AKEMI®
chemisch technische Spezialfabrik GmbH

General Sales Conditions

I. General Conditions

1. All offers, shipments and agreements shall be governed exclusively by our terms and conditions.
2. We retain the right to amend our offers. Contracts and agreements, in particular such as amend these terms and conditions, shall only become binding for us following our express written confirmation. Agreements of our external trade representatives shall only be valid if they are confirmed by us in writing.
3. We expressly exclude the applicability of the general terms and conditions respectively terms and conditions of purchasing of the purchaser. They shall not apply even if we have not opposed them at the time of entering into an agreement.
4. The purchaser shall be barred from setting off against counter claims unless such counter claims are uncontested or have been determined in a legally binding fashion. The purchaser shall not be entitled to a right of retention. This shall not apply in dealings with non merchants to the extent that the right of retention is based on the same contractual relationship. In dealings with merchants, a right to refuse performance shall be excluded.

II. Shipment

1. To the extent not otherwise agreed, shipment shall take place at the cost and risk of the purchaser. With handing over the goods to the freight forwarder or carrier the risk shall pass to the purchaser. At the latest, however, such risk shall pass when the goods have left the factory or the store.

   Should the goods be damaged during shipment or should the goods listed in the bill of lading not be fully delivered, the recipient of the goods shall be obliged to have the delivering party (in the event of shipment by freight forwarder = truck driver; in the event of shipment by rail = receiving freight rail station) immediately confirm the damage in detail and in writing on the bill of lading and to sign such confirmation. The bill of lading with the notice of damage shall be handed over to us for the purposes of enforcing claims for damages on behalf of the purchaser; we shall not be obliged to enforce the claims by way of filing suit before the courts, we do, however, agree to carry out such measures as enable the purchaser to file a corresponding suit. Should shipment be agreed free purchaser´s address, the purchaser shall nevertheless bear the risk of shipment. In such cases we shall however pay such damages for shipment damage as are received by us for such shipment damage. The damages provided by us shall, at our discretion, consist of either free replacement delivery or crediting of the amount received by us.
2. For shipment of the goods we shall be entitled to select the means of transportation and the route of shipment without incurring any liability. This exclusion shall not apply if, in dealings with merchants the executive manager or one of our senior employees, in dealings with non-merchants the executive manager or one of our employees, has acted in a manner to be considered at least grossly negligent.

   We shall only be obliged to enter into transport insurance upon express demand by the purchaser. The purchaser shall bear the costs of such insurance.

III. Terms of Delivery

1. The terms of delivery shall commence with receipt of the confirmation of the order, taking into **consideration** the possibility of supply and contractual terms and conditions otherwise agreed.
2. The agreed term shall extend without harm to our rights from the purchaser´s default for such period as the purchaser is in default with his duties under this or a different agreement. This shall apply accordingly, if a date of delivery has been agreed.
3. In the event that we are in default, the purchaser shall be obliged to set a reasonable period of grace. Following the expiry of this period of grace, the purchaser shall be entitled to rescind the agreement if the purchaser has not been notified that the goods concerned are ready for shipment at such time.
4. Claims for compensatory damages arising from failure to respect delivery times or delivery dates shall be restricted to the value of the order unless the delay has incurred by gross or wilful negligence.
5. Acts of God shall entitle us to postpone shipment for the duration of the obstruction and for a reasonable period of re-commencement of business or to rescind the agreement for such parts thereof as have not yet been fulfilled. Strikes, lock-outs, unrest and other circumstances which substantially obstruct delivery or make delivery im-possible shall be deemed equal to Acts of God, irrespective of whether they are incurred by us or one of our suppliers. The purchaser may demand a declaration from us stating whether we shall rescind the agreement or intend to deliver within a reasonable period of time. Should we not provide such declaration, the purchaser shall be entitled to rescind the agreement.

