

STANDARD TERMS AND CONDITIONS OF SALE – IMERYS MINERALS REFRACTORY CLERAC

Every sale made by Imerys Minerals Refractory Clerac, a company whose registered office is at Clerac 17270 (France), registered with the Companies Registry under number 320 091 119 R.C.S. Saintes is bound by these standard terms and conditions of sales. Therefore, the sole fact of placing an order implies full and unreserved acceptance by the Purchaser of these said Terms and Conditions, to the exclusion of all other documents such as brochures or catalogues that are for information purposes only. No special conditions shall prevail over these Terms and Conditions unless the Seller expressly so agrees in writing. These Terms and Conditions take precedence over any Terms and Conditions of Purchase and all other documents particular to the Purchaser. The French version of these Terms and Conditions are available on the Seller's website (<http://www.imerys-refractoryminerals.com>) or can be obtained from the Seller's Customer Service upon simple request from the Customer by email.

1. **Orders** : Orders received from the Purchaser are final only after expressly confirmed in writing by the Seller. Unless stipulated otherwise, all our proposals in terms of both quantity and quality or pricing are valid for a period of eight (8) days only and within the limit of available stocks. In the event of a delay in carrying out the order attributable to the Purchaser, the Seller may cancel with full force and effect all or part of the order, and any sums that the Purchaser may have paid shall accrue to the Seller as compensation.
- 2. Products – Specifications** : The Seller takes every precaution in producing and selecting the Products and will make every effort to ensure that the Products delivered comply with the specifications described, unless it is stipulated otherwise that the Seller guarantees that the Products delivered comply with particular specifications. Since the raw materials for the Products are chiefly of natural origin, the Seller may have cause to modify the specifications thereof. In such event, the Seller agrees to notify the Purchaser of the modifications and the period of time during which they will apply, prior to delivery. The Purchaser must take all measures to ensure that the Products ordered are suitable for its own products, production methods and intended purpose. Failure to comply with these recommendations does not entitle the Purchaser to make any claim against the Seller. The Products are not delivered as being fit for any specific use or purpose.
- 3. Claims – Warranty – Returns** : Unless stipulated otherwise, orders are carried out to a quality that meets currently accepted professional tolerances. Without prejudice to the provisions to be taken with regard to the Carrier, any claims regarding apparent defects or non-compliance of the Product delivered with the Product ordered or with the delivery note, must be made in writing within eight (8) days as of the delivery of the said Products; concealed defects must be notified in writing within two (2) months of their discovery. No interventions in this regard shall extend these periods of time. It is the responsibility of the Purchaser to supply evidence of the genuineness of any non-compliance or defects found. It must facilitate the appraisal of the said defects by the Seller and must refrain from making or causing any intervention to be made on the Products that are the subject of a claim, unless the Seller gives prior agreement otherwise. No Product may be returned without the Seller's prior agreement. Unless stipulated otherwise and for reasons directly related to the Seller's responsibility, the costs of return will be borne by the Purchaser. The Seller incurs no liability for defects where the cause thereof arises subsequent to the transfer of risks and, in particular, in the event of use that is faulty or non-compliant with the Seller's recommendations or yet in the event of deterioration of the Products due to poor storage. In the same way, the Seller is not liable for any harm caused to third parties or for any indirect or consequential losses, in particular commercial or financial, that might be caused to third parties or the Purchaser. At all events, to the extent that the Seller's liability is incurred, the same is strictly limited to the amount of the price of the Products acknowledged as being defective and/or non-compliant, and the Seller will decide at its sole option, to either replace or refund the Products acknowledged as being defective and/or non-compliant. It is expressly agreed that the Seller gives no other express or implied warranty. Use of the Products is at the Purchaser's sole and entire liability who must assume all consequences thereof, direct or indirect, of any nature whatsoever, without recourse to the Seller's warranty. In particular, the Purchaser must assure itself of the compliance of the Products and of the use that will be made thereof, with the laws and regulations that might apply, in particular, by reason of the consumer or the latter's country.
- 4. Deliveries – Shipment** : Delivery times are given as an indication only and depend on availability of Seller's stocks and on the one of the Carrier. Overrunning delivery times does not give rise to payment of any compensation, withholding of payment or cancellation of current orders. In any event, the delivery can only take place if the Purchaser is up to date in its obligations towards the Seller. Unless stipulated otherwise, Products will be delivered at the Seller's factory and will be the subject of a delivery note. The risks of loss and damage relating to the Products are transferred to the Purchaser upon delivery. As a result, therefore, goods are carried at the Purchaser's risk and liability, whose responsibility it is to take out all necessary insurance policies to cover the goods against damage suffered or caused by the Products, as well as transport risks, for an amount at least equal to the value of the Products. It further falls to the Purchaser to express all reservations to or exercise any recourse against the Carriers, in the event of damage, loss or missing items. In the event of a delivery organized by the Seller, the route to be used for the transport, as well as the Carrier are chosen by the Seller, unless stipulated otherwise.
