgarantie*);

d) to any claims of the Purchaser pursuant to the Product Liability Act (*Produkthaftungsgesetz*).

12.5. The limitations on liability also apply in respect of third parties and breaches of duty by persons for whose intentional wrongdoing or negligence CHEMSYNERGY is liable under the statutory provisions.

12.6. CHEMSYNERGY will not be liable for failure to deliver where delivery becomes impossible or is delayed or if the impossibility or delay is due to CHEMSYNERGY having, at the Purchaser's instigation, to duly comply with obligations under public law related to the European Chemicals Regulation (REACH Regulation).

### 13. Limitation Period

13.1. The period of limitation for claims arising from defects in quality or title is one year from the date of delivery.

13.2. Where an acceptance procedure has been agreed, the limitation period begins upon acceptance.

13.3. The above-mentioned limitation periods contained in sale of goods law and the law governing works contracts also apply to contractual and non-contractual damages claims by the Purchaser which are based on the existence of defects in the goods unless the application of the ordinary statutory limitation periods (§ 195 and § 199 of the German Civil Code) would lead to a shorter limitation period in an individual case. Notwithstanding sections 13.1 and 13.2, the statutory limitation periods will apply in the following cases:

a) in the case of structures and items that have been used for a structure in accordance with their customary use and have caused the structure to be defective (§ 438 (1) No. 2 of the German Civil Code);

b) in the case of a right in rem of a third party or a right entered in the land register (§ 438 (1) No. 1 of the German Civil Code);

c) in the case of special statutory provisions (e.g. §§ 444, 445 b of the German Civil Code);

d) in the case of intentional wrongdoing or gross negligence;

e) in the cases in 12.4 a) - d).

### 14. Set-Off and Rights of Retention

14.1. The Purchaser will only be entitled to exercise a right of set-off or rights of retention in the event that its claims are undisputed or non-appealable.

14.2. CHEMSYNERGY is entitled to exercise its statutory rights of set-off and retention. If the Purchaser is in default of payment, CHEMSYNERGY is entitled to withhold the performance of any obligations arising out of the business relationship until it has received all payments due in full.

### 15. Securities

Where CHEMSYNERGY has justified doubts as to the solvency of the Purchaser, in particular in the event of a payment default, CHEMSYNERGY may revoke the terms of payment it has granted the Purchaser and it may make further deliveries dependent on the Purchaser providing other securities or paying in advance. The foregoing is without prejudice to any further rights that CHEMSYNERGY may have.

### 16. Retention of Title (ROT)

#### 16.1. Simple Retention of Title

CHEMSYNERGY will in any case retain title to the goods delivered until it has received payment of the purchase price in full.

#### 16.2. All Sums Clause

Where the Purchaser has paid the purchase price for the goods delivered, but has not yet settled other liabilities arising from its business relationship with CHEMSYNERGY, CHEMSYNERGY will furthermore retain title to the goods delivered until all liabilities have been settled in full.

#### 16.3. Processing Clause

If the Purchaser processes the goods delivered by CHEMSYNERGY, CHEMSYNERGY will be deemed the manufacturer and immediately acquire ownership of the newly created goods. If the goods are mixed with other materials during processing, CHEMSYNERGY will immediately acquire co-ownership of the new goods in the ratio of the invoice value of the goods

## Standard Terms and Conditions of Sale of ChemSynergy GmbH

delivered by CHEMSYNERGY to that of the other materials.

### 16.4. Combining and Commingling Clause

If the goods delivered by CHEMSYNERGY are combined or commingled with an item belonging to the Purchaser such that the item belonging to the Purchaser must be regarded as the main item, the parties agree that the Purchaser will transfer to CHEMSYNERGY co-ownership of the main item in the ratio of the invoice value of the goods delivered by CHEMSYNERGY to the invoice value (or in the absence of such to the market value) of the main item. The Purchaser will, on CHEMSYNERGY's behalf, hold the item so created, in which CHEMSYNERGY has sole or co-ownership rights, in safe custody.

