

## GENERAL CONDITIONS OF SALE

### 1 General

These General Conditions of Sale apply to all orders and confirmation of orders for, and the subsequent sale and delivery of, products (the "Products") by Akzo Nobel K.K. ("AkzoNobel") to a third party ("Buyer"). The signing or (tacit) acceptance of any documents to which other terms and conditions have been declared applicable by Buyer, will not be deemed to imply acceptance of those terms and conditions. The acceptance of general terms or conditions of Buyer can only be proven with a document signed by AkzoNobel that makes reference to these General Conditions of Sale.

### 2 Purchase Orders

- 2.1 A purchase order for a Product is only valid and binding after it has been confirmed in writing by AkzoNobel and in accordance with the terms and conditions of such confirmation. Quotations made by AkzoNobel are not binding unless explicitly stated otherwise.
- 2.2 Buyer will submit purchase orders in writing and in accordance with the ordering process notified to it by AkzoNobel.

### 3 Delivery

- 3.1 The delivery terms that apply to the delivery of a Product are as set out in the confirmation of the purchase order. To the extent that the delivery terms in the confirmation of a purchase order refers to INCOTERMS, delivery terms are interpreted in accordance with the INCOTERMS latest published by the International Chamber of Commerce.
- 3.2 Quantities are stated with a tolerance of 0,5%. The quantities stated in shipping documents such as weight certificates, bills of lading, sea-way bills, liner-way bills, and freight receipts, will be deemed correct unless proven to be incorrect.
- 3.3 Any reference to a delivery time is deemed approximate unless explicitly confirmed by AkzoNobel. Delivery of a Product will take into account the lead time for that Product as notified by AkzoNobel.
- 3.4 Promptly after unloading Products, Buyer will return to AkzoNobel all reusable packaging material, freight prepaid, failing which AkzoNobel will be entitled to charge Buyer a fee at AkzoNobel's standard charge.
- 3.5 If Buyer's shipping instructions are delayed or provide for later delivery than specified in the confirmation of the purchase order, delivery will be deemed to have occurred at the premises of AkzoNobel and AkzoNobel will store the Products for the risk and benefit of Buyer and at Buyer's expense.

### 4 Transfer of Title and Risk

- 4.1 To the extent permitted by applicable law, title to a Product remains vested in AkzoNobel until Buyer has fulfilled all outstanding payment obligations in relation to any Products. AkzoNobel has the right to enter into any of Buyer's premises to collect Products to which is has retained title pursuant to this section 4.1.
- 4.2 Notwithstanding section 4.1 above, Buyer is entitled to use the Products as an intermediate in its normal course of production and the reservation of title applies on the portion of the Products which is intact from time to time.
- 4.3 The risk of loss of, or damage to, a Product passes to Buyer upon delivery of that Product in accordance with the delivery terms agreed pursuant to section 3.1 and section 3.5 above.

### 5 Price

- 5.1 The price for the Products is exclusive of VAT (or any equivalent sales tax) and any applicable VAT (or any equivalent sales tax) will be charged in addition to the price.
- 5.2 Prices are based on the exchange rates as well as the duties, taxes and other public charges applicable at the time of the confirmation of a purchase order. To the extent that there is a change in the relevant exchange rates or in the applicable duties, taxes or public charges prior to issuing an invoice for the Products, AkzoNobel has the right to adjust the price accordingly.
- 5.3 To the extent that there is an increase in the prices of energy, raw materials or other resources necessary for the manufacture of the Product occurring prior to the agreed date of delivery, AkzoNobel has the right to increase the price of the Product ordered in proportion thereto by giving written notice to Buyer, provided that Buyer will have the right to cancel the relevant order within seven calendar days of following receipt of such notice.

### 6 Payment

- 6.1 The price will be paid in accordance with the payment terms stated on the invoice to a bank account designated by AkzoNobel. If Buyer fails to pay any amount when due, then AkzoNobel will in addition to any other remedies available be entitled to:
- (i) default interest of 1% per month on the amount outstanding;
  - (ii) compensation from Buyer of all costs incurred in order to obtain payment of the amount due;
  - (iii) suspension of its performance until payment of all outstanding debts has been received.
- 6.2 Amounts paid by Buyer will be credited by AkzoNobel against the debts receivable by AkzoNobel from Buyer in the chronological order of the due dates of the debts.

### 7 Warranties

- 7.1 AkzoNobel warrants that upon delivery of a Product to Buyer, that Product meets the specifications applicable to that Product and the Product is free from any lawful security interest or encumbrance unknown to Buyer. AKZONOBEL

MAKES NO OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, NOR DOES AKZONOBEL WARRANT THAT THE PRODUCT IS MERCHANTABLE OR FIT FOR ANY PARTICULAR PURPOSE.

