

General Terms and Conditions of FenS chemicals b.v.

General terms and conditions for the delivery of goods by FenS chemicals b.v., having its registered office and principal place of business at Goes, The Netherlands, and registered with the Middelburg Chamber of Commerce under registration number 1580/90).

Article 1 Applicability

- 1.1 These terms and conditions are applicable to all offers for purchasing and sales and agreements of FenS chemicals b.v., established at Goes, The Netherlands, hereinafter to be referred to as "FenS".
- 1.2 The purchaser, respectively the principal, is hereinafter referred to as "buyer".
- 1.3 The terms and conditions of other parties shall only be valid if and for as far as all parties have mutually and expressly agreed to it in writing.
- 1.4 "In writing" in these general terms and conditions is also meant to include: per e-mail, fax or any other method of communication, which in view of the prior art and the applicable views in society can be considered as being equal to it.
- 1.5 The acceptance or retaining of a quotation or order confirmation, in which is referred to these general terms and conditions, without comment from buyer, is considered as agreement within the applicability of these terms and conditions.
- 1.6 Should a (part of a) stipulation of these terms and conditions possibly not be applicable, this will not impede the applicability of the other stipulations.

Article 2 Validity of offers and prices

- 2.1 All offers, quotations, price-lists, delivery dates, etc., of FenS are non-binding, unless comprising a term for acceptance. If a quotation or a tender comprises a non-binding offer and this offer is accepted by buyer, then FenS still has the right to retract the offer within two days of receipt of the acceptance.
- 2.2 If the acceptance of an offer clearly deviates from the offer as described in the quotation, then FenS will not be bound to it. Then the agreement will not be concluded in agreement with this deviating acceptance, unless FenS decides otherwise.
- 2.3 Unless indicated otherwise, all prices listed by FenS are in Euros, exclusive of VAT, and based on the agreed delivery conditions.
- 2.4 If one or more of the cost price factors increases, after making an offer, or after reaching an agreement, FenS reserves the right to increase the price correspondingly, even if the increase is due to foreseeable circumstances.
- 2.5 Undiminished the general applicability of the stipulation in the previous clause, it is applicable particularly with respect to changes in import and export duties, taxes and/or euro-dollar exchange rates in comparison to the currency in which FenS has purchased the goods.
- 2.6 Offers or quotations don't automatically apply for repeat orders.
- 2.7 A combined price quotation does not oblige FenS to deliver a part of the goods included in the offer or quotation against a corresponding part of the quoted price.
- 2.8 In case of a price increase of the article of more than 15 % of the originally agreed price in view of clause 2.4 and/or 2.5 of this article, buyer has the right to dissolve the agreement without judicial intervention. The dissolution should take place in the form of a registered letter to this effect, sent to FenS within seven days after FenS has informed buyer that the agreed price will be increased with more than 15%. FenS is not liable for paying any compensation.
- 2.9 Unless agreed otherwise, the price includes the packaging. Durable packaging (for example Euro-pallets) remains the property of FenS. If the durables are not returned free of charge by return of post, then the packaging can be charged to buyer against cost price.

Article 3 Completion of an agreement

- 3.1 An agreement is reached between FenS and buyer:
 - after FenS has confirmed the order from buyer by means of forwarding the order confirmation.
 - when the payment in advance, as described in the quotation or order confirmation, has been received by FenS.
- 3.2 An agreement with FenS will only be reached under the limiting condition that buyer is sufficiently solvent to financially comply with the

agreement. One and other solely to be evaluated by the Credit Insurance Company.

Article 4 Implementation of the agreement

- 4.1 FenS will carry out the agreement to the best of its insight and abilities and conform the demands of good craftsmanship. One and other on basis of the current state of the art.
- 4.2 If necessary, and for as far as required for a good implementation of the agreement, FenS has the right to employ third parties for carrying out certain work activities.
- 4.3 If agreed that the agreement shall be carried out in phases, FenS has the right to postpone the implementation of parts that belong to a next phase until buyer has approved in writing the previous phase, before continuing with the next phase.
- 4.4 Temporary storage and/or preservation by FenS, at the request of buyer, is on account and risk of buyer.
- 4.5 Buyer should take care that all data that FenS indicates as being needed or of which buyer reasonably should understand that this is required for the implementation of the agreement, is forwarded timely to FenS. If the data for the implementation of the agreement is not forwarded timely to FenS, then FenS is entitled to postpone the implementation of the agreement and/or to charge the incurred additional costs conform the usual rates to buyer.

