

## GENERAL CONDITIONS OF SALE AND DELIVERY OF OCI NITROGEN (OCIN)

## 1. GENERAL

These General Conditions of Sale and Delivery ("General Conditions") are applicable to all offers, sales and deliveries by OCI Nitrogen BV ("Seller") to buyer ("Buyer") of all goods and/or services (hereinafter to be referred to individually and jointly as the "Goods"). By entering into an agreement with Seller under these General Conditions, Buyer accepts their applicability and that they will also apply to all future transactions with Seller, even if such future transactions contain no explicit reference to the applicability of these General Conditions.

## 2. NO OTHER CONDITIONS

2.1 No terms and conditions used by the Buyer shall apply, regardless of whether any reference thereto was made after Buyer's receipt of these General Conditions.

2.2 'Written' or 'in writing' shall include any electronic communication between Seller and Buyer.

2.3 These General Conditions are available at [www.ocinitrogen.com](http://www.ocinitrogen.com). Seller reserves the right to amend these General Conditions at any time. Seller shall notify Buyer of any such change by (a) sending Buyer a copy of the General Conditions as amended, or (b) uploading the General Conditions as amended onto the website stated, or (c) otherwise. The General Conditions as amended will take effect from such time as Buyer could have had access thereto and will apply to all orders placed by Buyer and confirmed by Seller from that time.

## 3. QUOTATIONS, ORDERS AND CONFIRMATION

3.1 Quotations in any form whatsoever do not bind Seller and are merely an invitation for Buyer to place an order. All Seller's price quotes may be revoked or changed without prior notice.

3.2 Orders will bind Seller only if accepted by Seller in a written order confirmation ("Order Confirmation"). Seller may always refuse an order without giving reasons. Each Order Confirmation constitutes a separate sales transaction for the Goods stated therein, and any defective delivery of such Goods will have no legal or other impact on other Order Confirmations.

3.3 A price quote only applies to the volumes for which the price quote was issued.

3.4 Oral statements and commitments will bind Seller only to the extent that they were confirmed or recorded through an act or written confirmation on the part of Seller.

## 4. DELIVERY AND ACCEPTANCE

4.1 Deliveries are made on the agreed terms in accordance with the most recent Incoterms. If no delivery terms are stated in the Order Confirmation, delivery is made ex works.

4.2 Delivery times and/or dates are estimates; time is not of the essence, unless explicitly agreed otherwise in the Order Confirmation. Seller may deliver the Goods in separate batches and invoice them separately. Seller is not liable for any indirect and/or consequential damage caused by any delay in the agreed and firm delivery date. Any late delivery of Goods shall not relieve Buyer from its obligation to take receipt of the Goods. If the quantity of Goods delivered varies from Seller's Order Confirmation, Buyer will not be entitled to refuse the Goods.

## 5. PRICES

5.1 The agreed prices and currencies are valid for the agreed period of time. Unless otherwise agreed, Seller's prices include standard packaging and are exclusive of VAT and/or other similar taxes, duties, charges and/or costs levied on the Goods and/or their delivery ("Taxes") in any country. Taxes are payable by Buyer and stated in the invoice or charged separately by Seller to Buyer. If Seller grants a discount, the discount only applies to the delivery specifically identified in the Order Confirmation.

5.2 Unless the prices have been indicated as firm by Seller in the Order Confirmation, Seller is entitled to increase the price of the Goods still to be delivered. Seller must notify Buyer of any such increase.

## 6. PAYMENT

6.1 Unless expressly stated otherwise in the Order Confirmation, payment of the price agreed for the Goods must be made into the bank account stated in the invoice within thirty (30) days of the invoice date. Buyer may not (i) set off any invoice amounts owed to Seller or (ii) postpone its payment obligations to Seller on the grounds that Buyer has any counterclaims against Seller.

6.2 If payment is overdue, Buyer owes

interest at a rate of 1.5% per month calculated from the due date until all such time as all due amounts have been paid in full. All internal and external costs incurred by Seller in collecting any overdue invoices in or out of court (including without limitation attorney fees, bailiff fees and experts' fees, court duties and other litigation costs) are payable by Buyer.

6.3 Every payment made by Buyer shall serve first as payment towards any judicial and extra-judicial collection costs incurred and any interest owed by Buyer, and then to satisfy the most senior debt owed by Buyer, regardless of any payment instruction by Buyer to the contrary.

