

# FORCHEM GENERAL TERMS AND CONDITIONS OF SALE

## 1. Applicability

1.1 These General Terms and Conditions of Sale ("Sales Terms") shall govern all sales of products from Forchem Oyj (P.O.Box 16, FI-26101 Rauma, Finland) ("Seller") to any buyer of Seller's products ("Buyer"). Seller shall not have any obligations or responsibilities against any customers or third parties of Buyer.

1.2 These Sales Terms shall apply to all offers for products by Seller and all orders for products by Buyer and any terms and conditions in any Buyer orders, including any references to any Buyer purchase terms and conditions, shall be excluded and null and void.

1.3 Any deviation or amendment from these Sales Terms shall be valid and binding only if set out in writing with an express reference to the Section of these Sales Terms that the deviation or amendment sets out to amend and only if such deviation or amendment has been expressly accepted by Seller as evidenced by the signature of Seller's duly authorized representative.

1.4 Seller reserves the right to amend these Sales Terms at any time. Seller shall inform the Buyer of the amended Sales Terms at least thirty (30) days prior to the effective date of the amended Sales Terms.

## 2. Sales Orders

2.1 Seller's offers for products shall be non-binding invitations to Buyer to purchase products. Buyer shall place written orders for products with Seller. Buyer's orders for products shall be binding on Seller only if accepted in writing by Seller. Seller may either accept or reject Buyer's order for products.

## 3. Quality

3.1 Except where otherwise expressly agreed in writing, the quality of the products shall be determined solely against Seller's standard product specifications (product data sheet). Seller's liability and Buyer's sole remedy for any nonconforming products shall be limited to Seller replacing the non-conforming products with conforming products.

3.2 For Section 3.1 above, Seller disclaims, to the greatest extent permitted by law, all warranties, whether express or implied, statutory or otherwise regarding the products, including but not limited to any implied warranties of suitability of the products for any particular purpose.

3.3 Any statements by Seller as to typical properties, shelf life, conformity to samples, recommended use, handling and storage are recommendations only and shall not be deemed as any warranty or pledge by Seller and Buyer waives, to the greatest extent permitted by law, any right to make claims against Seller pursuant to such recommendations.

## 4. Delivery

4.1 The delivery of Seller's products shall be made as agreed between the parties in writing. Notwithstanding the aforementioned, all dates of dispatch for delivery are best estimates only. In case Seller fails to dispatch or deliver the products to Buyer within a reasonable time from the estimated dispatch or delivery date, and this is solely due to Seller, Buyer may cancel the order subject to at least thirty (30) days prior written notice to Seller and provided that Seller fails to dispatch or deliver the products within such notice period. Seller shall have no other liability for any delays in delivery.

4.2 The applicable delivery term and the mode and destination of the delivery shall be specified in the Sales Agreement with reference to Incoterms 2020. If no delivery term has been agreed, the term is FCA Rauma (Incoterms 2020). The risk of loss and damage to the products shall pass from Seller to Buyer in accordance with the terms of delivery. For EU customers, unless otherwise agreed in writing, Buyer shall discharge the load within three (3) hours from the delivery at the place of destination. Buyer shall be liable for any demurrage and other charges exceeding the discharging time of three (3) hours, except where caused solely by Seller's actions.

4.3 The Buyer shall inspect the products at the time of the delivery. Should there be any evidence of damage in transit, the Buyer shall duly give notice

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of claim to the carrier. Any claims for transportation damage shall be deemed waived by Buyer, unless Buyer has given written notice thereof to Seller within three (3) working days from the date of discharge of the products at the place of destination.

4.4 The buyer shall inspect the quantity at the time of the delivery. Any claims as to the quantity of the products shall be deemed waived by Buyer, unless Buyer has given written notice thereof to Seller within three (3) working days from the date of discharge of the products at the place of destination. Notwithstanding ordered quantity and delivered quantity of ten percent (10%) or less shall not entitle Buyer to make any claims as to the quantity of the products. In addition, any deviation between Seller's measurement and Buyers measurement of 200 kg or less shall not entitle Buyer to make any claims as to the quantity of the products. Invoice quantity shall be that as measured by Forchem's weight note.

4.5 Buyer shall inspect the quality of the products and their conformity with the specifications (product data sheet) promptly upon receipt of the products and in any event within seven (7) days from the date of discharge of the products at the place of destination and prior to discharging the load to a tank. Any failure by Buyer to inspect the quality of the products, their conformity with the specifications and give written notice of claims with regards thereto within the above defined time period shall be deemed as a waiver by Buyer of any claims as to the quality and conformity of the products. Seller assumes no responsibility for any subsequent deliveries of the products by Buyer, including any responsibility for changes in quantity or quality of the products.

4.6 The delivery of the products shall be deemed finally accepted in case Buyer fails to make any claims in accordance with this Section

4. Furthermore, and notwithstanding any time limits afforded to Buyer under this Section 4, Buyer shall be deemed to have finally accepted the products immediately upon taking the products into production or alike use, including loading the products into tank.

## **5. Prices and Terms of Payment**

5.1 The price of the products shall be agreed between the parties in writing. All pricing information shall be deemed confidential and Buyer shall not disclose any prices or pricing information to any third party without the prior written consent of Seller.

5.2 Except where otherwise expressly agreed in writing, any firm price quotations by Seller shall be valid for a period of thirty (30) days from the date of quotation.

5.3 Except where expressly otherwise agreed in writing, all amounts are gross amounts exclusive of any value added tax, use tax, sales tax or similar tax, customs duties or other public charges and all prices are expressed and all payments shall be made in Euros. Value added tax, use tax, sales tax or similar tax, customs duties and other public charges shall be added to the price in accordance with the then applicable rules, regulations and charges.

