

General Terms and Conditions of Purchase

1. General

- 1.1. In these "**General Terms and Conditions of Purchase**" of WeylChem Frankfurt GmbH, WeylChem Griesheim GmbH and WeylChem Hoechst GmbH ("**WeylChem**"), the following definitions shall apply:
 - 1.1.1. "**Affiliated Companies**" mean companies in accordance with Art. 15 of the German Stock Companies Act (AktG);
 - 1.1.2. "**Buyer**" means WeylChem;
 - 1.1.3. "**Force Majeure**" means any act of God or government, natural disaster, destruction by insurrection, war or hostility, riots, civil commotion, or any other event outside the Parties' control, which delays, prevents, restricts or renders commercially infeasible performance of the purchase order;
 - 1.1.4. "**Goods**" means the goods (including any installment of the Goods or any parts of them including packaging) described in or required by virtue of Buyer's purchase order;
 - 1.1.5. "**Party**" and "**Parties**" means Buyer and Supplier referred to individually or collectively respectively; "**Rules**" means statutory regulations applicable to the purchase, the INCOTERMS of the International Chamber of Commerce in Paris, and/or the Uniform Customs and Practice for Commercial Documentary Credits;
 - 1.1.6. "**Services**" means the services (if any) described in or required by virtue of Buyer's purchase order;
 - 1.1.7. "**Specifications**" means Buyer's requirements and any associated plans, drawings, design briefs, data and other information provided by Buyer to Supplier in respect of the supply of Goods/Services;
 - 1.1.8. "**Supplier**" means the businessman which has agreed to provide Goods/Services as specified in Buyer's purchase order.
- 1.2. Buyer shall issue a written purchase order which shall be transmitted by mail, fax or e-mail and which shall be accepted by Supplier, either by mail, fax or e-mail. Shipment or delivery of all or any part of an order constitutes Supplier's acceptance of the purchase order and these General Terms and Conditions of Purchase.
- 1.3. Unless Buyer's purchase order is confirmed in writing within 8 (eight) working days of the date of order by Supplier, or delivery takes place within that time in response to the purchase order, Buyer shall cease to be bound by it.
- 1.4. All purchase orders shall be governed by these General Terms and Conditions of Purchase to the exclusion of any general terms and conditions of Supplier, unless otherwise expressly agreed in a signed writing. General terms and conditions of Supplier shall not become effective even if Buyer does not expressly object. In case of any inconsistency between these General Terms and Conditions of Purchase and the purchase orders, the General Terms and Conditions of Purchase shall prevail.
- 1.5. Any changes or supplements to these General Terms and Conditions of Purchase and/or purchase orders must be agreed in a signed writing by both parties in order to be effective.

2. Price

- 2.1. The price of the Goods/Services shall be as stated in the purchase order, and shall be:
 - 2.1.1. exclusive of any applicable value added tax (which shall be payable by Buyer subject to receipt of a VAT invoice); and
 - 2.1.2. inclusive of all charges for packaging (including pallets which may be exchanged by arrangement); packing, shipping, carriage, insurance and delivery of the Goods to the delivery address and any duties, imports or levies other than VAT.
- 2.2. No increase in the price may be made whether on account of increased costs of materials, labor or transport exchange rate fluctuations or otherwise, without the prior written and signed consent of Buyer.

