

General Terms and Conditions of Sale of Clariant

1. Exclusive Application

The terms and conditions set out below ("these Conditions") apply to the sale of products or materials ("Goods") by Clariant ("Seller") to the buyer ("Buyer"). Buyer and Seller shall be referred to individually or collectively as "Party" and "Parties". These Conditions shall supersede any other terms appearing in any catalogues of Seller (or any other Clariant Group Companies) or elsewhere and shall override and exclude any other terms stipulated or incorporated or referred to by Buyer, whether in the order or in any negotiations, and any course of dealing established between both Parties. Any other terms and conditions shall only apply if expressly agreed in writing by Seller. Buyer acknowledges that there are no representations outside these Conditions which have induced him to enter into these Conditions. Except for terms expressly agreed pursuant to this clause, these Conditions constitute the entire understanding between the Parties for the sale of the Goods. Neither Party shall be bound by nor liable to the other for any representation, promise or inducement made by that Party or any agent or person in that Party's employ and not embodied in these Conditions unless otherwise expressly agreed upon pursuant to this clause.

2. Offer

Seller does not intend for any offer to Buyer to be binding as a contract unless expressly accepted and agreed in writing by Buyer. Unless stated otherwise, any offer issued by Seller shall expire if Buyer fails to accept the offer in writing within 180 days of the date of offer, whereupon Seller shall cease to be bound by it.

3. Delivery

Delivery dates are not binding, unless explicitly declared as binding by Seller. Seller will only be liable for non-delivery or late delivery if such non-delivery or late delivery is caused directly by the wilful act or grossly negligent act or omission of Seller. Where Seller undertakes to deliver the Goods, delivery shall take place when they are loaded off Seller's or a third party's vehicle, ship or any other transport at the station, port or address specified by Buyer. Where Buyer undertakes to collect the Goods, delivery shall take place when such Goods are loaded on Buyer's or a third party's vehicle or any other transport at the address of Seller or the address of any storage or warehouse facility used by Seller for storage of the Goods. Buyer shall examine the Goods immediately following delivery. Unless notice of any loss or damage in transit, deviations in quantity or incorrect deliveries is given by Buyer and received by Seller within fourteen (14) days after delivery, Seller shall be relieved and discharged from all and any liability in respect thereof. Seller may deliver against an order in excess or deficiency (of up to 10% of weight or volume) of Goods ordered. Buyer will be invoiced and charged for the actual quantity delivered.

4. Prices and Payment Conditions

Prices are exclusive of any value added or goods and services taxes, taxes, levies, cost of documents and any other charges, whether of a general or a special nature, which shall be charged to Buyer, unless otherwise explicitly indicated in these Conditions. Seller shall issue invoice to Buyer upon delivery of Goods, to the address specified in the order by Buyer. Any invoice issued to Buyer is payable within thirty (30) days after the date of the invoice free of any deductions or set-off whatsoever. If payment of invoice is overdue, Buyer shall, without prejudice to any of Seller's other rights, pay interest at a daily rate of 0.05% on the amounts in arrear. Such interest shall accrue immediately after 30 days for as long as the amounts in arrear, including all interests accrued to date remain unpaid in full. Under no circumstances shall Buyer withhold any amount due to Seller because of a disputed claim of any nature.

5. Warranty

Seller warrants that the Goods are manufactured with all reasonable care and skill and, where applicable, comply with the standard specifications set out in Seller's published literature in relation to the Goods as at the date of Buyer's order and that the Goods are of satisfactory quality. If any of the Goods shall be found to be defective and such defects are complained by Buyer in writing to Seller in the case of apparent defects within fourteen (14) days of delivery and in the case of latent defects within fourteen (14) days of the date, but in no case later than six (6) months after delivery, on which those defects could reasonably have been first identified, PROVIDED such complaint is justified in the sole opinion of Seller, Seller shall, at its option, either rectify or replace the defective part of the Good (which shall become the property of Seller if replaced) at the place of delivery and in the condition originally specified or credit Buyer with a corresponding proportion of the original invoice price but shall not be under any other liability in respect of either the original or any replacement Goods. In instances where Seller does not remove the defective Goods, Buyer shall properly and safely dispose of the defective Goods in accordance with any applicable laws and regulations at its own cost. Seller shall be under no liability in respect of alleged defective Goods unless Buyer gives written notice and details of the defect to Seller within the period mentioned above, and Buyer gives Seller's representative adequate opportunity to inspect the Goods and remove samples for analysis, and Buyer has used, kept, maintained or dealt with the Goods properly, and Buyer has not processed the Goods.

6. Limitation on Liability

These Conditions set out the entire liability of Seller in respect of the Goods, and the liability of Seller under these Conditions shall be in lieu of, and to the exclusion of all other warranties, conditions, terms and liabilities express or implied, statutory or otherwise in respect of the merchantability, quality or the fitness of the Goods for any particular purpose (notwithstanding any advice or representation to Buyer, all liability in respect of which, howsoever arising, is expressly excluded). Seller shall not be liable, whether in contract, tort or otherwise, in respect of any defects in the Goods or the failure to correspond with any specifications or samples of the Goods, or for any injury, damage or loss resulting from such defects or from any processing or work done in connection with the Goods. Notwithstanding anything to the contrary in these Conditions, Seller shall not in any way whatsoever be liable for indirect, incidental or consequential losses or damages, pure economic loss, loss of profits, loss of business, lost goodwill, lost revenue or lost opportunity. In addition, Seller's liability to Buyer for any actual direct damages shall not exceed 100% of the price of all Goods supplied to and paid for by Buyer under the relevant order or contract in question which gave rise to the liability, regardless of the cause, and whether arising in in contract, tort or otherwise in connection with these Conditions.

