

# BASF NORDIC/BALTIC GENERAL TERMS AND CONDITIONS OF SALE

## 1. SCOPE

1.1 These General Terms and Conditions of Sale ("**Terms**") shall apply exclusively to all sales of products and services ("**Goods**") to a customer ("**Buyer**") by a BASF Nordic/Baltic legal entity ("**BASF**") and BASF expressly rejects any terms and conditions, which may appear or be referred to on any purchase orders or other documents or communications, purporting to complement, supersede or replace the Terms, unless otherwise explicitly agreed by BASF in writing. BASF may change or amend the Terms at its sole discretion.

1.2 A quotation issued by BASF ("**Quotation**") shall under no circumstances be considered binding on BASF. An agreement for sale of Goods between BASF and the Buyer only becomes binding upon BASF's written acceptance (e.g. order confirmation) of the Buyer's written offer (e.g. purchase order).

1.3 If adverse changes in market conditions occur during the term of an agreement for sale of Goods, which were not foreseeable at the time the purchase order was accepted by BASF, and which would result in hardship to BASF if the terms of the purchase order were maintained, then the Buyer agrees to meet on BASF's request to revise said terms in a manner that it is equitable to both parties and considers such changed market conditions.

1.4 Quotations are valid for thirty (30) days, unless otherwise specified in writing. A Quotation supersedes all previous quotations or correspondence concerning the same transaction or inquiry. Quotations may contain proprietary information of BASF and are provided to the Buyer solely for the Buyer's internal purposes. No Quotations shall be disclosed to any third party or used in preparation of any request for quotation for goods like the Goods or as a substitution for Goods quoted by BASF.

1.5 The Buyer acknowledges that it is an experienced purchaser and user of Goods and/or goods like the Goods and that it possesses expert level knowledge concerning the risks associated with the Goods and their safe use and handling.

## 2. DELIVERY

2.1 BASF shall deliver the Goods FCA (Incoterms 2010) at BASF's applicable production facility or warehouse, unless otherwise explicitly agreed in writing.

2.2 The Buyer accepts that for technical reasons the quantity (weight, volume, number etc.) of Goods delivered under any accepted offer may deviate by +/-10 % compared to the ordered quantity. The Buyer shall accept delivery and make payment for the actual quantity of Goods delivered.

2.3 Subject to BASF's receipt of the Buyer's written offer (e.g. purchase order) and BASF's acceptance of such offer, BASF will issue a written acceptance (e.g. order confirmation) confirming the quality and quantity of the Goods, applicable Incoterm, place of delivery and an estimated time of delivery, or, if applicable, an estimated period of delivery.

2.4 If BASF later believes that it will not be able to deliver the Goods at the estimated time of delivery, or, if applicable, within the estimated period of delivery, then it shall inform the Buyer without delay and provide an updated estimate. If the up-dated time or date of delivery provided by BASF is not acceptable to the Buyer or if BASF, for reasons not covered by Section 9 below, fails or is unable to provide an updated estimate or to deliver the Goods in accordance with an updated estimate already provided, then BASF shall inform the Buyer without delay and either party shall be entitled, as the exclusive remedy, to terminate that delivery. Consecutive deliveries shall be regarded as individual sales.

2.5 BASF shall not be liable for any loss, damage, liability or expense suffered by the Buyer because of deviations in quantity by +/- 10 % of the Goods delivered or any delay in delivery of Goods by or on behalf of BASF.

2.6 If delivery is delayed due to circumstances attributable to the Buyer, then BASF shall be entitled to invoice the payment and the warranty period shall commence as if delivery had taken place on the initially agreed upon delivery date. In addition, the Buyer shall compensate BASF for costs incurred by BASF because of such delay.

## 3. INSPECTION

3.1 The Buyer shall perform, directly or through its carrier, an immediate outward inspection of the Goods and report any outward damage or defect discovered during such inspection (written reservation to freight document) to BASF prior to accepting delivery and transfer of risk of any damaged or defective Goods, failing which, the Buyer shall be deemed to have accepted such outward damage or defect.

3.2 The Buyer shall perform all relevant tests and inspections of the Goods and report any non-conformance with the applicable specifications or other defect in the Goods discovered to BASF within thirty (30) calendar days after accepting delivery and transfer of risk for the Goods, failing which, the Buyer shall be deemed to have accepted such non-conformance or other defect.

