

# **General Terms and Conditions of Sale** **colorplasticchemie Albert Schleberger GmbH**

## **1. Scope**

The general terms and conditions of sale of colorplasticchemie Albert Schleberger GmbH - hereinafter referred to as cpc - shall apply exclusively. cpc does not recognize conflicting or deviating conditions of the purchaser, unless cpc has exclusively agreed to their validity in writing. The Terms and Conditions of Sale shall also apply if cpc carries out the delivery to the purchaser without reservation in the knowledge that the purchaser's terms and conditions conflict with or deviate from our Terms and Conditions of Sale. All offers, acceptances of offers, order confirmations and the sale of any products of cpc are subject to these Terms and Conditions of Sale. Any errors in the brochures, price lists, offer documents, or other documentation of cpc due to errors may be corrected by us, without us being responsible for any damages resulting from these errors. All agreements between cpc and the purchaser for the purpose of executing this contract must be in writing. The Terms and Conditions of Sale shall apply only to persons who, at the time of conclusion of the contract, are acting in the exercise of their commercial or independent professional activity (companies) and to legal entities under public law; they shall also apply in the currently valid version to all future transactions with the ordering party.

## **2. Offer**

The offer of cpc is subject to change unless otherwise stated in the order confirmation. Declarations of acceptance must be confirmed by us in writing or by telex in order to be legally effective. cpc reserves the property rights and copyrights to illustrations, drawings, calculations and other documents. The documents may not be made accessible to third parties. This applies in particular to written documents that are designated as confidential by cpc. Before forwarding confidential offer documents to third parties, the purchaser must obtain our express written consent.

## **3. Prices and terms of payment**

Unless otherwise stated in the order confirmation, cpc's prices are "ex works". The prices of cpc apply excluding freight and packaging costs, which are charged separately. The prices of the current price lists published at the time of the order shall apply. cpc reserves the right to change the prices accordingly, if after the conclusion of the contract cost reductions or cost increases occur, especially due to collective bargaining agreements, material price increases, exchange rate fluctuations or changes in customs duties. cpc will prove these to the purchaser upon request. The statutory value added tax is not included in our prices. It will be shown separately in the invoice in the statutory amount on the day of invoicing. Unless otherwise stated in the order confirmation, the purchase price shall be due for payment without deduction within 30 days of the invoice date. If the Purchaser is in default of payment, cpc is entitled to demand default interest in the amount of 10% p.a. above the respective base interest rate according to § 1 of the Discount Rate Transition Act. If cpc is able to prove a higher damage caused by delay, cpc is entitled to claim this. The purchaser, for his part, is entitled to prove to cpc that we have incurred no damage or significantly less damage as a result of the delay in payment. Payments shall always be made by bank transfer; bill of exchange and check payments shall not be recognized as fulfillment of the payment obligation. The purchaser is only entitled to set-off rights if his counterclaims have been legally established, are undisputed or have been acknowledged by cpc in writing. The orderer has no right of retention due to disputed counterclaims.

## **4. Delivery time**

The start of the delivery period stated by us presupposes the clarification of all technical questions. Compliance with our delivery obligation further requires the timely and proper fulfillment of the agreed obligations of the purchaser. The defense of non-performance of the contract is reserved to cpc. If the ordering party is in default of acceptance or violates other obligations to cooperate, cpc is entitled to demand compensation for the resulting damages, including any additional expenses. cpc reserves the right to further claims. If the prerequisites of paragraph 3 of this provision exist, the risk of accidental loss or accidental deterioration of the purchased item is transferred to the ordering party at the time the ordering party is in default of acceptance or debtor's delay. cpc is liable according to the legal regulations, as far as the underlying purchase contract is a firm deal in the sense of § 376 HGB. cpc is also liable according to the legal regulations, if as a result of a delay in delivery for which cpc is responsible, the customer is entitled to claim that his interest in the further fulfillment of the contract has ceased. Furthermore, cpc is liable according to the legal regulations, if the delay in delivery is based on an intentional or grossly negligent breach of contract for which we are responsible; a fault of our representatives or vicarious agents is to be attributed to cpc. If the delay in delivery is not based on an intentional breach of contract for which cpc is responsible, our liability for damages is limited to the foreseeable, typically occurring damage. cpc is also liable according to the legal regulations, as far as the delay in delivery for which cpc is responsible is based on the culpable violation of an essential contractual obligation; in this case, however, the liability for damages is limited to the foreseeable, typically occurring damage. If the delay in delivery is only based on a culpable violation of a non-essential contractual obligation, the purchaser is entitled to claim a lump-sum compensation for delay in the amount of 3% of the delivery value for each completed week of delay, but not more than 15% of the delivery value.

## **5 Transfer of risk and packaging costs**

Unless otherwise stated in the order confirmation, delivery is agreed "ex works". Transport packaging and all other packaging in accordance with the packaging regulations will not be taken back by cpc, with the exception of pallets. The ordering party is obligated to dispose of the packaging at his own expense. If desired by the purchaser, cpc shall cover the delivery with transport insurance; the purchaser shall bear the costs incurred in this respect.

