

**LUERCHEM LLC**  
**GENERAL TERMS AND CONDITIONS OF SALE**

Any and all sales of material by Seller shall be subject to all the terms and conditions set forth below to the extent such terms and conditions are not incompatible with the provisions which may be contained in a written contract between Buyer and Seller. No other General Terms and Conditions shall apply that may be referred to in orders by Buyer, even if these have not been rejected explicitly by Seller.

**1. DELIVERY**

Delivery dates set forth in any order acknowledgement are not binding and Seller accepts no responsibility for any delay, unless they are confirmed in writing by the parties in a separate document. Unless otherwise stipulated in the order acknowledgement, the material is sold ex-Seller's plant, shoretank or warehouse, and transport insurance will only be covered by Seller upon special request from Buyer. Packaged material shall be delivered in Seller's standard package with Seller's standard labelling and markings.

The trade terms shall be interpreted according to the latest edition of the Incoterms as published by the International Chamber of Commerce, which are made a part hereof.

For FCA Seller's warehouse/terminal or collection by customer, Buyer is responsible for putting at Seller's disposal a vehicle suitable and properly conditioned to receive the material to be loaded. When the material is sold on a free delivered basis, Buyer shall have at Seller's expense, three working days for unloading railtankcars and two hours for any other vehicle. Time in excess for unloading will be charged to Buyer by Seller as per actual outlays.

**2. TITLE TO MATERIAL**

Title to the material sold hereunder shall pass to Buyer at the same time as the risks of the material pass from Seller to Buyer in accordance with the Incoterms.

When retention of title or other accounts receivable protection is possible according to the laws of the country where the material subject to such retention of title shall be located, legal title of the material shall not be deemed to pass to Buyer until the contractual price for such material has been paid in full to Seller or Seller's agent. Until Buyer has obtained legal title to the material, Buyer shall ensure that the material in its possession shall at all times be readily identifiable by Seller as Seller's property on Buyer's premises.

**3. CURRENCIES FLUCTUATIONS**

If at any time between the date of Seller's order acknowledgement and the payment of invoices the official mid-rate of exchange between the Swiss franc and the currency invoiced to Buyer, as fixed at noon at the Frankfurt official Commercial Foreign Exchange Market, differs by more than five (5) percent from the exchange rate between the two said currencies on the date of Seller's order acknowledgement, Seller shall have the right to adjust the sales price accordingly. Buyer shall obtain the necessary agreement from its exchange authorities to enable enforcement of Seller's currency clauses as per Article 3 and Article 6 below.

**4. PRICE INCREASE**

Seller reserves the right, by written notice given at least one (1) month in advance of the scheduled delivery, to increase the price of the material covered by any order calling for delivery(ies) beyond a period of time exceeding two (2) months from the date of order acknowledgement. If Buyer is of the opinion that any such increase in price is unreasonable, orders not yet executed by Seller may be withheld at Buyer's request until Seller and Buyer have reached agreement on a new price.

**5. TAXES AND DUTIES**

Any taxes or duties now or henceforth levied in Buyer's country shall be borne by Buyer, unless otherwise specified in Seller's order acknowledgement.

**6. PAYMENT**

Payment conditions for any delivery shall be as stipulated in Seller's invoices. Non-payment of an invoice when due shall without summons automatically forfeit the payment terms and any other period of delay which Seller may have granted for payment of deliveries already effected and shall render all invoices payable immediately. Moreover, in such circumstances Seller shall have the right to change with immediate effect the payment conditions then in effect to "cash in advance" or to request Buyer to furnish adequate security with no other formalities than notification by registered letter. If Buyer fails to comply with Seller's new payment terms or is unable to provide satisfactory security, Seller may suspend further deliveries or cancel all current orders for material until full payment or satisfactory security has been received by Seller.

If payment has not been made upon due date, Buyer shall owe Seller default interest at the commercial rate for short-term credit applicable at that time in the country of emission of the currency used for billing plus two (2) points.

Payment of such interest on arrears shall not entitle Buyer to delay payment of the principal amount.

If payment has not been made at maturity date, Seller shall have the right to charge Buyer for the full exchange rate differential resulting from any depreciation of the billing currency against the Swiss franc between the maturity date and that on which payment is received by Seller based on the Frankfurt official mid-rate of exchange established at the daily fixing on those two dates.

**7. CLAIMS**

Failure of Buyer to give written notice of any claim with respect to packed material delivered hereunder within fourteen (14) days after receipt of such material shall be an unqualified acceptance of such material and a waiver by Buyer of all claims with respect thereto. Claims with respect to material delivered in bulk must immediately be placed by telephone or telex (to be confirmed in writing): on quality before unloading of vehicle and on quantity immediately after unloading.

Buyer accepts the net weight of the material sold hereunder as established by the producing works or by warehouse officials at Seller's premises. Only differences in net weight and volume in excess of: 0.5% on total bulk deliveries, 0.5% per bag, 1% per drum, will be considered by Seller.

Buyer is responsible for making any claim for loss of weight or transport damages immediately upon delivery against the carrier and for notifying Seller accordingly.

Contested material must be kept at Seller's disposal and can only be returned to it with its agreement. Seller's methods of analysis and results thereof shall govern unless proved to be incorrect.

Buyer assumes all risks and liability for the results obtained by the use of any material delivered hereunder in manufacturing processes of Buyer or in combination with other substances. No claim of any kind, whether as to material delivered or for non-delivery of material shall be greater in amount than the purchase price of the material in respect of which such claim is made. Seller reserves the right to replace any defective material. In no event shall Seller be liable for any indirect or consequential damages. Except as aforesaid, Seller shall not be liable for any cost or expense of any kind incurred by Buyer in connection with material delivered.

**8. FORCE MAJEURE**

All sales are subject to Force Majeure i.e. neither party is responsible for the fulfilment of the sale in case of delay or non-delivery caused by strikes, fires, explosions, Acts of God, riots, civil or international wars, invasions, refusal by Governments to grant import or export licences or cancellation by them of import or export licences already granted, inability to obtain material because of Force Majeure at the producing location, etc. or any other similar or dissimilar cause beyond the reasonable control of either party.

**9. SAFETY AND HEALTH INFORMATION**

Buyer acknowledges that it has received documents, including Seller's Safety Data Sheet, containing Seller's safety and health information concerning material deliverable hereunder, that it has read and it understands such information, and that it agrees to incorporate such information into its personnel safety programs. Buyer shall inform its employees, contractors, agents and customers, who may become exposed to such material after delivery to Buyer's destination hereunder, of any hazards associated with material, and of the proper storage, handling and use procedures for material, disclosed in such documents or in additional documents which are transmitted to Buyer during the term of this Agreement. Buyer shall indemnify Seller from any claims, damages, liabilities and expenses (including attorneys' fees) arising from Buyer's breach of the foregoing obligations.

**10. GOVERNING LAW - JURISDICTION**

All sales shall be subject to Swiss law provided, however, that any retention of title or other accounts receivable protection shall be governed by the laws of the country where the material subject to such retention of title shall be located. All differences which might arise between Seller and Buyer shall be referred to the competent Courts of Geneva with reservation to apply to the Federal Court of Lausanne, but without prejudice to enforcement of any judgement or order thereof in any other jurisdiction. The French language will be used in the proceedings. The provisions of the 1980 United Nations Convention on Contracts for the International Sale of Goods - known as "the Vienna Convention" - shall not apply.