

Arkema France
General Terms and Conditions of Sale

In these General Terms and Conditions of Sale (herein after the “T&C”), the term “Seller” refers to Arkema France, the term “Buyer” refers to the person to whom the Seller invoices the products (the “Products”) and the term “Parties” refers jointly to Buyer and Seller.

1. Application of the T&C

- Subject to any provisions to the contrary agreed in writing between the Parties, these T&C are the only conditions under which Seller is willing to deal with Buyer. Buyer’s general terms and conditions of purchase and any other conditions, whether express or implied, are expressly excluded. In placing an order Buyer agrees to be bound fully and without reservation by these T&C.
- No specific condition may prevail over these T&C without the express acceptance by Seller.

2. Formation of the contract

- A contract is formed when Seller gives express written confirmation of an order placed by Buyer. Any quote supplied to Buyer (irrespective of the form it takes) is subject to these T&C. Products shall be invoiced at the price agreed at the time the contract is entered into.
- Buyer shall be deemed to have accepted all the terms of the contract irrevocably and without reservation unless it raises an objection within eight (8) calendar days following receipt of acknowledgement of receipt of the order from Seller.

3. Terms of payment

- Unless otherwise expressly agreed by Seller, payments shall be made by bank transfer, net without discount within thirty (30) days of the date of the invoice issued by Seller on the date the Product is delivered to Buyer.

4. Delivery and returns

- Unless otherwise agreed by Seller, the Products shall be deemed delivered, at Seller’s discretion, when they leave Seller’s plant or warehouse.
- No product returns will be accepted without the prior written agreement of Seller.
- Deliveries will be made on the basis of Seller’s availability. **Delivery dates are given for information only and are not guaranteed. Seller cannot be held liable for any failure to meet delivery dates.**
- Seller’s sole obligation is to make the Products available at the plant or warehouse.

5. Warranty and liability

- Seller warrants, to the exclusion of any other warranty and/or liability that, on the date of their delivery the Products comply with the technical specifications set out in the contract. Buyer undertakes to inspect them upon delivery and before using them.
- Without prejudice to any measures to be taken in respect of third parties and, in particular, the carrier, any claim in respect of Seller relating to defects or non-compliance of the Products shall be valid only if it is sent to Seller in writing within fifteen (15) calendar days following delivery of the Product, this period being reduced to eight (8) calendar days in the case of liquid or gaseous Products. Buyer must provide evidence of the existence of any defects or anomalies observed and give Seller every opportunity to observe such defects or anomalies.
- If Buyer has not inspected the quality of the Products within the aforementioned time periods or if, having done so, it uses or transfers the Products to third parties, Seller cannot be held liable for any damage of any nature which may result from their use by Buyer or third parties.
- Where Buyer has submitted its claim to Seller within the time periods indicated, and subject to Seller’s liability being established, Seller may at its discretion either replace or make a refund for Products acknowledged as being non-compliant or defective. Products that are replaced or for which refunds are made shall be returned to Seller.
- Irrespective of the basis on which it is established, Seller’s liability shall not exceed the value of the relevant Products. Under no circumstances shall Seller be liable to Buyer for any indirect and/or consequential damages suffered such as, in particular, loss of earnings, operating losses, lost profits or commercial opportunity, increase in overheads or reduction in expected savings, even if such losses or damages were foreseeable.
- Seller disclaims any other warranty or liability, whether express or implied, including in particular but not limited to liability relating to Product commercialisation, their suitability for a specific purpose or results based on their use. Buyer alone shall bear all the risks associated with the use of the Products whether used

alone or in combination with others, and shall be liable for any direct and indirect damages resulting from their use.

- Irrespective of its merits, under no circumstances shall a claim release Buyer from its obligation to pay the price under the terms of the contract.

6. REACH Regulation

- Seller manufactures, imports and markets Products in compliance with Regulation (EC) No. 1907/2006 (the REACH Regulation). The uses identified in the Safety Data Sheets (SDS) applicable to the Products within the meaning of the REACH Regulation do not constitute an agreement between the Parties as to the technical and commercial specification of the Products or any specific application.
- Buyer is responsible for the use of the Product once it has taken delivery thereof. Under the REACH Regulation, Buyer must, in particular, ensure that the conditions in which it is used comply with those described in the SDS. Buyer shall certify in writing prior to sale that any transported isolated intermediates as defined in the REACH Regulation meet the conditions of Article 18 of the REACH Regulation. **Seller cannot be held liable in the event of (i) the non-compliant and/or unlawful use of one of its Products, (ii) inability to or (iii) delay in the performance of its obligations resulting from compliance with statutory or regulatory obligations, in particular in relation to the application of the REACH Regulation.**