6.4 Complaints about an invoice must be submitted to Seller in writing within 8 (eight) days of the invoice date. After that term, the invoice is considered approved by Buyer.

6.5 Buyer must, at Seller's first request, provide payment guarantees or security for the payment of the purchase prices (including interest and costs) owed to Seller for the Goods delivered or to be delivered by Seller to Buyer on the basis of an Order Confirmation. 6.6 According to directive 2011/7/EU on combating late payment in commercial transactions.

## 7. CANCELLATION

If Buyer refuses or rejects any Goods in a manner other than agreed or cancels or refuses to recognise an Order Confirmation from Seller, Seller will be entitled – in addition to claiming compensation for all other losses caused by any such move – to claim payment of: (1) the price of those Goods if Seller is reasonably unable to resell the Goods to a third party, or (2) liquidated damages equal to fifty per cent (50%) of the price for the Goods if Seller can resell the goods or if the law allows no other legal action regarding the price.

## 8. TRANSFER OF RISK AND RETENTION OF TITLE

8.1 The risk of the Goods shall pass to Buyer at the time of delivery in accordance with the agreed Incoterm. If delivery is made ex works, that will be the time when the Goods leave Seller's premises.

8.2 If a prepayment is agreed, Goods the delivery of which is postponed awaiting

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payment from Buyer will be stored by Seller at Buyer's risk and expense. The same applies to Goods rejected or not taken by Buyer although Seller has met all of its obligations.

8.3 Title to the Goods delivered or to be delivered shall not pass to Buyer until Seller has received full payment of all amounts owed by Buyer to Seller for those Goods (purchase prices and interest and costs).

8.4 In the event of termination on the basis of Article 17 of these General Conditions, Seller will, without prejudice to all its other rights, be entitled to require the immediate return of the Goods or, where necessary, claim back the Goods using its right of repossession (Sections 7:39-44 of the Dutch Civil Code).

8.5 As long as title to the Goods remains with Seller pursuant to this article, Buyer is entitled to use the Goods only to the extent required in the ordinary course of its business and must, to the extent possible:

(1) keep the Goods separate from similar goods delivered by other suppliers in a clearly identifiable manner;

(2) notify Seller immediately of any claims by third parties which may affect the Goods; and

take out adequate insurance for the Goods.

8.6 Goods of the kind delivered by Seller to Buyer (Goods) found at Buyer's premises are presumed to be Seller's property as long as Buyer fails to meet all of its payment obligations to Seller (purchase prices and interest and costs).

## 9. INSPECTION AND CONFORMITY TO SPECIFICATIONS

9.1 To limit any damage, Buyer must inspect the Goods and satisfy itself that the Goods delivered meet all contractual requirements ("Specifications") before using, processing, transporting, storing or selling the Goods (the "Use"). Use of the Goods without prior inspection shall be deemed to be an unconditional acceptance of the Goods and a waiver of all claims in respect of the Goods.

9.2 Subject to forfeiture of all rights, complaints about any defect, default or shortcoming regarding the Goods which would be apparent from a reasonable inspection on delivery must be made in writing and be received by Seller within seven (7) days of the date of delivery,

and complaints about any other defects within seven (7) days of the date when the defect was apparent or could have been apparent, but in no event later than three (3) months after receipt of the Goods.

9.3 If, on inspection of the quality of the Goods, Buyer finds any variations, Buyer must so notify Seller immediately in writing, stating the analysis findings and retaining the sample or samples used in the analysis. In addition, Buyer must take three new samples and make these available to Seller. Seller will be entitled to arrange for an independent third party to take these samples at Buyer's premises and analyse them. The costs of taking the samples and performing the analysis are payable by the party that is proven wrong.

9.4 Whether the Goods delivered conformed to the Specifications at the time of delivery must be determined on the basis of an analysis performed in accordance with the methods of analysis prescribed by law or contract.

9.5 Except as provided for in article 9.3, any samples supplied to Buyer are supplied solely for information purposes and in no way imply any express or implied conditions or warranties of any kind, including as to quality, description, merchantability or suitability or fitness for any purpose, and Buyer shall be deemed to have satisfied itself as to such matters prior to ordering the Goods.

