

General Terms and Conditions of Sale and Delivery of Selectchemie GmbH, Hamburg ("Selectchemie")

1. General

The Buyer acknowledges that these **General Terms and Conditions of Sale and Delivery of Selectchemie** ("GTCSS"), as amended from time to time, shall apply to all present and future contracts of the Buyer with Selectchemie as seller of goods and/or services. The Buyer agrees that deviations from the GTCSS, in particular purchasing terms or other general terms and conditions of the Buyer, are not valid and do not become part of the contract with Selectchemie without the explicit written confirmation by Selectchemie, even if Selectchemie does not explicitly oppose them. In the event of a conflict between provisions agreed individually in writing in, for example, the order confirmation, on the one hand and the present GTCSS on the other hand, the individually agreed provisions shall prevail.

2. Contract

Unless so confirmed, sales offers submitted by Selectchemie are not binding. Price information as well as technical specifications, in particular as found in price lists, brochures, on the internet etc., are not binding for Selectchemie, provided nothing to the contrary has been agreed upon in writing. Only if confirmed by Selectchemie in writing, a purchase order of the Buyer is deemed accepted, and thus a contract between the Buyer and Selectchemie is concluded. If the Buyer requests short-term delivery without prior written confirmation by Selectchemie and Selectchemie agrees therewith, the Buyer agrees that the invoice, including the GTCSS, shall form the contract. Deviations from the purchase order in the order confirmation or the invoice of Selectchemie shall become part of the contract unless disputed by the Buyer in writing within five business days of receipt of the deviating order confirmation or the invoice.

3. Prices

Absent written arrangements to the contrary, all prices indicated by Selectchemie are understood to be net prices in Swiss francs, with no deductions of any kind. Buyer agrees that small-lot and short-term charges, customs as well as shipping, packing and insurance costs and costs of implementing special Buyer requirements shall be at the Buyer's expense and are invoiced separately. The Buyer shall likewise be exclusively liable for taxes, including value added tax. In the event of unforeseeable circumstances between the conclusion of the contract and delivery, in particular currency fluctuations and supplier prices, Buyer agrees that Selectchemie shall be entitled to adjust the prices accordingly.

4. Terms of Payment / No set-off

Absent other agreements in writing, payment shall be made by Buyer within 30 days from the date of the invoice (agreed due date). Buyer agrees that, after expiration of the payment period, the Buyer is in default without additional reminder and interest at the rate of 5% p.a. is due. The Buyer is not entitled and waives any rights to set-off claims of Selectchemie against alleged or proven counterclaims of the Buyer.

5. Delivery

The date of delivery specified in the order confirmation or invoice shall apply. Such dates of delivery are not to be deemed fixed deadlines unless so confirmed in writing by Selectchemie. The delivery date shall be extended if (i) Selectchemie does not timely receive the specifications required for the performance of the contract or if the Buyer subsequently alters the specifications and thereby causes a delay in delivery; or if (ii) Hindrances arise, e.g. delay of Selectchemie suppliers, delay in transit etc.) which Selectchemie cannot overcome despite application of due care, regardless of whether such hindrances arise at Selectchemie, at the Buyer or at a third party. In the event of late delivery, the Buyer shall have no right to indemnity, compensation for damages or additional performance. The Buyer agrees that, in case of delivery delays, the Buyer shall not have the right to withdraw from or rescind the contract. If Selectchemie is unable to deliver on time, or at all, due to events occurring at Selectchemie or its suppliers beyond its control, Selectchemie shall have the right to withdraw from the contract in whole or part. In particular, Selectchemie reserves the right to effect partial deliveries. For as long as the Buyer is in delay with a payment or its solvency is at risk, Selectchemie is entitled to hold back further deliveries. Selectchemie may withdraw from or rescind the contract if performance thereof is not ensured to Selectchemie's discretion within a reasonable time. Any additional claims of Selectchemie shall remain unaffected thereby.

6. Transfer of Benefit and Risk

Unless agreed otherwise in writing, benefit and risk shall pass to the Buyer no later than in the moment of the delivery of the goods to the carrier in which case Selectchemie has discharged its obligations. If dispatch is delayed at the Buyer's request or for other reasons not imputable to Selectchemie, risk shall pass to the Buyer at the time originally specified for delivery. From this moment on, the shipments shall be stored and insured at the Buyer's exclusive expense and risk.

