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BASF Polska Sp. z o.o., Al. Jerozolimskie 142B, 02-305 Warszawa

General Conditions of Sale

BASF Polska sp. z o.o.

applicable as of January 1st, 2020

1. Scope of Application

- 1.1 All supplies and the services associated with them shall be provided exclusively on the basis of these General Conditions of Sale unless otherwise agreed in writing. These General Conditions of Sale does not apply for supplies and services which are available in the current offer of BASF Polska sp. z o.o.'s Agricultural Solutions department, for which a separate general conditions of sale are available [here](#).
- 1.2 Other model contract forms (general commercial terms, general conditions of sale/purchase, regulations, etc.) used by the Buyer do not apply.
- 1.3 These General Conditions of Sale however only apply if the Buyer is an entrepreneur according to the Entrepreneurs' Law dated March 6, 2018 (Journal of Laws 2018, 646 with amendments).
- 1.4 These General Conditions of Sale shall also apply to all future business.
- 1.5 Deviation from these General Conditions of Sale require the explicit written approval of BASF Polska sp. z o.o. with its seat in Warsaw, Al. Jerozolimskie 142B, 02-305 Warsaw, entered into the register of business at the District Court of Warsaw, XII Commercial Division of the National Court Register under the number

2. Offer and Acceptance

63691, TAX ID (NIP): 526-02-12-687
share capital: PLN 21.313.240
(hereinafter "**BASF**").

All BASF's price lists are non-binding and must be seen as invitations to Buyer to submit a binding offer. The contract is concluded by Buyer's order (offer) and by BASF's acceptance. In case the acceptance differs from the offer, such acceptance constitutes a new non-binding offer of BASF.

3. Product quality, specimens and samples; guarantees

3.1 Unless otherwise agreed, the quality of the goods is exclusively determined by BASF's product specifications. Identified uses under the Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) ("**REACH Regulation**") relevant for the goods shall neither represent an agreement on the corresponding contractual quality of the goods nor the designated use under this contract.

3.2 The properties of specimens and samples are binding only insofar as they have been explicitly agreed to define the quality of the goods.

3.3 Quality and shelf-life data as well as other data constitute a guarantee only if they have been agreed and explicitly designated as such.

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Sąd Rejonowy dla m.st. Warszawy
XII Wydział Gospodarczy Krajowego Rejestru
Sądowego KRS 0000063691
NIP: 526-02-12-687 **BDO:** 000037121
Wysokość kapitału zakładowego 21.313.240 zł
Konta:
BANK BGZ BNP PARIBAS S.A.
PLN 82 1600 1127 1840 6239 6000 0001
SWIFT: PPABPLPKXXX

Zarząd: Katarzyna Byczkowska - Prezes

4. **Advice**

Any advice rendered by BASF is given to the best of his knowledge. Any advice and information with respect to suitability and application of the goods shall not relieve Buyer from undertaking his own investigations and tests.

5. **Prices**

If BASF's prices or BASF's terms of payment are generally altered between the date of contract and dispatch, BASF may apply the price or the terms of payment in effect on the date of dispatch. In the event of a price increase, Buyer is entitled to withdraw from the contract by giving notice to BASF within 14 days after notification of the price increase.

6. **Application of INCOTERMS, Delivery**

6.1 Delivery shall be effected as agreed in the contract. Trade terms relating to the delivery shall be interpreted in accordance with the most current INCOTERMS on the date the contract is concluded.

6.2 BASF is entitled to undertake and invoice for partial deliveries provided that the delivered goods are of use for the Buyer according to the agreed scope of the contract, the delivery of the remaining goods is secured and the partial delivery does not result in substantial additional work or expenses for the Buyer (unless BASF agrees to cover such expenses).

6.3 Delivery dates or deadlines specified by BASF are at all times estimates only and non-binding unless fixed delivery dates or deadlines have been explicitly been confirmed or agreed.

7. **Damage in Transit**

Notice of claims arising out of damage in transit must be lodged by Buyer directly with the carrier within the period

specified in the contract of carriage and BASF shall be provided with a copy thereof.

8. **Compliance with legal requirements**

Unless specifically agreed otherwise and as required by generally binding provisions of law, Buyer is responsible for compliance with all laws and regulations regarding import, transport, storage and use of the goods.

9. **Delay in Payment**

9.1 Failure to pay the purchase price by the due date constitutes a fundamental breach of contractual obligations.

9.2 in the event of a default in payment by Buyer, BASF is entitled to charge statutory interest for delay in commercial transactions.

