

## GENERAL TERMS OF SALE AND PAYMENT FLEX POLYMERS BV

### **Section 1 - General provisions**

1.1 In these General Terms are understood by:

the Seller: Flex Polymers B.V.;

the Buyer : Any party which enters into an agreement of purchase and sale with the Seller;

1.2 These terms apply to all tenders and agreements of the Seller. The obligations of the Seller take effect only after a written order confirmation has been issued. General Terms of the Buyer, if any, do not apply. This is different only if one or several provisions of the General Terms of the Buyer have expressly been accepted by the Seller. Any agreements that deviate from these Terms are ineffective unless they have been expressly confirmed in writing by the Seller. The Buyer cannot derive any rights for future agreements from agreed upon deviations from these Terms.

### **Section 2 - Conclusion of the agreement**

2.1 All tenders by the Seller are without any engagement; the data and appendices provided by the Seller are of an informative nature and do not bind the Seller.

2.2 The agreement between the Seller and the Buyer is concluded only if and in so far as the Seller has forwarded a written order confirmation, unless the Seller has started immediately after the Buyer's order with the execution of that order, in which case the invoice is also considered as a written confirmation of the order. This means, among other things, that a tender offer can be revoked within 4 days after acceptance, without an agreement having been concluded.

### **Section 3 - Packaging**

3.1 If packaging is made available on loan by the Seller to the Buyer, then the packaging conditions of the "Association of Traders in Chemical Products" and of the "Association of the Dutch Chemical Industry" apply, which conditions are part of these terms and have been attached to these terms.

### **Section 4 - Measures and weights**

4.1 The measures and weights as mentioned in the measuring or weighing bills submitted by the Seller are determining for the quantity delivered.

4.2 The Buyer always has the right to be present or represented at the measuring or weighing in order to verify these.

4.3 The Seller always reserves the tolerances that are usual within its business with regard to all measures and weights.

### **Section 5 - Delivery and risk**

5.1 The agreed upon delivery period is indicative only, so that it does not apply as a deadline and the Seller is authorized to deliver around the agreed upon date, barring force majeure (section 10). In the event of late delivery the Buyer must offer the Seller a reasonable period within which delivery must take place.

5.2 The Incoterms 1990 apply to the delivery. Unless otherwise agreed upon in writing, delivery takes place ex the works or storage location to be designated by the Seller. The Seller is entitled to designate the transport method up to the place of delivery and to designate the carrier(s). Any special transport methods requested by the Buyer are at the Buyer's expense.

5.3 All goods, including those which are delivered free, travel at the expense and risk of the Buyer, unless otherwise agreed upon in writing.

5.4 If the Buyer does not or not timely meet its obligations, e.g. in the event of late acceptance of delivery, the Seller is entitled to entirely or partly suspend its obligations from the agreement or to dissolve all or part of the agreement, all this while reserving all other rights of the Seller.

### **Section 6 - Warranty**

6.1 The Seller grants no other warranty on the goods sold than those described below.

6.2 The Seller warrants that the goods sold will comply with the product specifications as mentioned in the order confirmation. The Buyer bears the risk and is liable for the consequences of the use of the goods, regardless whether these are used separately or in combination with other goods. Under no circumstances will the Seller's liability extend itself beyond the provisions in subsections 3, 4 and 7 of this section.

6.3 If the goods have been worked and/or processed by another party than the Seller, the warranties mentioned will apply only to the goods in an unworked state.

### **Claims**

6.4.1 The Seller is not held to compensation for any damage suffered by the Buyer or by third parties except for the provisions in sections 6.1 to 6.3, 6.5 and 6.7. In particular the Seller is not held to compensate for direct or indirect losses, including consequential loss and business interruption loss, which are caused by faults in the goods delivered by the Seller or advice given by the Seller. Evident defects and/or damage must be reported to the Seller forthwith. If the Buyer fails to report defects and/or damage within 8 (eight) days after the date of delivery or the date fixed for the delivery, any right of the Buyer to compensation for any damage whatsoever becomes void. This means that the Buyer must inspect the goods sold within 8 days after the said date, this in connection with the nature of the goods delivered.

6.4.2 An appeal by the Buyer to clearly visible shortages, damage or other visible defects in the goods delivered cannot be exercised towards the Seller if the Buyer has not made an entry of those shortage, damage or defects on the delivery ticket or the transport document, or has not had the carrier write a report thereof. Such an appeal cannot be made against the Seller if the Buyer has not reported this to the Seller within 24 hours after the delivery. This means that the Buyer must inspect the goods sold immediately after the delivery for visible shortages, damage or other clearly visible defects.

6.4.3 Evidence that the goods delivered do not comply with the agreement must be provided by the Buyer.

6.4.4 Unless the Seller has expressly ruled otherwise in writing, the Buyer is not entitled to settle any claim for damages for whichever reason or any claim concerning interest or costs incurred against any unpaid invoices from the Seller.

6.5 The Seller's liability is limited to the amount which is paid in the damage event concerned by the Seller's insurer. If the insurer, for any reason whatsoever, does not proceed with payment, the liability is limited to the amount of invoice, with a maximum of Euro 50.000,--. This section does not apply if the damage is the result of intent or gross fault of the Seller or of its employees in leadership functions.

