

Nomenclature:

GTCSO: These General Terms and Conditions of Sale and Delivery

OQS: OQEMA AG, Switzerland - Birsfelden

Customer: The person to whom OQS delivers products on the basis of a contract

Product(s): Goods that OQS offers for sale, and goods for delivery based on a contract with a customer.

Incoterms: ICC official rules for the interpretation of trade terms; version in force at the time of concluding the contract.

1. Scope of application of the GTCSO

These GTCSO exclusively govern the contractual relationships between OQS and its customers, unless otherwise expressly agreed in writing in the individual contracts. Deviating, conflicting or supplementary general terms and conditions of purchase or other general terms and conditions of business of the customer shall apply only if accepted in writing by OQS.

2. Offers and contract conclusion

All offers made by OQS are non-binding. Only orders confirmed to the Customer in writing by letter, fax or email (order confirmation) are binding on OQS. The written order confirmation from OQS must be checked immediately upon receipt by the Customer, who must notify OQS immediately in writing of deviations from its order. Order confirmations from OQS that are not disputed immediately shall be deemed correct and shall exclusively govern the product deliveries to be effected by OQS. Confirmations of received orders that have been generated electronically, or by other means, shall not be deemed order confirmations from OQS, unless they have been expressly described as such.

3. Prices

Unless expressly agreed otherwise in writing, all prices quoted by OQS shall be deemed EX WORKS (EXW) according to Incoterms, plus VAT at the statutory rate applicable at the relevant time. Unless otherwise expressly agreed in writing, prices shall be deemed to be in Swiss francs (CHF) and shall be paid to OQS by the Customer in Swiss francs. However the calculation may be performed on the basis of the volumes or weights measured by the recipient if the measurement is made using calibrated scales and the goods are transported at our risk. All price quotations are based on the cost factors prevailing at the time of concluding the contract (currency rates, raw materials prices, purchase prices, transport costs, energy costs, taxes, customs duties, etc.). In the event of significant changes to the cost factors for which OQS is not responsible, OQS shall be entitled to withdraw from the contract up until the agreed delivery time, or to present a new offer to the Customer. A significant change shall mean a change in a cost factor if the given cost factor has increased by more than 3% since the date of conclusion of the contract. For all deliveries of goods that are subject to the ADR [European Agreement concerning the International Carriage of Dangerous Goods by Road] (dangerous goods), an ADR premium shall be charged. In the case of deliveries of general cargo, LSWA [the distance-related heavy vehicle fee] will be charged separately. The minimum order value shall be CHF 500.00, excluding VAT and VOC tax. For orders with a value below the minimum order value, a corresponding supplement shall be added in respect of the difference.

4. Delivery deadlines and transfer of risk

Unless expressly agreed otherwise in writing, all deliveries effected by OQS shall be EX WORKS (EXW) according to the Incoterms. Upon allocation of the non-loaded products to the Customer, the risk of accidental loss or deterioration of the product shall pass to the customer, and shipment of the product shall take place on the account and at the risk of the Customer. Unless otherwise expressly agreed in writing, all delivery deadlines shall be non-binding. In the case of deliveries not affecting the business operation of OQS (drop shipments) the delivery date and period shall have been complied with if the goods left the supplier in sufficient time, based a normal transport duration, for the shipment to reach the Customer on time. In the case of delayed deliveries, the Customer must send a reminder to OQS. Any additional expense for a rapid provision of the products and additional supplements for extra journeys shall be charged to the Customer at cost. For products not collected on time by the Customer, an at-cost supplement for additional expenses (storage costs, handling costs, etc.) shall be charged from the third day after the collection date. In the case of deliveries in tanker vehicles and donning tanks, the Customer shall ensure that its tanks or other storage containers are in a perfect technical state and shall be responsible for arranging for the filling lines to be connected to its intake system. OQS's obligations shall be limited to operation of the vehicle's own equipment. If

OQS employees render further assistance during unloading or discharge and, in doing so, cause damage to the product or other damage, they act at the sole risk of the Customer and not as our vicarious agents. The Customer shall bear the costs for standing and waiting times.

