

## General Purchasing Terms and Conditions

### 1 Scope

(1) The purchases, acceptances of delivery and performances (hereinafter consistently referred to as "Deliveries") of the Buyer are exclusively effected in accordance with the provisions set out below. They apply to entrepreneurs, legal entities under public law as well as public-law funds ("Supplier"). The Supplier consents to their exclusive applicability to the individual Delivery and all subsequent transactions by accepting their receipt without raising any objections. Provisions conflicting with or deviating from these terms and conditions will not be accepted by the Buyer, unless it has explicitly consented to their applicability in writing. The Buyer's terms and conditions will also apply if it unconditionally accepts Delivery despite being aware of any conflicting or deviating provisions of the Supplier.

(2) The Buyer reserves the right to change its general terms and conditions from time to time. The Supplier declares that it accepts the exclusive applicability of the amended terms and conditions, unless it objects to such applicability in writing within one week of receipt by it, provided that the Buyer explicitly pointed out to the Supplier the significance of its behaviour when issuing the amended terms and conditions.

### 2 Offer, acceptance, sub-contracting and cost estimate, confidentiality

(1) The basis of the offer also comprises any corresponding documentation such as drawings, technical delivery terms, building regulations, requirements as to material etc. as well as the applicable provisions regarding the prevention of accidents as well as health and safety at work. Forwarding such documentation to third parties is subject to written consent.

(2) Performance characteristics or information on technical, physical, chemical, mechanical or other characteristics as well as DIN standards, VDE standards or other company or factory standards are deemed to constitute quality guarantees in accordance with the indication made separately upon conclusion of the contract.

(3) The Supplier has an obligation to accept and confirm the order within 10 business days from the order date. Supplements, restrictions or other deviations from the order and the corresponding documentation respectively require the Buyer's written approval.

(4) Subcontracting to third parties is subject to our prior written consent. Even if consent is given, the third party engaged by the Supplier will still be deemed an agent employed by the Supplier in the performance of its obligations.

(5) Subject to any deviating written agreement, the cost estimates made by the Supplier are binding and free of charge.

(6) The Supplier must keep confidential the order and the conclusion of contract as well as the terms and conditions of the contract. It may mention the order for reference or advertising purposes with the Buyer's written consent only.

### 3 Prices, payment conditions, rights to set off and retention rights of the Buyer

(1) The prices set out in the order are fixed prices (packaging included) plus statutory VAT. Reservations to increase prices require the Buyer's explicit written consent.

(2) All invoices must be issued in duplicate, and each invoice must show the order, article and delivery note numbers of the Supplier. Invoices must be issued in the contractually agreed currency. The Buyer will not accept any gold or exchange clauses.

(3) Invoices will be paid at Buyer's option either 14 days after receipt of the invoice with a discount of 3% or 30 days net, whereby the duration starts only after the receipt of an auditable invoice of the delivered materials respectively after the service is provided, including the demanded documents and testimonies. All payments will be made subject to the reservation of the Buyer's rights arising from insufficient Delivery. To the extent that notices of defects are already known upon maturity, the Buyer will be entitled to retain payments in a reasonable amount. Furthermore, the Buyer is – to the extent stipulated by law – entitled to rights to set off as well as to retention rights.

### 4 Assignment, rights to set off and rights of retention of the Supplier

(1) An assignment of the Supplier's claims under the contract to third parties is subject to the written consent of the Buyer. A collection by third parties is excluded.

(2) A set-off against claims of the Buyer under the business relationship is only permissible on the basis of a claim which has either been established in a legally binding way or which has been explicitly acknowledged by the Buyer. The same applies to the assertion of retention rights by the Supplier.

### 5 Production delivery, purchase on approval

(1) Production delivery may only commence after the Buyer has accepted the initial sample in writing. A purchase on approval is given in this case and in other cases where the placing of a contract, the delivery etc. depend on the approval of a sample. To the extent that characteristics (e.g. dimensions) of the components and performances ordered are set out in the Buyer's documentation or other provisions, the Supplier has to inform in advance about any intended changes to be effected following the placement of an order (by providing a sample, if necessary). The changes must be approved by the Buyer in writing. To the extent that such changes concern the suitability of the object of delivery or performance with regard to the type of use intended, the Buyer may reject the change and may either demand that Delivery be made according to contract or may rescind the contract without compensation.

(2) The Buyer's approval of drawings, calculations and other documents does not affect the Supplier's sole responsibility for the Delivery. The same applies to any proposal, recommendation or cooperation by the Buyer.

### 6 Rescission

If the Buyer becomes aware of any circumstances concerning the Supplier which seriously call into question the due processing of the order, the Buyer will be entitled to rescind the contract with regard to the Deliveries outstanding without compensation.

