

General Terms of Business **BODO MÖLLER CHEMIE GmbH** (as at 01|2018)

I. Scope of application

- The following Terms of Business shall apply exclusively in relation to companies, private partnerships and registered companies together with special public limited funds.
- Our sales, supplies and services (hereinafter jointly referred to as «supplies») are only provided subject to the following Terms of Business. Any of the terms of business of the purchaser or of the recipients of services (hereinafter jointly referred to as «purchasers») that run counter to our Terms of Business or differ from them can be accepted by us only if we have expressly confirmed their applicability in writing. Furthermore, our Terms of Business shall also apply even if we have supplied a delivery to the purchaser without expressing any reservations, but in the knowledge of the purchaser's terms of business that run counter to our own or that deviate from them.
- In the event of any amendments to these Terms of Business, the purchaser shall be held to have declared their acceptance of the exclusive application of the amended Terms if the purchaser has not issued written contestation of them within one week after receiving a copy of our amended Terms, and if the purchaser has (at the stage of declaration of the amended Terms) already been notified of this interpretation of their actions.

II. Negotiation of Agreement; Guarantees

- Our offers are non-binding, with particular reference to pricing, quantities, delivery deadlines and delivery capabilities. An agreement is held to have been negotiated only upon our written confirmation of an order.
- The Agreement is deemed negotiated, and bound by the content of our written confirmation of order, if the purchaser does not promptly issue written contestation.
- The characteristics of specimens and samples may be held to be binding only in pursuance of an express, written agreement. Any information and data contained in datasheets, brochures or any other promotional and informational material should be regarded only as a guideline, and may become a binding constituent of a contract only if this is expressly agreed upon in writing. Details concerning condition and storage life shall count as guaranteed only if expressly designated as such. The same shall apply in respect of acceptance of the purchasing risk.
- If a CoA (= certificate of analysis) has been issued concerning any product, then the information within the certificate is hereby agreed to constitute a statement of the product's condition. To that extent, the restrictions expressed in **II. 3.** shall not apply. Certificates of analysis are supplied free of charge, upon request.

III. Charging; Payment; Arrears

- Prices are understood to apply exclusive of VAT at the statutory rate, and exclusive of external packing and the costs of dispatch ex-works. Prices are calculated on the date of delivery subject to the list prices applicable on that date. In the event of prices' being increased, the purchaser may withdraw from the Agreement within one week after learning of the price increase.
- Amounts invoiced shall fall due for settlement of payment within 14 days from the invoice date.
- Cheques are accepted only on account of payment. Discount charges, bank fees and cash on delivery costs shall be chargeable to the purchaser. Discount deductions shall be inadmissible unless they have been agreed upon in writing between the parties to the contract.
- The purchaser shall not be entitled to apply offsets nor to substantiate rights of reservation in relation to the purchaser's own claims unless the counterclaim is undisputed or has been the subject of a judgement entered in court.
- In the event of delay in payment, interest shall be payable at eight percentage points per annum over and above the standard lending rate at the time (refer to §247, BGB (= German Civil Code)). We reserve the right to bring proof of further loss/damage arising in the event of delay.
- We shall be entitled to provide delivery of outstanding items exclusively in consideration of payment made in advance, or we shall be entitled to make such delivery conditional upon the appointment of a security if the purchaser is in arrears with agreed target payment dates – even after a reasonable period of grace has been allowed to elapse – or if there are circumstances that constitute grounds for doubt (in terms of standard banking criteria) regarding the purchaser's ability to make payment.

