Purchase Order Terms & Conditions (Europe)

1. General

Unless otherwise agreed in the purchase order or purchase contract, the purchase of Goods or Services by Buyer shall be governed by these General Purchasing Conditions (the "Conditions"). To the extent the Conditions are in conflict with the specific terms of this Order or a purchase contract properly executed between the parties, the terms of the Order or the purchase contract will take precedence. All these terms (including any annexes) will be collectively referred as the "Agreement" and they will represent the full and complete understanding between Buyer and Supplier with respect to the subject matter thereof. In particular, any additional, conflicting or different terms and conditions set forth in any invoice, in any acknowledgment of an Order or in any other document sent by Buyer shall have no effect.

In the Agreement: "Buyer" shall mean the entity issuing the Order; "Supplier" shall mean the entity that sells the Goods or provides the Services; "Goods" shall mean the goods, products, (raw) materials, equipment, design, software, rental properties and/or related documentation to be supplied by Supplier under the Order; "Services" shall mean the services or related deliverables under the Order or the services related to the supply of Goods; and "Order" or "Purchase Order" shall mean the electronically generated or written document by Buyer containing the commitment of Supplier to deliver the Goods or provide the Services.

2. Applicable law and jurisdiction

The Agreement shall be governed by the laws of the country in which delivery is to be made with the exclusion of the provisions in such laws pertaining to conflicts of laws. The United Nations Convention on Contracts for the International Sale of Goods, done in Vienna on April 11, 1980 shall not apply. Any disputes arising out of or in connection with the Agreement shall be exclusively settled by the competent court in the location where delivery is to be made or, at Buyer's sole option, the competent court in the place where Supplier has its principal place of business.

3. Prices and payment

Supplier shall deliver the Goods and/or perform the Services against the price(s) mentioned in the Agreement. Unless expressly stated to the contrary, prices shall include packaging, supervision and consumables, shall be exclusive of VAT but inclusive of any other tax, levy or duty and shall be fixed and firm for the duration of the Agreement.

In case an invoice is under dispute, Supplier has no right to postpone or suspend its obligations.

Buyer has the right to set off amounts it owes to Supplier or any of its affiliates, against amounts which Supplier or any of its affiliates owes to Buyer.

Unless expressly stated otherwise or unless as required under applicable law, Buyer shall pay Supplier’s invoice with net cash sixty (60) days after receipt of the invoice. Buyer can only process invoices which comply with Buyer’s invoice instructions. Other invoices will be returned to Supplier and will lead to a delay in payment without any liability to Buyer for interest or otherwise.

4. Assignment

Neither party shall assign the Agreement or any part thereof without the written consent of the other party, except that Buyer may without the consent of Supplier assign the Agreement or any part thereof to (i) an affiliated company or (ii) a third party if such assignment or transfer is in connection with the transfer of all or a substantial part of the Buyer’s business to which the Agreement relates. A consent provided hereunder shall not release the assigning party from its obligations and liabilities under the Agreement.

5. Inspection

Payment for the Goods or Services or inspection thereof shall not constitute acceptance hereof. All Goods and Services are received subject to Buyer's inspection and acceptance. Goods which are not in accordance with agreed specifications will be held for Supplier's instructions and at Supplier’s risk and expense. If instructions are not received within fifteen (15) days after notice of rejection, Goods may be returned at Supplier's expense. No goods returned shall be replaced without Buyer's written consent.

6. Force Majeure

Either Supplier or Buyer will be excused from the obligations of the Agreement to the extent that performance is delayed or prevented by any circumstance (except financial) beyond its control and unforeseeable at the time of entering into the Agreement, provided that the party claiming Force Majeure (a) immediately notifies the other party with reasonable details including any expected impact and expected duration of the Force Majeure event and (b) avoids any discrimination of the other Party in respect of other suppliers or buyers (including internal use) as the case may be.

7. Quality and Warranty

Supplier warrants that the Goods and Services shall be (a) new and of the quality and applicable specifications stated in the Agreement, (b) free from all defects in design, workmanship and materials, (c) in compliance with the legal requirements applicable in the country where the goods are manufactured or the Services are rendered, (d) free from liens, pledges, encumbrances and/or retention rights, and (e) produced and sold free of any patent infringements. Payment, inspection, acceptance or use of Product(s) will not affect Supplier's obligations under this warranty. Supplier must send process change notifications in writing to Buyer no less than six (6) months in advance for the following: MSDS modification, change in specification, change in critical raw materials, change in sourcing location, Certificate of Origin status, method of manufacture, or significant changes in SPC (Statistical Process Control) or SQC (Statistical Quality Control) of key properties. With respect to any purchase of contract manufacturing services under this Order, including but not limited to tolls and exchanges, Supplier may not make any of the above changes without the express written approval of Buyer.