Article 5 Delivery time

- 5.1 The delivery time is based on the applicable working conditions at the time of the conclusion of the agreement and on the assumption of timely delivery of the materials and goods required for the implementation of the agreement.
- 5.2 If FenS requires data from buyer within the framework for the implementation of the agreement, then the delivery time will commence after buyer has put the data at the disposal of FenS.
- 5.3 The time periods in which the goods have to be delivered can never be considered as deadlines, unless when both parties have expressly agreed in writing differently. If FenS cannot meet its obligations from the agreement in time, then he should be declared in default in writing.
- 5.4 The delivery period commences at the last of the following dates:
 - The date of the conclusion of the agreement;
 - The day of receipt by FenS of the documents, data, permits, etc., necessary to carry out the agreement.
- 5.5 If a delay develops in a situation as meant in clause 1 of this article, then the delivery time will be extended for such a period as can be considered reasonable in view of the circumstances.
- 5.6 In case buyer is in default in meeting payment and purchase obligations that follow from any agreement concluded with FenS, at the very least the delivery time will be postponed for the duration thereof.
- 5.7 The delivery time is considered to have been met when the goods are ready for shipment in the warehouse or in a place designated by FenS for this purpose as a distribution point and buyer has been informed about it verbally or in writing.
- 5.8 If FenS has exceeded the indicated delivery date by up to 31 days, after buyer has summoned FenS in writing to deliver, this does not give buyer the right to suspend or not to comply with its part in the agreement obligations, nor in any other agreement concluded with FenS, nor gives a right on compensation for damages.

Article 6 Delivery

- 6.1 Delivery occurs conform the agreed delivery conditions. Interpretation of the delivery conditions takes place on basis of the INCOTERMS 2000, issued by the International Chamber of Trade and Commerce in Paris, France.
- 6.2 Buyer is obliged to accept the agreed goods at the time of delivery by FenS, or has been delivered by a third party, or will be put at the disposal of buyer conform the agreement.
- 6.3 If buyer refuses acceptance of the goods or is negligent in providing information or

instructions necessary for the delivery, then FenS has the right to store the goods on account and at risk of buyer.

- 6.4 Shipment and/or transportation of the goods is carried out by FenS in a manner decided on by FenS, but on account and risk of buyer. FenS is not liable for damages, irrespective of which nature, in connection with the shipment and/or transportation, either or not with respect to the goods. One and other unless explicitly stated otherwise by the parties in an agreement in writing.
- 6.5 The risks concerning the delivered goods are transferred to buyer at the moment of delivery.
- 6.6 FenS is entitled to deliver the goods in partial deliveries, unless it is deviated from it because of agreement, or partial deliveries are of no independent value. FenS has the right to invoice for partial deliveries separately. Invoices issued for partial deliveries have to be paid for by buyer in accordance with the payment terms provided for in article 9.
- 6.7 If buyer has placed an order for delivery at buyer's request, then the goods must be ordered for actual delivery and payment within the agreed time period. If within the agreed time period the order for actual delivery does not occur then FenS has the right to charge for storage and administration costs.

Article 7 Measurements, weights, materials, colours, etc.

- 7.1 For as far as FenS makes use of data supplied through or on behalf of buyer for the implementation of the order, no matter how this data is supplied to Fen S, then buyer is responsible for the correctness and completeness of the data and F & S is entitled to make use thereof. If there is a difference between the provided data and the reality then FenS is entitled to indemnification or additional payment.
- 7.2 Samples, brochures, drawings, models, colour specifications, dimensions, weights and other descriptions shown and/ or provided, are as accurate as possible, but only serve as an indication. No rights can be derived from it, unless parties have expressly agreed in writing otherwise.
- 7.3 Specifications concerning composition percentages or mixture ratios of the products are only approximate averages. FenS expressly reserves the right on having deviations that, depending on the case, and despite the required carefulness during the manufacturing of products and the determination of values, are unavoidable within reasonable margins of fault tolerances.
- 7.4 The offers, the drawings and the calculations, cost estimates, descriptions, diagrams, models, samples, designs, etc, produced or issued by FenS, as well as the tools and materials used by FenS remain the property of FenS, even if costs have been charged to buyer for these. Buyer guarantees that none of the above items are copied or get into the hands of third parties. FenS can demand the return of the above items at any time.