IV. Delivery; Packing; Transfer of risk

- We shall be entitled to provide partial deliveries if this is reasonably acceptable for the purchaser.
- No fixed-date transactions are operated. Delivery dates apply only on an approximate basis – unless expressly conceded to be binding.
- We shall be held exempt – for the period and extent of any cases of force majeure, strikes, lockouts, shortages of materials, raw materials or energy, shortages of transport facilities or any other related events or causes outside of our control – from our obligation to fulfil the contract. «Force majeure» relates in particular to legally or officially imposed restrictions on export or delivery – of any type – and also relates to the non-issuance of government directives (or directives not issued in good time) where they were necessary for the exporting or for the delivery of the goods. The same shall also apply if our own suppliers are affected by any such situations.
- The delivery deadline is deemed fulfilled if the ordered product left our works before the expiry of the delivery deadline, or if our readiness to conduct delivery was indicated promptly.
- Deliveries shall be made as cargo consignments. Any risk is transferred to the purchaser once we have handed the goods over to a carrier or shipper. The same shall apply even if we have ourselves directly rendered additional services such as loading, transportation or offloading, or if the transportation service was rendered by us or by a company associated with us.
- Any complaints concerning delays in transportation, incorrect messages or damage in transit must be presented promptly by the purchaser to our shipper or carrier, and we must be notified in writing.
- We are under no obligation to make deliveries to third parties upon any instruction from the purchaser.
- Should the purchaser incur delay in acceptance, or should it infringe any other collaboration obligations, then we shall be entitled to claim compensation for the losses we suffer, including any additional expenditures incurred. In that event, the risk of fortuitous failure or fortuitous deterioration of the product shall revert to the purchaser as soon as the purchaser incurs delay in acceptance.
- The purchaser's compensation claims attributable to delay in delivery shall be excluded unless they can be traced back to our own gross negligence or wilful intent.

V. Foreign trade restrictions

- In respect of products purchased from us, the purchaser is under obligation to adhere to, and to obey, all applicable laws and other foreign trade regulations with particular reference to export controls and any applicable trading embargoes. This relates both to German and foreign national regulations and in particular to the regulations issued by the US export authorities and in accordance with European regulations. Products purchased from us may neither directly nor indirectly be resold, exported, re-exported, distributed, transferred or otherwise disposed of without having previously adhered to all restrictions, secured all necessary governmental decisions and fulfilled all formalities that have to be taken into account or that are imposed in pursuance of the above-mentioned laws, regulations and any other requirements.
- If we have agreed to transport the goods to a place of delivery outside of Germany – as an additional service – the provisions outlined in clauses (3) through (5) above shall also apply.
- The purchaser is under obligation to notify us in writing regarding any particular legal regulations in the country of destination that may require our compliance in connection with the sale and delivery of the goods.
- Furthermore, the purchaser is under obligation at the earliest possible date – but in any event no later than upon the negotiation of the contract – to notify us regarding whether either the purchaser or any third party in any country outside of the European Union intends to utilise products ordered from us in the context of the defence or armaments industry or if such utilisation or any other military utilisation, either by the purchaser or by any third party, is intended to take place in any country outside of the European Union or if such utilisation cannot be excluded. If no such notification is provided, then this shall be interpreted as the purchaser's assurance that no such military utilisation of products obtained from us is to take place in any of the countries mentioned.
- If we are presented with any specific evidence of possible utilisation as described in clause (4) above, then we shall be entitled to secure a decision from BAFA (= Federal Office for Economic Affairs and Export Control) regarding the requirement for the corresponding transport procedure to have been approved, or we shall be entitled to require that the purchaser should secure such a decision. If this results in any delay, the purchaser's claims on the grounds of delay or any other claims resulting from delay shall be excluded.

VI. Guarantee; Material defects

- The guarantee period shall be one year following delivery.
- Immediately following delivery to the purchaser or to the purchaser's designated third party, the delivered items must be carefully examined. They shall be deemed approved by the purchaser – with regard to any obvious deficiencies or any other deficiencies that were identifiable following prompt, careful examination – unless we receive written notice of complaint within seven working days following delivery. In respect of any other deficiencies, the delivered items shall be deemed approved by the purchaser unless we receive notice of complaint within seven working days after the date on which the deficiency came to light; however, if the deficiency was already identifiable to the purchaser at an earlier date, subject to normal utilisation, then this earlier date shall constitute the deadline within which any complaint must be presented. Any product that has been the subject of a complaint by us must, at our request, be sent back

to us without us being charged any carriage costs. Should any complaints be found to be justified, then we shall reimburse the costs of the most economical means of dispatch; however, this shall not apply if costs are increased because the product was at a location other than the location of their designated use.

