



General Conditions of Sale and Delivery Tarragona, May 2016 ELIX POLYMERS, S.L.

General Conditions of Sale and Delivery of ELIX POLYMERS, S.L. (the "Seller")

1. General

These general conditions of sale and delivery (the "Conditions") apply to all contracts with companies and/or public legal entities (the "Buyer") and shall be an integral part of the contract of sale (the "Contract"). Conflicting or deviating conditions of purchase or other reservations made by the Buyer shall not be effective unless the Seller has expressly accepted them in writing for a particular order.

2. Offers, Orders

- 2.1. The Seller's offers shall not be binding and shall instead be deemed a proposal to the Buyer to make a binding purchase offer.
- 2.2. The Buyer's orders shall become binding on the Seller upon receipt by the Buyer of the Seller's written order acknowledgment (or invoice or delivery note, as applicable).

3. Remuneration

- 3.1. The prices invoiced shall be the Seller's prices effective at the time of shipment.
- 3.2. Notwithstanding the above, should the Seller, in the interval between the making of the Contract and the shipment of the goods, effect a general price increase, the Buyer shall have the right to terminate the Contract within two (2) weeks of having been informed thereof, unless the price increase is exclusively due to an increase in freight rates. The right of termination shall not apply to long-term supply contracts (contracts for the performance of a continuing obligation).
- 3.3. Where payment has been agreed in a currency other than euros (EUR), the Seller reserves the right to reduce or increase the price originally agreed so that, when translated into euros, the sum invoiced is equivalent to the euro value resulting from translation of the amount originally agreed at the time the Contract was made.
- 3.4. The weight of the goods on which the invoiced amount is to be calculated shall be ascertained in the dispatch department of the Seller's plant from which the goods are shipped.

4. Payment

- 4.1. The maturity of the invoices shall not exceed sixty (60) days invoice date.
- 4.2. The place of performance of the payment obligation shall be the registered office of the Seller and payment shall be made by bank transfer, unless otherwise stipulated in the Contract.
- 4.3. Where the Seller has reason to doubt the Buyer's solvency or creditworthiness and the Buyer is not prepared to effect advance cash payment or provide the Seller with security as requested, the Seller shall have the right to terminate the Contract or cancel that portion of the order Contract which he has not yet performed.
- 4.4. Payment shall not be deemed to have been effected until the amount has been cleared into the Seller's account designated for the purpose.
- 4.5. If the Buyer incurs delay once elapsed the payment term, a late-payment interest will be applied for every day of delay in the payment on the amounts due. The referred late-payment interest will be equal to the sum of the interest rate applied by the European Central Bank to its more recent principal financial operation executed before the first day of the natural semester more two (2) percentage points.
- 4.6. The Seller reserves the right to use payments for the settlement of the invoices issued to the Buyer which have been outstanding longest, plus any interest on arrears and costs accrued thereon, in the following order: costs, interest and principal claim.
- 4.7. The Buyer shall not have the right to withhold payments.

5. Delivery

- 5.1. The Seller shall make every effort to effect delivery as early as possible. There shall be no fixed periods for delivery. In this respect, it is expressly placed on record that, unless otherwise agreed in the Contract, all delivery terms are estimates. The estimated delivery terms are not warranted and, accordingly, may not be deemed to be warranted delivery terms.
- 5.2. Notwithstanding the preceding paragraph, should a fixed period for delivery have been agreed in the Contract for delivery and should it be breached by the Seller, the Buyer shall grant the Seller a reasonable respite.
- 5.3. Performance under the Contract shall be subject to the punctual delivery of the appropriate goods by the Seller's own suppliers.
- 5.4. The parties shall agree the INCOTERM applicable to the commercial relationship under the Contract and, among other items, the delivery date and place shall be established based on such INCOTERM.
- 5.5. The provision of packaging, including tankers and tank containers, by the Seller shall be subject to the special conditions previously agreed between the Buyer and the Seller.
- 5.6. The Buyer accepts that a variation of up to twenty (20) per cent in the amount delivered is acceptable and shall not be deemed a breach of the order or Contract in question.

6. Force Majeure

Force majeure of any kind, serious, unforeseeable and unavoidable events, traffic or shipping disturbances, war, acts of terrorism, fire, floods, unforeseeable shortages of labour, utilities or raw materials and supplies, strikes, lockouts, acts of government, and any other hindrances beyond the control of the party obliged to perform which diminish: delay or prevent production, shipment, acceptance or use of the goods or make it an unreasonable proposal, shall relieve the party from its obligation to supply or take delivery, as the case may be, as long as and to the extent that the hindrance prevails. If, as a result of the hindrance, supply and/or acceptance are delayed by more than eight (8) weeks, either party shall have the right to cancel the Contract. Should the Seller's suppliers fail to supply him in whole or in part, the Seller shall not be under obligation to purchase from other sources. In such cases, the Seller shall have the right to distribute the available quantities among his customers while at the same time taking into account his captive requirements.

