

## General Terms and Conditions of Purchase

### 1. Scope of applicability

- 1.1 The following General Terms and Conditions of Purchase shall be applicable to all goods and/or services purchased or acquired from the Supplier on the part of Bayern-Chemie GmbH (BC).
- 1.2 Any General Terms and Conditions of Business stipulated by the Supplier divergent from or supplementary to these General Terms and Conditions of Purchase shall not be binding to BC, even without express objections by BC or with stipulation by the Supplier that his General Terms and Conditions of Business be the exclusive basis for delivery.

### 2. Conclusion of contract

- 2.1 If the Supplier fails to accept a purchase order from BC in writing within a period of two weeks upon receipt of same, BC shall be entitled to cancel the purchase order. Receipt of acceptance at BC's shall determine expiry of the acceptance period.
- 2.2 Acceptance of the purchase order shall include all significant order specifications, in particular precise designation of objects deliverable, order numbers, and order and delivery date.
- 2.3 Supplements or changes to the purchase order by the Supplier shall only be effective subject to written confirmation by BC.
- 2.4 The supplier shall not be entitled to subcontract the purchase order as a whole or in part to third parties or to have it subcontracted by third parties without prior written consent by BC. Unauthorized subcontracting to third parties shall entitle BC to cancel the entire contract or parts thereof and to claim damages.

### 3. Prices

- 3.1 All prices of the Supplier shall be considered as being free place of performance and duty unpaid. They shall include costs for packing, loading and freight forwarding of goods. The expenses involved in the insurance of any goods, especially in any forwarding agent's insurance, will not be born by BC; it is prohibited to have any forwarding agent's cartage Insurance certificate ("SVS/LVS") issued for the transportation on the territory of Germany.
- 3.2 The agreed prices are fixed prices precluding any supplementary claims or price increases.

#### **4. Terms of payment**

- 4.1** Invoices from the Supplier shall be submitted in duplicate and, for each delivery, must include all the information requested in the purchase order.
- 4.2** Unless otherwise agreed, payments shall, in principle, be made by bank transfer, within 14 days after delivery and receipt of bill at 3% discount, within 30 days at 2 % discount, or within 60 days without discount. Cash discount may be effected even if the Purchaser offsets or withholds claims due to defects.
- 4.3** The supplier shall not be entitled to assign accounts receivable or to have them collected by a third party without BC's prior written approval. This does not apply to cases of prolonged reserve on property. The provision of article § 354a HGB (German Commercial Code) shall not be affected.
- 4.4** BC shall be entitled to assign claims from the Suppliers within MBDA Group

#### **5. Delivery date and place of fulfillment**

- 5.1** The agreed delivery date shall be binding. Any early deliveries and deliveries after the agreed delivery date are only permissible subject to written consent by BC.
- 5.2** The time of arrival at BC's merchandise entrance (Building 558) shall determine re timeliness of deliveries. The Supplier shall immediately inform BC if and as soon as it becomes evident that he will be unable to meet the delivery date. Acceptance of a delayed delivery by BC shall not imply the waiving of claims for compensation.
- 5.3** If delivery by the Supplier is delayed, BC shall be entitled to claim a contractual penalty of 0.5 % of the order value for each week's delay or a fraction thereof, up to an aggregate maximum of 5 % of the order value. The Supplier shall at liberty to provide evidence that BC has sustained less damage or none at all as a result of the delay.
- 5.4** BC is not obliged to accept part deliveries. If part shipments have been agreed, the quantity outstanding for delivery shall be recorded in the delivery slip.
- 5.5** The place of fulfillment for goods or services provided by the Supplier shall be the merchandise entrance of BC.

#### **6. Shipment and passing of risk**

- 6.1** The Supplier shall package and ship delivery objects duly and properly, complying with all regulations relating to packaging and shipment. The Supplier shall be liable for all damage and losses sustained by BC as a result of incorrect or unsatisfactory packaging.

- 6.2** Each consignment shall be accompanied by shipping documents such as delivery notes, packaging slips, etc. Order numbers and other data specified by BC in the purchase order must be entered on all pertinent documents. BS must receive a notification of shipment on or before the day of shipment.
- 6.3** BC will pay customs charges on all delivery objects. The Supplier shall deliver all goods duty unpaid.
- 6.4** Any additional costs incurred by BC due to non-observance of the provisions defined above shall be charged to the Supplier.
- 6.5** For deliveries which do not involve installation or assembly, the risk will pass with receipt of the goods at BC's. For deliveries involving installation or assembly, and for services, the risk will pass when the goods or services are accepted on site as agreed.

