

## GENERAL TERMS AND CONDITIONS OF PURCHASE OF CHEMIA BRUGG AG

### 1. GENERAL

- 1.1 These General Terms and Conditions of Purchase (hereinafter called «GTCP») shall apply to all our enquiries and orders and to all supply contracts and other agreements entered into with the Supplier in relation to orders. Any terms and conditions of the Supplier are hereby also rejected in the event that they are forwarded to us in a letter of confirmation or in any other manner or should we accept the delivery or service without objecting to the Supplier's terms and conditions once again. These GTCP shall be deemed to have been accepted by the Supplier upon making an offer. This shall also apply if the Supplier encloses its own terms and conditions of sale and delivery with its offer or its order confirmation.
- 1.2 Verbal side agreements, amendments to these GTCP and supplements to or the exclusion of these GTCP shall only be valid if concluded in writing. This shall also apply to the removal of this requirement of written form.
- 1.3 The German version shall be definitive with regard to the interpretation of these GTCP, even if translations thereof have been made available to the Supplier or signed by the parties.
- 1.4 In the event that provisions set out in these GTCP or other contractual provisions are or become invalid, the contract shall remain valid in other respects. The parties undertake to replace an invalid provision with a valid provision that comes closest to the economic outcome of the invalid provision.
- 1.5 The Incoterms valid at the time these GTCP are issued shall apply.

### 2. ENQUIRIES, OFFERS, ORDERS

- 2.1 Our enquiries are non-binding. Our orders shall only have binding force for us if and insofar as we have issued them in writing or confirmed them in writing.
- 2.2 If the Supplier's offer differs from our enquiry, the Supplier shall expressly draw attention to this. Offers shall be submitted free of charge and shall not have binding force for us. Remuneration shall not be granted for visits or the like without an express, written agreement.

### 3. PRICES, PAYMENT

- 3.1 Prices shall be binding if agreed upon. Unless agreed otherwise, the prices are CIP (carriage and insurance paid).

- 3.2 Invoices shall be submitted in duplicate separately from the goods and shall state the respective destination, our order number and any other references requested in the order.
- 3.3 Unless agreed otherwise, payments shall be made at our choice within 14 days of receipt of the invoice and goods with a 2 % trade discount or within 30 days of receipt of the invoice and goods with no deduction. Where the performance includes the provision of documentation, test certificates or similar documents, the above-mentioned payment periods shall not commence prior to the provision of such documents as per agreement.

### 4. DELIVERY AND OTHER SERVICES ("PERFORMANCE")

- 4.1 Agreed dates and deadlines shall have binding force and constitute expiry dates.
- 4.2 Should circumstances arise that appear to jeopardise the proper performance at the agreed time, the Supplier shall notify us of this immediately and state the reasons. This shall not alter the obligation to adhere to the agreed performance schedule. Additional costs required for an expedited form of shipping owing to the failure to respect the agreed delivery time shall be borne by the Supplier.
- 4.3 Should it fail to respect the agreed performance deadline the Supplier shall be deemed to be in default without any requirement for a warning unless performance has not been effected on grounds outwith the Supplier's responsibility.
- 4.4 The unconditional acceptance of the delayed service on our part shall not imply any waiver of our rights arising due to the failure to respect the deadline for performance .
- 4.5 Payment shall be made exclusively on the basis of the volumes, measurements and weights determined at our factory.
- 4.6 Unless agreed otherwise, the Supplier shall provide at its own cost packaging suitable for delivering the goods. This shall not affect our right to issue instructions regarding the packaging to be used. Statutory provisions shall consequently be complied with.
- 4.7 Shipping documents such as delivery notes, packaging slips and the like and, if stipulated by agreement, specified by law or customary within trade, batch numbers, works certificates and safety data sheets, shall be enclosed in each consignment. Order numbers and the references requested in the order, in particular regarding chemicals and biocides, shall be stated in all written correspondence. Full batch traceability shall be