5.4 Seller reserves the right to change its prices, at any time, subject to thirty (30) days prior written notice. In case the price of the products changes between the date of a binding order and the date of dispatch, Seller reserves the right to apply the price at the date of dispatch. In case a price change results in increased prices for the products ordered and this is not due to increases in value added tax, use tax, sales tax or similar tax, customs duties or other public charges or changes in the exchange rate for the currency in which the prices have been determined, Buyer may cancel the order by giving written notice thereof at least fourteen (14) days prior to the effective date of Seller's price change provided that Seller has not discharged the products for delivery to Buyer.

5.5 Except where otherwise expressly agreed in writing, the terms of payment shall be thirty (30) days net from the date of Seller's invoice. Buyer agrees to settle Seller's invoice in full without any deductions or set-offs. Buyer shall use electronic bank transfers in payments, cheques are not allowed.

5.6 Overdue interest on any amounts overdue shall be charged at the rate of the European Central Bank majored by seven percentage (7%) points. Seller's right to claim overdue interest shall be without prejudice to Seller's other rights and remedies under these Sales Terms or at law,

including, but not limited to, Seller's right to withhold or cancel any subsequent deliveries.

5.7 Seller reserves the right to demand payment in advance, through a Documentary Credit (D/C) or through an irrevocable Letter of Credit (L/C) confirmed by a bank acceptable to Seller, or demand other securities for payment. The L/C shall include partial shipments and transshipments, and be payable at sight in the Seller's country upon each partial shipment against first presentation of documents.

5.8 If payments are made by D/C, L/C or by the use of other securities all related costs and expenses shall be paid by Buyer.

## **6. Retention of Title**

6.1 The title to the products shall remain with Seller until Buyer has paid the purchase price in full without any deductions or set-offs and Buyer agrees to take any actions necessary to secure Seller's title in the products.

## **7. Compliance with Laws**

7.1 Seller shall only be liable for the compliance with laws of the country of production of the products as applicable at the time of production.

7.2 Buyer is responsible for the compliance with all laws and regulations of import, transport, storage and use of the products.

## **8. Limitation of Liability**

8.1 Seller's total aggregate liability under or in relation to these Sales Terms and any orders, whether in contract, tort or otherwise, shall be limited, in Seller's sole option, to the replacement of non-conforming products or payment of an amount equal to the price paid by Buyer for the specific products to which the liability relates.

8.2 Seller shall not under any circumstances be liable to Buyer or any third party, whether in contract, tort or otherwise, for any indirect, incidental, consequential, special or punitive damages, loss of profits, loss of revenue, loss of contract, damage to property, loss of use or purchase in replacement.

8.3 The limitations of liability shall not apply to damages caused by willful misconduct or gross negligence.

8.4 No action shall be brought against Seller more than six (6) months after the cause of action occurred and in no case later than one (1) year after the delivery of the products.

8.5 Buyer shall indemnify Seller against all claims, actions and suits, including but not limited to, claims of any patent, trademark, design, design patent or any other intellectual property rights infringement made by any third party in respect of Buyer's use, manufacture or resale of the products and Buyer shall pay any damages to such third party (regardless of whether agreed to be paid in settlement or awarded in a trial) and any damages and expenses arising out of such claim to Seller.

## **9. Force Majeure**

9.1 Neither party shall be liable to the other party for any delay or nonperformance of its obligations in the event and to the extent that such delay or non-performance is due to an event of Force Majeure. Events of Force Majeure are events beyond the reasonable control of a party and whose effects are not capable of being overcome without unreasonable expense or loss of time to the party concerned. Events of force majeure shall include (without being limited to) war, riots, acts of government, pandemics, epidemics, natural disasters, fire, explosions, stoppages of work, or industrial action. An event of Force Majeure suffered by a subcontractor of a party shall be deemed as an event of Force Majeure concerning such party.

9.2 If an event of Force Majeure results in a delay or nonperformance of a party hereto for a period of one-hundred eighty (180) days or longer, then either party shall have the right to cancel any outstanding orders with immediate effect without any liability to the other party.

## **10. Miscellaneous**

10.1 If any term or condition of these Sales Terms is or becomes illegal, invalid or unenforceable in any jurisdiction that shall not affect the legality, validity and enforceability of the remaining terms and conditions of these Sales Terms.

10.2 A waiver of any or all of the terms and conditions of these Sales Terms shall not prejudice or affect Seller's rights and remedies in respect of any subsequent breach, nonperformance or non-observance by Buyer of these Sales Terms.

10.3 The orders and these Sales Terms shall not be assigned by either party without the prior written consent of the other party. Notwithstanding the aforementioned, Seller may assign or transfer the orders and these Sales Terms to any third party to whom Seller assigns or transfers (in whole or in part and regardless of the legal form of such assignment or transfer) its business.

## **11. Governing Law and Disputes**

11.1 All orders and these Sales Terms shall be governed and interpreted under and in accordance with the laws of Finland, excluding its choice of law provisions and excluding the Vienna Sales convention (CISG).

11.2 Any dispute, controversy or claim arising out of or relating to any order or these Sales Terms or the breach, termination of validity thereof shall, if not settled amicably between the parties, be exclusively and finally settled under and in accordance with the Arbitration Rules of the Finnish Central Chamber of Commerce by a single (1) arbitrator appointed in accordance with the said Rules. The place of arbitration shall be Helsinki, Finland and the language of the proceedings shall be English. The parties may also agree that the language of the proceedings shall be Finnish. The Seller shall, however, additionally be entitled to bring claims regarding undisputed and outstanding invoices to a district court in Finland or to any other competent court of the Buyer's domicile.