

## **GENERAL TERMS AND CONDITIONS OF DELIVERY AND SALE**

TETRA Chemicals Europe AB  
Gasverksgatan 9, SE 251 09 Helsingborg, Sweden

### **Article 1: Applicability of these terms and conditions**

1.1 These terms and conditions shall apply to every offer and every agreement between TETRA Chemicals Europe AB, ("TETRA Chemicals"), and a Purchaser, ("Purchaser") regarding the offering, sale and delivery of all goods and/or services, herein jointly and separately referred to as the "Goods", for which TETRA Chemicals expressly or implicitly has declared these terms and conditions to be applicable, in so far as the parties have not expressly deviated from these terms and conditions in writing. The applicability of general terms and conditions of the Purchaser is expressly refuted.

1.2 Any electronic communication between TETRA Chemicals and Purchaser shall be considered to be "in writing". The electronic communication system used by TETRA Chemicals will serve as sole proof for the content and the time of delivery and receipt of such electronic communication.

### **Article 2: Quotations, Confirmations**

2.1 Quotations made by TETRA Chemicals shall not constitute an obligation of TETRA Chemicals and shall merely constitute an invitation to Purchaser to place an order unless expressly stated otherwise in writing. The prices stated in the quotation exclude VAT, unless otherwise stated.

2.2 Orders are not binding until accepted by TETRA Chemicals in writing ("Seller's Confirmation"). TETRA Chemicals shall be entitled to refuse an order with any or no reason and without indication of its reasons.

### **Article 3: Delivery**

3.1. Delivery shall take place at the location and at the time stipulated in the Seller's Confirmation. In the event that one of the "Incoterms", published by the International Chamber of Commerce in Paris, France, has been agreed as a delivery term, the Incoterms in effect at the moment of conclusion of the relevant agreement shall apply. If no specific delivery term has been agreed upon between the parties the Incoterm Ex Works shall be automatically applicable.

3.2. The Purchaser shall be obliged to accept the purchased Goods upon delivery or at the moment at which the Goods are made available to Purchaser in accordance with the relevant agreement. In the event that the Purchaser refuses to accept delivery or is negligent in furnishing information or instructions necessary for the delivery, the Goods shall be stored at the Purchaser's risk. In such case the Purchaser shall be liable for all costs arising as a result of the refusal or the failure to furnish information or instructions.

### **Article 4: Delivery term**

4.1 The agreed delivery term shall not be a fixed deadline unless expressly agreed otherwise. In the event of late delivery after a fixed deadline, the Purchaser must serve written notice of default on TETRA Chemicals in this respect in order to make any claim.

### **Article 5: Premature termination of the agreement**

5.1 a) If after conclusion of the agreement it is apparent to TETRA Chemicals that Purchaser will not meet its obligations set forth in the relevant agreement or

b) if TETRA Chemicals has requested the Purchaser to provide security in respect of compliance with its obligation set forth in the agreement and this security has not been provided by the Purchaser, or

c) if Purchaser becomes insolvent, or unable to pay its debts as they mature, or goes into liquidation (otherwise than for the purposes of a reconstruction or amalgamation), or any bankruptcy proceeding shall be instituted by or against Purchaser, or if a trustee or receiver or administrator is appointed for all or a substantial part of the assets of Purchaser, or if Purchaser enters into a deed of arrangement or makes any assignment for

the benefit of its creditors, then, without prejudice to any other rights of TETRA Chemicals, TETRA Chemicals may by notice in writing forthwith;

(i) demand re-delivery and take repossession of any delivered Goods which have not been paid for, for which purpose Purchaser hereby grants an irrevocable right and license to TETRA Chemicals to enter upon all or any of the premises where the Goods are or may be located and all costs relating to the recovery of the Goods shall be for the account of Purchaser; and/or

(ii) suspend its performance or terminate Seller's Confirmation for outstanding delivery of Goods unless Purchaser makes such payment for Goods on a cash in advance basis or provides adequate assurance of such payment for Goods to TETRA Chemicals; without any intervention of courts being required and without liability for TETRA Chemicals of whatsoever kind arising out of or in connection with such suspension or termination.

5.2 In the event of (i) and/or (ii) above, all outstanding claims of TETRA Chemicals shall become due and payable immediately with respect to the Goods delivered to Purchaser and not re-possessed by TETRA Chemicals and without prejudice to TETRA Chemicals' right to claim compensation for damages.

5.3. In the event that circumstances occur relating to persons and/or material of whom/which TETRA Chemicals makes use or normally makes use during the implementation of the relevant agreement which are of such a nature that implementation of the agreement becomes impossible or so difficult and/or disproportionately expensive that compliance with the agreement can no longer be reasonably demanded, TETRA Chemicals shall be authorised to cancel the entire agreement. TETRA Chemicals shall however strive to immediately inform the Purchaser as soon as any of the above circumstances occur.