7. Shipment

- 7.1. The Seller reserves the right to choose the route and the mode of transport. Any additional costs resulting from special shipping requests made by the Buyer shall be borne by the Buyer. Unless prepaid freight has been agreed, the Buyer shall also bear any increases in freight rates which become effective after the Contract has been made, including, but not limited to, any additional costs resulting from re-routing a consignment, storage expenses, among others.
- 7.2. If the parties agreed under the Contract that the Seller shall bear the customs fees and fees for import into the recipient country, any increase of such costs that may take effect between the date of confirmation of order and delivery of the goods shall be borne by the Buyer. Any other charge, expense or expense related to the purchase shall also be borne by the Buyer.
- 7.3. The risk of destruction, loss or damage shall pass to the Buyer at the appropriate time according to the INCOTERMS applicable to the Contract.

8. Retention of Title

- 8.1. Title to the goods shall not pass to the Buyer until he has fulfilled all liabilities arising from his business connection with the Seller, which shall include settling accessory claims and claims for damages and honouring checks and bills. Title to the goods shall also remain with the Seller if any of the Seller's claims has been recognized by the Buyer as debt.
- 8.2. If the Buyer defaults on his obligations to the Seller, the Seller shall have the right, without granting a respite and without cancelling the Contract, to demand the return of the goods to which he retains title. Acceptance of the returned goods shall not constitute cancellation of the Contract unless the Seller has expressly declared this in writing. If the Seller cancels the Contract, he shall have the right to demand appropriate compensation for having permitted the Buyer to use the item for a certain period.
- 8.3. If goods to which the Seller retains title are processed into new products, the Buyer shall be deemed to be effecting such processing on behalf of the Seller without thereby acquiring any claims on the Seller. The Seller's title shall thus extend to the products resulting from the processing. If goods to which title is retained by the Seller are processed together with, mixed with or attached to goods to which title is retained by third parties, the Seller shall acquire co-ownership of the resulting products in the ratio of the invoice value of the goods owned by him to the invoice value of the goods owned by those third parties. If the goods as a result of such mixing or attaching become part of a principal matter of the Buyer, the Buyer, by accepting these Conditions, assigns in advance his title to the new item to the Seller.
- 8.4. The Buyer shall be under obligation to provide, on behalf of the Seller, adequate storage of the item to which the Seller retains title, to service and repair this item at his expense and to insure the same at his expense against loss and damage up to an extent which may reasonably be expected of a prudent businessman. By accepting these Conditions the Buyer assigns in advance to the Seller any claims which may accrue to him under the insurance policies for any damage caused to the products.
- 8.5. As long as the Buyer duly meets his liabilities to the Seller in a timely manner, he shall have the right, in the normal course of business, to do as he wishes with the goods to which the Seller retains title. This shall not apply, however, if he and his customers have concluded an agreement according to which the Buyer must not assign his claims on them to third parties. The Buyer shall not have the right to pledge chattel mortgage or otherwise encumber the goods to which the Seller retains title. When reselling the goods, the Buyer shall make the passing of the title subject to full payment of the goods by his customers.
- 8.6. If any of the new products were protectable in the shelter of the rules of industrial or intellectual property and their title is assigned to the Seller, Seller shall be entitled to protect it under any institution of industrial or intellectual property in countries it deems appropriate and for the maximum time allowed by the relevant legal system, being the Buyer obliged to duly collaborate with the Seller in any action whatsoever to be undertaken to protect such new products under the aforesaid rules.
- 8.7. By accepting these Conditions, the Buyer permits the Seller to be subrogated to any claims which may arise from a resale of the goods to which the Seller retains title, together with any incidental rights and security interests including bills of exchange and checks: so as to provide the Seller with security for all claims he has on the Buyer as result of the business connection. If goods to which the Seller retains title are sold together with other goods at a single price, the assignment shall be limited to the portion of the invoice value which covers the goods to which the Seller retains title. If the Buyer sells goods of which the Seller has co-ownership pursuant to clause 8, the assignment shall be limited to the portion of the invoice value which corresponds to the Seller's co-ownership. If the Buyer uses goods to which the Seller retains title for processing a third party's product on a contract basis, in accepting these Conditions he assigns in advance his contractual claim on the third party to the Seller in order to provide him with security for his claim. As long as the Buyer duly meets his liabilities to the Seller, he may collect claims from a resale or from contract processing himself. He shall not have the right to assign or pledge such claims as security.
- 8.8. If the Seller believes his claims to be at risk, the Buyer shall, at the Seller's request, inform his customers of the assignment of his claims to the Seller and supply the Seller with all necessary information and documents. Any acts of third parties aimed at seizing goods to which the Seller retains title or at appropriating claims assigned to him shall be brought to the Seller's attention by the Buyer immediately.
- 8.9. If the amount of the security provided to the Seller exceeds the amount of the claims to be safeguarded by more than twenty (20) per cent, the Seller shall, at the Buyer's request, release security, if possible and of his own choice, of a part or percentage of such security.

