

General Terms and Conditions of Purchase AlzChem AG

1. Scope of Validity

Unless otherwise agreed to in writing, these General Terms and Conditions of Purchase Order shall exclusively apply to these and all future orders/contracts. We shall not be bound by conflicting or additional terms of the Contractor ("Contractor") even if we have not expressly contradicted them or have accepted delivery without reservation.

2. Order, Offer

2.1 Any oral side agreements regarding the order/contract must be set down in writing.

2.2 In case of material changes to the basis of the contract, in the event of good cause disturbing any contract for recurring performance, or if composition of insolvency proceedings have been initiated in respect of Contractor's assets and Contractor has not yet or not yet fully performed, we shall without exception be entitled to withdraw from the contract or - in the case of contracts for recurring performance - terminate the contract without notice.

2.3 Contractor offers shall be provided free of charge; cost estimates shall not be reimbursable unless otherwise agreed in writing.

3. Correspondence

In all correspondence Contractor must indicate the order number and the date of the order/contract and the material number/material identification defined by us.

4. Execution

Contractor must maintain a quality assurance system, e.g. pursuant to DIN ISO 9001 and/or DIN ISO 14001. We are entitled to review Contractor's system in a quality audit as coordinated with him beforehand.

5. Subcontractors

The employing of subcontractors shall require our prior written consent. Contractor shall subject the subcontractors to all obligations it has entered into in relation to us and furthermore shall ensure compliance with such obligations by its subcontractors and shall remain legally responsible for the subcontractor and its performance.

6. Transport

6.1 Contractor shall note the address indicated in the order/contract. The transport/shipping has to comply with the regulations on the tariff, transport and packaging of railways, road transport, shipping, air transport, etc. This is particularly the case with regard to any existing customs and dangerous goods regulations. Contractor is obliged to select the most economical mode of transportation unless we have given specific instructions for transport.

6.2 In addition to the forwarding address, the order information (order no., order date, delivery office, the name of the recipient if applicable and the material number/material identification respectively defined by us) shall always be included in the transport documentation. Contractor shall obligate subsuppliers to indicate Contractor as their principal in correspondence and in forwarding documents (showing full order data).

6.3 The unit load weight (from 1 t onwards) shall be affixed to the unit load in a clearly visible and permanent manner.

6.4 Without prejudice to our further claims Contractor is only entitled to partial delivery/performance upon our approval.

7. Information on Hazardous Materials, Product Information

7.1 The delivery items are to be labeled in accordance with the provisions of the Hazardous Materials Regulations and the EC/EU Directives for Hazardous Materials/Preparations

7.2 Contractor is obliged to provide us prior to delivery and in a timely manner with all necessary product information, especially with respect to product composition and shelf life/service life, e. g. safety data sheets, processing advice, labeling regulations, assembly instructions, workers' protection measures, etc., including any amendments to the foregoing.

8. Delivery Period, Delay

8.1 The delivery date indicated in the order shall be binding. Contractor is obligated to inform us without undue delay and in writing whenever there is an indication that he might not be able to perform within the agreed time period. We shall be entitled to the damages stipulated by law in the event of delayed delivery.

8.2 Contractor may only claim as a defence that documents/information required from us have not been provided if he has not received such documents/information within a reasonable period of time despite having sent a reminder.

8.3 We shall be entitled to enforce individually agreed and forfeited contractual penalties until the due date of the final payment without specifically reserving the right to do so according to § 341 section 3, BGB (the German Civil Code). The incurred contractual penalty shall not be offset against any applicable delay damages pursuant to § 340 section 2, BGB.

9. Performance Certificates and Acceptance

Any performance certificates provided for under contract as well as the acceptance shall be made free of charge to us and certified in writing.

10. Weights/Volume

Without prejudice to our further claims in the event of discrepancies in weight the weight established by us upon the inspection of incoming goods shall prevail unless Contractor proves that the weight calculated by him at the time of passing of risk was measured correctly in accordance with a generally accepted principle. This clause shall apply to volume accordingly.

