

General Terms and Conditions of Sale and Delivery

Unless otherwise agreed, the following terms and conditions of sale and delivery shall apply:

1. General

Unless otherwise agreed between us as the seller and the buyer in writing, these general terms and conditions of sale and delivery apply for all our deliveries. If the present terms and conditions do not have a specific provision, the Swiss Code of Obligations applies. The acceptance by the buyer of any item ordered through us shall be considered as the unconditional recognition of the present General Terms and Conditions of Sale and Delivery. Any purchasing conditions of the buyer are non-binding for our deliveries even where we have not expressly refused and/or objected.

The present terms and conditions also apply to subsequent orders and in general, to future orders of our products.

2. Price

Unless otherwise stated, value added tax is not included in the price. VAT shall be stated in the invoice under the relevant legal provision.

Unless otherwise stated, prices are in CHF.

3. Packaging

We invoice for packaging at cost and we have no obligation to accept returned packaging. Boxes, palettes, etc. are invoiced separately and are credited to the buyer when returned at buyer's expense.

4. Shipping Costs / Insurance / Tariffs

Unless otherwise agreed, deliveries shall be FCA Zuchwil Incoterms 2010. The buyer shall bear the risk of the goods in transit. Transport, insurance, customs formalities etc. are the responsibility of the buyer.

All increases of rates and fees such as transportation, insurance costs, customs duties, etc. that occur after signing of the contract will be charged to the buyer.

5. Allowable Quantity Variations

For customized products, the buyer must accept a variation in quantity of plus or minus 10% on the amount ordered.

6. Delivery Terms

We are not liable for delays in delivery in case of force majeure, such as: war or war preparations, sabotage, strikes, lock outs, riots, demonstrations, revolutions, governmental orders, shortage of raw materials, floods, storms, fires, etc. We are also not liable for unforeseen disruptions to the seller's or its deliverer's plants.

7. Inspection of the goods delivered

The delivered goods must be inspected upon delivery by the buyer and certainly at the latest before use or processing. Any complaints regarding the weight, quantity or nature of the delivered goods shall only be valid if they are notified to us in writing within 8 days after receipt and we are given an opportunity to inspect the goods on-site – otherwise statutes relating to faulty goods shall be waived.

8. Payment Delays

If the buyer does not comply with the payment terms for any single delivery or he is unable to make the payment, all outstanding payments fall due immediately regardless of the payment terms, entitling us to immediately claim all outstanding amounts. Interest on delayed payments will be charged at 6% p.a. If the buyer defaults on a payment, we also have the right to withdraw from the contract without notification and the buyer is liable for all damages to us. In addition, we have the right to withdraw from any other orders placed by the buyer which are not yet executed.

9. Retention of title

Goods delivered by us shall remain our property until payment has been received in full. Goods sold on by the buyer do not fall within the remit of our property. A purchaser shall have no claim against us resulting from a resale of goods for which we have not yet received payment.

The buyer is obliged to cooperate in measures necessary for the protection of our property. Conclusion of the contract results in his agreement to registration of the retention of title in the Swiss title retention register (Art. 715 ZGB).

We are expressly entitled to physically retrieve the goods.

10. Seller's Liability

In the case of buyer's justified claims or complaints, our liability is restricted. We are only obliged to provide for replacement of the defective goods free of charge for the buyer. The buyer has no other rights or remedies against us. Specifically, he does not have any other claim or right such as cancellation of the order, price reduction or compensation for damage, including but not limited to direct, indirect or consequential damage, or compensation of other costs occurred in relation to the defective goods. Obligatory statutes of Swiss law remain unaffected. The buyer is not entitled to take information given verbally by our staff as an express warranty of specifications of the goods for a specific use and cannot hold us liable for such information. The same applies to information supplied in e-mails by employees not authorised to sign.

11. Place of performance and legal venue and applicable law

4528 Zuchwil is the place of execution and the exclusive venue (area of jurisdiction) for all disputes arising from our deliveries and for the relationship between us and the buyer. We shall also reserve the right to prosecute the buyer within its own relevant jurisdiction. Swiss law shall apply exclusively to these terms and conditions, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods.

Zuchwil, June 2011, Borer Chemie AG