9. Damages

- 9.1. Seller will not be liable for:
 - (a) losses that were not caused by any breach on Seller's part;
 - (b) any business loss (including loss of profits, revenue, contracts, anticipated savings, data, goodwill or wasted expenditure); or
 - (c) any indirect or consequential losses that were not foreseeable by the parties when the Contract was made.
- 9.2. No claims for compensation may be lodged by the Buyer - including those of a non-contractual nature - for any minor negligent breach of duty by the Seller, his managerial employees or other agents, unless such breach of the Seller, his managerial employees or other agents concerns a duty that is crucial for the object of the Contract.
- 9.3. The Seller shall only be liable for indirect damage or damage which could not be foreseen at the time of conclusion of the Contract if such damage is due to a gross fault on the part of the Seller, one of his managerial employees or other agents.
- 9.4. The above limitations shall not apply to damage resulting from death, injury or damage to health. However, this shall not affect the applicability of compelling statutory liability regulations such as, for example, liability for the assumption of a guarantee or product liability law.
- 9.5. Seller will not be held liable for any delay or failure to comply with its obligations under these Conditions if the delay or failure arises from any cause which is beyond Seller's reasonable control.

10. Notification of Defects

- 10.1. Notification of defects shall only be recognized if filed in writing within two (2) weeks of receipt of the goods, together with supporting evidence, samples and packing slips, stating the invoice number and date, and the markings on the packaging.
- 10.2. Hidden defects must be notified to the Seller immediately upon discovery. The burden of proving that a defect is a hidden defect shall rest with the Buyer.
- 10.3. Goods forming the subject of a complaint shall not be returned to the Seller except with the Seller's express consent.

11. Buyer's Rights in the event of Defects

- 11.1. Warranty claims made by the Buyer shall only entitle the Buyer to be supplied with a replacement. If the replacement provided by the Seller is also defective, the Buyer may reduce the purchase price or opt to cancel the Contract. Claims for damages as defined in Section 0 shall remain unaffected by the above. Claims made by the Buyer due to expenses incurred as a result of reworking, in particular transport, travel, labour and material costs, shall be excluded where such expenses have been increased by the fact that the item was subsequently transposed to a location other than the premises of the Buyer, unless the goods were supplied to this location in line with their intended use.
- 11.2. In the event of recourse to the guarantee by the Buyer following a successful claim against the latter on the basis of the provisions governing the purchase of a consumer good, the claims under a right of recourse in accordance with the regulations on the purchase of consumer goods shall remain unaffected. Section 0 shall apply to any claim for damages.
- 11.3. The Buyer must inform the Seller without delay of any case of recourse within the supply chain. Statutory claims under a right of recourse by the Buyer against the Seller shall not apply with respect to arrangements entered into by the Buyer with its customer over and above statutory warranty claims.
- 11.4. Any guarantee agreement must be made in writing. A statement of guarantee shall only be effective if it describes the content of the guarantee and the duration and physical scope of guarantee protection in sufficient detail.

12. Warranty Periods

Unless otherwise provided or otherwise established by Spanish mandatory law, warranty claims shall expire with effect from one (1) year from the beginning of the warranty period unless the goods are normally used the construction of a building pursuant to their usual use and such use caused the defect to the building. In such cases, warranty claims shall expire at two (2) years from the beginning of the warranty period. Compelling regulations governing the statutory warranty period or the question of liability (such as, for example, liability for the assumption of a guarantee, liability for wilful intent and gross negligence, for death, physical injury or damage to health, for the violation of essential contractual obligations), shall remain unaffected.

