

## 1. General

1.1. The following purchase terms and conditions are valid for all contracts entered into with us and all enterprises within the Chemson Group, especially for purchase contracts and contracts for work and services, however they may be designated; should applicable regulations not be explicitly mentioned within, the Law shall have exclusive validity.

1.2. The use of the term „Contractor“ in these Terms and Conditions refers to the contractual partner commissioned by us for a delivery, work or service.

1.3. Deviating and conflicting Sales and Delivery Terms and Conditions of the Contractor are only then valid if they have been expressly confirmed by us in writing. By accepting and performing our order (commission), the Contractor expressly recognizes and accepts our General Purchase Terms and Conditions. All related correspondence is to be held with our Purchase Department.

1.4. The Contractor shall treat the contract and all related information made known to him confidentially. The Contractor may use us as a reference towards third parties only after obtaining our express confirmation in writing..

## 2. Orders and Formal Requirements

2.1. Irrespective of issued offers, contracts come about only with our written, telexed, faxed or emailed order. Orders placed verbally or by telephone are only valid after they have been confirmed in writing, via telex, fax or email.

2.2. Deviations from our orders must be promptly notified in writing. Deviations shall only be accepted if they have been expressly confirmed in writing via telex, fax or email. The unconditional acceptance of goods and deliveries does not constitute such a confirmation.

2.3. The date an order is placed is valid as the order date. If an order is placed verbally or by telephone then the date of our written confirmation is valid as the order date. The order number shall be placed clearly on all correspondence pertaining to the order, in particular invoices. The Contractor shall confirm our order in writing within 2 days or at the latest within 10 days of the order date. Should the order not be confirmed within 14 days then we reserve the right to withdraw from the order.

## 3. Terms of Delivery, Shipping, Insurance and Acceptance

3.1. The delivery or service time limit begins on the order date. Should no time limit be stipulated, delivery or performance shall be prompt. Should a delay in delivery or performance become unavoidable, notification must be immediate stating the reasons and the length of expected delay. Delivery or performance before the contractual date is only permissible after our express confirmation. Such a delivery or performance can in no way represent a disadvantage for us. The original contractual terms of payment remain valid and unchanged.

3.2. All deliveries must be shipped Delivery Duty Paid DDP (pursuant to Incoterms in the version valid at contract closing) to the agreed receiving office, free of all fees, at the cost and danger of the Contractor.

3.3. The Contractor is responsible for appropriate packaging. The Contractor is responsible for shipping and packaging costs, as well as the costs for insurance of any and all kinds. All deliveries must be accompanied by appropriate documentation (especially a detailed list of contents). If no documentation is included, we reserve the right to refuse a delivery. If necessary, the Contractor is obliged to take the packaging back free of charge.

3.4. All deliveries must be free of title retention. The delivered goods are to be handed over to our employees at the agreed delivery address. The acceptance of the goods is done quantitatively at the delivery address at the time of delivery and qualitatively as soon as they are processed or used. Our employees are not able to confirm that the goods are free of quality defects at the time of delivery.

3.5. Special product regulations, like for example products that are subject to the Austrian Chemical Rights, are to be classified, packaged and marked appropriately.

3.6. The Contractor must ensure that deliveries are made pursuant to our specifications and that the technical parameters defined within these specifications or expected by us are included in the analysis certificate. The analysis

certificates of every raw material order must be submitted to us at the time of delivery at the latest.

## 4. Delay, Withdrawal, Contractual Penalty and Transfer of Risk

4.1. Should a delivery or service be delayed, or be delivered or performed contrary to the contractual agreement, we reserve the right to withdraw from the contract immediately or after a grace period, or to demand contract fulfilment, irrespective of all further reaching claims. We reserve the same rights if the Contractor goes into bankruptcy or if his application for bankruptcy is rejected due to lack of funds.

4.2. Moreover, we reserve the right to charge a penalty of 2% of the total delivery value for every commenced week of delivery delay, with 6% of the total delivery value as maximum penalty. We reserve the right to claim further damages.

4.3. We reserve the right to claim such penalties and/or further damages irrespective of the total order amount even if we have accepted a delayed delivery or service. Contract penalties are not subject to judicial mitigation.

4.4. If the delay is caused by an Act of God, then the Contractor is released from his duty to pay the contractual penalty and damages for the duration of the delay, if he promptly notifies us of the situation and, if required, substantiates his claim with an appropriate confirmation from the responsible Chamber. Strikes and the fact that materials, components or finished goods are only good as waste are not acceptable as Acts of God.

4.5. The danger is only transferred to us after the Contractor has delivered the goods/services to our authorized employee and the delivery/service has been checked and accepted at the contractual delivery address and the Contractor has duly satisfied all secondary obligations such as providing the required certifications, descriptions, instructions, and/or mounting, commissioning, training etc.