10. **Buyer's rights regarding defective goods**

10.1 The liability of BASF for warranty (*rekojmia*) is excluded in accordance with 558 § 1 of the Polish Civil Code. The Buyer's rights regarding defective goods are stipulated by items 10. 2 – 10.4 below.

10.2 The Buyer shall inspect the goods for defects immediately upon receipt. Without prejudice to item 10.4 below, BASF must be notified of any defects that can be discovered during routine inspection without delay but at the latest within five days of receipt of the goods; other defects must be notified without delay but at the latest within five days after they are discovered. Notification must be in writing and must precisely describe the nature and extent of the defects.

10.3 If the goods are defective and Buyer has duly notified BASF in accordance with item 10.2 above, Buyer may submit a statement on reducing the price or rescind the contract, provided that:

- (a) BASF has the right to choose whether to remedy the defect or supply Buyer with non-defective replacement goods.
- (b) BASF may make two attempts according to lit. a) above. Should these fail or cause unreasonable inconvenience to Buyer, Buyer may either withdraw from the contract or demand a reduction in the purchase price.
- (c) With regard to claims for compensation and reimbursement of expenses on a defect, item 11 applies.
- 10.4 BASF will not be liable for defective goods, unless the Buyer notifies BASF about the defect within one year from receipt of the goods. For the avoidance of doubt, this time limitation shall not be construed as a modification of mandatory statute-of-limitations periods (*termin przedawnienia* or *termin zawity*) but it shall be construed as a limitation and/or exclusion of liability and/or a covenant not to sue (*pactum de non petendo*) and/or as a waiver of rights, as applicable.
- The above limitation does not apply in the event of:
- (a) liability for wilful misconduct,
- (b) fraudulent concealment of a defect,
- (c) claims for damage to life, body and health caused by BASF's wilful or negligent breach of duty, or by wilful or negligent breach of duty on the part of BASF's legal representative or vicarious agent,
- (d) claims for other damage caused by BASF's wilful or grossly negligent breach of duty, or by wilful or grossly negligent breach of duty on the part of BASF's legal representative or vicarious agent.
11. **Liability**
- 11.1 BASF shall be generally liable for damages in accordance with the law. In the event of a simple negligent violation of fundamental contractual obligations, however, BASF's liability shall be limited to compensation for typical, foreseeable losses. In the event of a simple negligent violation of non-fundamental contractual obligations, BASF shall not be liable. The foregoing limitations on liability do not apply to damage to life, body or health.
- 11.2 BASF is not liable to Buyer in case of impossibility or delay in the performance of its supply obligations if the impossibility or the delay is due to orderly compliance of regulatory and legal obligations in connection with the REACH Regulation being triggered by Buyer.
12. **Set off**
- Buyer may only set off claims from BASF against an undisputed or adjudicated counterclaim.
13. **Security**
- If there are reasonable doubts as to Buyer's ability to pay, especially if Buyer is in default of payment, BASF may, subject to further claims, revoke agreed credit periods and make further deliveries dependent on prepayments or the provision of sufficient security.
14. **Retention of Title**
- 14.1 **Simple Retention of Title**
- Title to the goods delivered shall not pass to Buyer before the purchase price has been paid in full.

14.2 **Expanded Retention of Title**

In case Buyer has paid the purchase price for the goods delivered but not yet completely fulfilled other debts arising out of his business relationship with BASF, BASF retains, in addition, title to the goods delivered until all such outstanding debts have been completely paid.

14.3 **Retention of Title with processing clause**

Without prejudice to mandatory provisions of law, in the event Buyer processes the goods delivered by BASF, BASF shall acquire legal title to the newly produced goods. If the processing involves also other materials, BASF shall directly acquire joint title to the newly produced goods in the proportion of the invoice value of the goods delivered by BASF to the invoice value of the other materials. In the event the Buyer becomes the owner of the new goods due to mandatory provisions of law, BASF shall acquire the legal title to the new goods from the Buyer.

14.4 **Retention of Title with combination and blending clause**

Without prejudice to mandatory provisions of law, if the goods delivered by BASF are combined or blended with material owned by Buyer, which has to be considered the main material, it is deemed to be agreed that Buyer transfers to BASF the joint title to such main material in the proportion of the invoice value of the goods delivered by BASF to the invoice value (or, if the invoice value cannot be determined to the market value) of the main material. Buyer holds in custody for BASF any sole or joint ownership originating therefrom at no expense for BASF.