3.3 If the Buyer has reported any damage, defect or non-conformance to BASF in accordance with Sections 3.1-3.2 above, and BASF accepts responsibility for such damage, defect or non-conformance, then BASF shall, at its sole discretion and as the Buyer's sole remedy, either replace the damaged, defective or non-conforming Goods or credit the applicable portion of the price paid by the Buyer for such damaged, defective or non-conforming Goods. BASF shall not be liable for costs of removal, installation or re-installation of any defective Goods or parts thereof.

3.4 No Goods shall be returned to BASF without the prior written consent of BASF. The Buyer shall return non-conforming Goods to BASF in strict accordance with BASF's written instructions. The costs of any return shall be borne by the Buyer, unless the return is due to any damage, defect or non-conformance of the Goods accepted by BASF.

## 4. RISK AND TITLE

4.1 All risks in the Goods shall transfer from BASF to the Buyer upon delivery in accordance with the applicable Incoterm.

4.2 BASF retains title to the Goods until all outstanding claims for payment, accrued penalty interests or collection costs relating to such Goods have been fully settled by the Buyer. BASF may assert its retention rights by written notice to the Buyer, which shall become effective on the date of such written notice. BASF's retention right comprises all unpaid Goods in the possession of the Buyer and its affiliates.

## 5. PRICES AND PAYMENT

5.1 BASF invoices upon dispatch of the Goods in accordance with the applicable Incoterm. The Buyer shall make payment within thirty (30) days from the date of such invoice, unless otherwise explicitly agreed in writing. If the Buyer fails to make correct and timely payment, then, without the need for any formal notice to this effect and without prejudice to any other remedy available to BASF, BASF shall be entitled to (i) penalty interest on any outstanding amount from the due date of the invoice and until full payment is made; and to (ii) cancel, suspend, refuse or delay delivery of any order of the Buyer. The penalty interest rate shall be determined in accordance with the applicable governing law, as set forth in Section 12.1 below.

5.2 All payments shall be made by bank transfer to the Seller's bank account specified on the invoice, unless otherwise agreed in writing. All prices are exclusive of any transportation, crating or packaging charges, or of any VAT and other taxes, charges and duties that BASF may be required to pay or collect under any existing or future laws with respect to the sale, transportation, delivery or storage of Goods.

5.3 If BASF believes that the Buyer will not be able to fulfil its payment obligations in full or on time, then the Buyer shall be obliged to provide sufficient security acceptable to BASF upon request. If the Buyer fails to provide such security, then BASF may cancel, suspend, refuse or delay delivery of any order of the Buyer.

5.4 The prices for the Goods shall be the ones set forth in the applicable price list in force on the date of delivery, unless otherwise specified in a valid Quotation. Notwithstanding the above, BASF may revise the prices at any time prior to its acceptance of the Buyer's purchase order. BASF may adjust its prices after acceptance of the Buyer's purchase order pursuant to Section 1.3. However, any price adjustments caused by any export or import fee, customs duty, export tax, import tax, delivery tax or other similar duties imposed on the Goods, or any increase in such levies, shall apply to all offers of the Buyer with immediate effect.

5.5 The Buyer shall not set-off or withhold any payments due to BASF.

## 6. REPRESENTATIONS AND WARRANTIES

6.1 BASF represents and warrants that the Goods will conform to the applicable specifications at the time of delivery.

6.2 Unless specifically agreed otherwise, the Buyer is solely responsible for compliance with all laws and regulations regarding import, transport, storage and use of the Goods.

## 7. INDEMNIFICATION

7.1 The Buyer shall indemnify BASF and hold BASF harmless from and against any loss, damage, liability or expense in connection with any and all actions, suits, claims, demands or prosecutions brought or instituted against any of BASF, its affiliates, it's or its affiliates' officers, directors, employees or agents by third parties (including, without limitation, governmental authorities) based on or relating to a breach by the Buyer of any of its obligations under these Terms, its use of the Goods and, without limitation, any claim for personal injury or property damage caused by the Goods.

## 8. LIMITATION OF LIABILITY

8.1 Any advice or recommendation provided by or on behalf of BASF relating to the Goods, is given to the best of BASF's knowledge. However, BASF makes no warranty or guarantee, express or implied, as to the accuracy or completeness of advice provided or recommendations made by BASF or its representatives concerning any use or application of any Goods or of the results to be obtained. BASF shall not be liable towards the Buyer for any damage or loss incurred, incidentally or consequentially, because of the Buyer relying on any such advice or recommendation provided by or on behalf of BASF. The Buyer assumes full responsibility for quality control, testing and determination of suitability of Goods for its intended application or use.