## **6 Warranty, Liability**

The customer is obliged to inspect the delivered goods for obvious defects that would be readily apparent to an average customer. Obvious defects also include significant, easily visible damage to the goods. It also includes cases where a different item or an insufficient quantity has been delivered. Such obvious defects must be reported to cpc in writing within four weeks after delivery. Defects that only become apparent later must be reported to cpc within four weeks after they are recognized by the customer. In case of violation of the duty to examine and to give notice of defects, the goods shall be considered as approved in view of the defect in question. If there is a defect in the purchased goods for which cpc is responsible, the purchaser can choose to demand subsequent performance, i.e. repair or replacement, free of charge. cpc can refuse the type of supplementary performance chosen by the purchaser, if the performance is impossible or requires unreasonable effort or is

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associated with disproportionately high costs. As long as cpc complies with the obligation of supplementary performance, in particular to remedy defects or to deliver a defect-free item, and the supplementary performance has not failed, the purchaser has no right to demand a reduction of the remuneration or to declare withdrawal from the contract. In the case of a replacement delivery, the purchaser is obligated to return the defective item to cpc. If cpc is not able to provide supplementary performance, in particular if this is delayed beyond a reasonable period of time for reasons for which cpc is responsible, or if the supplementary performance fails in any other way, the Purchaser shall be entitled, at his option, to reduce the purchase price appropriately or to withdraw from the contract. cpc excludes any further liability for slightly negligent breaches of duty, as far as these do not concern essential contractual duties, damages from injury to life, body or health or guarantees or claims according to the product liability law are affected. The same applies to breaches of duty by our vicarious agents. The amount of the obligation to pay compensation is limited to the typically foreseeable damage. All information has been carefully compiled by cpc. They correspond to the current status at the time of publication. However, deviations may occur due to technical changes that may be necessary. Any liability for damage caused by incorrect technical information provided by the purchaser is expressly excluded. Deviations in quantities, contents, thicknesses, weights and color shades due to production are permissible within the tolerances customary in the industry. We reserve the right to over- or under-deliver in the amount of 10%. Deliveries in type-conforming sales goods, whereby our specifications correspond to the average value. Deviations of the usual tolerance remain reserved. Especially if these deviations are due to raw materials from upstream suppliers. All technical data, explanations and instructions regarding the types of use issued and distributed by cpc must be observed by the purchaser. The warranty period is 12 months from the date of transfer of risk. This period is a limitation period and applies to all claims in which a right arises from the defectiveness of the item or service itself.

### **7. Retention of title**

Regardless of the delivery and the transfer of risk, cpc retains ownership of the purchased item until all payments from the business relationship with the ordering party have been received. In case of breach of contract by the purchaser, especially in case of default of payment, cpc is entitled to take back the purchased item. The repossession of the purchased goods by cpc does not constitute a withdrawal from the contract, unless cpc has expressly declared this in writing. The seizure of the purchased item by cpc always constitutes a withdrawal from the contract. After taking back the purchased goods, cpc shall be entitled to sell them, and the proceeds of the sale shall be credited against the customer's liabilities, less reasonable sales costs. The customer is obligated to handle the object of sale with care; in particular, he is obligated to sufficiently insure it at his own expense against fire, water and theft damage at replacement value. If maintenance and inspection work is required, the Purchaser must carry this out in good time at its own expense. In the event of seizures or other interventions by third parties, the purchaser must immediately notify cpc in writing so that cpc can file a third-party action in accordance with § 771 ZPO (German Code of Civil Procedure). If the third party is not able to reimburse cpc for the costs of a lawsuit according to § 771 ZPO, the purchaser is liable for the loss incurred by cpc. The purchaser is entitled to resell the object of sale in the ordinary course of business; however, he already now assigns to cpc all claims in the amount of the final invoice amount (including VAT) of the claim of cpc, which accrue to him from the resale against his customers or third parties, regardless of whether the object of sale has been resold without or after agreement. The purchaser remains authorized to collect this claim even after the assignment. The authority of cpc to collect the claim itself remains unaffected. However, cpc undertakes not to collect the claim as long as the purchaser meets his payment obligations from the collected proceeds, is not in default of payment, and in particular as long as no application for the opening of insolvency proceedings has been filed or payments have not been suspended. However, if this is the case, cpc can demand that the purchaser informs cpc of the assigned claims and their debtors, provides all information necessary for collection, hands over the associated documents and informs the debtors (third parties) of the assignment. Any processing or transformation of the object of sale by the purchaser shall be carried out for cpc. If the object of sale is processed with other objects not belonging to cpc, cpc shall acquire co-ownership of the new object in the ratio of the value of the object of sale to the other processed objects at the time of processing. For the rest, the same shall apply to the object created by processing as to the object of sale delivered under reservation. If the purchased item is inseparably mixed with other items not belonging to cpc, cpc shall acquire co-ownership of the new item in the ratio of the value of the purchased item to the other mixed items at the time of mixing. If the mixing takes place in such a way that the Purchaser's item is to be regarded as the main item, it shall be deemed agreed that the Purchaser transfers co-ownership to cpc on a pro rata basis. The purchaser shall keep the sole ownership or co-ownership thus created for cpc. The purchaser also assigns to cpc the claims to secure our claims against him, which arise against a third party through the connection of the purchased item with a piece of real estate. cpc is obligated to release the securities at the request of the purchaser insofar as the realizable value of our securities exceeds the claims to be secured by more than 10%; the selection of the securities to be released is incumbent upon cpc.

### **8. Place of jurisdiction, applicable law**

If the purchaser is a registered merchant, the place of jurisdiction is cpc's place of business; however, cpc is also entitled to sue the purchaser at the court responsible for the place of business. All legal relationships and legal disputes between the contracting parties shall be governed exclusively by the laws of the Federal Republic of Germany.

Remscheid, March 2015  
colorplasticchemie, Albert Schleberger GmbH