Article 8 Retention of ownership

- 8.1 FenS retains ownership of the delivered and still to be delivered goods until the time that buyer has fulfilled the payment obligations to FenS in connection with it. These payment obligations comprise the payment of the purchase price, increased with claims in connection with work carried out in connection with deliveries, as well as claims for possible damage in connection with failure by buyer to meet its obligations. In this matter, compensations due because buyer does not meet its obligations.
- 8.2 Buyer is neither authorised to pawn the goods that come under the retention of ownership, nor to burden these in any other manner.
- 8.3 If third parties seize the delivered goods that are under retention of ownership, buyer is obliged to inform FenS as soon as can reasonably be expected.
- 8.4 Buyer is obliged to insure the goods that are delivered under retention of ownership against fire, explosion and water damage, as well as against theft, and should hand over the policy of this insurance for inspection at the first request.
- 8.5 Goods delivered by FenS that come under the retention of ownership by virtue of clause 8.1 may only be resold within the framework of normal

company practice, and may never be used as legal currency.

- 8.6 All costs and damages in connection with or incurred with respect to the goods during the period that the right of property is not yet transferred, are on account of buyer.
- 8.7 In case FenS makes a claim under the retention of ownership, then the agreement concluded in this matter is considered to be dissolved, undiminished the right for obtaining compensation for damages, lost profits and interest.

Article 9 Payments

- 9.1 Payment of the agreed price should be made within 30 days after the invoice date, unless expressly agreed otherwise in writing. Payment has to be made in a manner as indicated by FenS and in the currency as stated on the invoice. Objections about the height of invoiced amounts do not postpone the payment obligation.
- 9.2 If buyer does not pay within the 30 days term, then buyer is legally in default. Buyer then owns an interest rate of 2 % cumulative per month, unless the legal interest rate is higher, in which case the latter will apply. The interest over the claimable amount will be calculated from the time buyer is in default until the time that payment is made of the full amount.
- 9.3 FenS has the right to assign the payments made by buyer firstly to settlement of the costs, subsequently of the outstanding interest, and finally to settlement of the main sum and current interest. FenS can refuse an offer of payment, without being in default, if buyer designates a new order for the assignment of the payments. FenS can refuse the repayment in full of the amount due if this payment does not also include the outstanding interest and the current interest as well as the costs incurred.
- 9.4 All payments should be made to the FenS bank account, without deductions or debt settlement. Settlement can only be carried out by means of the credit notes drawn up by FenS.
- 9.5 Payment shall be considered to have been made when the FenS bank account has been credited, or through cash payment on the date of the receipt.
- 9.6 Each party is responsible for payment of the bank charges of their own bank.
- 9.7 Wit respect to unpaid claims on buyer, FenS has the right on retention of goods of buyer that have been put at the disposal of FenS by or on behalf of buyer.
- 9.8 If a discount is agreed upon, the discount lapses by right on the date that the payment term, as mentioned in clause 1 of this article, is expired.
- 9.9 If buyer is in default with respect to meeting one or more obligations, then all reasonable costs, both judicial and extra-judicial, incurred by FenS for the implementation of the agreement and the general terms and conditions, will be, without notice being served, on account of buyer. The extra-judicial costs will amount to at least 15 % of the main sum, with a minimum of € 50,00.
- 9.10 If FenS has incurred higher costs, which reasonably were necessary, then these costs will also be indebted to FenS as compensation.

Article 10 Complaints and guarantee

- 10.1 Unless buyer has expressly imposed special quality requirements in writing, which have been accepted by FenS in writing, delivery will be carried out by FenS conform the standard FenS specifications.
- 10.2 Complaints concerning incorrect delivery and deficiencies in delivered goods will only be dealt with when reported immediately after this has been discovered, in any case at the latest 14 days after receipt of the goods. The complaint should be in writing and include the packer's number.
- 10.3 Buyer is obliged to place the goods, about which a complaint has been made, at the disposal of FenS so that the complaint can be examined, respectively the goods inspected.
- 10.4 If the complaint is justly, FenS is entitled to correct within a reasonable time period the deficiency or to replace the defective part entirely. If correction or replacement is not possible (anymore), then FenS is entitled to take back the delivered goods against crediting the value of the purchase price.
- 10.5 The guarantee on basis of this article will lapse, so that no complaints will be dealt with, if - other than in emergency situations - third parties have carried out repairs to delivered goods without prior written permission by FenS.

- 10.6 If FenS replaces goods in order to meet its guarantee commitments, then these replaced goods become the property of FenS.
- 10.7 Goods returned for replacement or repayment / crediting of the purchase price are returned on account and risk of buyer, and always only after authorisation by FenS.