13. Properties of Goods, Technical support, Use and Processing

- 13.1. The properties of the goods shall as a general rule only include the properties as stated in the product descriptions, specifications and labelling of the Seller. Public statements, claims or advertising shall not be classed as information on the properties of the item for sale.
- 13.2. Technical advice provided by the Seller verbally, in writing or by way of trials is given in good faith but without warranty. The Seller's technical advice shall not release the Buyer from the obligation to test the products supplied by the Seller as to their suitability for the intended processes and uses. The application, use and processing of the products are entirely the Buyer's responsibility.

14. Trademarks

- 14.1. Any rights over the registered trademarks that appear on the products to be sold or that are used for their sale are held exclusively by the Seller [or the companies in its group]. None of the conditions established in these General Conditions or in the particular conditions and/or Contract that may be made with the Buyer shall grant any right to the Buyer over such trademarks.
- 14.2. When using the Seller's products for manufacturing purposes or when processing them into new products, the Buyer shall not have the right, without the Seller's prior written consent, to use the Seller's product trademarks and/or trade names [or those of any of the companies in its group], on the resulting products or on the packaging therefor or in any relevant printed matter or advertising literature, particularly by mentioning the Seller's products as components of his own products. The supply of goods under a trademark shall not be deemed agreement to the use of this trademark for the products manufactured therefrom.
- 14.3. The Buyer shall not have the right to refer to the Seller's products when offering or supplying substitute products to third parties or, in price lists or similar business communications, to use the word "substitute" in conjunction with the Seller's protected or unprotected product designations or list these designations together with any designations for substitute products.

15. Verification

Buyer shall guarantee the right of access of the Seller its customers and the regulatory authorities to the relevant areas of its facilities, at any level of the supply chain, that are involved in the product transformation process, to verify at source that the use of the purchased goods is compliant with these Conditions.

16. Notices

- 16.1. All notices, requests, demands and other communications that may be made between parties related to their business relationship shall be in writing, by any legally and permissible mean in law that duly provides an irrefutable record, to the addresses and for the attention of the persons that appear in the heading of the Contract.
- 16.2. Any amendment or change in the addresses or attention persons indicated by parties shall be communicated to the other party by any of the means previously mentioned and it shall not take effect until the other party acknowledges receipt of that amendment or change.
- 16.3. In the event that the notices received by parties were made on a non-business day, it shall be deemed received on the next business day. In doing so, Saturdays, Sundays and public holidays in the towns of the addresses of both parties shall be deemed non-business days.

17. Personal data

- 17.1. The parties mutually and expressly authorize each other so that each party may include personal data of the other party in its respective files, in order to manage the contractual relationship under the Contract and/or these Conditions.
- 17.2. In any case, the persons representing each of the parties whose personal data are processed under these Conditions may exercise their right of access, rectification, cancellation and objection as provided for by Organic Law 15/1999, of 13 of December, on the Protection of Personal Data (the "LOPD"), through a written notice to the address designated for such purpose by the party in question.
- 17.3. Both parties agree to keep absolutely confidential the personal data of the other party to which it has had access in compliance with these Conditions, to supply them only to authorized persons and to observe the legal provisions contained in the LOPD, which may apply. In particular, they undertake not to use the personal data obtained from the other party for any purpose other than that contained in the subject matter of these Conditions.

18. Applicable Law and interpretation of Trade Terms

- 18.1. These Conditions are governed by and shall be construed in accordance with the laws of Spain.
- 18.2. Application of the Uniform Law on the International Sale of Goods and the Uniform Law on the Formation of Contracts for the International Sale of Goods - both dated July 1, 1964 - and of the UN Agreement on the Sale of Goods of April 11, 1980, shall be excluded.
- 18.3. Customary trade terms shall be interpreted in accordance with the Incoterms effective at the time. If the parties did not agree the application of any INCOTERM expressly in the Contract, INCOTERM FCA (Free Carrier) shall apply.
- 18.4. The original version of these Conditions is worded in the English language. In case of any inconsistency or contradiction between this version and any translation of the same, the English version shall prevail.

19. Invalidity of Individual Clauses

Should any clause in these Conditions be or become invalid in full or in part, this shall not affect the validity of the remaining clauses or remaining parts of the clause concerned. The parties shall replace any invalid arrangement by an effective one which conforms as far as possible to the economic purpose of the invalid clause.

20. Resolution of disputes and jurisdiction

- 20.1. In case of dispute, the parties undertake to negotiate in good faith with the intention of reaching an agreement with the maximum period of thirty (30) business days since the dispute arose.
- 20.2. In the absence of an agreement otherwise, the parties agree to submit any claim or lawsuit that may arise from the performance of these Conditions or related thereto, directly or indirectly, to the jurisdiction of the courts and tribunals of Tarragona.

Tarragona (Spain), May 2016.