Recommendations or statements about the Products will not constitute a warranty.

- 7.2 Buyer will determine for itself by tests or otherwise whether a Product is suitable for the intended use with due regard to all factors influencing such use. If AkzoNobel has agreed to carry out tests or research on behalf of Buyer, AkzoNobel will have no responsibility or liability for: (i) use of the results for a certain purpose; (ii) interpretation of developed data; or (iii) deviations from the results because of factors other than defined parameters or appearing outside the laboratory environment.

## **8 Limitations of Liability**

- 8.1 AkzoNobel will not be liable for loss of profits, loss of production, indirect or other special, incidental or consequential damages, howsoever arising. Subject to section 8.2 below, AkzoNobel's sole liability and Buyer's exclusive remedy for any cause of action arising out of the sale or use of the Products, is expressly limited to (i) replacement of the Product or (ii) refund of the price for the Product in the event of a justified cancellation of the order for the Product.

- 8.2 Nothing in these General Conditions of Sale limits or excludes AkzoNobel's liability for fraud or for death or personal injury caused by negligence. To the extent permitted by applicable law, AkzoNobel's liability for personal injury as a direct result of the use of a Product that does not conform with the warranty set out in section 8.1, will be limited to EUR 1 million (or the equivalent thereof in the applicable currency) per individual claim or series of related claims and EUR 2.5 million (or the equivalent thereof in the applicable currency) per calendar year. AkzoNobel will not be liable in respect of any claim in relation to a Product to the extent that Buyer has not used the Product in accordance with the applicable specifications or (other) product information, or to the extent that Buyer has not maintained continuous and adequate production controls, including regular inspection and tests of intermediates and end-products.

## **9 Inspection, Claims, Notification**

Upon receipt of a Product, Buyer will inspect the same, exercising such care as is customary or appropriate in the circumstances. Any claims concerning the quantity or apparent quality of Products delivered will be submitted by Buyer to AkzoNobel within 30 calendar days from the date of delivery of the Products. Any claims concerning inherent defects in a Product will be submitted by Buyer to AkzoNobel within 6 months from the date of delivery following receipt of the Product. Buyer's failure to give notice of any claim beyond the periods referred to in the section 9 will constitute a waiver by Buyer of all claims with respect thereto. Products will not be destroyed or returned to AkzoNobel without prior written consent of AkzoNobel.

## **10 Force Majeure**

Neither party will be liable for a delay in performing or failure to perform any of its obligations as a result of any circumstance beyond its reasonable control including (but not limited to) strikes or other labor conflicts, shortage of, or a failure or delay in the supply of, raw materials or other production resources, unavailability of transport facilities, plant break-down, fire and explosions, acts of God, war and warlike conditions. The party suffering the inability to perform will forthwith notify the other party of the occurred circumstances and the estimated delay as a result thereof. Each party is entitled to terminate affected orders, in the event a party is unable to perform for a period exceeding 3 months because of circumstances referred to in this section 10.

## **11 Hardship**

If, prior to the date of delivery of a Product, the circumstances that existed at the date of the confirmation of the purchase order for that Products should change to such an extent that the fulfillment of one or more of the obligations should become unreasonably burdensome and such change could not have been reasonably foreseen by the affected party, then AkzoNobel and Buyer will seek to remove such hardship with the objective to preserve the original intention and balance between the parties. If no agreement is reached within a reasonable time, the affected party will be entitled to terminate the order for the non-performed shipments.

## **12 Export Control**

Buyer will comply with all applicable export control laws and regulations. Buyer will not sell, (re-)export, license or otherwise transfer, directly or indirectly, any Product or any information or technology related to the Product except in accordance with applicable export control laws and regulations. Buyer will take all steps necessary to comply with the above laws and regulations (including obtaining a license) and not take any actions that would cause AkzoNobel to be in violation of those laws and regulations.

**13 Governing Law, Dispute Resolution**

These General Conditions of Sale and any orders and confirmations of orders to which these General Conditions of Sale apply will be governed by and construed in accordance with Japanese law. All disputes with respect to these General Conditions of Sale or orders or confirmations of orders to which these General Conditions of Sale apply will be exclusively submitted to the competent court where AkzoNobel's principal place of business is located.

**14 Prevailing Language**

To the extent that there is a discrepancy or conflict between the English version of these General Conditions of Sale and these General Conditions of Sale in any other language, the English version shall prevail to the extent of the discrepancy or conflict.