#### **Article 6: Quality.**

6.1 Unless expressly stipulated otherwise by agreement relating to the composition of the Goods, the Goods shall be delivered by TETRA Chemicals in accordance with its specifications and quality standards in respect of the Goods concerned. TETRA Chemicals will use its best efforts to deliver the Goods from as few batches as possible. Deliveries from one specific production batch can however not be guaranteed.

In the event that TETRA Chemicals delivers an item which deviates from what has been agreed upon between the parties the Purchaser shall be entitled to cancel the relevant agreement. The Purchaser shall have this opportunity for the period set forth in Article 8 below. The Purchaser shall not have any authority to cancel the agreement in the event of a) changes to the Goods to be delivered, b) changes to the packaging or c) changes to accompanying documentation, which are required in order to meet applicable statutory regulations or in the event of changes to the item which constitute an improvement.

6.2 TETRA Chemicals reserves the right to change or modify any specifications, construction and/or manufacture of Goods and to substitute materials used in the production and/or manufacture of Goods from time to time without notice. Purchaser acknowledges that data in TETRA Chemicals' catalogues, specification sheets and other descriptive publications distributed or published on its websites by TETRA Chemicals, may be varied from time to time without notice. Any statement, representation, recommendation, advice, sample or other information of TETRA Chemicals in relation to the Specifications, the Goods and the use thereof shall be furnished for the accommodation of Purchaser only.

As regards the quality and composition of the Goods, and as regards the properties thereof, the certificates of inspection, health certificates, etc. issued by relevant authorized bodies, as furnished by TETRA Chemicals, shall be decisive. In the event that the Goods delivered do not meet the agreed quality standards, the Purchaser shall be entitled to replacement of the Goods returned at no cost.

Purchaser must utilize and solely rely on its own expertise, know-how and judgment in relation to the Goods and Purchaser's use thereof and in Purchaser's application of any information obtained from the part of TETRA Chemicals for the purposes intended by Purchaser. Consultation provided by TETRA Chemicals shall not give rise to any additional obligations on the part of TETRA. Details and information provided with regard to the suitability and use of the Goods shall not be binding and TETRA Chemicals does not assume any liability based on such consultations.

6.3 TETRA Chemicals makes no promise or representation that the Goods shall conform to any law, statute ordinance, regulation, code or standard (“Laws and Standards”), unless expressly stated in TETRA Chemicals’ Confirmation or in the Specifications. Purchaser acknowledges that the use of the Goods may be subject to requirements or limitations under Laws and Standards. Purchaser shall be exclusively responsible for (i) ensuring compliance with all Laws and Standards associated with its intended use of the Goods; and (ii) obtaining all necessary approvals, permits or clearances for such Use.

**Article 7: Ownership reservation.**

7.1. The Goods delivered by TETRA Chemicals shall remain the property of TETRA Chemicals until the Purchaser has complied with all obligations arising from all purchase agreements entered into between the parties.

7.2. Goods delivered by TETRA Chemicals which are covered by ownership reservation by virtue of section 7.1 may only be sold on in the context of normal commercial activity. The Purchaser shall not be authorized to pledge the Goods nor to attach any right thereto.

7.3. In the event that the Purchaser fails to comply with his obligations or TETRA Chemicals has good reasons to believe that it will fail to do so, TETRA Chemicals shall be entitled, without any authority from the Purchaser, to remove or cause to be removed all delivered Goods, upon which ownership reservation as referred to in section 7.1 rests, from the premises of the Purchaser or third parties who are holding the item for the Purchaser. The Purchaser shall be obliged to provide full co-operation herewith, on penalty of a fine amounting to 10 % per day of the amount payable by him.

7.4. The Purchaser undertakes to fully co-operate in every respect with TETRA Chemicals and in all reasonable measures which TETRA Chemicals wishes to take for the protection of its right of ownership with respect to the Goods, and which do not cause unreasonable hindrance to the Purchaser in its business.

7.5. The Purchaser expressly acknowledges and agrees that all TETRA Chemicals trademarks are the exclusive property of TETRA Chemicals, or its affiliates or subsidiaries and that Purchaser has no right, title or interest in the TETRA Chemicals trademarks, or any goodwill related thereto. Purchaser shall not use the trademarks of TETRA Chemicals in such a way as to damage, tarnish, jeopardize or otherwise prejudice the goodwill and reputation associated with such trademarks or in a manner which may be misleading or deceptive to the public.