### 16.5. Extended Retention of Title

The Purchaser is entitled to dispose of the goods owned by CHEMSYNERGY in the ordinary course of business provided that it meets its obligations arising from the business relationship with CHEMSYNERGY on a timely basis. The Purchaser assigns to CHEMSYNERGY, with retrospective effect from the time of the conclusion of contract, any receivables due from the sale of goods to which CHEMSYNERGY has retained title. Where CHEMSYNERGY has acquired co-ownership in the case of processing, combination or commingling, the assignment is made in the ratio of the value of the goods delivered by CHEMSYNERGY subject to a retention of title to the value of the goods owned by third parties. The Purchaser assigns to CHEMSYNERGY, with retrospective effect from the time of the conclusion of contract, the recognized balance of the running account between the parties in the amount of CHEMSYNERGY's then still outstanding receivables.

### 16.6. Right to Obtain Information / Disclosure

Upon request from CHEMSYNERGY, the Purchaser must provide it with all necessary information regarding the stock of goods owned by CHEMSYNERGY that the Purchaser holds and the receivables assigned to CHEMSYNERGY. Similarly, upon request from CHEMSYNERGY, the Purchaser will identify the goods belonging to CHEMSYNERGY as such and will inform its own buyers of the assignment.

### 16.7. Payment Default

If the Purchaser is in default of payment, CHEMSYNERGY will be entitled, even without rescinding the contract of sale and without setting a grace period, to demand that the Purchaser, at its own cost, temporarily surrender goods belonging to CHEMSYNERGY and will be entitled to revoke the Purchaser's authority to resell and process the goods subject to the retention of title.

### 16.8. Partial Waiver Clause

CHEMSYNERGY agrees to release at the Purchaser's request the securities to which it is entitled if the realizable value of the securities exceeds the value of CHEMSYNERGY's outstanding claims by more than 10%. CHEMSYNERGY may select the securities to be released.

## 17. Force Majeure

- 17.1. Where events and circumstances occur that are beyond CHEMSYNERGY's control (such as acts of God, war, industrial disputes, shortage of raw materials or energy, traffic or operational disruptions, fire or explosion damage, epidemics or pandemics, public-law orders), CHEMSYNERGY will be released from its obligation to supply its goods or services for the duration of the disruption plus a reasonable start-up period.
- 17.2. In such cases, deadlines will be extended by the duration of the disruption plus a reasonable start-up period thereafter.
- 17.3. CHEMSYNERGY will inform the Purchaser of the occurrence of the disruption in an appropriate manner. If such events last longer than 3 months, CHEMSYNERGY will be entitled to rescind the contract.

## 18. Place of Payment

Irrespective of the place of handover of the goods or documents, the place of performance of the Purchaser's obligation to pay the price is the place where CHEMSYNERGY's registered office is located.

## 19. Compliance with Laws

- 19.1. The Purchaser warrants that its business practices are compatible with applicable antitrust and competition law. The Purchaser will not enter into any agreement that violates antitrust or competition law.

## **Standard Terms and Conditions of Sale of ChemSynergy GmbH**

- 19.2. The Purchaser will comply with all applicable laws and regulations, in particular those against corruption and bribery.
- 19.3. The Purchaser warrants that it will comply with all applicable import and export laws, including, but without limitation to, sanctions and embargoes.
- 19.4. The Purchaser shall comply with all applicable laws for the prevention of money laundering and terrorist financing.
- 19.5. In the event of a breach of the above provisions, CHEMSYNERGY reserves the right to terminate the contracts with the Purchaser and to claim from the Purchaser all costs arising out of and in connection with the termination.

### **20. Jurisdiction**

- 20.1. The courts at the place where CHEMSYNERGY's registered office is located, i.e. Meerbusch, will have sole jurisdiction in respect of any disputes arising directly or indirectly from this contractual relationship.
- 20.2. However, CHEMSYNERGY will also be entitled to bring an action at the place where the duty to deliver must be performed under these Terms and Conditions or under an overriding individual agreement or before the courts which have general jurisdiction for the Purchaser. The foregoing is without prejudice to any overriding statutory provisions, in particular regarding exclusive jurisdiction.

### **21. Governing Law**

These Terms and Conditions are governed by the law of the Federal Republic of Germany, excluding international uniform law, in particular the U.N. Convention on the International Sale of Goods of 11 April 1980 (CISG) .

Valid as of November 2024