14.5 **Extended Retention of Title with blanket assignment**

Buyer shall have in the ordinary course of business free disposal of the goods owned by BASF, provided that Buyer meets its obligations under the business relationship with BASF in due time. Buyer already assigns to BASF all claims in connection with the sale of goods to which BASF reserves the right of retention of title when concluding the sales agreement with BASF; should BASF have acquired joint title in case of processing, combination or blending, such assignment to BASF takes place in the proportion of the value of the goods delivered by BASF with retention of title to the value of the goods of third parties with retention of title.

14.6 **Right of Access/Disclosure**

At the request of BASF, Buyer shall provide all necessary information on the inventory of goods owned by BASF and on the claims assigned to BASF. Furthermore, at the request of BASF, Buyer shall identify on the packaging BASF's title to the goods and shall notify its customers of the assignment of the claims to BASF.

14.7 **Late Payment**

In the event of late payment by Buyer, BASF is entitled, without rescinding the sales agreement and without granting a period of grace, to demand the temporary surrender of the goods owned by BASF at Buyer's expense and to revoke the permission for the Buyer to dispose of and process the good.

14.8 **Partial Waiver clause**

Should the realizable value of the securities exceed BASF's open claims by more than 10%, BASF waives securities to this extent upon request of the Buyer. BASF shall have the right to select the goods for which the securities are waived.

15. Force Majeure

To the extent any incident or circumstance beyond the BASF's control (including natural occurrences, war, strikes, lock-outs, shortages of raw materials and energy, obstruction of transportation, breakdown of manufacturing equipment, fire, explosion, acts of government), reduces the availability of goods from the plant from which the BASF receives the goods such that BASF cannot fulfill its obligations under this contract (taking into account on a pro rata basis other supply obligations), BASF shall (i) be relieved from his obligations under this contract to the extent BASF is prevented from performing such obligations and (ii) have no obligation to procure goods from other sources. The first sentence does also apply to the extent such incident or circumstance renders the contractual performance commercially useless for BASF over a long period or occurs with suppliers of BASF. If the aforementioned occurrences last for a period of more than 3 months, BASF is entitled to withdraw from the contract without the Buyer having any right to compensation.

16. Place of payment

Regardless of the place of delivery of goods or documents, the place of payment shall be BASF's place of business.

17. Data Protection

17.1 In case the Buyer, in the course of the performance of the respective contract, receives from BASF or otherwise obtains personal data related to employees of BASF (hereinafter referred to as "**Personal Data**") the following provisions shall apply.

17.2 If processing of Personal Data disclosed in the aforementioned manner is not carried out on behalf of BASF, Buyer

shall only be entitled to process Personal Data for the performance of the respective contract. Buyer shall not, except as permitted by applicable laws, process Personal Data otherwise, in particular disclose Personal Data to third parties and/or analyze such data for its own purposes and/or form a profile. This also applies to the use of anonymized data.

17.3 Buyer shall ensure that Personal Data is only accessible by its employees, if and to the extent such employees require access for the performance of the respective contract (need-to-know-principle). Buyer shall structure its internal organization in a way that ensures compliance with the requirements of data protection laws. In particular, Buyer shall take technical and organizational measures to ensure a level of security appropriate to the risk of misuse and loss of Personal Data.

17.4 Buyer will not acquire ownership of or other proprietary rights to the Personal Data and is obliged, according to applicable laws, to rectify, erase and/or restrict the processing of the Personal Data. Any right of retention of Buyer with regards to Personal Data shall be excluded.

17.5 In addition to its statutory obligations, Buyer shall inform BASF in case of a Personal Data breach, in particular in case of loss, without undue delay, however not later than 24 hours after having become aware of it. Upon termination or expiration of the respective contract Buyer shall, according to applicable laws, erase the Personal Data including any and all copies thereof.

17.6 Information on data protection at BASF is available under <https://www.basf.com/global/en/legal/data-protection-at-basf.html>

18. **Jurisdiction**

Exclusive place of jurisdiction for any dispute arising out of or in connection with this contract shall be heard at the court having jurisdiction over BASF's registered seat.

19. **Applicable law**

The contractual relationship shall be governed by the law applicable at the place of BASF's registered seat, excluding the rules on the international conflict of laws and excluding the provisions of the United Nations Convention on Contracts for the International Sale of Goods dated 11 April 1980 (CISG).

20. **Contract Language**

If these General Conditions of Sale are made known to Buyer in another language, in addition to the language in which the sales contract has been concluded (Contract Language), this is merely done for Buyer's convenience. In case of differences of interpretation, the version in the contract language shall be binding.