- In the event of material deficiencies in the items supplied, we shall be both obliged and entitled – at our own discretion, to be resolved within a reasonable timeframe – either to rectify the product(s) or to provide replacements. In the event of failure – i.e. if it is impossible to rectify or provide replacements, or if it is unreasonable, if it is declined or if it is the subject of unreasonable delay – then the purchaser may either withdraw from the Agreement or require a reasonable reduction in the purchase price.
- If any defect arises as a result of a fault on our part, then the purchaser may, subject to the requirements laid down in Section VII of these Terms of Business, demand compensation.
- In the event of any deficiencies in other manufacturers' components, which we are unable to rectify, for licensing reasons or other material reasons, then, at our own discretion, we may subordinate our guarantee claims against the manufacturer and the supplier (on the purchaser's behalf) or we may assign such claims to the purchaser. Guarantee claims against us shall be deemed to arise in respect of such defects – subject to further applicable requirements and in line with these Terms of Business – only if legal proceedings for the abovementioned claims against the manufacturer and supplier were unsuccessful or if such proceedings would be pointless, for example due to insolvency. The purchaser's claims held against us under guarantee cannot expire for the duration of such legal proceedings.
- The guarantee shall lapse if the purchaser modifies the product or has it modified by third parties – without our consent – and if this makes it impossible (or unreasonably difficult) for the fault to be rectified. In any event, the purchaser must bear the additional costs of troubleshooting arising due to the modification applied.
- The supply of used products – where negotiated with the purchaser in an individual instance – will be conducted to the exclusion of any guarantee for material defects.

VII. Liability for compensation on grounds of breach of contract

- Our liability for compensation arising on whatsoever grounds – but particularly because of impossibility of supply, delay, deficient supply or incorrect supply, breach of contract, breach of obligations in negotiating the contract and illegal action shall be restricted – in the matter of culpability – to the scope of effect of the provisions laid down in Section VII of these Terms of Business.
- We shall not be liable in the event of plain negligence on the part of any departments of our company, legal representatives, sales representatives or other agents, provided that the matter does not relate to the infringement of cardinal contractual obligations. Cardinal obligations include the obligation to ensure prompt delivery and installation of the product, its freedom from defects, its functionality or its suitability for use to more than a negligible degree, together with the obligations of consultation, protection and supervision as required in order to enable the purchaser to enjoy contractually-compliant utilisation of the product or in order to ensure that the personnel of the purchaser are kept safe and protected from injury, or in order to ensure the protection of its property from substantial damage.
- To the extent that we may be liable to provide compensation, such liability shall be restricted to the losses which we have foreseen – at the stage of negotiation of the Agreement – as a possible consequence of any breach of contract, or which we would have foreseen had we applied the degree of caution normal for this field. Indirect losses and consequential losses which are the result of deficiencies in the supplied product shall, furthermore, qualify for compensation only to the extent that such losses would typically have been anticipated subject to the intended utilisation of the product.
- The above-mentioned liability exclusions and restrictions shall apply to the same extent in favour of our corporate departments, legal representatives, sales representatives and other agents.
- To the extent that we provide any technical information or act in a consultative capacity, and to the extent that such information or consultation is not within the scope of service which we are required to provide in pursuance of the negotiated content of the Agreement, it will be supplied free of charge and to the exclusion of any liability.
- These liability exclusions and restrictions do not apply in respect of our liability for deliberate misconduct, they do not apply in respect of guaranteed characteristics and they do not apply in the event of fatality, physical injury or damage to health, and neither do they apply in connection with product liability regulations – with the following exception: to the extent that we might be liable in connection with fatality, injury or damage to health in connection with regulations other than those arising under product liability law, liability shall be restricted to a maximum limit of euro 85,000,000.00.