IV. Terms of Payment

1. Our invoices shall be paid due within 30 days following the date of the invoice without deductions or within 14 days subject to a discount of 2 %. The above specified discount shall not be granted if the purchaser is in default with the payment of earlier shipments.
2. In the event of targets being exceeded, we shall charge arrears interest in accordance with the current interest rates for short-term bank credits, but at least in the amount of 3 % above the current bank rate of the german central bank.

V. Retention of Property

1. In dealings with merchants all goods supplied shall remain in our property until all claims out of the business relationship with the particular purchaser have been fulfilled (goods subject to retention of property), even if payments for particularly designated claims have been made. In regard to nonmerchants, we shall retain property in the goods supplied up to the fulfilment of the particular claim for the purchase price.
2. The purchaser shall be entitled to process and sell the goods subject to retention property in ordinary business dealings. The purchaser shall only be entitled to sell on, respectively process the goods subject to retention of property subject to the condition that the claims from selling on, respectively processing shall pass to us in accordance with items 3 to 5. The purchaser shall not be entitled to dispose of the goods subject to retention of property in any different fashion.
3. The purchaser shall assign these claims from selling on and/or processing of the goods subject to retention of property to us at this time already, irrespective of whether the goods subject to retention of property are sold to one or more customers or are processed for one or more ordering parties.
4. The purchaser shall be entitled to collect the claims assigned to us from selling on, respectively processing up to the time of our revocation of such authorisation. We shall be entitled to exercise such revocation at any time. To the extent that our claims are due, the purchaser shall be obliged to transfer thus collected amounts to us immediately. Under no circumstances shall the purchaser be entitled to assign such claims to third parties.

   Up on our demand, the purchaser shall be obliged, should we not do so ourselves, to notify the customer of the assignment of his claims to us immediately and to confirm such notice to us, as well as to forward to us the information and documents required to collect such assigned claims with the corresponding notification.

   The purchaser shall be obliged to immediately notify us of attachment or any other case of our rights being affected by the actions of third parties.

   Should the security achieved by the retention of property exceed the claim to be secured by more than 20 %, we shall be obliged to release security at our discretion upon demand of the purchaser.

   The purchaser´s authorisation to collect shall be revoked if the terms of payment are not adhered to, the purchaser is in breach of contractual terms or conditions, in the event of the termination of payment by the purchaser or the initiation of settlement or bankruptcy proceedings.

VI. Processing Instructions *

1. Since the working conditions in the construction business and the areas of application for our products are very different, we are only able to provide general guidelines by means of our processing instructions. Should special requirements exist, which are not covered by the application and working conditions our specialist consultation needs to be called for expert advice. No legal obligations on our part of any nature whatsoever shall be derived therefrom.
2. Declared consumption in our instruction sheet are average experienced values.
3. AKEMI® cartridge products, when used with the corresponding original AKEMI® mixing nozzles and guns, form a fully integrated application system. Before application, the purchaser must ensure that only the original AKEMI® mixing nozzles and guns intended for the respective cartridge product are used.

   No claims for defects, damages or other compensation may be made against us in respect of malfunctions, incorrect mixing, application problems or damage attributable to the use of mixing nozzles, cartridge guns or other system components not supplied by AKEMI®. Mandatory statutory liability provisions remain unaffected.