5. Force majeure

Delays, obstructions and / or the impossibility of OQS rendering deliveries and services owing to force majeure shall not be deemed a breach of contract on the part of OQS for the duration of the disruption and for a reasonable transition period following the end of the disruption. Force majeure shall be deemed to mean all unforeseeable events of a factual or legal nature that impede, or make impossible, performance of the contract, and have not been caused by OQS. Force majeure includes, in particular: unforeseen operational, traffic, shipment or delivery disruptions, natural phenomena, fire damage, epidemics, shortages of energy, raw materials and auxiliary materials, labour shortages, strikes, lockouts, and official orders and decrees. OQS shall, insofar as possible, inform the Customer without delay of the occurrence of force majeure events and of the expected duration of the service disruption. If it is only a partial delivery that is impeded or prevented owing to force majeure, OQS shall be obliged to deliver and the Customer shall be obliged to accept the partial delivery not affected by the impediment. If force majeure impedes or prevents performance of the contract for more than four months or if, owing to force majeure, performance of the contract would be unreasonable for one of the parties, either party may rescind the contract. In the event of rescission, the contracting parties must return whatever they have received from the other contracting party without delay.

6. Product characteristics/warranty

Products offered by OQS are described by means of their specifications, which OQS shall make accessible to the Customer on demand. The Customer confirms by its order that it is aware of the ordered products and their specifications. Unless otherwise expressly agreed in writing, OQS shall deliver products with the characteristics and quality described in the specifications. If there is no description in the specifications, the generally accepted standards concerning the relevant product shall apply. We guarantee a shelf life of 12 months for all products without a separately stated expiry date. Public or oral statements by OQS or third parties shall not be deemed specifications of characteristics for OQS products. The dispatch weight at OQS shall be decisive for the purposes of contract performance and invoicing. In the case of transport by road and rail tankers, the dispatch weight shall be decisive. The agreed quantities by weight may be exceeded or undershot by OQS by up to 10%. Deviations of this kind shall not be deemed breaches of contract.

7. Inspection and acceptance by the Customer

The Customer must inspect the delivered product and report any defects in writing immediately upon receipt and prior to use or further processing. The deadline for reporting defects shall lapse upon the expiry of the fifth working day following receipt of the product by the Customer. The Customer must send all information and documentation to OQS together with the notices of defects in order that the product and the defects can be identified. OQS shall be entitled to examine the product concerned at the Customer's premises, or to arrange for it to be examined by a third party it has appointed and to take samples of the product in question.

8. Warranty and limitation of liability

OQS warrants that the products it delivers are free from defects. A product defect shall mean any deviation from the product data listed in the specifications or – if available – in the order confirmation (including, inter alia, chemical composition, concentration, purity). If no such data is listed, the generally accepted standards concerning the relevant product shall apply. OQS does not give any warranty and accepts no liability for the fitness of its products for a specific purpose of use or for a specific processing result. OQS provides technical advice to the best of its knowledge but on a non-binding basis. Any industrial property rights of third parties must be observed.

If a delivered product contains defects, OQS shall have the right, at its discretion

- i) either to take back the defective product and replace it with a product that is free from defects,
- ii) or to repair the defect,
- iii) refund the Customer for the reduced value of the product, provided that the defective product is fit for the type of use intended by the Customer.

In all cases, including in the event of delivery delays for which OQS is responsible, its liability shall be limited to the invoice value of the product. In particular, all liability for direct or indirect losses or damage, lost earnings of the Customer or third parties, as well as other consequential losses, are explicitly excluded by OQS insofar as permitted by law. OQS also rejects any liability for auxiliary persons that it engages to fulfil its obligations.

9. Default of acceptance

If the Customer is in default of acceptance regarding the ordered product, OQS shall be entitled, at its discretion, either to refuse to make the subsequent delivery or, as of the third day from the collection date, to claim an at-cost supplement for additional expenses (storage costs, handling costs, etc.). If OQS refuses to make the subsequent delivery, it may either demand reimbursement of the losses it incurs as a result of the non-delivery, or withdraw from the contract.

10. Payments by the Customer

Unless expressly agreed otherwise in writing, all invoices issued by OQS shall be payable on a strictly net basis within 30 days of receipt of the goods by the Customer or the date of the invoice. The payment deadlines must also be complied with if the delivery to the Customer, or acceptance of the goods by the Customer, is delayed owing to reasons for which OQS is not responsible. If the Customer is in arrears with earlier payments, or if other circumstances cause OQS to have serious concerns that the Customer's payments will not be settled in full or on time, OQS shall be entitled to make the delivery of ordered products conditional on advance payments or grants of securities, as well as to declare that OQS's receivables from the ongoing business relationship that are not time-barred are payable. If the Customer enters into payment default, all receivables arising out of the business relationship with OQS shall become payable immediately, irrespective of any acceptance of bills of exchange and cheques. OQS shall then also be entitled to demand cash payment before a possible further delivery. If the payment default is still not rectified even within a reasonable period of grace, OQS shall be entitled to withdraw from the contract and demand damages for delay or non-performance. This applies in particular to subsequent business that has been agreed to but not yet carried out. In the event of delayed payments on the part of the Customer, default interest of 6% p.a. shall be payable and OQS reserves the right to claim further compensation for damages. Bills of exchange and cheques will be accepted only on account of payment and corresponding agreement; they shall be deemed payment if and when they are honoured unconditionally. Standard bank expenses shall be borne by the Customer.

