

**prochem AG**

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GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY prochem AG**1. Scope of application**

The present General Terms and Conditions of Sale and Delivery (Terms & Conditions of Delivery) apply to any transactions for deliveries made by prochem AG (hereinafter referred to as "Supplier"). Any deviating conditions of the customer shall be excluded and shall only apply if expressly accepted by the Supplier and agreed in writing. These Terms & Conditions of Delivery shall also apply to any future business transactions without the need for express reference in each individual case. Should any provision in the present Terms & Conditions of Delivery turn out to be ineffective in part or in total, the parties shall replace such provision by a new provision which comes as close as possible to the original (partially) invalid provision.

2. Conclusion and content of the delivery contract

Any offers made by the Supplier shall be non-binding. Any information on the products, in particular the illustrations, information on quality, quantity, packaging, weight, dimension and performance parameters ("properties") shown in offers and printed material are approximate only and non-binding. The same applies to possible fields of application that may be stated ("use").

A contract is concluded by the Supplier's confirmation of the customer's order ("confirmation"). The contents of the contract shall be defined by the confirmation. In case of deviating contents of the confirmation, the confirmation shall be deemed to have been accepted in the sense of a quotation if the customer does not object within 2 days following receipt. Unless otherwise specified in the confirmation, customary deviations in terms of properties, quantity, packaging and use of the delivered goods shall be permitted.

In case of samples or specimens, no properties shall be guaranteed.

3. Liability for suppliers

The Supplier shall have the right to commission third parties with purchasing and supplying the goods ordered by the customer and fulfilment ("drop shipment") or to have goods delivered directly from a third party's storerooms ("delivery from third-party stock").

The Supplier shall not be liable for faulty deliveries or non-delivery on the part of its suppliers if the Supplier has done everything that can be reasonably expected to fulfil the contract.

4. Delivery and term of delivery

Only the terms and dates of delivery stated in the Supplier's confirmation shall be binding. Partial deliveries shall be permitted unless otherwise agreed. If a customer is in default with a liability or if it can be assumed that a customer will not be able to pay, the Supplier shall have the right to retain deliveries until payment has been made. This shall not affect any other claims of the Supplier.

In case of deliveries made within 24 hours, special deliveries within 72 hours, a shorter term of delivery than originally agreed or in case of fixed date transactions the Supplier may demand a surcharge ("delivery date surcharge").

In case of delayed delivery, the Supplier shall notify the customer without delay. The customer shall grant an appropriate period of grace for delivery. Any claims for compensation on the part of the customer and termination of the contract on account of delayed delivery shall be excluded in case of delays not exceeding 5 working days. The damage caused by delay to be compensated by the Supplier shall be restricted to 0.5% of the value of the delayed delivery or partial delivery for each complete week but must not exceed 5% of the value of the delayed (partial) delivery.

The Supplier shall not be liable for damage caused by force majeure. This includes, among others, operational shutdown, delayed transport, measures taken in case of industrial action, in particular strike and lock-out, as well as delays and faulty deliveries in case of drop shipments and deliveries from third-party stock. In case of impediments to performance for which the Supplier is not responsible delivery may be deferred by the period of the duration of the impediment plus a reasonable response time. If the impediment for which the Supplier is not responsible is permanent, the Supplier shall have the right to withdraw from the contract in part or in total. In such cases, the customer shall not be entitled to claims for damages. In such cases, any down payment shall be refunded to the customer.

5. Prices and payment

Prices shall include standard packaging and exclude any statutory value added tax. All transactions shall be based on the freight, insurance, customs and tax rates ("duties") applicable at the time the order is placed. Any changes to the duties shall be borne by the customer.

Prices shall be ex works. Invoices shall be paid no later than 30 days following the date of invoice, unless other payment terms are stated in the confirmation, and without any deductions. Observance of the deadline shall be defined by the time of receipt of payment. Set-off with counterclaims shall not be permitted.