3. Delivery/Performance

- 3.1. The date and place of delivery or performance stated in the purchase order shall be binding and must be adhered to unless otherwise expressly agreed upon by the Parties. Time is of the essence with respect to delivery of Goods/Services. Delivery ahead of schedule shall only be admissible with Buyer's express prior approval.
- 3.2. If the Parties did not agree upon a specific date for delivery/ performance, then Supplier shall be required to make the Goods/ Services available to Buyer as soon as is reasonably possible and timely inform Buyer prior to delivery.
- 3.3. If the Parties did not agree upon a specific place for delivery, then delivery shall be made to Buyer's premises, and the time of delivery shall be judged accordingly.
- 3.4. Supplier shall notify Buyer immediately in writing if circumstances arise which make prompt delivery/performance unlikely or impossible. Late delivery/performance shall give Buyer the right to cancel the purchase order after the elapse of an adequate time period for supplementary performance. The restitution shall be governed by applicable law. This remedy shall be in addition to any other legal remedy available to Buyer.
- 3.5. Buyer shall not be required to pay for any Goods delivered in excess of the quantity ordered and shall have no responsibility - except for intent - in respect of such Goods. The Buyer shall return the Goods at Supplier's expense.
- 3.6. A full description of the Goods (in English and the applicable statutory or regulatory language where Buyer is located) must appear clearly and legibly on the outside of every package. If the Goods are hazardous they must be clearly marked to that effect. Supplier shall pack the Goods appropriately and in accordance with all applicable laws for delivery to the delivery address. If the Goods are considered to be hazardous goods, Supplier shall use only approved packaging and means of transportation and shall apply all mandatory markings. Supplier shall be responsible for any damage caused by noncompliance with this clause 3.7.
- 3.7. Supplier shall provide to Buyer all necessary documentation for importation of the Goods and customs clearance if such activities are arranged by Buyer.
- 3.8. Buyer is entitled to all rights of set off and withholding afforded by applicable law.

4. Force Majeure

- 4.1. In case of Force Majeure, the affected Party shall promptly notify the other Party and the following shall apply:
 - 4.1.1. the Party affected thereby shall be relieved of its obligations under this purchase order, for the duration of, and to the extent of the Force Majeure effect;
 - 4.1.2. if Supplier's stocks are effected, then Supplier shall distribute all stocks remaining in its possession among its customers in proportion to the quantity of goods orders outstanding at the time of the Force Majeure;
 - 4.1.3. if delivery or acceptance is delayed by more than two weeks due to Force Majeure, Buyer, may at its sole option withdraw from the purchase order in respect of the quantities affected by such delay and/or extend the delivery dates to permit partial or total delivery of the Goods/Services.

5. Risk Transfer and Insurance

- 5.1. The risk shall transfer to Buyer when the Goods are received at the agreed place of delivery. In the case of machines and technical equipment, the risk shall transfer to Buyer only after functional testing has been undertaken and given satisfactory results.
- 5.2. Supplier shall insure the Goods at his expense until risk passes to Buyer.

6. Payment and Set Off

- 6.1. Invoices shall be made out according to applicable legal provisions and in the currency stated in the purchase order.
- 6.2. Payment shall only be due to Supplier in respect of Goods/Services which comply with the purchase order of Buyer and these General Terms and Conditions of Purchase.
- 6.3. Supplier's claims for payment shall become due 90 days upon delivery of defect free Goods or conforming performance of Services and receipt of a proper invoice.

7. Quality

- 7.1. Supplier shall guarantee that the Goods/Services supplied shall be of the quantity and quality specified in the Specifications.
- 7.2. Buyer shall be entitled to reject any Goods/Services supplied, which are not in accordance with clause 7.1 above. Inspection or payment by Buyer shall not relieve Supplier of its obligations in clause 7.1 above, nor limit Buyer's rights to reject other nonconforming Goods/Services. Buyer shall not be deemed to have finally accepted any Goods/Services due to payment of the relevant invoice.
- 7.3. Notices of evident defects (obvious quantity variances, faulty or erroneous deliveries) are deemed to be in good time if they are issued to Supplier within 10 days after receipt of the respective Goods to Buyer's premises. For latent defects a reprehension has to be issued within 10 days after discovery.

8. Warranties

8.1. Supplier warrants to Buyer that the Goods/Services:

8.1.1. will be of merchantable quality, free from all latent and patent defects and fit for any purpose held out by Supplier or made known to Supplier in writing near the time the purchase order is placed;

8.1.2. will be free from non-process related impurities, defects in design, material and workmanship;

8.1.3. will meet and conform to any relevant Specification or sample;

8.1.4. will comply with all rules, statutory requirements and regulations relating to the supply of the Goods/Services; and

8.1.5. will not infringe any intellectual property rights of any third party.

