General conditions of sale and supply of BASF Nederland B.V.

General conditions of sale and supply of BASF Nederland B.V., established according to its articles at Arnhem, registered with the Chamber of Commerce for Centraal Gelderland under number: 09022883.

Applicability

1a. These conditions apply to all our offers, agreements and supplies.
1b. Departures therefrom apply only if and insofar as expressly agreed in writing.

Offer and acceptance

2a. All our offers are made without obligation. We are entitled to revoke our offers within five working days following receipt of acceptance by our contracting party. The description of what has been agreed in the written confirmation to be sent by us to our contracting party serves inter alia as evidence thereof. This must be returned to us within eight working days following receipt thereof duly signed to indicate agreement. In the absence of any response on the part of our contracting party within this time limit, the agreement will be deemed concluded as confirmed.

2b. If we change our prices following the conclusion of an agreement but before or during execution thereof, we shall be entitled to charge the amended price fully to our contracting party as from the date of its being increased.
In the event of a price increase other than through government measures, our contracting party will nonetheless be entitled to cancel the agreement – insofar as not yet executed – provided this is done in writing within five working days following the date on which we have notified our contracting party of the price increase.

Delivery dates

3a. Unless expressly agreed otherwise, quoted delivery dates will never be regarded as a deadline. In the event of delivery not being made on time, we shall be in default only after notice of default in writing.
If a deadline is exceeded, or in the event of default as indicated above, our contracting party will not be entitled in damages but will only have the alternative of nonetheless seeking due discharge within a reasonable period to be decided by ourselves or of dissolving the agreement.

3b. If an essential delivery date is exceeded, or in the event of default as indicated above, our contracting party will not be entitled in damages but will only have the alternative of nonetheless seeking due discharge within a reasonable period to be decided by ourselves or of dissolving the agreement.
3c. Exceeding any time limit as a result of force majeure entitles both parties to dissolve the agreement by so advising the other party after the period of force majeure has continued for a month, in each case without the one party being liable towards the other in damages. Notification in terms of the previous sentence will be made within one week following expiry of the time limit indicated therein.

3d. Force majeure for the purpose of these general conditions means inter alia any circumstance beyond our control and commission, whether or not foreseeable at the time of concluding the agreement, as a result of which due discharge thereof by ourselves cannot reasonably be demanded by our contracting party, such as inter alia (but not exclusively) war or comparable or related circumstances, business interruption, strike, lock-outs and other labour disputes, lack of raw materials, traffic disruption and transportation difficulties, non-performance or force majeure on the part of third parties retained by us for the execution of what was agreed with our contracting party, and government measures.

Inwards check, complaints, liability

4a. Although our products are produced with the greatest possible care and are checked before they leave the factory for, amongst other things, quality, percentage composition and mixing ratios, and defects of design, manufacturing or assembly, our contracting party remains obliged to check the products itself, or have them checked, within a reasonable period following receipt thereof.

4b. The risk of products being unsuitable as to their nature for the application(s) for which our contracting party wishes to use them remains with our contracting party, irrespective of what we may have indicated with regard to composition and potential applications.

4c. On pain of its right to lodge a complaint lapsing, any complaints connected with visible irregularities in the products and/or shortfall in the quantity supplied will be notified by our contracting party on the delivery note on delivery of the products or notified to us immediately following delivery; all other complaints must have reached us in writing within two weeks following delivery of the products or within two weeks after our contracting party has become aware of any irregularities or – also with a view to the provisions of paragraph 4a above – after they could have been investigated, including an accurate description of the complaint(s). We can no longer accept complaints after a period of 6 months following delivery of the products has elapsed.

The products in respect of which a complaint is lodged will be carefully kept by our contracting party and made available immediately on request for further examination by ourselves or by a third party to be appointed by us. Any right to lodge a complaint lapses if our contracting party fails to discharge these obligations or to do so fully.