Supplier shall provide Buyer with a certificate of analysis, accompanying the shipping documents, per lot size of Goods supplied to Buyer, unless otherwise agreed in writing.

8. Delivery

Unless explicitly agreed otherwise, deliveries will be made DDP (Delivered Duty Paid) place of business of Buyer, in accordance with the Incoterms 2020. Title to the Goods shall pass to Buyer at the moment the risk passes in accordance with the applicable Incoterm.

9. Compliance

9.1 Supplier code of conduct

In the performance of its obligations hereunder, Supplier shall comply with Buyer's Code of Business Conduct for Suppliers („Supplier Code of Conduct") available at www.dow.com/about/supplier/code.htm. Alternatively, Supplier may comply with Supplier's own code of conduct if it is reasonably deemed as substantially similar to Supplier Code of Conduct.

9.2 Anti-bribery

Supplier represents and warrants that it will not make any payments of money nor will it permit anything of value to be offered, promised, or paid – directly or indirectly- to any official political party, party official, or candidate or political office to induce such officials to use their influence with a government or instrumentally to obtain an improper business advantage for Buyer. If Supplier should ever become concerned that a possible violation of any of the above requirements may have occurred, whether by one of Supplier's representatives, a Buyer representative, a third-party representative or contractor providing services to Buyer, Supplier shall immediately notify Buyer.

9.3 Export and trade control

Supplier will not export or re-export any technology, software, or products received from or developed for Buyer, or the direct products of that technology, software, or products, in violation of any applicable government's export-control , trade control or customs laws or regulations (" trade control laws") , including those of the United States of America and of the European Union. This obligation survives termination of this Agreement. Supplier is obliged to provide Buyer with the necessary information and documentation to comply with trade control laws (including CBAM).

9.4 Data Protection

Buyer and Supplier each act as an independent controller (or equivalent role under applicable law) with respect to any personal data exchanged or otherwise processed in connection with this Order. Each party independently determines its own purposes and means of processing and is solely responsible for complying with its obligations under applicable data protection law. Each party will use personal data received from the other party only as reasonably necessary to perform, administer, and enforce this Order and to comply with law; will restrict access on a need to know basis subject to confidentiality obligations; and will not disclose such personal data except to recipients bound to protect it or as required by law. Each party will handle data subject requests and regulatory inquiries for which it is responsible and will reasonably cooperate where a request or inquiry primarily relates to the other party's processing. For information about how Buyer processes personal data relating to suppliers and their personnel, see Buyer's Supplier Privacy Notice (available at https://legal.dow.com/en-us/privacy-statement/supplier-privacy-notice.html), which is provided here for transparency purposes and does not modify or limit the parties' obligations under this Order.

9.5 REACH

To the extent the Goods or any of the substances contained in the Goods fall within the scope of REACH, Supplier confirms and represents that the Goods and/or substances used as raw materials for the production of the Goods shall comply with the requirements of REACH and Supplier further represents that, to the extent required under REACH, the Goods or any of the substances contained in the Goods is or will be timely registered and will remain registered for Supplier's use(s), so that Supplier is always considered as a downstream user according to REACH. Supplier declares to be informed of all actual and potential use(s) of the Goods by Supplier and by the customers of the Supplier. Supplier shall not consider the Goods and/or substances contained therein as an intermediate.

To the extent the Goods or any of the substances contained in the Goods, require authorization, Supplier shall ensure that an authorization is timely obtained and maintained. In this respect, Supplier shall keep Buyer informed about the status of the authorization process, including information on the inclusion on the candidate list and Annex XIV and the information as specified in Article 57 of REACH.

Upon request from Buyer, Supplier will promptly provide Buyer with a written acknowledgement of pre-registration or, when relevant, of registration or authorization of the substances contained in the Goods sold or to be sold to Buyer. Supplier remains responsible for all information provided in relation with compliance of the Goods sold or to be sold to Buyer, with REACH.