8.2. Supplier guarantees to Buyer that it will convey good title and no third party has any legal or equitable right or lien to deprive Buyer entirely, or partially, of the Goods/Services.

8.3. Supplier warrants to Buyer that Services will be performed by appropriately qualified and trained personnel, with due care and diligence and to such high standard of care and quality as it is reasonable for Buyer to expect in all the circumstances.

8.4. If Goods delivered by Supplier do not conform to the above mentioned conditions, Buyer is entitled in accordance with applicable law to demand subsequent improvement, subsequent delivery, reduction of the purchase price or cancellation of the order including refunding of all payments on the purchase price that have already been made or to claim damages. In case of imminent danger or particular urgency buyer shall be entitled to remedy defects by himself at the Supplier's expense

8.5. If Supplier should violate any of the provisions of this clause 8, Supplier shall indemnify Buyer in full against all claims incurred or paid as a result of such violation.

8.6. The limitation period is governed by applicable law.

9. Confidentiality and Documentation

9.1. Supplier shall keep in strict confidence all technical know-how, inventions or processes and any other confidential or commercially sensitive information concerning Buyer's business ("Confidential Information"), which has been disclosed to or obtained by Supplier from Buyer or its agents. Only Confidential Information necessary for the purpose of fulfilling Supplier's obligations to Buyer shall be made known to Supplier's employees, who shall be bound by the same duty of confidentiality as Supplier.

10. Clause 9.1 does not apply to information,

- 10.1.1. which had been known to the Party, which has acquired the information ("Receiving Party"), demonstrably prior to disclosure, provided that the Receiving Party has informed the Party, which has disclosed these information ("Disclosing Party") within one month after receiving such information;
 - 10.1.2. which at the time of their disclosure to the Receiving Party are already publicly known or accessible or after their disclosure become publicly known or accessible, given that this is not due to a violation of duties by the Receiving Party;
 - 10.1.3. which the Receiving Party has obtained from a third party, provided that these information are not subject to a non-disclosure agreement with the Disclosing Party;
 - 10.1.4. whose propagation has been approved in written form by the Disclosing Party; or
 - 10.1.5. which the Disclosing Party has to disclose due to legal, administrative or judicial orders.
- 10.2. The duty of confidentiality shall remain in force after the termination of the contractual relationship.
- 10.3. On request, Supplier shall immediately return to Buyer all Confidential Information, which has been provided by Buyer to Supplier.
- 10.4. Supplier shall make available upon request to Buyer such plans, detailed drawings, technical calculations etc. as relate to the Goods/Services being supplied and after their accuracy has been determined such data files or master copies as Buyer may need for regular use or repair work. Furthermore, Supplier shall, on request, supply Buyer with drawings or spare parts and sufficient information for Buyer to procure such spares. Buyer's approval of such plans, drawings, calculations etc. shall not relieve Supplier of any of its warranties or obligations under these General Terms and Conditions of Purchase.
- 10.5. Supplier shall not make any public reference to Supplier's business relationship with Buyer without Buyer's prior express written permission.

11. Intellectual Property Rights

- 11.1. Any Specifications shall be the exclusive property of Buyer.
- 11.2. Where Buyer funds in whole or in part the creation of tooling, moulds, software, printers copies, packaging, advertising materials, or, without limitation, any other creative works which are produced to Buyer's Specifications or requirements, Supplier shall assign all intellectual property rights relating to such items and their creation to Buyer. Buyer shall be free to use, sell or dispose of such items at its absolute discretion.

12. Changes to Goods/Services

- 12.1. If Supplier supplies Goods/Services to Buyer on a regular basis, then Supplier undertakes to provide reasonable prior written notice to Buyer if Supplier intends to make any changes to the Goods/Services, its processes and/or analytical methods, relating to the Goods/Services. Such changes shall not be made without Buyer's prior written approval.