## **7. Rights of BC in case of defects**

- 7.1** The Supplier shall be responsible for any defects in the delivery objects for the period of two years from transfer of risk. The period of limitation shall be five years from acceptance in the case of constructions or work whose successful completion requires planning or monitoring services related to constructions.
- 7.2** BC will immediately notify the Supplier, in writing, of defect identified in the normal course of business activities.
- 7.3** If any delivery object proves to have defects during the warranty period, BC shall be entitled to demand a remedy, i.e. correction of the defect or supply of an object free of defects, at the discretion of BC. BC shall also be entitled to assert these rights before the transfer of risk alongside the claim to fulfillment, if defects are identified at this point in time.
- 7.4** Should a remedy by the Supplier fail, or the Supplier refuse to provide a remedy or fail to provide a remedy within a reasonable period of time specified by BC, BC shall be entitled to reduce the purchase price or withdraw from the contract and demand compensation for wasted resources or claim damages in lieu of the goods or services.
- 7.5** The Supplier shall carry out a thorough examination for defects and shall furthermore do everything in his power in order to avoid product liability. If any claim are made against BC as a result of product nonconformity and if the nonconformity is based, as a whole or in part, on deficiencies in the delivery of the Supplier, BC shall also be entitled to indemnity in respect of the third party instead of claims for any damages and losses. The obligation of the Supplier to pay damages shall also include the costs of a precautionary recall to prevent losses, if feasible. The Supplier shall make provisions for reasonable insurance to cover the risk of such loss.
- 7.6** If third parties make claims against BC based on breach of industrial property rights, copyright or other right in respect of goods and/or services provided by

the Supplier and used by BC in accordance with the contract, the Supplier shall provide BC with comprehensive indemnity from any claims made by third parties. In the event of defense against unjustified claims made by third parties, BC shall provide the Supplier with reasonable support and the Supplier shall take on the costs incurred by BC in this context.

- 7.7** If a piece of work proves to be defective during the warranty period, BC shall be entitled to demand a remedy, i.e. correction of the defect or the manufacture of a new work. BC shall also be entitled to assert these rights before the transfer of risk alongside the claim to performance, provided the defect has been identified by this point in time.
- 7.8** If a remedy by the Supplier fails, proves unacceptable from BC's point of view, or if the Supplier refuses to provide a remedy or fails to provide this remedy within a reasonable period of time specified by BC, BC shall be entitled to remedy the defect and demand compensation for the requisite expense from the Supplier – this may also take the form of an advance.
- 7.9** Alternatively, BC can reduce the purchase price under the provisions of section 7.8 or withdraw from the contract and demand compensation for resources expended in vain or claim damages in lieu of the work or service.
- 7.10** In all cases specified above, the Supplier shall not be entitled to make the remedy dependent on partial or complete payment of the remuneration agreed. The Supplier shall bear the requisite expense for the remedy, in particular as regards costs related to transport, travel, labour and materials.

## **8. Duties regarding instruction, information and care**

- 8.1** Provided BC has informed the Supplier about the intended use of the goods to be supplied, or such use is apparent to the Supplier even without express mention, the Supplier shall be obliged to inform BC immediately if the goods provided by the Supplier are considered unsuitable for the intended use.
- 8.2** BC must be informed promptly in writing of any circumstances that might jeopardize compliance with the agreed delivery dates so that further action may be discussed.
- 8.3** The Supplier shall immediately notify BC in writing of any changes or modifications in the composition of materials used or engineering design if these should diverge from similar or comparable goods previously provided by the Supplier to BC. Any such changes or modifications shall require written consent by BC.
- 8.4** The Supplier shall ensure that the goods and services conform to all applicable environmental-protection, accident-prevention and other industrial safety regulations, as well as to the safety rules and all generally accepted statutory regulations effective in Germany. The Supplier shall advise BC, for each shipment, of any specific treatment and waste disposal requirements that happen to be beyond the scope of common public practice.

## **9. Customer-supplied items**

- 9.1** All documents and other items supplied by BC to the Supplier shall remain the property of BC. They must be used exclusively for the provision of ordered goods. The Supplier shall insure any materials transferred to him against loss and deterioration. The Supplier shall have no right of retention of materials belonging to BC.
- 9.2** To the extent that any of the items provided by BC are processed, converted or transformed by the Supplier to form a new movable product, BC shall be deemed the manufacturer of such product. If an item is combined with or inseparably integrated into other objects, BC shall acquire a joint title and ownership in said objects at the ratio of the value of the items at the time of combination or integration. If the items are combined or integrated in such a manner that the Supplier's property merits consideration as the primary product, it is understood and agreed that the Supplier assigns and transfers to BC a prorated interest in a joint title to such products. The Supplier shall hold products subject to joint ownership in trust on behalf of BC, free of charge.
- 9.3** The Supplier shall, at his own expense, perform any necessary maintenance and inspection work and shall further take out adequate insurance cover for the items provided by BC. Proof of such insurance cover must be procured to BC on request.