6.6 Unless with written permission from the Seller, the Buyer is not entitled to return goods to the Seller.

6.7 The Buyer is held to keep harmless and protect the Seller against any damage and claims that may arise for the Buyer as a direct or indirect consequence of claims of third parties on the Seller or on the Buyer.

6.8 Without prejudice to the above provisions, the Seller, if it has acquired from a third party the goods delivered to the Buyer, will under no circumstances grant more warranties on these goods than it has obtained itself from that third party.

### **Section 7 - Reserve of ownership**

7.1 All deliveries are made under reserve of ownership. The ownership of goods brought into the power of the Buyer do not pass onto the Buyer until after the Buyer has fulfilled all claims concerning the counter-performance for these goods, for the work carried out or to be carried out for the benefit of the Buyer in virtue of the same agreements, for interest and collection costs as well as with regard to claims because of shortcomings in the fulfilment of the agreement. If the Buyer fails to fulfil its payment obligations or has difficulties meeting its payment obligations, the Seller is entitled to take back the goods of which the ownership has not yet passed onto the Buyer and which are still present on the Buyer's premises, without prejudice to the Seller's other rights.

For sales in the United Kingdom: The title in the goods shall pass to the Buyer only when payment in full has been received by the Seller for all goods whatsoever supplied (and all services rendered) at any time by the Seller to the Buyer. The Buyer shall permit the servants or agents of the Seller to enter on to the Buyer's premises and repossess the goods at any time prior thereto. As long as payment has not been effected the Buyer cannot sell, pledge or offer goods as guarantee or collateral security. Should the goods (or any of them) be converted into a new product, whether or not such conversion involves the admixture of any other goods or thing whatsoever and in whatever proportions, the conversion shall be deemed to have been effected on behalf of the Seller and the Seller shall have the full legal and beneficial ownership of the new products, but without accepting any liability whatsoever in respect of such converted goods in relation to any third party, and the Buyer hereby indemnifies the Seller in relation thereto. In the case of non-payment at the due date and upon demand the Buyer must return forthwith to the Seller all merchandise unpaid for.

### **Section 8 - Prices**

8.1 Unless otherwise agreed upon, all prices are in Euros excluded VAT and apply ex factory or ex the place of storage if specified.

8.2 If changes occur in one or several cost price factors - such as costs of materials, wages and exchange rates - after the agreement has been concluded, the Seller is entitled to take into account in the price the change(s) which occurred.

### **Section 9 - Payment**

9.1 The Buyer is obliged to pay the amount of invoice in full and on time. The Buyer is not entitled to pay the invoice by means of settlement. Payment must be made within 14 days after the date of invoice, unless agreed otherwise and mentioned in the order confirmation. If the Buyer does not (timely) fulfil its payment

obligations, he will then be in default immediately and without any further notification being required and the Seller will then be entitled to charge an interest of 1% (one per cent) per month over the outstanding amounts from the maturity date of the invoice to the date of payment in full.

9.2 Without prejudice to the other rights of the Seller, the Seller, if the Buyer fails to pay in time or if the Seller has a motivated doubt concerning the solvency of the Buyer, is entitled to demand immediate payment of all unpaid invoices, to suspend further deliveries, or to demand sufficient surety for payment.

Suspension of (part of) a payment because of an (alleged) counter-claim is allowed only if the Seller has agreed thereto in writing. There is question of a motivated doubt concerning the solvency of the Buyer in the event of (provisional) suspension of payment or bankruptcy of the Buyer or in the event of publications a possible doubt about its solvency can be derived.

9.3 In the circumstances mentioned in the previous section the Seller is

entitled moreover to dissolve the agreement with the Buyer immediately and without any intervention by any judicial instance, to suspend all or part of its obligations, without prejudice to the Seller's right to compensation for the damage suffered.

9.4 If the Buyer remains in default, the Seller will be entitled moreover to charge to the Buyer extra-legal debt collection costs in accordance with the debt collection rates advised by the Dutch Bar Association.

#### **Section 10 - Force majeure**

10.1 In the event that the Seller is prevented due to force majeure from complying fully or partly with the agreement, it will be entitled to suspend the execution of the agreement or to dissolve the entire agreement or the part of it which has not been executed.

10.2 By force majeure will be understood, amongst other things, war, risk of war, mobilization, riot, state of siege, strike or lock-out, fire, accident or illness of personnel, operational breakdown and reduction of production, lack of packaging material, transport stagnation, import restrictions or other government-imposed limitations, as well as any obstructing circumstance which does not depend exclusively on the Seller's will, such as late delivery of goods and services by third parties which are used by the Seller.

#### **Section 11 - Applicable law**

11.1 Dutch law is exclusively applicable to the tenders by the Seller and the agreements to be concluded by it.

11.2 The Vienna Treaty on International Purchase Agreements concerning movable properties of 11 April 1980 (the Vienna Purchase Treaty) does not apply and is hereby expressly excluded.

#### **Section 12 - Miscellaneous**

12.1 If any provision in these terms appear to be entirely or part invalid, then the remaining provisions remain fully in force. The parties undertake in that event to make instead of the invalid provision a new arrangement which approaches the invalid provision as much as possible.

12.2 An English text of these terms also exists. The Dutch text prevails over the English text.

#### **Section 13 - Competent judge**

13.1 Any disputes which may arise in the execution of or in connection with an agreement, will be brought before the competent judge in Breda, with exclusion of any other judge, unless the law prescribes otherwise.