## 5. Warrantee and Guarantee

5.1. The Contractor shall offer a 2 year guarantee for the implementation of the delivery/service as according to the contract and for the adherence to all pertinent legal requirements. Within this context, he shall particularly ensure that the delivery/service has the usually assumed and contractually agreed on characteristics and is consistent with the samples provided. The guarantee period begins with the acceptance of the delivery/service by us. There is no obligation on our part to promptly examine the delivery/service at the time of delivery and to object to possible defects (Commercial Notice of Defects according to §§ 377, 378 UGB). We reserve the right to claim any occurring defects at any time within the guarantee period. The Contractor therefore waives the right to object to late claims of defects; payments do not waive the right to claim defects.

5.2. In the case of warrantee, we reserve the right to demand either a free correction or the exchange of the defect delivery/service, to have the defect corrected at the cost of the Contractor, to change the contract or to demand an appropriate discount. If the Contractor corrects the defect, the guarantee period for the entire delivery begins anew after the correction has been accepted by us.

## 6. Compensation for Damages and Product Liability

6.1. The Contractor is liable for all damages resulting from a late or defective delivery/service from him or third parties accountable to him especially for indirect damages, consequential damages and lost profits.

6.2. We are entitled to undiminished compensation and rights of recourse in every case. We do not agree to legal disclaimers and/or the obligation to impose legal disclaimers on our customers.

6.3. In case that the delivered goods have defects in the sense of the product liability law and we are claimed against, the Contractor agrees to give us full indemnity against claims and actions.

## **7. REACH Enactment**

7.1. The Contractor undertakes that his delivery is pursuant to the conditions of the regulation (EG) No. 1907/2006 for the registration, evaluation, certification and limit of chemical substances („REACH-Enactment). The Contractor is especially responsible for the fact that the substances delivered by him, as far as required in the regulations of Article 6 of the REACH-Enactment, were pre-registered by November 30, 2008 or were registered following the transitional period pursuant to Article 23. Appropriate security documentation pursuant to Article 31 and information pursuant to Article 32 must be submitted to us unsolicited.

7.2. If the Contractor delivers products in terms of Article 3 Figure 3 of the REACH-Enactment, then he undertakes especially that he complies with his obligation to submit specific information pursuant to Article 33 of the REACH-Enactment.

7.3. If the Contractor infringes against the regulations in point 7.1. or point 7.2., then he is obliged to cover all resulting damages and costs and to give us full indemnity against claims and actions. This is particularly valid in regards to possible third party claims.

## **8. Trade Mark Rights**

8.1. With the contractual price, the purchase of the legal trademarks is satisfied, especially that of samples, brands and patents, as is necessary for us for their free use and for the further sale of the delivered goods. The Contractor shall supply licenses as necessary. We have free use of inventions of the Contractor during the implementation of our contract.

8.2 The Contractor agrees to give us full indemnity against claims and actions (including court and legal costs) in case the trademark rights of others are infringed upon in connection with the ordered delivery or service.

## **9. Price and Terms of Payment**

9.1. All offers to us are free of charge. Agreed prices are including packaging, free delivery to the contractual location (including unloading) and are fixed prices (without VAT), which cannot be increased for any reason.

9.2. The payment period begins on the invoice date or goods delivery or at the end of the service provision, depending which is later; with deliveries prior to the contractual date, however, at the earliest on the contractual delivery date. The payment of accepted deliveries or services takes place within 90 days net, unless otherwise agreed.

9.3. Payment is made via check or bank transfer. The payment period shall be considered as upheld, if the bank transfer date or post date falls within the payment period.

## **10. Transfer of Contract, Assignment and Set Off**

10.1. The contract cannot be passed, neither in whole nor in part, to a third party for its completion without our written consent. At any rate, the Contractor remains liable for the services of third parties as he is for his own.

10.2 The Contractor can only transfer or assign any of his rights under the contract after prior written approval. We reserve the right to charge all receivables that the Contractor has against us with all receivables which we or one of our subsidiaries, which we have a direct or indirect majority participation in, have against him.

## **11. Production Specifications / Confidentiality**

11.1. Samples, models, drawings, recipes, process descriptions and other specific documentation that we make available to the Contractor for the fulfilment of his contractual obligations remain our intellectual and material property which we can use as at our discretion. These contrivances may only be used to fulfil our order and may not be made available in any way to external third parties without our approval. After fulfilling our order these contrivances are to be returned at no cost.

11.2. The Contractor is obliged to protect all our industrial and business secrets made known to him during the course of contract fulfilment. Subcontractors, pre-suppliers and employees of contractual partners are to be obligated appropriately. The obligation to protect business and industrial secrets is indefinitely valid, including the time after the business relationship. If the obligation for confidentiality is broken then a contractual penalty regardless of negligence or fault of € 100.000,00 (one hundred thousand Euros) is agreed which is not subject to judicial mitigation. Rights above and beyond remain untouched.

## **12. Place of Fulfilment, Court of Jurisdiction and Applicable Law**

12.1 The place of fulfilment for deliveries is determined in line with the delivery address or location provided by us. The headquarters of the Contractor is agreed on for payments.

12.2. Court of Jurisdiction is Klagenfurt.

12.3. This contract is subject to Austrian Law excluding rules of conflict of laws. The applicability of the UN Convention on Contracts is excluded.

## **13. Salvatorius Claus**

Should singular clauses and provisions of this contract become invalid, then the validity of the remaining clauses and provisions of this contract shall remain untouched and unchanged.