7. Confidentiality

Except as required by law or with Seller's written consent, Buyer shall maintain in strict confidence, and shall not disclose to any third party, any and all confidential information disclosed to it by Seller pursuant to these Conditions. If Buyer is required by any law to disclose any or all of Seller's confidential information, Buyer must immediately notify Seller of such disclosure requirements.

8. Force Majeure

Seller will not be liable for any breach of contract in the event of force majeure, such as Acts of God, war, terrorism, riots, strike, boycott, fire, explosions, epidemic, quarantine, decisions or omissions of public authorities as well as any other events which are beyond the control of Seller. Pursuant to this clause, Seller reserves the right to either: (a) suspend performance and extend the time for performance for the duration of the force majeure event, or (b) cancel all of any part of the unperformed part of the contract and/or any orders without liability to Buyer.

9. User Recommendations

Recommendations of Seller on the use and processing of the Goods are of a general nature only. Under no circumstances whatsoever does Seller warrant to Buyer that the Goods are fit for any or all of Buyer's particular use, application or processing conditions.

10. Indemnity

Buyer shall indemnify Seller in respect of all damage, injury or loss occurring to any person or property and against all actions, suits, claims, demands, charges or expenses in connection therewith arising from the condition or use of the Goods in the event and to the extent that the damage, injury or loss shall have been occasioned partly or wholly by the wilful acts or negligence of Buyer or its servants or agents or by any breach by Buyer of its obligations to Seller under these Conditions.

11. Packaging

Unless otherwise agreed in writing by both Parties, Buyer shall dispose of all packaging at his own cost and in accordance with any applicable regulations. In so far as packaging is re-used by Buyer, any and all indication on the packaging as to the Goods and to Clariant's name must be entirely removed. Special conditions as notified apply to returnable packaging owned by Seller.

12. Safety

All Goods shall be handled, transported, stored, processed, labelled or used by Buyer in accordance with any applicable laws and all requirements set out on the safety data sheet of each specific Good. If delivered Goods are classified as hazardous, such Goods may only be handled, transported, stored, processed or used by Buyer in accordance with the safety data sheet and any applicable laws and safety requirements corresponding with the Goods' hazard classification. Buyer is solely liable and responsible for complying with any applicable regulation, including: obtaining all required licenses and approvals, for the storage and transportation of the Goods. Buyer shall indemnify Seller upon demand for any and all loss, damages or injury to person or property and all actions, suits, claims, demands, charges or expenses suffered by Seller for any failure by Buyer to comply with this clause.

13. Intellectual Property

Buyer must not use any trademarks or copyrights with respect to the Goods manufactured or supplied by Seller, or the performance of its obligations under these Conditions unless and except to the extent Buyer has obtained prior explicit written consent from the owner of the trademark or copyright.

14. Applicable Law and Jurisdiction

These Conditions are governed by and construed in accordance with the laws of the Republic of Singapore. A person or entity who is not a party to these Conditions shall have no right under the Contracts (Rights of Third Parties) Act (Cap 53B of Singapore) to enforce any term of these Conditions, regardless of whether such person or entity has been identified by name, as a member of a class or as answering a particular description. Provisions of the Vienna Convention on the International Sale of Goods (CISG) and the United Nations Convention on Agreements concerning the International Sale of Goods are excluded. Both parties irrevocably submit to the non-exclusive jurisdiction of the Singapore courts.

15. Title and Risk

Risk in the Goods shall pass to Buyer on delivery. Title to the Goods shall not pass to Buyer until Seller has received payment in full (in cash or cleared funds) for such Goods and all other sums which are due from Buyer for the sales of the Goods. So long as the title in the Goods remains in Seller and Buyer is in default of any of the obligations under these Conditions or is insolvent, Seller shall have the right, with or without prior notice to Buyer, to retake possession of the Goods (and for such purpose, to enter into any premises occupied by Buyer). Where Buyer re-sells the Goods before title of the Goods has vested in Buyer, Seller shall be entitled to the proceeds of sale (including any right to, or to claim, such proceeds) and Buyer shall hold such proceeds of sale on trust for Seller.

16. Cancellation

Buyer may not cancel any order without the prior written consent of Seller, which, if given, shall be deemed to be on the express condition that Buyer shall indemnify Seller against any and all loss, damages, claims or actions arising out of such cancellation.

17. Breach and Buyer's Insolvency

In the event Buyer: (i) defaults or breaches any of its obligations to Seller under these Conditions; or (ii) any distress or execution shall be levied upon Buyer; or (iii) enters into any negotiations for arrangement or composition with its creditors; or (iv) commits any act of bankruptcy or if any petition in bankruptcy is presented against it or, (where Buyer is a corporate body): (i) any resolution is proposed or petition presented to wind up Buyer; or (ii) if a receiver of Buyer's assets or undertaking or any part thereof is appointed, Seller shall be entitled to terminate these Conditions and any orders without prejudice to any other claims, entitlement or rights of Seller.

18. Compliance with Clariant Code of Conduct, etc.

Buyer shall comply with Clariant Code of Conduct, Clariant Corporate Social Responsibilities (including Responsible Care®), and the International Labour Organization ("ILO")'s Fundamental Principles & Rights at Work and relevant ILO Conventions.

19. Assignment

Buyer shall not assign any benefits or rights under these Conditions without Seller's prior written consent. Any assignment in breach of these Conditions shall be void, and Seller shall be entitled to forthwith determine these Conditions without prejudice to any other claims, entitlement or rights of Seller.

20. Non-Waiver

Failure by Seller to insist upon strict performance of any of the terms and conditions of these Conditions, or delay in exercising any of its remedies, shall not constitute a waiver of such terms and conditions or a waiver of any breach, or of any remedy thereof.