9.6 Defects in a demonstrable part of the Goods do not entitle Buyer to reject the entire delivery of the Goods. Complaints, if any, do not affect Buyer's obligation to pay as defined in Article 6. After receiving a notice of defect, Seller is entitled to suspend further deliveries until the cause of the complaint has been established or the defect has been totally cured.

## 10. LIMITED WARRANTY

10.1 Seller solely warrants that the Goods shall conform to the Specifications at the time of delivery as defined in Article 8.1.

10.2 If and to the extent Goods fail to meet the Specifications as defined in Article 9 of these General Conditions, Seller may within a reasonable time either replace the defective Goods at no charge to Buyer, or issue a credit for the value of such Goods in the amount of the original invoice price.

10.3 The Goods are suitable solely for use in accordance with Seller's product information.

## 11. LIMITATION OF LIABILITY

11.1 Notwithstanding Seller's above-mentioned obligation to replace defective Goods or issue a credit therefore, Seller shall under no circumstances be liable towards Buyer or any other legal entity or private individual for any other or additional direct, indirect, consequential and/or special damage. Buyer accepts liability for any damage resulting from the Use of the Goods. Buyer shall indemnify and keep Seller harmless from and against all damage and costs arising from or connected with Buyer's Use of the Goods and/or its use of information communicated or provided by or on behalf of Seller.

11.2 Seller's liability shall under no circumstances exceed the amounts invoiced for the defective Goods paid by Buyer to Seller, including such transport costs as were for Seller's account.

## 12. FORCE MAJEURE

12.1 Seller shall not be liable in any manner for any damage, costs and/or expenses arising from or connected with any delay in, restriction on or interference with the performance of, or any other failure to perform, any of its obligations to Buyer caused by circumstances beyond Seller's reasonable control, including without limitation natural disasters, laws and regulations, orders, decrees, legislative measures, government action or other administrative measures, court orders, earthquakes, floods, fire, explosions, war, terrorism, riots, sabotage, accidents, epidemics, strike action, lockouts, work-to-rule action, labour unrest, problems in sourcing the necessary staff or raw materials, lack of transport means or traffic jams, failure of factory or essential machinery, emergency repairs or maintenance, disruption or lack of public amenities, late delivery of or defects in goods and/or services delivered by Seller's suppliers or subcontractors ("Force Majeure").

12.2 If an event of Force Majeure occurs, Seller must notify Buyer thereof immediately in writing, stating the cause of the Force Majeure and explaining how it will affect the performance of its

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obligations arising from Seller's Order Confirmation. In the event of a delay, Seller's obligation to deliver will be postponed for a period equal to the loss of time caused by the Force Majeure. If the event of Force Majeure continues or is expected to continue for more than two (2) months after the agreed delivery date, Seller will be entitled to cancel the relevant part of the Order Confirmation without incurring any liability to Buyer.

12.3 If the Force Majeure concerns the late delivery of or any defects in goods and/or services delivered by Seller's suppliers or sub-contractors, Seller will not be required to purchase those goods and/or services from other suppliers or subcontractors. In such cases, Seller will be entitled to distribute the available quantities of Goods among its customers, taking into account the quantities Seller requires for its own purposes.

**13. INFORMATION, INDEMNITY**

Buyer acknowledges that data in Seller's catalogues, specification sheets and other descriptive publications distributed or published on its websites by Seller may accordingly be varied from time to time without (prior) notice. Any statement, recommendation, advice, sample or other information of Seller in relation to the Specifications, the Goods and their Use shall be furnished for the accommodation of Buyer only.

**14. COMPLIANCE WITH LAWS AND STANDARDS**

Seller does not guarantee that the Goods shall conform to any law or regulation, code or standard ("Laws and Standards"), unless expressly stated in the Order Confirmation or Specifications.

**15. INDEPENDENT CONTRACTORS**

Seller and Buyer are independent contractors, and the relationship created by these General Conditions shall not be deemed to be that of principal or agent. No sale to or obligation of either party towards a third party shall in any way bind the other party.

**16. NON-ASSIGNMENT**

Neither party may assign any of the rights and/or obligations under the Order Confirmation without the prior written consent of the other party, provided however that Seller may assign such rights and obligations,

wholly or partly, to (i) any company and/or business affiliated with Seller or Seller's (indirect) shareholder(s), (ii) any of Seller's financiers and (iii) to any third party acquiring all or a substantial part of Seller's assets or business relating to the Goods.