7. Reservation of Ownership/Title

Until receipt of the entire payment, the goods sold to the Buyer shall remain the exclusive property of Selectchemie. Selectchemie is authorised to register this reservation of title in the Swiss Registry of Reservations of Title or in corresponding registries in other countries, and the Buyer shall be obliged to cooperate and execute upon first demand all the steps required for such registration.

8. Packaging Material

Selectchemie does not take back packaging and transport material unless a legal duty to do so exists. The Buyer agrees to dispose of the packing material at its own expense.

9. Place of Fulfillment

Place of fulfillment for goods and services shall be the place indicated by Selectchemie.

10. Inspections and Acceptance of Shipments

The Buyer shall inspect shipments within five business days of receipt and shall notify Selectchemie in writing and in reasonable detail of any defects within this term. After the elapse of this term and absent any such written defect notice the goods are considered accepted by Buyer.

11. Warranty

The warranty period shall commence upon arrival of the shipment at the place of fulfillment and shall, as a rule, last for 12 months, subject to an earlier lapsing due to the expiration date of a product (e.g. any kind of reagents etc.). The warranty given by Selectchemie is limited to the agreed materials, workmanship and appearance as specified in the certificate of analysis or in the order confirmation. No warranty is given for consumable materials. The Buyer's claim shall be limited to replacement or repair of the defective goods or reduction of the price, which is at the sole discretion of Selectchemie. Recession of the contract and abatements are excluded. The warranty shall expire early if the Buyer or a third party improperly undertakes or attempts alterations or repairs or if the Buyer, in the event of a defect, does not immediately give Selectchemie the opportunity to remedy the defect. Selectchemie shall not be liable for defects arising from inaccurate or imprecise information provided by the Buyer. Selectchemie shall further not be liable for defects arising in consequence of natural wear and tear, improper maintenance, improper use, excessive load or other causes not imputable to Selectchemie. Any additional liability of Selectchemie is excluded to the maximum extent permissible by law, in particular for indirect and consequential losses such as lost profits, unrealized savings or third party claims and, in particular, also for losses caused by officers, employees or auxiliary persons utilized by Selectchemie. In the event that a product liability claim is lodged against Selectchemie by a third party in respect of a defect not imputable to Selectchemie, the Buyer shall hold Selectchemie harmless for all costs incurred thereby.

12. Liability

Selectchemie shall only be liable in case of intention and gross negligence. Any liability of Selectchemie for negligence, for acts of auxiliary persons as well as indirect and consequential losses are excluded to the maximum extent permissible by law.

13. Confidentiality

Information supplied by Selectchemie to the Buyer for purposes of contract performance may not be used for other purposes of the Buyer nor disclosed to third parties. Selectchemie shall likewise not disclose the Buyer's confidential information and trade secrets to third parties.

14. Force Majeure

Interruptions of operations of the parties or of third parties, delays in delivery, failures of Selectchemie suppliers to deliver, lack of raw material or energy, interruptions in traffic, to the extent that such events were not foreseeable, as well as war, riots, strikes, lockouts, official orders and other cases of force majeure shall release the affected party from its obligations, in particular, the obligation to deliver or accept, as long as the interruption lasts and to the extent that it affects the party. If the delivery or its acceptance is thereby delayed by more than one month, the parties shall agree on how to proceed. If no agreement is reached, then at the earliest after another month, the parties may resort to the competent court pursuant to Art. 16, below, which shall then decide.

15. Import and Operating Permits and Restrictions

The Buyer shall obtain import or operating permits, if applicable, at its own expense and risk, provided nothing to the contrary has been explicitly agreed upon in writing. The Buyer shall be liable for import restrictions and similar official regulations.

16. Applicable Law, Jurisdiction, Collection Proceedings

Swiss law shall be applicable to any sale made by Selectchemie, to the exclusion of the Convention of the United Nations on Contracts regarding International Sales of Goods dated April 11th, 1980 ("Vienna Sales Law"). All disputes, controversy or claim arising out of, or in relation to, GTCSS and the contracts concluded thereunder, including the validity, invalidity, breach, or termination thereof, shall be resolved by arbitration in accordance with the Rules of Arbitration of the Swiss Chambers of Commerce in force on the date on which the Notice of Arbitration is submitted in accordance with these Rules. The arbitral tribunal shall consist of one arbitrator. The seat of the arbitration shall be Zürich. The language to be used in the arbitral proceedings shall be German. However, in the case of claims for payment of the purchase price, Selectchemie is also entitled to call the ordinary courts.