Supplier will not disclose information obtained from Buyer or any of its affiliates, to third parties, including for REACH compliance purposes without prior authorization of Buyer.

Prior to the shipment, Supplier must send to the destination plant of Buyer an extended safety data sheet in the language of the destination plant. Supplier shall send updated versions of the safety data sheets as soon as they become available.

9.6 Information Security

Each party will maintain reasonable administrative, technical, and physical safeguards designed to protect personal data and confidential information received from the other party against unauthorized access, disclosure, alteration, or loss. If a party provides the other party's personal data or confidential information to a subcontractor, cloud provider, or other third party for a purpose permitted under this Order, it will ensure that the recipient is bound by written obligations at least as protective as this Section and will remain responsible for that recipient's compliance. A party that confirms a security incident involving the other party's personal data or confidential information will notify the other party in writing without undue delay and, in any event, within forty eight (48) hours, and will reasonably cooperate to mitigate and remediate the incident. Upon reasonable notice and no more than once annually (unless a security incident occurs or a material risk relating to this Order is identified), a party will provide reasonable information (including summaries of relevant third party security assessments, where available) sufficient to confirm compliance with this Section, subject to appropriate confidentiality restrictions.

9.7 Artificial Intelligence

Supplier will not use, and will not permit any third party to use, any Buyer data (including personal data and confidential information disclosed by Buyer) as or in AI training data, or as AI input for any generative AI system, without Buyer's prior written authorization. Any AI used by Seller in performing this Order must comply with applicable AI law. Buyer is entitled to seek injunctive or equitable relief for any breach of this section. Nothing in this section restricts Buyer's internal use of data in accordance with its own policies and applicable law.

10. Confidentiality

Supplier shall keep confidential and not disclose to any third party the terms and conditions of this Agreement and any information obtained through the application of this Agreement. This confidentiality obligations shall apply in particular to any drawings, models, tools, documents or other proprietary information received by Supplier for the purpose of performing under this Agreement.

11. Termination

If the Supplier fails to meet its obligations (including its warranty obligations or obligation to deliver in time), or Buyer reasonably believes that Supplier will not meet such obligations (including the event that Supplier becomes insolvent or otherwise unable to pay its debts or is declared bankrupt or ceases doing business as going concern or commences liquidation), then Buyer, without prejudice to any other rights or remedies it may have under the Agreement or at law, shall have the right to terminate the Agreement.

Buyer may in its sole discretion terminate the Agreement at any time prior to its agreed date of expiry upon written notice to Supplier. If Supplier is not in breach of the Agreement, then upon such termination Buyer shall pay Supplier all costs reasonably incurred in respect of Goods the subject of any Purchase Order, which have been produced or are in course of production but have not yet been supplied or invoiced and Services the subject of any Purchase Order which are in the course of being supplied but have not yet been rendered, prior to the date of termination, subject to Supplier's duty to mitigate any loss. In no event shall the total of all payments to the Supplier exceed the agreed price for such Goods or Services. Other than as stated in this clause, Buyer shall have no liability for early termination.

12. Indemnification

To the fullest extent permitted by applicable law Supplier shall indemnify Buyer, and hold Buyer harmless, from and against all loss, claims, damages and liability arising from or relating to Supplier's performance of the Agreement or any defects in the Goods or Services supplied thereunder, except to the extent that such loss, claims, damages or liability are caused by Buyer's gross negligence or willful misconduct

13. Severability

If any provision of this Agreement is held invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement. The parties agree to negotiate in good faith to modify such invalid, illegal or unenforceable provision consistent with the intent and spirit of this Agreement.

14. Electronic Systems for Transactions

Upon at least ninety (90) days' written notice to the Supplier, Buyer may require that Supplier receive purchase order(s), submit invoice(s), and otherwise transact business through The Dow Chemical Company's preferred electronic system provider (the "eProvider Network"). In that event, each Party, at its own expense, shall a) provide and maintain the equipment, software and services necessary to effectively and reliably transmit and receive purchase orders and invoices via the eProvider Network, b) be responsible to pay any and all fees associated with executing transactions through the eProvider Network, and c) be solely responsible for its relationship with the eProvider Network. In addition, Supplier shall be solely responsible for the cost of routing and storing information on the eProvider Network, which information or documents may be retrieved by Buyer at no additional charge to Buyer by Supplier.

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