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- guaranteed at all times. A dispatch note and a delivery note (in duplicate) shall be forwarded to us at the latest on the shipping date. If we have not been provided with proper shipping documents upon receipt of the goods, or if our order numbers are not correctly stated in the shipping documents, all resulting additional costs shall be borne by the Supplier. Sentence 2 of clause 4.9 shall apply *mutatis mutandis*.
- 4.8 The Supplier shall only be entitled to render partial performance following our prior, written approval and provided that the respective batch numbers are stated. This shall not affect our right to request the Supplier to render partial performance.
- 4.9 The Supplier shall not be entitled to render performance prior to the agreed performance time. In the event of early delivery, we shall be entitled to refuse acceptance of the goods or to return the goods to the Supplier at the Supplier's cost and risk or to store the goods until the agreed performance time. The Supplier shall respect our opening hours when effecting performance.
- 5. DECLARATIONS REGARDING THE ORIGIN OF GOODS**  
The Supplier is obliged to make declarations regarding the origin of the goods, to enable the proof of origin to be reviewed by the customs authorities, to provide information necessary to that effect and to furnish the any confirmations that may be necessary. The Supplier undertakes to provide compensation for damage caused owing to the refusal by the competent authority to acknowledge the stated origin as a result of a improper certification or inadequate proof of origin.
- 6. EXAMINATION OF GOODS PRIOR TO DELIVERY, REVIEW OF THE SUPPLIER'S QUALITY ASSURANCE MEASURES, ACCEPTANCE**
- 6.1 We are entitled to access the Supplier's premises and to inspect the goods and the production process, at any reasonable time, provided that prior notice is given. If the goods are located on the premises of a third-party, the Supplier shall take all measures in order to enable us to inspect the goods. Any faults identified during inspection of goods shall be rectified by the Supplier.
- 6.2 The Supplier shall carefully examine outgoing goods. We shall be entitled to review the Supplier's quality assurance measures and systems at any time deemed reasonable by us.
- To that effect, the Supplier shall grant us access to its premises at any reasonable time, provided that prior notice is given, and shall provide us with all relevant information for assessing the quality assurance measures and systems. This shall be without prejudice to any rules set out in quality assurance agreements.
- 6.3 If a formal acceptance must be followed due to applicable statutory provisions or by agreement, such formal acceptance shall be conducted according to an acceptance protocol (e.g. transfer of responsibility for hazardous goods).
- 7. WARRANTIES**
- 7.1 We are only required to perform random checks. Faults that may be identified during the course of an ordinary examination of the goods following delivery shall be notified within one month of delivery. Other faults shall be notified by us within one month of their discovery.
- 7.2 The Supplier shall provide the goods to us free of defects in title and material faults and in a manner which does not infringe domestic or foreign industrial proprietary rights or any other third party rights.
- 7.3 If a material fault is discovered within one year of transfer of risk, it shall be assumed that the item was already faulty upon transfer of risk unless such an assumption is incompatible with the nature of the article or the fault.
- 7.4 If the Supplier fail to rectify a fault or deliver fault-free goods within a reasonable period granted to it, we shall be entitled to rectify the fault or arrange for the fault to be rectified by a third-party (for example by delivery of replacement goods) at the cost of the Supplier. This does not affect the statutory provisions on the ability to dispense with the requirement for a grace period or any other statutory rights relating to faults.
- 7.5 Warranty claims shall expire within two years, unless the law provides for periods. This does not affect the statutory provisions on the suspension of time-barring periods for recourse claims.
- 7.6 The Supplier's warranty and liability shall be determined in accordance with statutory provisions.
- 8. LIQUIDATED DAMAGES**  
If liquidated damages have been agreed upon, we may demand that these be paid even if we have not reserved the right to do so upon acceptance of performance. However, liquidated damages must be claimed no later than the time of the final payment.

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- 9. EXEMPTION FROM LIABILITY, THIRD-PARTY LIABILITY INSURANCE**
- 9.1 The Supplier shall hold us harmless from any liability towards third-parties resulting from producer's liability or from product liability, provided that the Supplier is responsible for the product fault that gives rise to the liability.
- 9.2 The Supplier undertakes to secure and maintain third-party liability insurance including appropriate cover for personal injury and damage to property.
- 10. OFFSETTING AND RETENTION, NON-ASSIGNABILITY**
- 10.1 The Supplier shall only be entitled to offset claims which are undisputed or a matter of *res judicata*. The Supplier may only exercise a right of retention in relation to such undisputed or *res judicata* claims originating from the same individual contractual relationship.
- 10.2 The Supplier may not assign its claims against us to a third-party.
- 11. SUPPORT IN THE EVENT OF DAMAGE**
- The Supplier guarantees that it shall support us at any time in relation to the investigation of cases involving damage or in order to resolve disputes relating to supplies through the provision of staff for interviews, the granting of access to documents and files and the provision of all information reasonably requested by us, and that it shall support us in making the required notices to the competent authorities.
- 12. CONFIDENTIALITY**
- 12.1 The Supplier undertakes to treat as secret any confidential information received from us or obtained through experience and to refrain from disclosing to third-parties (subject to clause 12.2) and from using such information unless this is necessary for the orderly conduct of contractual relations.
- 12.2 The Supplier may only disclose confidential information to employees and advisers where necessary for the orderly conduct of contractual relations. The Supplier shall be obliged to subject such employees and advisers to the duty of confidentiality set out in clause 12.1, and upon request to provide us with written proof to that effect.
- 12.3 The duty of confidentiality shall not apply to information that was already in the public domain at the time it was provided to the Supplier or came into the public domain after provision in a manner for which it was not responsible.
- 12.4 The disclosure of confidential information and the forwarding of corresponding documents shall not establish any rights whatsoever over our industrial proprietary rights, know-how or copyright.
- 13. PLACE OF PERFORMANCE, PLACE OF JURISDICTION, APPLICABLE LAW**
- 13.1 The place of destination stated by us shall be deemed to be the place of performance for the delivery of goods. The place of our commercial law registered office shall be deemed to be the place of performance for our payments.
- 13.2 The Courts of Brugg (canton of Aargau, Switzerland) shall have jurisdiction over all disputes resulting from these GTCP. However, we are entitled to initiate action before any other court with jurisdiction in accordance with the statutory provisions, in particular the Aargau Commercial Court in Aarau (canton of Aargau, Switzerland), instead of at the above-mentioned court.
- 13.3 These GTCP shall be subject to substantive Swiss law, and shall not be subject to the provisions of the UN Convention on the International Sale of Goods (CISG).