7. Carriage

- If Seller selects the carrier, **Seller may not be held liable either upon this selection nor due to the performance of the carriage services.** Buyer alone is responsible for protecting its rights in respect of the carrier, for addressing any claim for damages suffered during carriage directly to the carrier within the stipulated time periods with a copy sent to Seller.
- Buyer shall refund to Seller any carriage costs not included in the price of the Products. Whatever the method of carriage used, Seller reserves the right to pass on to Buyer, automatically and *ipso jure*, even after the contract has been entered into, any fuel surcharge imposed upon him by carriage service providers or any carriage surcharge which can be attributed to Seller.
- **Road tankers, rail tankers and ISO tanks:** The net weight invoiced shall be the weight determined by weighing on departure and recorded on the scale ticket.
- Unless otherwise expressly agreed by Seller, carriage costs shall include the hire of road vehicles and rail equipment for a round trip and parking for two (2) hours (in the case of road tankers) and 48 hours (in the case of rail tankers) at Buyer's plant. Seller shall be entitled to pass on any costs incurred in relation to any additional period of unavailability.
- **Ships and barges** (liquid, solid and gaseous Products): The net weight invoiced for Products shipped in bulk is as follows: For families "F" and "C": the net weight recorded on the bill of lading at the port of departure. For family "D": the net weight recorded in writing by an independent inspection company at the place of delivery.
- Whatever the mode of collection and carriage used by Buyer, he undertakes to comply with the relevant regulations and to use best collection and carriage practices in transporting the Products.
- Any chartering of ships or barges shall be subject to Seller's vetting rules, which are available to Buyer on request, and Seller therefore reserves the right to refuse without compensation any ships or barges which do not comply with them.

8. Packaging and transportation equipment

8.1 Packaging and reusable transportation equipment provided by Seller for the carriage and storage of the Products.

- "Reusable transportation equipment" shall mean, in particular, small containers, tanks and units for transporting packaged products. If used as temporary storage, packaging and reusable transportation equipment are intended exclusively for the storage of the delivered Products.
- Buyer must maintain them in good condition. They must be handled, drained, unloaded and prepared for return in accordance with professional standards and/or specific recommendations provided by Seller.
- When returning Products, Buyer as loader and shipper shall take all the steps required to comply with all the regulations in force, in particular those applying to carriage. If they are returned by sea, Buyer shall choose a ship previously approved by Seller.
- Buyer shall return packaging and transportation equipment to the address agreed between the Parties within a period agreed in advance between the Parties or, failing this, as soon as they have been emptied.
- After this period, (i) Buyer shall pay Seller compensation equal to the total expenses borne by Seller as a result of the unavailability of the packaging and transportation equipment (hire charges, administrative

costs, etc.) plus ten percent (10%); (ii) this compensation shall apply until the packaging or transportation equipment has been returned to the agreed addressee; (iii) in the event of loss, destruction and/or failure to return the packaging and/or transportation equipment, Seller reserves the right to claim from Buyer the cost of buying replacement packaging or transportation equipment and any costs associated directly and/or indirectly with such replacement; (iv) any compensation paid by Buyer shall be systematically and definitively deemed as owned *ipso jure*; (v) all carriage, repair and replacement costs for packaging or transportation equipment shall always be borne by Buyer, who shall remain liable for any damage thereto or destruction thereof.

- After a period of three (3) months following delivery of the Products, Seller reserves the right to refuse the return of the packaging or transportation equipment in question and to apply the provisions of (iii) above.

8.2 Packaging transferred by Seller.

- Where packaging has become the property of Buyer, he alone is responsible for any consequences associated with the disposal or reuse of this packaging, and he shall dispose of and/or reuse it in accordance with the applicable regulations. If packaging is reused, Buyer undertakes to remove Seller's name from the packaging.

8.3 Packaging supplied by Buyer.

- Buyer alone is responsible for the choice and quality of the packaging to be used for the Products and undertakes to supply packaging that complies with the regulations in force and the requirements of Seller.

9. Retention of ownership and transfer of risks

- **It is expressly agreed that the Products sold shall remain the property of Seller until full payment of the sums invoiced. The associated risks shall, however, be transferred either upon delivery of the Products where they are collected by Buyer at Seller's plants or warehouses or on handover of the Products to the carrier where they are to be delivered by Seller; Buyer alone shall bear the associated risks in respect of both Seller and third parties.**
- Upon delivery of the Products to Buyer, Seller authorizes Buyer to carry out any processing operations or sales transactions relating to the Products, it being expressly agreed that even in this case Seller shall retain the right to claim them back, irrespective of their condition and who is in possession of them, or to claim the price paid for them where they have been resold, at its first request and without the need for prior written notice in the event of delayed payment or full or partial non-payment.
- At Seller's request, Buyer shall supply any information required (i) to carry out an inventory of the Products belonging to Seller and (ii) to respond to any other requests made by Seller in relation to his ownership thereof.
- All expenses incurred in returning the Products to Seller's premises shall be borne by Buyer.
- Buyer shall take out an insurance policy specifying Seller as owner and providing cover for any damage incurred or caused by the Products.
- The foregoing provisions shall apply without prejudice to any claim for damages due to non-payment of all or part of the price.