The Customer may only offset uncontested claims or claims upheld by a final and non-appealable judgment against a purchase price claim of OQS. The Customer shall be entitled to rights of retention only to the extent that they are based on the same contractual relationship.

11. Assignment

The assignment of rights of the Customer against OQS to a third party shall require the written consent of OQS.

12. Reusable containers, secondary packaging, demurrage

Reusable containers shall remain the property of OQS. These are to be returned to the supplier empty and in proper condition, in accordance with written and oral instruction. Reusable containers shall be subject, irrespective of the container type, either to a fee in the form of a deposit or a rental payment for borrowed property. Containers subject to a deposit will be invoiced for with the delivered chemicals. When the containers subject to a deposit are returned empty and in a proper state, the full deposit fee will be reimbursed. By contrast, we shall make rented containers available to our customers free of charge for 30 calendar days. Rail tank wagons are excepted from the 30-day exemption limit. The Customer shall be responsible for ensuring that the containers are emptied as quickly as possible and sent back to OQS or the specified address. In this case the exemption limit shall be for a maximum of 10 days. Upon expiry of the exemption limits, the Customer shall be charged a daily fee at periodic intervals. The use of rented containers for the Customer's own purposes and without the approval of OQS is strictly prohibited. The attached labels may not be removed. Secondary packaging such as pallets, lattice boxes and frames will usually be exchanged free of charge. However, we can only take back Euro-exchange pallets free of charge if their characteristics correspond to the EPAL quality specifications. The outgoing and incoming quantities will be documented in a pallet account and evaluated at periodic intervals. The Customer shall be invoiced for non-exchanged secondary packaging.

13. Confidentiality

- i) The Customer is obligated to treat all documents and information received in connection with the contract concluded with us that are not generally accessible (hereinafter referred to as “Confidential Information”) as strictly confidential, to store all physical and electronic documents and materials containing Confidential Information separately from other documents, materials, and records, and to protect them against unauthorized access. The customer is not authorized to disclose the confidential information to third parties without our prior written consent.
- ii) The customer is obligated to notify us immediately of any actual or threatened unauthorized use of confidential information and to take all reasonable measures to prevent or terminate such use.
- iii) Upon our objectively justified request, the Customer shall, in compliance with data protection regulations, provide a list of those persons to whom the confidential information has been disclosed in breach of the contract.
- iv) Should the Customer be or become obligated to disclose confidential information due to a legal obligation or an official or court order, the Customer shall notify us of this immediately upon becoming aware of the disclosure obligation and shall determine together with us whether and, if so, how the disclosure obligation can be avoided. Any disclosure must be limited to the minimum necessary and coordinated with us in a timely manner.
- v) We retain ownership of all rights to the confidential information. The disclosure of confidential information does not constitute the granting of any licenses or other rights of use thereto, regardless of content or scope.
- vi) In the event that the Customer culpably breaches its obligation under Section 13 i), the Customer undertakes to pay us a contractual penalty for each individual instance, waiving the defense of continuing conduct, the amount of which may be determined by OQS at our reasonable discretion. The Purchaser may have the reasonableness of the amount of the contractual penalty reviewed by a court.
- vii) In the event of any ongoing unauthorized use of the Confidential Information, the contractual penalty under Section 13 vi) shall be forfeited for each week or portion thereof during which the breach continues.
- viii) The provisions of this Section 13 shall not affect our right to assert additional claims for damages against the Purchaser. The contractual penalty shall not be offset against any claim for damages.

14. Place of performance/choice of law/jurisdiction

The place of performance for the delivery of products and payment is the statutory seat (registered office) of OQS. These GTCS and all contracts between OQS and its customers shall be governed exclusively by Swiss law. All disputes between OQS and the Customer shall be subject to the exclusive jurisdiction of the competent courts for the canton of Basel-Land, Switzerland, at the head office of OQS.