VIII. Reservation of ownership

- The supplied goods remain our property until we have received payment in full of all of our claims, including those arising in the future. However, the purchaser may sell or process the goods in the normal course of business. These goods may not be pledged to third parties or appointed as a security without our consent. In the event of these goods' being seized by third parties, the purchaser must promptly notify us.
- The following rider shall apply in the event of processing, followed by further processing:
 - The purchaser's entitlement to process and to sell reserved-ownership goods in the normal course of business shall terminate upon its insolvency or if insolvency proceedings are filed in respect of the purchaser's assets. In that event, the purchaser shall be obliged to release to us all reserved-ownership goods as have not yet been processed. We shall credit to the purchaser – in respect of processed, reserved-ownership goods that come to be taken back – the profits which it would have realised subject to the optimum disposal (refer to §254, BGB). Our withdrawal or our request for release of as yet unprocessed reserved-ownership goods may not be held to constitute our withdrawal from the purchase agreement.
 - It shall not be permissible for reserved-ownership goods (or assigned claims) to be pledged or appointed as a security.
 - The processing of reserved-ownership goods does not entitle the purchaser to claim ownership of them as newly created products as defined by §950, BGB. Processing is deemed to be conducted on our behalf by the purchaser without our incurring any liabilities as a result. Once the reserved-ownership goods that have been processed, we acquire co-ownership of the new product in the amount of the invoicing value of the reserved-ownership goods whose creation gave rise to the new product.
 - The purchaser hereby assigns to us its claims arising from the resale of reserved-ownership goods – including to the extent that the product may have been processed. Assignment shall be restricted to the extent of the invoice value of reserved-ownership goods that have been processed to create the new product.
 - We shall not collect the value of the assigned claim for as long as the purchaser fulfils its payment obligation. However, the purchaser shall be obliged upon request to identify the third-party debtors to us and to notify them of the fact that the claim has been assigned. The purchaser shall be entitled to collect on the claims itself provided that it fulfils its payment obligations and unless instructed otherwise by us.
 - The reservation of ownership shall also remain in place if our individual claims are incorporated into an ongoing account and if the balance is drawn up and acknowledged – unless the balance is paid off.
 - We undertake to release securities held by us in line with the above provisions, provided that their value – taking account of the added value provided by the purchaser – does not exceed the claims to be covered by more than 10 percent.
 - We must be immediately notified of any pledging, together with the identity of the corresponding creditor.
 - The purchaser is under obligation – as soon as it suffers discontinuation of payments, and promptly after insolvency has been announced – to provide us with a list of reserved-ownership goods still in place, including goods that have been processed, and to send us a list of claims held against third-party debtors, together with applicable billing credits.
 - Should we incur contingent liabilities in the purchaser's interests (cheques/drafts), then the claimed, expanded reservation of ownership shall remain in place until we are fully cleared of any responsibility on the grounds of such liabilities.

IX. Applicable law

Disputes arising under this Agreement shall be resolved by the regular courts unless the parties have agreed upon a jurisdiction of arbitration. Contractual relations shall be governed exclusively by German law, to the exclusion of any application of international commercial regulations (particularly those arising under UN purchasing law).

X. Written form

Any conditions laid down by the purchaser at the stage of issuance of the order, together with any subsidiary agreements between the parties, shall be binding upon us only if expressly acknowledged in the confirmation of order, and (only) if we have given separate written confirmation. No subsidiary, verbal agreement has any validity. The suspension of the written-form requirement must itself be made in writing.

XI. Place of fulfilment; Jurisdiction

Offenbach am Main shall be the place of fulfilment for all services under the supply agreement. For both parties, the place of jurisdiction (including claims for drafts and cheques) shall be the local court of Offenbach am Main or Darmstadt Regional Court if the purchaser is a fully qualified businessperson, a PLC or a public legal special fund. The same applies in the case of business links with individuals other than businesspersons, if they have no general jurisdiction nationally. We shall also be entitled to bring action against the purchaser in its general place of jurisdiction.