## **10. Article 10 Official Authorizations - Export Licenses**

- 10.1** The Product or part of the Product may be subject to export laws and regulations (hereafter referred to as "Export Regulations"), and the Parties acknowledge that diversion contrary to such Export Regulations is prohibited. Purchaser will provide Supplier with all information necessary to examine such requirement of approval.
- 10.2** The Supplier shall identify any part of the Product that is subject to Export Regulations at the time of signature of this Contract or the receipt of an Order. Amendments to such information shall be provided by supplier in the event of a change in Export Regulations, and shall provide the Purchaser with all information concerning such applicable Export Regulations. Supplier also shall provide reasonable assistance requested by Purchaser to comply with the applicable Export Regulations.
- 10.3** Whenever all or part of the Product is subject to Export Regulations, and without prejudice to its obligations under this Article 10, the Supplier shall:
- (a) be responsible for obtaining in time, at no cost to the Purchaser, all relevant official approvals, licenses and authorizations required for the export of this Product to, delivery of the Product to, and use of the Product by the Purchaser and the Customer or Enduser in accordance with this Contract worldwide or as provided by the End-Use Statement; and

- (b) where all or part of a Product is subject to export licensing procedures, the Supplier shall ensure that an export license or similar documentation is issued by the relevant authorities in time to allow delivery and operation of the Product by the Purchaser and the Customer or Enduser in accordance with this Contract and the provided End-Use Statement; and
  - (c) clearly indicate on all Delivery Notices and invoices the export control classification number and the number of the applicable export license;
  - (d) provide Purchaser with a copy of the export license certificate, including a copy of all provisos that relate to the compliance obligations of the purchaser, including, but not limited to, any restrictions on sublicensing, any restrictions on retransfer, any requirements for non-disclosure agreements, any limitations on employees, and any other restrictions or conditions that result in authorization being more restrictive or not as broad as contemplated in the authorization or license request and/or the order documentation. Provisos that are classified or that do not relate to the compliance obligations of the purchaser may be redacted from the copy supplied to Purchaser, if so required by the US Government.
- 10.4** If one or more Technical Assistance Agreements (“TAAs”) are required for the fulfillment of this Contract, the TAAs shall be agreed with the Purchaser before being submitted to the export authorities, and a copy of the issued authorization including a copy of all provisos that relate to the compliance obligations of the Purchaser shall be provided to Purchaser.
- 10.5** Notwithstanding anything to the contrary in this Contract, Purchaser’s ability to deliver and support products fitted with the Product worldwide or as provided by the End-Use Statement and the Customer’s or Enduser’s ability to use, operate and maintain the products worldwide or as provided by the End-Use Statement are of the essence of this Contract. In the event that any Export Regulation would prevent the Supplier from complying with this obligation, the Supplier shall, at its own costs, and within a timeframe compatible with the Purchaser’s business needs either (a) obtain from the relevant administration any authorization, with respect to the Product, necessary for the Purchaser to sell and support products and/or the provided end-use-statement for the relevant Customer or Enduser to continue using, operating and maintaining the product, or (b) replace or modify the restricted technology so that the Product ceases to infringe the Export Regulations, while fulfilling all requirements defined by this Contract; without prejudice to the Purchaser’s rights to claim for compensation for all costs, damages and losses suffered as a consequence of the said breach and/or to terminate this Contract for Supplier’s default.
- 10.6** Notwithstanding any other provision of this Contract, the Supplier shall be liable for all damages, losses and liabilities incurred by the Purchaser as the result of the Supplier’s non-compliance with its obligations under this Article 10.

## **11. Right of use**

- 11.1** The Supplier shall grant BC a non exclusive, unrestricted and assignable right of use for all goods and / or services protected by copyright.
- 11.2** For the use of all goods and /or the services delivered under the purchase order the Supplier shall grant to BC a non exclusive transferable license for all background rights (inventions or copyrights) if such background rights are required for the use. BC shall pay an adequate compensation
- 11.3** All inventions or copyrights resulting from the purchase order shall be transferred free of charge from Supplier to BC.

## **12. Confidentiality and secrecy**

- 12.1** The purchase order placed by BC shall be kept confidential. The Supplier shall keep secret and confidential any commercial and technical information and documents not generally known in the public domain which are disclosed in the course of the business relationship. The Supplier further undertakes to use such information and documents exclusively for the provision of the goods ordered. Any subcontractors shall be obliged to maintain corresponding confidentiality and secrecy.
- 12.2** Any mention by the Supplier of the corporate name or trademarks of BC in advertising material, references, credentials or other publications shall require prior written consent by BC.

## **13. Spare parts and their availability**

- 13.1** The Supplier shall supply, at reasonable conditions, the spare parts required for a period equivalent to the anticipated technical service life or for at least 10 years after the last date of delivery.
- 13.2** If the Supplier intends to discontinue delivery of goods deliverable after expiry of the delivery period defined in section 11.1 or during said period, BC shall be offered the opportunity to place a final order.

## **14. Final provisions**

- 14.1** The contract shall be governed exclusively by the laws of Germany for all legal dealings between BC and its suppliers, with the exception of the provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- 14.2** Muehldorf shall be the exclusive place of jurisdiction for any disputes arising from this business relationship.

- 14.3** Any changes and amendments to the contract and supplementary agreements must be made in writing. This provision shall also be applicable to any waiver to this requirement for the written form.
- 14.4** Should any of the above provisions become void, illegal or unenforceable, the validity of the remaining provisions shall not be affected. In such case the void and/or illegal and/or unenforceable provision or provisions shall be replaced by equivalent provisions coming as close as possible to the actual, legal and commercial sense and purpose of the General Terms and Conditions of Business as a whole and to any of the contractual agreements. The same procedure should be adopted if any similar gap is identified in the General Terms and Conditions of Business.