The Purchaser shall indemnify TETRA Chemicals against all losses, liabilities and costs which TETRA Chemicals may incur arising from or in connection with the Purchasers, breach of any of its obligations under this section 7.5.

**Article 8: Defects; claims**

8.1. The Purchaser may examine or cause to be examined the purchased Goods immediately on delivery, or as soon as possible thereafter. During such examination the Purchaser must ascertain whether the Goods delivered are in accordance with the purchase agreement, i.e.:

- whether the correct Goods have been delivered;
- whether the quantity of Goods delivered are in accordance with what has been agreed;
- whether the Goods delivered meet the agreed quality standards or if there are no such standards – such standards as may be adequate for normal use and/or commercial purposes.

8.2. If visible defects or deficiencies are observed, the Purchaser must inform TETRA Chemicals thereof in writing within five (5) days of delivery.

8.3. Non-visible defects must be brought to the attention of TETRA Chemicals by the Purchaser in writing as soon as possible however not later than within a maximum of one month of delivery.

TETRA Chemicals warranty obligations related to any defect in the Goods shall not apply to the extent the defect in the Goods was caused by (a) abnormal well conditions, (b) any unauthorized alteration, or any use, storage or

handling by the Purchaser of any Goods in a manner inconsistent with TETRA Chemical's recommendations, (c) vandalism by a party other than an employee of TETRA Chemicals (d) force majeure, or (e) incorrect, incomplete or inaccurate data, drawings, information or specifications provided by the Purchaser.

8.4. Even where the Purchaser notifies TETRA Chemicals of a claim for defects or deficiencies in accordance with the period set forth above, its obligation for payment and acceptance of orders made shall remain. Goods may only be returned to TETRA Chemicals after prior written consent.

8.5 OTHER THAN AS STATED IN THIS SECTION 8, TETRA CHEMICALS MAKES NO OTHER WARRANTY OR GUARANTEE OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING NO IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, REGARDING ANY GOODS PROVIDED BY TETRA CHEMICALS HEREUNDER.

#### **Article 9: Prices**

9.1 Unless agreed otherwise in writing, the prices stated in the Seller's Confirmation shall be fixed and shall exclude VAT, import and export duties, import and export taxes, clearance charges and all other related costs. Unless agreed otherwise the prices stated shall be quoted in Euro. The prices shall be based on the cost factors applicable at the time of Seller's Confirmation. In case of incidents unforeseen to TETRA Chemicals, TETRA Chemicals shall however be entitled to increase the price of the Goods still to be delivered if, due to such unforeseen incidents, the cost price determining factors have been subject to an increase. These factors include but are not limited to: raw and auxiliary materials, energy, products obtained by TETRA Chemicals from third parties, social security contributions, governmental charges, freight costs and insurance premiums. TETRA Chemicals shall notify Purchaser of such increase.

#### **Article 10: Payment**

10.1. Unless agreed otherwise, payment must take place according to Seller's Confirmation by transfer of the amount payable to the bank account number as stated by TETRA Chemicals on the invoice. Payment must take place in Euro, unless agreed otherwise. Any sum due by the Purchaser to TETRA Chemicals which remains unpaid on the date stipulated for payment shall carry an annual interest according to the Swedish Interest Act, i.e the reference rate set by the Swedish Central Bank plus eight (8) percent.

10.2. In the event of liquidation, bankruptcy or moratorium of payments on the part of the Purchaser, the Purchaser's obligations shall become immediately payable.

10.3. All payments shall be made without any deduction on account of any taxes and free of any counterclaims, discount or set-off.

10.4. Payments made by the Purchaser shall always be set off first against all payable interest and costs, and secondly against the payable invoices which have been unpaid longest, even if the Purchaser states that the payment relates to a later invoice.

10.5. Any complaint with respect to the invoice must be notified to TETRA Chemicals within eight (8) days after the date of invoice. Thereafter Purchaser shall be deemed to have approved the invoice.

#### **Article 11: Collection costs**

11.1. In the event that the Purchaser is in default with respect to the compliance of one or more of its obligations, all reasonable costs incurred in obtaining payment out of court shall be borne by the Purchaser. The Purchaser shall in any event be liable to pay an amount equal to fifteen (15) percent of the invoiced amount, with a minimum of Euro 200 (two hundred Euro) to all of which sums VAT shall be added.

Where TETRA Chemicals demonstrates that it has incurred higher costs, which were necessary in all reasonableness, these shall also be payable by the Purchaser.