8.2 The remedies, warranties and guarantees stated in these Terms shall apply on an exclusive basis. BASF makes no representations or warranties, express or implied, except as specifically set forth in the Terms. All other warranties, express or implied, including, without limitation, any implied warranties of merchantability and fitness for any purpose, are hereby disclaimed.

8.3 BASF shall not be liable towards the Buyer for any lost profits, loss or interruption of business, or any indirect, incidental, special, punitive, multiple or consequential damages related to the Goods delivered under the Terms; *provided, however*, that the foregoing limitation shall not apply to any damages resulting from any act or omission of gross negligence or wilful misconduct by BASF.

8.4 Notwithstanding anything else to the contrary, BASF's aggregate liability to the Buyer hereunder for any loss, damage, liability or expense of any kind, whether arising out of warranty, contract, tort or otherwise, shall be limited to the purchase price of the Goods, to which the claim pertains, paid to BASF.

## 9. FORCE MAJEURE

9.1 BASF shall not be liable to the Buyer for any delay or failure in the performance of its obligations if and to the extent that such failure or delay is due to circumstances beyond its control, which could not have been avoided by exercising reasonable diligence. BASF shall notify the Buyer promptly should such circumstances arise, giving an indication of the likely extent and duration thereof, and shall use all commercially reasonable efforts to resume performance of its obligations as soon as practicable. BASF shall not under any circumstances be obliged to purchase replacement products from any third party to perform its obligations towards the Buyer.

## 10. WAIVER

10.1 Failure to enforce any term or condition contained in these Terms in any instance shall not constitute a waiver of or preclude subsequent enforcement of any of these provisions.

## 11. SEVERABILITY

11.1 If any provisions of the Terms are or become void, unlawful or otherwise unenforceable, then such i) invalidity or unenforceability shall not invalidate or affect any of the other provisions of the Terms and ii) such invalid or unenforceable provision shall be replaced by a lawful provision that approximates so close to the unenforceable provision in commercial effect that it may be reasonably assumed that BASF would have accepted it on the date of BASF's acceptance of the Buyer's offer.

## 12. DATA PROTECTION

12.1 If the Buyer discloses personal data relating to its employees ("**Personal Data**") to BASF during the course of any agreement on sale of Goods by BASF to the Buyer, then BASF will ensure that; (i) no Personal Data will be processed by BASF for any other purpose than the performance of the agreement on sale of Goods to the Buyer. BASF may also, to the extent permitted under applicable law, transmit Personal Data to its affiliates for the purpose of performing the agreement on sale of Goods to the Buyer; and (ii) no Personal Data will be made available to any BASF Group employee unless (and only to the extent) needed for the purpose of performing the agreement on sale of Goods to the Buyer.

12.2 BASF has implemented technical and organizational measures to ensure that the level of protection offered for Personal Data is compliant with applicable law.

12.3 BASF will not acquire any ownership or other rights to any Personal Data and will rectify, erase and/or restrict the processing of Personal Data in accordance with applicable law.

12.4 BASF will not retain any Personal Data beyond the course of performing any agreement on sale of Goods to the Buyer.

12.5 BASF will immediately inform the Buyer in the event of any Personal Data breach.

## 13. GOVERNING LAW AND LEGAL VENUE

13.1 Any transactions occurring under the Terms shall be governed, interpreted and construed in accordance with the laws of the country of the applicable BASF Nordic/Baltic legal entity, without giving effect to its choice of law principles and excluding the United Nations Conventions on Contracts for the International Sale of Goods dated 11 April 1980 (CISG).

13.2 All disputes arising out of or about the Terms, which cannot be amicably solved by the Parties, shall be settled by ordinary legal proceedings. Legal venue shall be the court having jurisdiction at the registered office address of the applicable BASF Nordic/Baltic legal entity.

\* BASF Nordic/Baltic legal entity means any of BASF AS (Norway), BASF AB (Sweden), BASF Coatings Services AB (Sweden), Chemetall AB (Sweden), BASF A/S (Denmark), BASF Oy (Finland), BASF Battery Materials Finland Oy (Finland), BASF SIA (Latvia), BASF OJAB (Lithuania) and all other current and future legal entities in Norway, Sweden, Denmark, Finland, Estonia, Latvia and Lithuania, in which BASF SE holds, directly or indirectly, at least fifty percent (50 %) of the outstanding voting securities, voting rights or equity interest.