The due date shall also be the expiry date. As of the due date, interest on arrears at the statutory rate as well as default charges shall become due without any notice of default being required. The claim to further damages caused by delay, withdrawal from the contract and further indemnification claims shall be reserved. The Supplier shall have the right to have collection carried out by a third party at the customer's expense.

Any complaints regarding invoices shall be submitted in writing within 8 days following receipt of the invoice; otherwise invoices shall be deemed to have been accepted.

The Supplier does not take back any packaging included in the purchase price. Packaging provided on loan must be returned, freight paid, immediately after unloading, but no later than within 30 days, either to the Supplier or to the Supplier's supplier as specified by the Supplier. In case of delays, the Supplier will charge the customer for the packaging provided on loan.

6. Reservation of title

All goods shall remain the Supplier's property until receipt of payment ("goods subject to reservation of title"). The Supplier shall have the right to enter any goods that are subject to reservation of title in the register of reservation of title.

Goods subject to reservation of title shall be kept by the customer free of charge in an appropriate manner, separated from other goods and identified as property of the Supplier. Upon the request, the customer shall enable inventory control at all times. The customer shall notify the Supplier without delay and in full detail of any impending attachment or other infringements of the Supplier's rights.

If the goods subject to reservation of title are combined, mixed or processed with goods of other origin to create a new object or a mixed stock, the Supplier shall acquire co-ownership at the ratio of the invoice value of the goods subject to the reservation of title at the time of delivery to the value of the other processed and/or combined goods. The co-owned share shall be deemed to be goods subject to reservation of title.

7. Warranty and liability

Delivered goods must be inspected by the customer immediately upon receipt.

Delivery shall be deemed to have been accepted unless the Supplier receives a written notice of defects including a justification and evidence within 3 days following receipt of the goods at their destination or, in case of hidden defects, immediately following discovery of the defect. The Supplier shall have the right to inspect the goods if a notice of defects has been issued.

Rejected goods may only be returned with the Supplier's consent.

In case of justified and timely notice of defects, the Supplier shall remedy the defect at its own discretion either by rectification or by delivering a replacement. In case of failure of the remediation or replacement, the customer may demand reduction of the purchase price or withdraw from the contract. In case of minor defects for which the Supplier is not responsible, the customer shall have no right of withdrawal.

Any warranty claims and claims for compensation of the customer shall be barred 12 months following delivery. Any other warranty or liability, in particular in case of indirect and consequential damage such as loss of profit, savings not achieved or third-party claims, in particular those caused by the Supplier's agents, employees or auxiliary persons, shall be excluded as far as permitted.

Any agreements between the customer and its purchasers beyond the warranty claims agreed herein shall not affect the Supplier.

The Supplier shall be liable for damage caused by the Supplier with intent or by gross negligence as well as for culpable damage to life, limb or health. Any further liability for any reasons, in particular liability on account of a breach of duties arising from the contractual obligation or tortious liability, shall be excluded. Consequently, the Supplier shall not be liable for direct and/or indirect damages, for example damages due to loss of production, loss of use, loss of orders, loss of profits and the consequences of defects at third parties not caused with intent or by gross negligence. In addition, liability for auxiliary persons commissioned by the Supplier to fulfil its obligation shall be excluded as well. Liability under mandatory law, in particular under the product liability act, shall be reserved.

8. Final provisions

Without the Supplier's written consent, the customer shall not have the right to assign or to transfer any rights or claims arising from its legal relationship to the Supplier to third parties.

9. Applicable law and place of jurisdiction

The courts at the Supplier's place of business shall have exclusive jurisdiction in case of any disputes arising from or in connection with the present Terms & Conditions of Delivery and business transactions concluded with the customer. However, the Supplier shall also have the right to appeal to the courts at the customer's place of business.

Swiss substantive law (OR) shall apply to the exclusion of international agreements, in particular the United Nations Convention on Contracts for the International Sales of Goods ("Vienna Convention").