11.2. The Purchaser shall be liable vis-à-vis TETRA Chemicals for all legal costs incurred by TETRA Chemicals in all cases, unless these are unreasonably high. This shall only apply if TETRA Chemicals and the Purchaser enter into legal proceedings in respect of an agreement to which these general terms and conditions apply and if a final

legal judgment is issued against the Purchaser.

#### **Article 12: Liability**

12.1 Upon delivery and transfer of title of the Goods to Purchaser, Purchaser shall indemnify, defend, release and hold TETRA Chemicals, its employees, and its parent, subsidiaries, affiliated and related companies harmless from and against any and all damage, losses, costs, expenses, claims, demands and liabilities, including any attorneys' fees and costs of litigation ("Claims"), brought by any person or party when such Claims result from or arise out of or in connection with the Goods, Purchaser's use thereof and/or Purchaser's use or application of any information disclosed or provided by or on behalf of TETRA Chemicals, regardless of the cause of any such Claims.

12.2 Notwithstanding the foregoing, Purchaser's indemnity obligations in favor of TETRA Chemicals shall not apply to the extent any such Claims result from the deliberate action, gross negligence or willful misconduct of TETRA Chemicals or any of its employees, including any Claims resulting from the material failure by TETRA Chemicals to meet the quality standards as described in Article 6 herein. However, TETRA Chemicals shall not be liable for damages due to any lack of conformity of the Goods sold if, at the time of the conclusion of the agreement, the Purchaser knew or could not have been unaware of such lack of conformity or if the Goods sold have been used in a manner inconsistent with any handling specifications or instructions given by TETRA Chemicals.

12.3 TETRA Chemicals shall never be liable to Purchaser for any kind of indirect, consequential, incidental or punitive damages and/or consequential loss, cost or expense including without limitation to damage based upon lost goodwill, lost sales or lost profits, work stoppage, lost, delayed or deferred production, production failure, impairment of other goods or otherwise and whether arising out of or in connection with breach of warranty, breach of contract, misrepresentation, negligence or otherwise, and Purchaser hereby releases TETRA Chemicals in this regard.

#### **Article 13: Force majeure**

13.1. Force majeure shall be understood to mean circumstances beyond the control of either party which hinder a party's ability to comply with its contractual obligations hereunder, other than a party's obligation to pay money due and owing to the other party. Such circumstances shall include acts of God and extreme weather conditions, fire, the effects of governmental laws and regulations, or labor strikes within the affected party's organization, wildcat strikes, political strikes or other labour disturbances.

13.2. In addition, TETRA Chemicals, as supplier, may also claim force majeure in the event of labour strikes in companies other than that of TETRA Chemicals, unforeseeable standstill on the part of suppliers of raw materials and/or packaging material or on the part of other third parties on whom TETRA Chemicals is dependent, general transport problems, breakdown of plant or essential machinery, emergency repair or maintenance, breakdown or shortage of utilities, delay in deliveries of goods supplied by suppliers or subcontractors, sudden regulatory changes within the company of TETRA Chemicals, or a general lack of necessary raw materials or labour and other Goods or services necessary for the realisation of the agreed performance.

13.3. During periods of force majeure the delivery and other obligations resting on TETRA Chemicals shall be suspended. In the event that the period during which force majeure prevents compliance by TETRA Chemicals with its commitments lasts longer than 90 days, either party shall be authorised to cancel the agreement, without any obligation to pay further compensation existing in that case other than for Goods delivered to Purchaser prior to the occurrence of a force majeure event.

13.4. If, at the time when the force majeure comes into effect, TETRA Chemicals has already partially met its obligations, or is only partially able to meet its obligations, TETRA Chemicals shall be entitled to invoice the part already delivered or deliverable separately, and the Purchaser shall be bound to pay this invoice as if it were a separate invoice. This shall not apply, however, if the part already delivered/ deliverable has no independent value.

**Article 14: Disputes**

14.1 Contrary to the statutory rules governing the power of the civil courts, all disputes between the Purchaser and TETRA Chemicals shall be decided by the competent court in the district of Helsingborg. Notwithstanding, TETRA Chemicals shall still be empowered to summons the Purchaser before the competent court according to the law or applicable international treaty.

**Article 15: Applicable Law**

15.1 With the exclusion of the United Nations Convention on the International Sale of Goods Act, incorporated into Swedish law as (Lag om internationella köp., 1987:822), Swedish substantive law shall be applicable on any agreement entered into between the parties as well as on these terms and conditions.

**Article 16: Discrepancy**

16.1 In the event of any discrepancy between the English text and the text in a different language, the English text shall prevail.

These conditions are applicable with effect from 1 January, 2011 and are subject to change at any time without notice. The current version of these Conditions can be found at [www.tetrachemicals.com](http://www.tetrachemicals.com).