**17. SUSPENSION AND TERMINATION**

17.1 If Buyer fails to perform its obligations or if Seller has doubts about whether Buyer will be able to perform its obligations properly, in a timely fashion or at all, and Buyer fails to provide to adequate security for its performance within thirty (30) days of Seller's demand for such assurance; or if Buyer becomes insolvent or goes into liquidation (otherwise than for the purposes of a reorganisation or merger) or any bankruptcy proceeding shall be instituted by or against Buyer or if a trustee or receiver or administrator is appointed for Buyer's assets or if Buyer enters into a composition with or makes any assignment for the benefit of its creditors, or when Buyer's assets are attached, then, without prejudice to any other rights of Seller, Seller may by notice in writing forthwith:

(i) demand re-delivery and take repossession of any delivered Goods which have not been paid for, for which purpose Buyer hereby grants an irrevocable right and licence to Seller to enter upon all or any of the premises where the Goods are or may be located and all costs relating to the recovery of the Goods shall be for the account of Buyer; and/or

(ii) suspend its performance by cancelling agreed deliveries, unless Buyer pays for the Goods in cash in advance or, at Seller's request, provides adequate security for such payment, without a court order being required and without liability for Seller of whatsoever kind arising out of or in connection with such suspension or cancellation.

17.2 In the events referred to in (i) and/or (ii), all amounts owed by Buyer to Seller shall become due and payable instantly, with the exception of those relating to the Goods that were re-delivered or repossessed.

17.3 If any circumstances occur that prevent Buyer from performing any of its obligations to Seller properly or in a timely fashion, Buyer must notify Seller thereof without delay in writing.

**18. NO WAIVER**

Failure by Seller to enforce at any time any provision of these General Conditions shall not be construed as a

waiver of any of its rights.

**19. SEVERABILITY AND CONVERSION**

In the event that any provision of these General Conditions shall be held to be invalid, the same shall not affect in any respect whatsoever the validity of the remaining provisions. The pertaining provisions held to be invalid or unenforceable shall be reformed to provisions satisfying the legal and economic intent of the original provisions to the maximum extent permitted by law.

**20. LIMITATION OF ACTION**

Without prejudice to Article 9 of these General Conditions, no action by Buyer shall be brought unless (i) Buyer first provides written notice to Seller of any claim alleged to exist against Seller within thirty (30) days after the event complained of first became known to Buyer and (ii) an action in this regard is actually commenced by Buyer within twelve (12) months after such notice.

**21. INTELLECTUAL PROPERTY**

21.1 Seller has not verified the possible existence of third party intellectual property rights which might be infringed as a consequence of the sale and/or delivery of the Goods and, hence, cannot be held liable for any loss or damages in that respect.

21.2 The sale or delivery of Goods shall not, by implication, convey any license under any intellectual property right relating to the composition and/or Uses of the Goods, and Buyer expressly assumes all risks of any intellectual property infringement by reason of its importation and/or Use of the Goods.

**22. GOVERNING LAW AND JURISDICTION**

22.1 The Order Confirmation and these General Conditions and the parties' rights and obligations arising from same shall be governed by the laws of The Netherlands, excluding principles of conflict of laws. The applicability of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded.

22.2 The parties agree that any disputes concerning the Order Confirmation, these General Conditions or the rights and obligations arising from same shall be resolved exclusively by the courts in the place where Seller is established (District Court in Maastricht, The Netherlands), without prejudice to Seller's right to submit the dispute (i) to the courts in the place where Buyer is established or (ii) to arbitration in accordance with the Arbitration Rules of

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the International Chamber of Commerce (ICC), with the arbitrator(s) appointed in accordance with those Rules (and the proceedings being conducted in English in Maastricht, The Netherlands), and the parties do hereby consent to the jurisdiction of those courts and, if Seller so chooses, those arbitrators and waive any objection which they may have, now or hereafter, to such forum for the resolution of such disputes.

### 23. AUTHENTIC VERSION

The Dutch-language version of these General Conditions is the only authentic version. For the benefit of Buyers established outside the Netherlands, Seller will make available translations of these General Conditions into English, German and French. In the event of any inconsistency between the Dutch version and any of those translations, the Dutch version shall prevail.

These General Conditions have been filed at the offices of the Trade Register of the Chamber of Commerce, the Netherlands, under file number 34388021.