VII. Notice of Fault, Liability

1. All details provided in respect of the suitability, processing, and application or use of our products, technical advice and consultancy, and other information are provided to the best of our knowledge, but do not exempt purchasers from conducting their own tests and examinations. Agreements on properties provided and the undertaking of any guarantees shall only be binding on us if expressly undertaken in writing in the contract. For any claims based on defects with regard to quality and/or in the application of the product, the respective latest version of the data sheet is relevant in the form that is available from our homepage on the Internet or can be provided at any time if a request is made to that end. In the event of the purchaser having deviated from the provisions set our therein, any complaint in respect of deficiency or any other liability on our part shall be excluded.
2. Purchasers shall be required to examine the goods supplied immediately for any deficiencies, and, in the event of a deficiency coming to light, shall advise us thereof in writing forthwith. In the event of this not being effected the goods shall be deemed to have been accepted. For purchasers who are not consumers, this shall apply both for evident overt deficiencies as well as to hidden covert deficiencies. If the purchaser is a consumer, the obligation to effect immediate examination shall be restricted to overt, externally re-cognisable deficiencies.
3. In the event of liability for deficiency being established in respect of the goods supplied by us, and notification of the deficiency in due time by the purchaser, we shall provide replacement for the deficient goods free of charge, provided that the deficiencies were the subject of complaint at the time of transfer of risk. In the event of inability to effect subsequent fulfilment, purchasers shall have the right, at their discretion, to reduce the remuneration or to withdraw from the contract. Clause 5 shall apply to any claims for compensatory damages or claims for reimbursement of expenditure.
4. In the event of complaint, purchasers shall be obliged, at our request, to grant us the possibility of subsequent inspection, by the immediate provision of material samples. In the event of this obligation not being respected, no claims for deficiency shall pertain to the purchaser against us, unless the breach of this purchasers´ obligation would neither impede nor render difficult our opportunity to conduct examination of the cause of the deficiency. The costs for submitting material samples and reception thereof shall be for our account, provided that the material supplied proves to be deficient.
5. We shall be only liable towards purchasers for compensatory damage, irrespective of the grounds in law, whether arising from the contract or from tort, only in cases of intent, gross negligence, danger to life, limb, or health, or due to the absence of an agreed property, inasmuch as the agreement was intended to avoid the onset of just such an incident, or due to the infringement of substantial contractual obligations (cardinal obligations), or from other mandatory provisions of the law. Compensation for the infringement of important contract obligations is limited to damage typical for the contract and in this case to a maximum amount of 500.000,00 Euro, insofar as there is no intent or gross negligence on the part of our legal representative or our vicarious agents or harm to life, or injury to the body or health. No alteration in the burden of proof to the disadvantage of the purchaser is associated with these present provisions. The foregoing provisions shall apply accordingly to the reimbursement of any fruitless expenditure.
6. The statute-barring period for any claims in respect of deficiencies shall be one year from delivery of the goods, provided that no purchase of consumer goods pertains, or provided that no longer period of statute-barring is mandatorily specified by the law.

AKEMI®
chemisch technische Spezialfabrik GmbH

General Sales Conditions

VIII. Place of Fulfilment and Jurisdiction

Place of fulfilment for both parties to the agreement shall be Nürnberg. The court Nürnberg shall have jurisdiction over all disputes arising out of the commercial dealings, including check and draft litigation.

IX. Final Terms and Conditions

1. German law only shall apply to the business relationship with our clients, to the exclusion of any foreign law. The application of UN Purchasing Law/CISG shall in any event be hereby excluded.

2. For export of our goods by our customers in areas outside the Federal Republic of Germany, we assume no liability if our products through third-party rights are violated. The buyer is to replace the damage committed by us through the export of goods caused by that we do not expressly provided for export.

3. Our business partners declare, to keep all data related to this business connection absolutely confidential, non-disclosure to uninvolved third parties and to take all steps necessary to prevent misuse and breach of confidentiality by others, as well as to keep all data in safe keeping.

4. Our business partners are obliged to comply directly or indirectly with the current sanction regulations of Western countries (in particular the EU and the USA). Non-compliance authorises the termination of the business relationship and may result in claims for compensation.

*** Technical data sheets and safety data sheets are available on request.**

AKEMI chemisch technische Spezialfabrik GmbH • Lechstraße 28 • 90451 Nürnberg • Germany
Tel. +49(0)911-642960 • Fax +49(0)911-644456 • E-mail: info@akemi.de • Internet: www.akemi.com
Geschäftsführer/Managing Director: Dipl.-Kfm. Torsten Hamann; Dr. Dirk Hamann; Dr. Arndt Schlosser
Firmensitz/Registered office: Nürnberg; Handelsregisternummer/Commercial register no.: HRB 1834; Registergericht/Register court: Amtsgericht Nürnberg