4d. Complaints may not be made if the item purchased displays one or more impairments that fall within a reasonable production tolerance. Nor may they be
made with regard to irregularities that are the result of normal wear and tear, inexpert or careless use and/or storage, excessively heavy stress or inexpert maintenance, repairs or changes by our contracting party or third parties made or applied beyond our knowledge and/or if the fact that the products do not comply, is due to any provision by the authorities. If the technical understanding in the industry or the government provisions relevant in this connection should change, we cannot be held liable simply on that basis and our contracting party will not be entitled to complain simply for that reason.

4e. In the event of our contracting party complaining with due regard to the provisions of 4a to 4d above and our regarding his complaint as justified, we shall at our discretion replace the products concerned, whereupon the products replaced remain our property, or allow a reduction in the price. The rights derived by our contracting party from the above provisions may not be transferred nor passed on by legal operation.

4f. Our contracting party may derive no rights from the provisions under paragraph 4e above if and insofar as he has failed to discharge his obligations towards us.

4g. Discharge of our obligations regarding complaints as described under paragraph 4e above is regarded as sole and entire compensation. No further entitlement will be vested in our contracting party except in the case of wilful act or gross negligence on our part; this excludes wilful act or gross negligence by subordinates or others used by us for the purpose of executing what was agreed with our contracting party.

4h. Our contracting party will hold us harmless against all claims, irrespective of their nature and extent, by third parties and waives any recourse against us in this connection.

Delivery, Incoterms

5a. Unless expressly agreed otherwise in writing, the goods purchased will be despatched on our account and at the contracting party’s risk. Delivery will be deemed made at the time of despatch. The method of despatch and despatch route will be at our discretion. This accords entirely with Incoterms CPT.

5b. If notwithstanding the provisions of paragraph 5a above, delivery is agreed in accordance with other clauses customary in the trade, such as FOB, CIF and CFR, such clauses will be applied with the meaning that they have according to the most recent Incoterms.

5c. If the agreed Incoterms clause places responsibility for despatching the products on our contracting party and, at his request, we arrange this for him and/or on his behalf, the method of despatch and the despatch route will be at our discretion and we shall not be liable for loss-causing events of any kind whatever occurring during or in connection with despatch, except in the case of wilful act or gross negligence on our part; this excludes wilful act or gross negligence of subordinates and/or auxiliaries retained by us.

5d. If returns are made for any reason whatever, the associated expense will be borne by our contracting party unless agreed otherwise, while the goods will then also
travel at our contracting party’s risk. The returns are completed only following actual receipt of the goods.

Payment

6a. Unless agreed otherwise in writing, payment will be made before the 15th day of the month following that of invoicing by remittance or transfer to one of the accounts stated on the invoice, strictly net and without offset of any kind whatever. Lodging of a complaint will not wholly or partly suspend our contracting party’s payment obligation.

6b. The time of payment is that on which the sum in question is credited to our account. Incoming payments serve to settle the oldest of items outstanding with us, including interest and charges, even if our contracting party has declared otherwise in this connection.

6c. We are entitled to require our contracting party at any time to put up security to our satisfaction for the discharge of his payment obligations towards us.

6d. Any deferral of payment granted by us to our contracting party applies only if and insofar as we have granted this in writing.

6e. We are entitled to supply in parts and, if an order is executed by instalments, to invoice each part individually. Everything stated in this article will apply analogously.

6f. If we consider a complaint to be justified before the payment period has expired:
   - if a price reduction is decided, our contracting party will receive a credit note from us for the sum concerned,
   - if replacement is decided, and we have had the replaced products returned to us by our contracting party before expiry of the payment period, we shall issue a credit note for the products returned and the replaced products will be re-invoiced. In all other cases, our contracting party remains liable to pay the invoiced amount by the original due date strictly net and without offset.

6g. On late payment by our contracting party of the full sum due to us, he will be in default towards us de jure without a reminder or notice of default being required. As from that date, we shall at our discretion be entitled to regard all our obligations under the agreement and any other agreements with our contacting party as suspended or to dissolve all or part of such agreement(s).

6h. The provisions of 6f above apply analogously if our contracting party, having been invited by us to do so in writing, fails to put up security to our satisfaction within seven days thereafter.

