

Nuplex Resins General Conditions of Sale

Article 1 General

The Nuplex Resins General Conditions of Sale shall be applicable to all offers, order confirmations and deliveries by Nuplex Resins and shall form an integral part of the sales agreement between Nuplex Resins and Purchaser. Notwithstanding any statement to the contrary, in writing or otherwise, by Purchaser, no purchase conditions of Purchaser shall be applicable or shall set aside the Nuplex Resins General Conditions of Sale unless expressly agreed otherwise in writing by Nuplex Resins.

Article 2 Formation of the contract

All quotations made by Nuplex Resins shall not be binding upon Nuplex Resins unless any such quotation explicitly states otherwise. The agreement (“sales agreement”) between Nuplex Resins and Purchaser, shall be formed by the confirmation of the order by Nuplex Resins.

Article 3 Delivery

- 3.1 Delivery shall be effectuated in accordance with the INCOTERMS as published by the International Chamber of Commerce, applicable at the date of the sales agreement. Title to the goods shall pass to Purchaser in accordance with Article 4.
- 3.2 The quantities stated in the shipping documents such as, if applicable, the weight certificate, bills of lading, sea waybills, liner waybills, or freight receipts, shall determine the quantity of the goods delivered.
- 3.3 Packaging, including pallets, containers and the like used for transportation purposes, made available on loan shall promptly be returned freight prepaid to Nuplex Resins after unloading of the goods, failing which Nuplex Resins shall be entitled to charge Purchaser a lease fee Nuplex Resins deems appropriate.

Article 4 Transfer of Title

- 4.1 The property of the goods delivered shall remain vested in Nuplex Resins and shall only pass to Purchaser when payment in full of the purchase price has been received by Nuplex Resins. Purchaser hereby undertakes, during the period the property is still vested in Nuplex Resins, to hold the goods delivered in trust for Nuplex Resins. In the event Purchaser fails to pay the amount(s) due for the goods delivered within the time limit referred to in Article 6, Section 6.2, Nuplex Resins shall have the right to repossess the good delivered at any time, without any prior notice being required.
- 4.2 Purchaser shall be authorized, however, within the normal course of his business to resell and deliver or use the goods hereinabove referred to. The risk in the goods shall pass to Purchaser on delivery in accordance with the agreed delivery term of Section 3.1.

Article 5 Price

- 5.1 The price is based on exchange rates, duties, taxes, and freight, storage and insurance charges ruling at the time of concluding the sales agreement. In case of any alteration in the applicable rates, duties, taxes or charges after the date of conclusion of the contract but prior to the agreed date of delivery, Nuplex Resins shall have the right to adjust the price accordingly.
- 5.2 In case of any increases in prices of energy, raw materials or other materials necessary for the manufacture of goods ordered by Purchaser and occurring prior to the agreed date of delivery, Nuplex Resins shall have the right to increase the price of the goods ordered accordingly, provided that Purchaser shall have the right to cancel the sales agreement within fifteen days of receipt of Nuplex Resins’s written notice of price increase.

Article 6 Payment

- 6.1 Any payment by Purchaser shall first of all serve as payment for any other debt or debts of Purchaser to Nuplex Resins due on the date of payment, or due pursuant to Section 6.2. To the extent said payment exceeds the amounts due for payments under such debt or debts, the remainder shall be credited by Nuplex Resins to the amount due as described in the invoice.
- 6.2 Payment of the price shall be effectuated by payment to the bank account of Nuplex Resins within the term agreed upon. If Purchaser fails to pay the full amount within said term, then, without prejudice to any other right Nuplex Resins may have:
 - a) all other debts Purchaser owes to Nuplex Resins, shall be due for immediate payment;
 - b) a default interest shall be due of 3 % above the official discount rate or, if no such rate exists, above the minimum lending rate of the national bank of the country of the agreed currency;
 - c) all costs of recovery, including judicial, made in order to achieve full or partial payment by Purchaser of the amount or amounts due, shall be for the account of Purchaser.

Article 7 Liability

No warranty or representation is made, whether express or implied, as to the use, sufficiency, merchantability, or fitness for any purpose whatsoever of the goods supplied, unless explicitly stated otherwise in writing by Nuplex Resins. Information given by Nuplex Resins on the quality, composition or application purposes shall only be construed as a warranty if explicitly stated in writing in the form of a warranty in the sales agreement. Purchaser shall hold harmless and indemnify Nuplex Resins for and against any claims for damages, whether from tort or otherwise, resulting from the use or sale by Purchaser of the goods supplied, unless such damages are the direct result of a breach of an explicit written warranty given by Nuplex Resins; except in case of gross negligence or willful misconduct on the part of Nuplex Resins. Nuplex Resins’ liability shall not in any way exceed the net sales price of the goods concerned. In no event shall Nuplex Resins liability include indirect or consequential damages.

Article 8 Applicable law, Competent Court

In case of transfrontier sales the sales agreement shall be governed by and construed in accordance with primarily the rules of the United Nations Convention on Contracts for the International Sale of Goods (“Convention”) and, secondarily, thereto the laws of Seller’s country. All disputes shall be exclusively submitted to and finally settled by, at the sole option of Seller, the competent court of Seller’s registered office or the competent court of Purchaser’s registered office.

Article 9 Force majeure

Force majeure shall include labour disturbance, delays in supply of raw materials, and other circumstances as described in Article 79 of the Convention.

Article 10 Hardship

Should the circumstances prevailing at the date of conclusion of the sales agreement, prior to the date of delivery of the goods alter to such an extent as to make it impossible for either one of the parties to be reasonably required to fulfil one or more of the terms of the sales agreement, and such alterations reasonably could not have been foreseen by such party, then consultations shall be held about intermediate amendments of the sales agreement. In the absence of agreement with a reasonable time, either party shall be entitled to terminate the sales agreement.

Article 11 Entrance control, claims, notification

Any claims concerning the quality or quantity of the goods delivered shall be made by Purchaser within 45 days from the date of receipt of the goods and shall be based on a representative sample of the goods at the time of delivery. Goods resold, taken into tank storage or into use without prior product identification are deemed to be accepted by the Purchaser. No goods shall be returned to Nuplex Resins without prior written consent of Nuplex Resins.