11. Billing and Payment

11.1 Invoices must comply with the applicable statutory requirements. The invoice shall indicate the order number and the material number and separately the applicable Value Added Tax or explicitly refer to tax exemption applied. Invoices shall be sent separately to the billing address specified in the order/contract.

11.2 Unless otherwise agreed, we will pay within a period of 45 days net. The payment period starts upon delivery of goods at their destination or at acceptance of performance, and upon receipt of invoice at the billing address indicated in the order/contract. Payments are no indication of approval. Payments may be made less a withholding tax if the biller does not provide an exemption certificate.

12. Notice of Defect

A product inspection take place by us in terms of externally visible (transport-) damage and apparent differences in identity and quantity. Such defects will be notified in due time after delivery. In addition we notify defects in due time after detection.

13. Claims for Defects, Liability of Contractor, Statute of Limitations:

13.1 Defects as to quality appearing within six months after the transfer of risk shall be deemed to have existed prior to the transfer of risk, unless this assumption is not applicable to the type of defect.

13.2 Contractor undertakes that goods delivered/services supplied shall have the individually guaranteed properties and the contractually agreed characteristics, are suitable for the contractually stipulated use, are not impaired in value and suitability, and comply with the generally accepted technical rules and standards as well as all applicable statutory and regulatory provisions.

13.3 Inasmuch as delivery/service fails to meet the requirements of section 13.2 or in case of defects for other reasons, we may demand at our option - in addition to any statutory rights - the short-term and free of charge replacement of defective goods or remedying of defects. Contractor in these cases has to compensate us for all expenses incurred directly or indirectly by us based on its malperformance. In cases of urgent need or if Contractor is in default with its remedial action, we are entitled to remedy the defect at Contractor's expense. Inasmuch as Contractor guarantees the properties or durability of the delivery/service, we shall be entitled to claim said guaranty all other remedies notwithstanding.

13.4 Contractor is liable for defect of title under statutory provisions, especially in case products/services or their use as per contract infringe patents or other intellectual property rights of third parties in the country of destination as per contract. If we are held liable for such infringement by third parties, Contractor undertakes to hold us harmless from and indemnify us against, upon the first written request, all claims (including court and litigation fees) that arise against us or in conjunction with the third party's claims. We shall not be entitled to enter into any agreements at the expense of Contractor with the third party without the express approval of Contractor.

13.5 Otherwise, the liability of Contractor shall be exclusively governed by statutory regulations. Contractor undertakes to hold us harmless from and indemnify us against all third party damage claims upon first request if Contractor and his sub-suppliers have caused the product defect associated with the liability claim and are responsible for it.

13.6 We or any third party authorized by us are entitled to do repair work on the goods delivered despite any Contractor's intellectual property rights.

13.7 The legal and/or contractual rights and claims for material and legal defects become time barred in accordance with applicable legal regulations.

13.8 Statute of Limitations for or because of claims in case of defects shall be stopped in cases as provided for by law. In the event of notices of defect, the warranty period shall be extended for the entire delivery or work by the time period between the notice of defect and the removal of the defect. The warranty period shall commence from anew for the complete or partial new delivery, replacement or improvement of deliverables or work.

14. Insurance:

14.1 Contractor must maintain liability insurance with terms customary to the industry, minimum coverage of EURO 2 million per occurrence, for the duration of contract, including the guarantee and warranty period or statute of limitation. Contractor must provide documentation of his insurance coverage upon request; lower levels of coverage shall be coordinated with us in the individual case and only with our prior written approval.

14.2 We take out transport insurance for all shipments directly delivered to us (e. g. deliveries under sales contracts, contracts for work and materials, maintenance contracts and specially manufactured products, but not the delivery of materials for use by Contractor on our site). We abstain from taking out an insurance for damages (SLVS) according to ADSp Art. 29.2.1. Any premiums for such indemnity insurance or other self-insurance shall be borne by Contractor.

15. Information

All information, including drawings and other materials we require for assembling, operating, servicing or repairing the items delivered shall be provided to us by Contractor in good time, without any special request and without charge. Our rights under § 434 section 2 BGB remain unaffected.