13. Compliance with Statutory Provisions

- 13.1. Supplier, in supplying the Goods/Services, shall comply with all relevant statutory regulations and rules especially but not limited to statutory regulations and rules relating to environmental protections, industrial and transport safety, and accident prevention.

14. Extraordinary Termination

14.1. If Supplier and Buyer have entered into a uniform framework agreement, Buyer shall be entitled to terminate such framework agreement with effect to the future for cause by giving written notice to Supplier: (a) if Supplier is in breach of his contractual obligations or of outstanding purchase order and if Supplier does not provide remedy within an adequate time period; (b) at any time Supplier becomes insolvent or if any bankruptcy proceedings are instituted as to Supplier or rejected due to a lack of assets, or if any receiver or administrator is appointed to Supplier's business; (c) Supplier ceases or threatens to cease to carry on business; or (d) Buyer apprehends that any of these events is about to occur based on verifiable grounds.

15. Assignment

15.1. All purchase orders are personal to Supplier and shall not be sub-contracted, assigned or transferred to any other person without Buyer's prior written consent.

15.2. Notwithstanding anything to the contrary in these General Terms and Conditions of Purchase, Buyer shall have the right to assign and transfer any rights and obligations of the purchase order to its Affiliated Companies without any further consent, provided that such Affiliated Companies assume all obligations relating thereto.

16. General Provisions

16.1. Place of performance is at the Buyer's premises, unless an express agreement to the contrary has been made.

16.2. The place of jurisdiction shall be at the Buyer's place of business. This shall also apply to legal proceedings relating to documents, bills of exchange and cheques. Mandatory provisions regarding exclusive places of jurisdiction remain unaffected.

16.3. This contract shall exclusively be governed by and construed in accordance with the laws of the Federal Republic of Germany, unless the Parties have expressly agreed otherwise. Application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded.

16.4. No failure or delay by either Party in exercising any right under the purchase order shall operate as a waiver of such right nor shall any single or partial exercise of any right preclude the exercise of any other right. No waiver shall be valid unless such waiver is in writing signed by the waiving Party.

16.5. If work is to be performed at Buyer's facilities, Supplier shall be responsible for the actions of its employees/agent and provide proof of applicable insurance coverages. This Agreement in no way creates a joint venture, partnership or any form of association between the Parties and in no way constitutes one party as the agent or legal representative of the other for any purpose whatsoever. No Party is granted any right or authority to assume or create any obligation or responsibility, expressed or implied, on behalf of or in the name of the other or to bind the other in any manner or thing whatsoever.



Local Amendments:

Germany:

Art. 151 of the German Code (BGB) does not apply.

Switzerland:

Art. 210 para. 1, Art 201, Art. 367 para. 1 and Art. 371 of the Code of obligations do not apply.

UK and USA:

Art. 7.2 last sentence of these Conditions does not apply.

USA:

COMPLIANCE WITH LAWS: Supplier represents and warrants that all items sold or services rendered pursuant to this Purchase Order will have been produced, sold, delivered or rendered to Buyer upon terms and conditions which satisfy all the requirements of and which are in compliance with all applicable laws, federal, state, municipal, or otherwise, including without limitation, U.S. Department of Labor issued under applicable requirements of Executive Order 11141 and 11246, the Rehabilitation Act of 1973 as amended, laws pertaining to employment discrimination and equal opportunity in employment; employee wages, benefits or working conditions; worker safety; protection of the environment; product labeling; product safety; importing and exporting; and product transportation.

With regard to chemical substances or mixtures supplied hereunder, Supplier has complied with every applicable provision and regulation promulgated under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.) and the Federal Occupational Safety and Health Act of 1970, including the Hazard Communication Rule (29 CFR 1910.1200). Supplier will promptly supply Buyer with material safety data sheets with respect to such chemical substances and mixtures, and will also promptly advise Buyer of any specification changes, including discovery of the presence of a chemical substance not previously known by Supplier to exist in the goods supplied.

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