- 5. Weights – Quantities** : The weights and quantities shown on the transport documents are the only figures that will be taken into account for raising invoices. The weights and quantities invoiced may differ from those ordered within the limit of what is acceptable commercial practice for the concerned Products.
- 6. Prices** : The Products are supplied at the prices shown on the pricelist applying at the time the Seller accepts the order. Unless stipulated otherwise, prices are understood to be exclusive of taxes, duties (including customs duties) and miscellaneous taxes.
- 7 Invoicing** : An invoice is raised for each delivery and issued at the time of delivery or no later than the end of the calendar month on a statement.
- 8. Payment – Penalties** :
In case of dispute involving deliveries, the Purchaser may not rely on such dispute as a pretext to suspend payments. Unless agreed otherwise by the Seller in writing, settlements must be made within thirty (30) days of the date the invoice is issued, without discount. Failure to make any payment at due date renders with full force and effect all other outstanding payments immediately payable together with any other sums that might be due for any other reason whatsoever. In the event of late payment, the Seller may suspend all current orders without prejudice to any other remedy at law. Any sum not paid at the due date indicated on the invoice shall give rise with full force and effect and without prior notice to payment of a late payment penalty being calculated on the amount of the sums outstanding at a rate of three times the legal rate of interest. Such penalty shall start to run from due date until the amount due has been paid in full. Furthermore, the Purchaser shall pay, without prior notice, a lump sum for recovery costs of (40) euros to the Seller, in accordance with Article L441-6 of the French Code de Commerce. In the event of non-payment, the Seller may cancel with full force and effect the sale forty-eight (48) hours after notice to pay has remained without effect, and it may then apply to the court for a summary order to return the Products, without prejudice to any other compensation or damages. Such cancellation shall cover not only the order in question but also all previous unpaid orders whether or not delivered or in course of delivery and regardless of whether or not payment is in arrears.
- 9. Confidentiality** : All proposals, drawings or documents prepared or transmitted by the Seller remain its property. The Purchaser may not therefore disclose the same to any third parties on any grounds whatsoever.
- 10. Packaging** : Unless agreed otherwise in writing, the Seller does not take back and invoice packaging. It is therefore the Purchaser's personal responsibility to deal with the use, recycling, storage or destruction thereof. In the event the Seller does take back the packaging, it must be returned free of all charges within a period of twelve (12) months. No packaging displaying the Seller's trademark may be used for anything other than the Seller's Products.
- 11. Reservation of title** : Products are sold subject to a clause expressly subordinating transfer of ownership thereof to full payment of the price in principal and incidentals, it being expressly stipulated that merely remitting a paper creating an obligation to pay, (bill or other), does not constitute payment in terms of this clause. The above provisions do not create any impediment to the risks of loss or deterioration of the said Products, and any damage or harm they may cause, passing to the Purchaser on delivery of the Products that are subject to this reservation of title clause. As long as the price has not been paid in full, the Purchaser must identify the Products delivered under this Contract and not mix them with other products of a similar nature originating from other suppliers. Failure to so identify the Products shall entitle the Seller to require a refund thereof or to take back any still in stock. It is an absolute obligation for the Purchaser to inform the Seller without delay in the event of an attachment order or any other third-party intervention affecting the Products, so that the Seller may apply to have the order set aside and preserves its rights. The Purchaser further agrees not to use the Products to create any charge or assign title to the Products as a security. In the event the Customer fails to pay all or part of the price on the due date, the Seller hereby reserves the right to claim the Products and Customer shall return them on first demand without prejudice to any further damages on which the payments received shall be first allocated and which shall be kept as such by the Seller.
- 12. Force Majeure** :
The Seller cannot be held liable for non-performance of all or part of its obligations where such non-performance results from the occurrence of a case of force majeure. Force majeure is an event that is unforeseen, compelling and independent of the Seller's or the Purchaser's volition, making normal performance of the Seller's obligations impossible. The following may, in particular, constitute cases of force majeure without such list being considered restrictive or limitative: war, riot, strike, acts of governmental authorities, Act of God, fire, explosion, natural disasters, exceptional weather conditions, embargo, compliance with new laws or regulations, etc. All causes not attributable to the Seller and causing a slowdown and/or a discontinuation of production and/or a discontinuation of delivery for the Sellers or its suppliers or its subcontractors will be considered as cases of force majeure as well. If such an event results in the suspension of this Contract for a period in excess of ninety (90) consecutive days, the most diligent party may cancel the sale without notice or compensation.
- 13. Competence – Jurisdiction** : This Contract is subject to French Law. Any dispute arising from the interpretation and / or performance of these Standard Terms & Conditions of Sale shall be of the exclusive competence of the Commercial Court (Tribunal de Commerce) within whose jurisdiction the Seller has its registered office.