Article 11 Liability

- 11.1 The liability of FenS in connection with the concluded agreement is strictly limited to observance of the obligations as described in article 10; each claim for compensation, directly or indirectly, is excluded, unless in case of malicious intent or gross negligence on the part of FenS.
- 11.2 The exclusions as meant in the previous clause also include the liability for costs, damages and interests, developed as a direct or indirect consequence of:
- infringement on patents, licences, or other rights of third parties as a consequence of the use of data supplied by or on behalf of buyer (article 7).
 - exceeding the delivery date (article 5).
 - force majeure (article 12).
 - advice and instruction about use and application.
 - lacking drawings, calculations, brochures, samples, etc., indicated properties (article 7 clause 2).
 - damages of third parties
 - incomplete data supplied by buyer, unless FenS should have been aware of this incorrectness or incompleteness.
- 11.3 Buyer is bound to compensate FenS for all costs, damages and interests that might arise directly or indirectly as a consequence of judicial claims imposed by third parties against FenS with respect to the implementation of the agreement, and which, by virtue of these terms and conditions, should not come on account of FenS. Buyer is obliged, by virtue of the agreement, to comply with the request for indemnification.
- 11.4 A possible claim for damages against FenS is in all cases limited to the damage that could be foreseen as a possible consequence of the action that obliged to pay compensation, with a maximum to the amount that buyer has paid FenS within the framework of the agreement.
- 11.5 Undiminished the stipulations in previous clauses of this article, FenS will never be liable for compensation of damages to a higher amount than the insured amount, for as far as the damages are covered by an insurance concluded by FenS.

Article 12 Force majeure

- 12.1 Parties are not bound to observance of any obligation if they cannot meet it because of circumstances beyond their control, and which should not be for their responsibility, neither by virtue of the law, a juridical act or the general concepts applying in commerce.
- 12.2 In these general terms and conditions force majeure is understood to be, in addition to what is included about it in law or jurisprudence, all external causes, foreseen or not foreseen, on which FenS cannot exert any control, but because of which FenS is unable to meet its obligations.
- 12.3 FenS also has the right to refer to force majeure if the circumstances that prevent (further) observance occur after FenS should have met its obligations.
- 12.4 The parties can postpone the obligations during the period that the force majeure continues. When this period last longer than two months, then each party has the right to dissolve the agreement, without any obligation to pay compensation for damages to the other party.
- 12.5 For as far FenS has partially met its obligations from the agreement at the time the force majeure has occurred, and an independent value can be assigned to the part complied with, respectively the part still to be complied with, FenS will have the right to separately invoice the part already complied with, respectively the part still to be complied with. Buyer is obliged to pay this invoice as if it is related to a separate agreement.

Article 13 Postponement and dissolution

- 13.1 In the event of prevention of FenS to meet its agreement obligations as a consequence of force majeure, FenS has the right, without legal proceedings, to partially or completely dissolve the agreement by means of a letter to that purpose.
- 13.2 After dissolution, as intended in the previous clause, buyer is obliged to pay the proportionally

indebted amount and to accept the goods that are still covered by the agreement, and if in default FenS will have the right to have the goods stored on account and risk of buyer.

- 13.3 Undiminished the stipulations in the other articles in these terms and conditions, the agreement concluded between FenS and buyer will be dissolved, without necessity for judicial proceedings and without any notice of default being served, at the date buyer is declared bankrupt, (provisional) application for suspension of payments is made, seizure under a writ of attachment is made, is put under legal restraint, or has lost otherwise the power of disposition or legal capacity with regard to its capital or parts thereof, unless the trustee or official receiver recognises the obligations following from the agreement.

Article 14 Applicable laws / competent judge

- 14.1 Dutch law applies exclusively in the agreement between FenS and buyer. Any conflicts arising from this agreement shall be resolved according to Dutch law.
- 14.2 In deviation of the stipulation in clause 1 of this article, the legal consequences of the retention of property of the goods destined for export, in case the legal system of that country, respectively that state, where the goods are destined, are more favourable for FenS, will be controlled by that law.
- 14.3 Possible conflicts will be decided upon by the competent Dutch judge, and FenS has the right to bring the case in court in the district where FenS has its offices, unless the magistrate at the place of conflict is competent.
- 14.4 With regard to a conflict, as a result of an agreement concluded with a principal established outside the Netherlands, FenS is entitled to act conform what is stipulated in clause 3 of this article, or - according to its choice - to bring the conflict to court in the country where buyer is established and before a competent judge.

FenS chemicals b.v. may provide translated versions of these General Terms and Conditions for informational purpose only. However, the original Dutch language version of these General Terms and Conditions will apply in the event of any disagreement over the meaning or construction of any provisions of these General Terms and Conditions.



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