### 7 Delivery, delay in performance, force majeure, packaging, partial deliveries and passing of risk

(1) The delivery and performance dates are binding, with the receipt of the Delivery at the place of delivery agreed as well as the performance at such place being decisive.

(2) If there is a delay in delivery, the Buyer will be entitled to demand damages for the delay caused in the form of a lump sum payment of 0.5% of the order price per week completed, amounting, however, to no more than 5% in total, or the Buyer may have any non-performance still existing after the expiration of a reasonable grace period set by it remedied by a third party at the Supplier's cost. Any further statutory claims are reserved.

The Buyer may, in particular, claim damages instead of performance following the expiration of a reasonable grace period without performance having been effected, with the contractual penalty paid being set off against such damages. The Supplier is entitled to furnish evidence that the delay caused by it resulted in no damage at all or in a lower damage only.

(3) Force majeure, industrial action, riots or other circumstances outside the control of the Buyer which cause a disruption of operations will release the Buyer from its acceptance obligation and its obligation to pay damages for the duration and scope of their consequences.

(4) Unless otherwise agreed, Delivery will be performed free at the place of performance stipulated by the Buyer at the Supplier's risk; if the Buyer collects the goods itself, it will receive compensation for the freight charges. If Delivery is made ex works, the Supplier will have an obligation to choose the type of dispatch which is most advantageous to the Buyer, unless the type of dispatch is prescribed.

(5) The Supplier will only be entitled to make excess, short or partial deliveries if and to the extent that the Buyer has given its written consent.

(6) The goods must be properly packed. The Buyer shall receive a credit if it returns packaging for re-use to the Supplier. If provisions as to packaging or dispatch which are set by the Buyer are not complied with, the Buyer will be entitled to refuse acceptance of the goods, and the Buyer will not be in default of acceptance as a result thereof.

(7) The data decisive with regard to quantities, weights and dimensions will be the data determined by the Buyer upon quality control.

(8) The Supplier must inform the Buyer without undue delay in writing of circumstances which arise or become apparent which mean that the delivery period stipulated or the specifications agreed cannot be complied with.

#### **8 Claims based on defects**

(1) The Supplier guarantees that the performance rendered by it complies with the accepted technical standards, all relevant standards and the contractually agreed characteristics and is free of defects in quality or in title.

(2) The Buyer has an obligation to check the goods for any deviations in quality or quantity, to the extent and as soon as this is appropriate within the proper course of business. Defects will be notified by the Buyer without undue delay after the detection of such defects. The Supplier in this respect waives the objection of a late notice of defects.

(3) Defects in quality will become time-barred 24 months after the initial operation and 36 months after Delivery at the latest. Longer statutory limitation periods, if any, pursuant to sections 438, 479 and 634 a of the German Civil Code (*Bürgerliches Gesetzbuch – BGB*) operate to the Buyer's advantage without being shortened. Furthermore, the Supplier will indemnify the Buyer against any third party claims in case of defects in title. Claims under defects in title will become time-barred after ten years.

(4) The Buyer is – without any restrictions – entitled to the statutory claims under defects in quality and title, unless differently stipulated in the provisions below.

(5) The Buyer alone has the right to choose the type of subsequent performance. The Supplier is entitled to refuse the type of subsequent performance chosen by the Buyer if the conditions of section 439 para. 3 BGB are fulfilled.

(6) If the Buyer chooses subsequent performance in the form of a Delivery of an object free of defects, it will be entitled to return the defective object at the Supplier's cost and to demand an immaculate substitute; for accounting reasons, the goods returned will be charged to the Supplier and the substitute delivery will be calculated anew; the limitation period for claims arising from defects will recommence upon the substitute delivery.

(7) If the Buyer chooses subsequent performance in the form of a remedy of the defect at the Supplier's cost, it will be entitled – in case the Supplier does not start to remedy the defect without undue delay despite an imminent danger – to either remedy the defect itself or to have it remedied by third parties, in each case at the Supplier's cost; the limitation period for claims arising from defects will recommence at the time the defect has been fully remedied. The defect is deemed to have been fully remedied only after a corresponding written confirmation by the Buyer.

(8) The right to claim damages is explicitly reserved. The Supplier will be liable for any damage which is directly or indirectly caused by the defect in accordance with the statutory provisions.

(9) If a defect in quality is detected within 6 months of the passing of risk, it will be assumed that the defect concerning the object of agreement existed already at the time the risk passed, unless such assumption is irreconcilable with the type of object or defect.