6i. Without prejudice to the other rights vested in us, our contracting party will pay us interest on the arrears of 3% above the Nederlandsche Bank’s discount rate as from the date on which payment should have been made to the time when he has actually paid; this also applies to sums for which we have granted deferment of payment.

6j. Apart from our other claims in damages, all costs that we incur – at law and otherwise, the latter being fixed at 15% of the capital sum – in connection with our contracting party’s failure to observe any obligation towards us will be borne by our contracting party.
6k. Should our contracting party request suspension of payments or make an application in bankruptcy, should bankruptcy be requested, if any of his assets is attached and, above all, in all cases where our contracting party must also seriously expect that he cannot discharge his obligations towards us, he will so advise us immediately by telephone and confirm such advice in writing.

6l. Should any of the situations referred to under 6k above arise, we shall at our discretion be entitled to dissolve the agreement(s) current between us and our contracting party or to suspend our obligations arising thereunder, without prejudice to our other rights. Everything that our contracting party may owe to us at that point will immediately become fully repayable.

6m. Should our contracting party feel that the balance that he owes according to the documents issued by us is incorrect, he will lodge written protest against it within tens days precisely indicating the erroneous entries alleged by him. His right to lodge protest against the balance will lapse on his failing to lodge such protest.

6n. All cases where we are entitled to suspend our obligations under our agreement(s) with our contracting party or to dissolve the agreement(s) will be regarded as an attributable failure by our contracting party to discharge his commitments and will oblige him to pay costs, damages and interest.

6o. Should we in any event opt for suspension of our obligations, we shall reserve our right to decide subsequently at any time we desire to dissolve the agreement wholly or partly.

Reservation of title

7a. Delivery will be made subject to reservation of title. This reservation applies to payment requests for all products supplied or to be supplied by us to our contracting party under any agreement, to claims on account of shortcomings by our contracting party in discharging such agreement(s), and to services provided and work undertaken by us for or on behalf of our contracting party.

7b. Should our contracting party be late in payment of if there is good reason for assuming that he will not pay or will pay late, we shall be entitled to recover the products supplied by us which have remained our property in accordance with the provisions of 7a above. Insofar as necessary, we consider ourselves irrevocably authorised by our contracting party to remove the products concerned or procure their removal wherever they are situated. Removal will apply as dissolution of the agreement(s) concluded with our contracting party.

7c. If we recover products in accordance with the provisions of 7b above, our contracting party will be credited on the basis of the values to be fixed by ourselves of such products at the time of recovery, less the cost incurred on their recovery.

7d. Our contracting party is entitled, if and insofar as necessary in connection with the normal conduct of the business, to dispose of products subject to reservation of title. Should he make use of this entitlement, our contracting party undertakes only to supply the products to which the reservation of title applies to third parties similarly subject to his own or our reservation of title. Moreover, our contracting party will similarly undertake to grant us a silent pledge immediately on request...
concerning the receivables that he himself has or will obtain against the third parties concerned.
Normal conduct of the business does not mean the providing of security to third parties, in whatever way and in whatever form.

7e. Our contracting party undertakes to advise us as rapidly as possible in the way indicated in 6k above should a third party claim rights to products supplied by us, to which a reservation of title attaches as provided by 7a above.

Partial application/alteration

8a. Should one or more provisions of our agreement(s) with our contracting party prove to be invalid or not entirely valid, the other provisions will remain fully effective. A suitable arrangement will take the place of any invalid provisions, that will approach the parties’ intentions and the economic result aimed at by them as closely as possible in a legally effective way.

8b. We are entitled to change these general conditions if desirable or considered necessary.

Place of execution / applicable law / competent court

9a. The place where our contracting party must discharge his obligations towards us is Arnhem.

9b. All our agreements are governed by Dutch law.

9c. In the event of disputes, the competent court will at our discretion be that at Arnhem or that at our contracting party’s place of residence.

These general conditions apply as from 1 January 2008 and may be amended at any time without prior notice.