10. Non-payment

- The non-payment of an invoice or draft (*traite*) shall constitute a serious breach of contract by Buyer and authorises Seller to suspend other deliveries or to deem the contract as automatically terminated for breach by Buyer, without prejudice to any other right held by Seller.
- Moreover, any delay in the payment of an invoice or bill shall result automatically and without the need for service of prior written notice in (i) the application of late penalties pursuant to the provisions of section L. 441-6 of the French Commercial Code (*Code de commerce*, CC) calculated (x) on the basis of the amount including all taxes owed by Buyer and specified on the invoice at the interest rate applied by the European Central Bank in its latest refinancing operation plus ten (10) percentage points (the applicable rate for the first half of the year in question being the rate in force as of 1 January of the year in question and for the second half of the year in question that in force as of 1 July of the year in question) in the case of invoices raised in euros and (y) on the basis of the discount rate in force applied by the central bank of the country of the invoice currency plus ten (10) points; and (ii) the application of a lump sum of compensation for recovery costs equal to forty (40) euros (without prejudice to the right to claim further compensation should the recovery costs exceed this amount).

11. Force majeure

- The occurrence of an event of *force majeure* shall release Seller from any contractual liability within the limits of the effects thereof.

- The following, in particular, shall be contractually considered events of *force majeure* without right of recourse for Buyer: incidents and/or accidents affecting the production or storage of the Products; total or partial interruption of supplies of raw materials or energy including carrier defaulting; fire; flood and other natural phenomena; machinery breakdown; labour disputes (including Seller's internal disputes); and, in particular, strikes (total or partial), administrative decisions, changes in regulations, act of state, third-party action, armed conflict and any event likely to delay, prevent or render economically exorbitant the performance of Seller's obligations.
- Seller has no obligation to procure Products from alternative sources. If such events of *force majeure* last more than three (3) months, Seller shall be entitled to terminate the contract without liability for any resulting loss or prejudice.

12. Taxes

- The price mentioned in the contract is exclusive of all taxes and is subject to VAT and/or any other taxes including sales tax, production tax or transportation tax, other than a tax on Seller's profits, if applicable.
- When (i) the delivery of the Products is VAT exempted in France due to the dispatch or transportation of the Products outside of France, and (ii) the dispatch or transportation of the Products is carried out by Buyer or on his behalf, Buyer should provide Seller with any documentation evidencing the dispatch or transportation of the Products outside of France in accordance with the rules in force in France (the "Supporting Documentation") within twenty (20) days following the collection of the Products by Buyer or in only one time, on the 15th day of the month, in case of multiple collections.
- Should Buyer fail to provide the Supporting Documentation under the aforementioned conditions and schedule and in the event that VAT would be later claimed to Seller on the sale to Buyer, this latter should, as soon as possible, pay a price premium to Seller equal to the amount of VAT owed, and reimburse all penalties and interests on late payment charged to Seller for not initially applying VAT to the sale or failing to provide the Supporting Documentation.

13. Jurisdiction and applicable law

These T&C and more generally the Sale of the Products are subject to and shall be construed in accordance with French law. The provisions of the United Nations Convention on the International Sale of Goods of 11 April 1980 are expressly excluded. ALL DISPUTES AND LITIGATIONS OCCURRING BETWEEN THE PARTIES SHALL BE SUBMITTED TO THE EXCLUSIVE JURISDICTION OF THE NANTERRE COMMERCIAL COURT (FRANCE). IN THE EVENT A CLAIM AGAINST BUYER IS BROUGHT BY A THIRD PARTY IN A DIFFERENT COURT, BUYER HEREBY WAIVES HIS RIGHT TO CALL SELLER'S GUARANTEE BEFORE SUCH COURT SO THAT IN ANY EVENT, THIS CHOICE OF FORUM CLAUSE SHALL PREVAIL.

14. Data protection

Buyer undertakes to inform his employees that their personal data will be collected and processed by Seller under these T&C. The employees' data will be used by Seller, the companies in his group and his own service providers for the purposes of managing orders, monitoring customer and prospect relationships and managing sales and promotional operations. Pursuant to section 38 of the French law of 6 January 1978, employees have a right to object on legitimate grounds to their data being processed and a right to object to this data being used for prospecting, in particular sales prospecting. They may exercise these rights by writing to Arkema France, Direction Juridique, 420 rue d'Estienne d'Orves, F-92700 Colombes.

15. Export control restrictions

Buyer and its employees shall comply with any and all laws, regulations and official orders applicable to the sale, export and delivery of products.

Buyer represents and warrants that it is fully aware of the restrictive measures imposed on certain countries, individual persons and private entities ("Export Restrictions") by the European Union, the United States of America and the United Nations, notably. Buyer undertakes to comply with the Export Restrictions at all time and in all respects and also undertakes not to sell to entities or persons blacklisted by the European Union, the United States of America and the United Nations notably. Should Buyer fail to comply with the above, Seller shall have the right to terminate the contract with immediate effect.

16. General provisions

These T&C are available in various languages on the Arkema website at <http://www.arkema.com>. In case of conflict between the French version of the T&C and a translated version, the Parties agree that the French version shall prevail.