#### **9 Recourse**

(1) If the object manufactured and/or sold by the Buyer is returned as a result of the insufficient character of the Delivery or if the purchase price had to be reduced or if the Buyer is subject to other claims arising under defects as a result thereof, the Buyer is entitled to have recourse to the Supplier without having to set a time limit (this being usually required).

(2) If transport, travelling, labour or material costs or costs of receiving inspections and quality controls outside the normal scope of such inspections or controls are incurred by the Buyer, the Supplier will be obliged to compensate for such costs. The same applies to any expenses which are to be borne by the Buyer in the relationship with its customers as a result of such customers' claims for subsequent performance.

(3) In deviation from Clause 8 (3), limitation in time will become effective in case of a recourse no earlier than 2 months after the date the Buyer has fulfilled the claims of its customer, and 5 years after Delivery by the Supplier at the latest.

#### **10 Product liability, recall, indemnification, insurance cover**

(1) If product liability claims or other claims resulting from defects in quality or title are asserted against the Buyer, the Supplier must indemnify the Buyer against such claims on first demand, if and to the extent that the damage was caused by a faulty Delivery by the Supplier. However, in the case of liability being subject to fault, this will only apply if such fault lies in the Supplier's responsibility. To the extent that the Supplier is responsible for the cause of damage, it will bear the burden of proof in this respect.

(2) The Supplier will bear all costs incurred in this respect, in particular the legal costs incurred in connection with the Buyer's defence and the costs of any recalls. The Buyer will inform the Supplier – to the extent reasonably possible – of the object and scope of such recalls. Any further statutory claims are reserved.

(3) The Supplier must take out sufficient insurance cover against product liability risks and other risks set out in Clause 10 (1) and

has to furnish corresponding evidence to the Buyer at anytime upon the Buyer's request.

#### **11 Compliance, Supplier Code**

(1) In its business with the Purchaser the Supplier shall comply with all mandatory legal provisions applicable in connection with the supply of products or the provision of services.

(2) The Purchaser shall align its business with the guiding principle of sustainable development in accordance with the United Nations Global Compact with the fundamental standards for occupational safety, health and environmental protection, labor and human rights and responsible corporate governance ("Compliance Standard") and has summarized the expectations of its suppliers in the Code of Business Conduct for Suppliers ("Supplier Code"). It forms the basis for cooperation with our suppliers. The Supplier Code is available at: [https://corporate.dow.com/content/dam/corp/documents/legal/6740\\_0108-01-dow-code-of-business-conduct-for-suppliers.pdf](https://corporate.dow.com/content/dam/corp/documents/legal/6740_0108-01-dow-code-of-business-conduct-for-suppliers.pdf).

(3) The Supplier undertakes to comply with the Supplier Code and to organize its business activities in accordance with the Supplier Code, and in particular to require its subcontractors and sub-suppliers to comply with the standards of the Supplier Code.

(4) The Purchaser reserves the right to amend this clause and its Supplier Code if the Purchaser's human rights and environmental expectations change. In this case, the Purchaser shall notify the Supplier of any changes as soon as possible.

#### **12 German Supply Chain Due Diligence Act (LkSG)**

(1) According to the German LkSG, the Purchaser is obliged to adequately observe certain human rights and environmental due diligence obligations in its supply chains with the aim of preventing risks or minimizing them and ending violations of these obligations.

(2) The supplier undertakes to comply with the human rights and environmental obligations pursuant to the German LkSG (hereinafter referred to as "Human Rights Obligations", resp. Environmental Obligations") in its own company and to address them appropriately along its supply chain, e.g. by passing on these obligations to its suppliers and to ensure that the provisions of the LkSG are also complied with by it and by corresponding obligations towards its suppliers. Within the scope of appropriate preventive measures, the Supplier shall train its employees and, if applicable, also direct suppliers accordingly, or, at the request of the Purchaser, participate in training or further training courses initiated or carried out by the Purchaser. The Supplier shall immediately inform the Purchaser in writing of any identified violations of the Human Rights or Environmental Obligations or risks of possible violations both in its own company and at suppliers and shall take appropriate remedial measures to prevent, end or minimize the violations.

The above obligations under Clause 2 are primary obligations of the Supplier.

(3) The Purchaser reserves the right to evaluate, inspect or, if necessary, verify the Supplier's compliance with the aforementioned obligations during normal business hours either itself and/or through commissioned third parties ("auditors") after prior written notice and subject to the conclusion of a confidentiality agreement.

Supplier shall provide Purchaser and/or the Auditor with all data, documents and other information in written, oral and/or electronic form necessary for the purpose of the Audit and reasonably requested by Purchaser and/or the Auditor, provided that Purchaser and/or the Auditor ensure compliance with the confidentiality obligations and applicable laws.