16. Entry to the Plant Site/Construction Site

When entering our plant site/our construction site all persons shall follow the instructions of our trained personnel. Any entry onto our plant site/construction site must be notified in due time. The provisions of the Road Traffic Regulations (StVO) must be observed. If work is to be rendered at the plant site/construction site, the appropriate building site regulations shall apply. In addition the Contractor shall inform himself about the local regulations (e.g. safety regulations) and shall comply with them.

17. Liability

We, our legal representatives and all our employees shall be liable only for intent, gross negligence or if the breach of our contractual obligations violates the essence of the contract (essential obligations). In the event of slight negligence of essential duties, our liability for damages and recourse claims shall be limited to foreseeable damage typical for a contract of this nature and shall not exceed EURO 100,000. This shall not apply if the ProdHaftG or other statutory requirements mandate our liability in the event of endangering the life, body or health of others or causing damage to private property.

18. Reservation of Group Clearing

18.1 Receivables we and our consolidated companies pursuant to Sec. 15 et seq. Joint Stock Company Act (upon request we will send you a list of these companies) acquire against Contractor shall inure to all companies of our Group as joint and several creditors. These receivables may therefore be set off against Contractor's claims against any company of our Group. The same shall apply for rights of retention or other defenses and exceptions.

18.2 Contractor shall not object to our stipulation of which receivable is to be set off in the event of several receivables.

19. Waste Disposal

To the extent waste under the meaning of waste management law results from Contractor's deliveries/work, he shall recycle or remove such waste, subject to any written agreement to the contrary, at his own expense in accordance with the regulations of waste management law. Title, risk and the responsibility under waste management law shall pass to Contractor upon the arising of waste.

20. Confidentiality

Contractor undertakes to keep confidential any information, knowledge and materials, e. g. technical and other data, measured values, techniques, business experience, business secrets, know-how, drawings and other documentation (hereinafter: "INFORMATION") received from us or disclosed in any other way by our domain or the domain of another company of our Group, and shall not disclose such INFORMATION to third parties and use it for the purpose of executing the respective order/contract only. Contractor undertakes to return all INFORMATION delivered to him in a tangible form such as documents, samples, specimens, or the like without undue delay upon our request without retaining any copies or notes. In addition, he shall delete his own notes, compilations and evaluations containing INFORMATION without undue delay upon our request and shall confirm this to us in writing. We have ownership and all intellectual property rights to our INFORMATION.

21. Planning Documents

Any drawings or drafts etc. made by Contractor according to our special requests shall become our property without our being additionally charged for it, even if such items remain in the possession of Contractor. Any statements made by Contractor indicating the opposite or otherwise not in compliance with the aforesaid, and e.g. printed on the documents handed out to us shall not be binding.

22. Advertising Materials

Contractor may refer to the business relationship existing between us in his informational and advertising materials with our express prior written consent only.

23. Prohibition of Assignment

Assignments by Contractor except under Sec. 354 a of the German Commercial Code are prohibited; any exceptions shall become effective upon our prior written consent only.

24. Severability

Should any of these provisions be partly or totally invalid, this shall have no effect on the validity of the remaining conditions.

25. Place of Jurisdiction and Applicable Law

25.1 In case Purchaser is a merchant, exclusive place of jurisdiction shall be the location of the registered office of our company. We are entitled, however, to bring a suit before any court having jurisdiction over the location of Contractor's registered office.

25.2 The contract and the legal relationship between Contractor and us shall be governed by the substantive law of the Federal Republic of Germany without being affected by any conflicts of law provisions of any state. The United Nations Convention on Contracts or the International Sale of Goods (CISG) of April 11, 1980 shall not apply. If any trade terms have been agreed pursuant to the International Commercial Terms (INCOTERMS), they shall be interpreted and apply according to INCOTERMS 2010.

IMPORTANT: These "General Conditions of Purchase Orders" had been translated from the German version of these conditions (Allgemeine Einkaufsbedingungen). This translation is provided for the information and benefit of contractors. In case of unclear interpretation of these General Conditions of Purchase Order the German version shall prevail in all respect.