(4) If Purchaser discovers a suspected or actual violation of Human Rights or Environmental Obligations by Supplier or any of its direct contractors or subcontractors, Purchaser shall be entitled to request

from Supplier a written agreement to take appropriate corrective actions that will result in the termination or minimization of the violation at Supplier or its subcontractor.

If a breach cannot be remedied in the foreseeable future, Supplier shall, at Purchaser's request, without undue delay (i) jointly with Purchaser prepare a plan to end the breach ("Remedy Plan"), including a specific timeline for such plan, and (ii) implement reasonable measures agreed between Supplier and Purchaser to implement the Remedy Plan. Purchaser shall be entitled to request appropriate evidence that the remedial action has been taken or implemented.

(5) the Purchaser reserves the right, in its sole discretion, to either suspend the relevant Purchase Order or Contract for the time being or terminate it with immediate effect for cause after the expiry of a reasonable period of time without result if (i.) the Supplier fails to comply with its obligations under this clause XII, (ii.) compliance with the LkSG is breached by the Supplier to a material extent or (iii.) the implementation of the Remedial Action Plan does not remedy the breach within a time schedule specified in the Remedial Action Plan and either (a.) no promising, milder remedial action is available in the near future or (b.) taking into account all circumstances of the individual case and weighing the legitimate interests of both parties, Customer cannot reasonably be expected to continue the contractual relationship with Supplier under these circumstances.

(6) Any further claims for damages of the Purchaser shall remain unaffected and shall not be excluded by a termination.

#### **13 Intellectual property rights, secrecy**

(1) The Supplier guarantees that no third-party rights are violated in connection with its Deliveries. If a third-party has recourse to the Buyer in this respect, the Supplier must indemnify the Buyer upon the Buyer's first written request.

(2) Any type of documentation or tooling as well as samples, drawings, tools etc. which the Buyer provides to the Supplier or for which the Buyer remunerates the Supplier may only be used for the production for and delivery to the Buyer, they must not be passed on to third parties and may not be used by the Supplier for its own purposes. They must be kept secret and must be returned without undue delay without retaining any copies, individual items etc. in immaculate condition or must be destroyed at the Buyer's request as soon as the contract has been fulfilled or as soon as it becomes clear that no order will be placed or as soon as the delivery relationship has been terminated. The obligation to maintain secrecy will continue to exist after the contract has been fulfilled; it will become extinct if and to the extent that the knowledge contained in the documentation provided has become general knowledge. The Buyer will retain ownership of and copyrights in the documentation, tooling etc. mentioned in Clause 11 (2) sentence 1.

(3) The Supplier must not deliver any unfinished and finished goods manufactured by it in accordance with the Buyer's specifications to third parties, even if such goods are components rejected by the Buyer for being defective. Such defective components are to be destroyed at the Supplier's cost.

(4) In case of a breach of the obligation set out in this Clause 11, the Supplier will pay to the Buyer a contractual penalty of 5% of the value (gross) of the respective order or of the products manufactured with the respective devices. The Buyer reserves the right to assert a higher damage.

#### **14 Buyer's liability**

Damages claims of the Supplier which do not refer to harm to life, body or health ("Other Damage"), are limited to damage caused wilfully or with gross negligence. The Buyer will be liable for Other Damage caused with slight negligence only in case of a violation of a material contractual obligation. In this context, damages are limited to damage which was predictable and which is typical of the type of contract.

#### **15 Performance by affiliated companies**

Upon the Buyer's request, each of the contractual obligations of the Buyer may be fulfilled by another company which is part of "The Dow Chemical Company" group. The justified interests of the Supplier must reasonably be taken into account in this respect. The corresponding contractual obligations are deemed to have been fulfilled provided that the performance rendered is equivalent.

#### **16 Access to factory premises**

The Supplier is responsible for ensuring that persons who access the Buyer's factory premises in order to fulfil the contract will comply with the work rules.

#### **17 Place of performance, place of jurisdiction, applicable law**

(1) The place of performance for all disputes arising under this contractual relationship is Frankfurt am Main if the Supplier is a businessman (*Kaufmann*), legal entity under public law or a public-law fund. The Buyer is also entitled to bring an action against the Supplier before the court competent at the Supplier's registered office.

(2) This contract is subject to German law and will be construed accordingly, with the exception of the conflict of law rules and the provisions of the U.N. Convention on Contracts for the International Sale of Goods (CISG).

#### **18 Data storage**

The Buyer and all other companies forming part of the Dow group are entitled to store the data made available to them in connection with this contract in accordance with the German Federal Data Protection Act (*Bundesdatenschutzgesetz*), as well as to process and communicate such data within the group.

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