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### I. Scope of application

1. Only the following Terms and Conditions of Purchase shall apply to orders placed by BCD Chemie GmbH (hereinafter "BCD" or "we") with suppliers or service providers (hereinafter both referred to as "Contractors").
2. These Terms and Conditions of Purchase shall also apply to all future orders within the meaning of Clause I.1. placed by BCD with the Contractor, even if no express reference is made to their applicability in the individual case.
3. Any terms and conditions of the Contractor which conflict with or deviate from these Terms and Conditions of Purchase shall not apply unless BCD has expressly agreed to their application in writing in the individual case. This shall also apply in the event that BCD accepts deliveries or services of the Contractor without reservation in the knowledge of terms and conditions of the Contractor which conflict with or deviate from these Terms and Conditions of Purchase.

### II. Definitions

The following terms shall have the meanings set forth herein:

1. "Request for quotation" is a non-binding request by BCD to the Contractor to prepare a binding quotation free of charge.
2. "Order" is a declaration for the conclusion of a contract which is binding on BCD.
3. "Hazardous substances" means, inter alia, those mixtures, substances and articles covered by the Regulation on Protection against Hazardous Substances and/or Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008.
4. "Call-off" means a binding declaration by BCD for the call-off of goods or services under an already concluded supply agreement and/or a framework agreement.
5. "In writing" within the meaning of these Terms and Conditions of Purchase shall also include a declaration by fax or e-mail.
6. Working days are all days from Monday to Friday with the exception of public holidays at BCD's registered office.

### III. Offer, offer documents

1. The Contractor shall expressly notify BCD in writing of any deviations from the request for quotation or the order.
2. Cost estimates shall only be paid for after prior written agreement.
3. BCD reserves all proprietary and industrial property rights to illustrations, calculations and other commercial and technical documents. The Contractor shall not make them available to third parties without the express prior written consent of BCD; they shall be used exclusively for the performance of the supplies or services and shall be returned to BCD at the end of the contract without being requested to do so.

### IV. Conclusion of contract, documents, origin of goods

1. Orders, delivery call-offs and conclusion of contracts as well as amendments or supplements thereto shall be made in writing.
2. The Contractor shall confirm or reject orders in writing without delay, but no later than 5 working days after receipt. Orders shall become binding if the Contractor does not reject them in writing within 5 working days after receipt.
3. Drawings, drafts, calculations, recipes, etc. prepared by the Contractor according to BCD's specifications shall - unless expressly agreed otherwise in writing - become the property of BCD without separate remuneration. BCD shall be granted an exclusive right of use, including the right of transfer and sublicensing, unrestricted as to time, place and content.
4. The delivered goods must meet the conditions of origin of the preferential agreements of the EC/EU unless expressly agreed otherwise. At BCD's request, the Contractor shall provide BCD without delay and free of charge with the necessary documents and declarations for deliveries or services, in particular declarations of origin, health certificates and classifications under export control law.

5. The Contractor shall provide full details of all existing and potential risks or hazards associated with the goods, in particular toxicity, flammability, inhalation or direct contact hazards and whether the hazards arise from direct or indirect use. In addition, the Contractor shall provide full details of the appropriate safety precautions to be taken in connection with the use and handling of the Goods and shall mark all packaging and containers of dangerous, toxic or otherwise harmful Goods in a prescribed and conspicuous manner to protect persons handling or coming into contact with those Goods.

### V. Prices, terms of payment

1. The prices stated in the order are fixed prices.
2. The price is agreed net (plus VAT). If VAT is legally owed by the Contractor to the competent tax authority, this VAT must be invoiced separately by the Contractor to BCD. The VAT shall be paid by BCD upon receipt of a proper invoice. The invoice issued by the Contractor to BCD must comply with all legal requirements under applicable tax law. The Contractor shall be solely responsible for the reporting and payment of VAT to the relevant tax authority.  
The Contractor hereby assigns its rights to reimbursement of the VAT which the Contractor would have wrongly invoiced to BCD. The Contractor shall indemnify us for any penalties and interest imposed on us by the relevant tax authority that are attributable to an error or omission by the Contractor in relation to VAT.
3. Invoices can only be processed if they contain the following information:
  - all mandatory details according to the Value Added Tax Act
  - the order number of BCD, if indicated
  - the delivery/service address, the delivery date or service time.
4. Unless otherwise agreed in writing, invoices are payable within 14 days of receipt of the invoice, with a 3% discount, or within 30 days of receipt of the invoice net without deduction.
5. BCD shall be entitled to rights of set-off and retention to the extent provided by law.

### VI. Time of delivery and performance, contractual penalty

1. Unless otherwise agreed, deliveries shall be made DDP (INCOTERMS 2020) to the destination specified in the order including packaging and insurance or services at the place of performance specified in the order. The Contractor shall provide services at the agreed locations and on the agreed dates in accordance with the specifications and recognised industry standards. The Contractor shall document the performance of the services and shall send these documents to BCD on request or after completion of the services, but at the latest with its invoice. If the services are intended to achieve a delivery item or a specific result, the provisions for goods (deliveries) of these Conditions of Purchase shall apply accordingly.
2. Unless otherwise agreed in individual cases, deliveries shall be made in batches. Products with minimum shelf life shall only be delivered with maximum remaining shelf life. Partial deliveries or services are only permitted with the prior written consent of BCD.
3. The dates for deliveries or services specified in the order/delivery call-off are always binding. Decisive for compliance is the receipt of the goods or provision of the service at the destination named in the order.
4. In the event of delay, BCD shall be entitled to claim a contractual penalty of 0.2 % of the invoice amount attributable to the relevant delivery or service for each completed day of delay, but not more than 5 % of the invoice amount attributable to the relevant delivery or service. BCD shall be entitled to claim the contractual penalty in addition to performance; the reservation of the contractual penalty shall be in time if it is declared to the Contractor within 10 working days at the latest, calculated from receipt of the delayed delivery or service. BCD reserves the right to assert further claims and rights, in particular a claim for damages. The contractual penalty shall be set off against any claims for damages.
5. If it becomes apparent that deadlines for deliveries or services cannot be met, the Contractor shall inform BCD thereof in writing without delay. BCD's claims and rights due to delayed delivery shall remain unaffected.
6. In the event of a delay in delivery, the Contractor shall be obliged to dispatch the ordered goods by the fastest possible means of

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transport, insofar as this does not involve disproportionate costs for the Contractor in relation to the damage threatened at BCD. Any additional costs arising under this Clause VI.6. shall be borne by the Contractor.

#### **VII. Retention of title**

Title to the goods shall pass to BCD upon handover. Retention of title, in particular an extended or prolonged retention of title, is excluded.

#### **VIII. Transfer of risk, packing, shipping documents**

1. The transfer of risk shall be governed by the agreed INCOTERM 2020. Insofar as acceptance is provided for by law or contractually agreed, the time of acceptance shall be decisive for the transfer of risk.
2. The delivery shall be accompanied by delivery notes in duplicate and packing slips. The order number, material designation and material number, batch number, gross and net weight, number and type of packaging (disposable/reusable), VAT identification number as well as unloading point and consignee must be stated in all shipping documents and on the outer packaging. Individual containers shall be marked with material designation, material number, batch number, production date, best-before date as well as net and gross weight.
3. In the event of the delivery of chemicals, the Contractor shall enclose a certificate of analysis for each individual batch of the delivery as part of the outgoing goods inspection and send it by e-mail to [az-eingang@bcd-chemie.de](mailto:az-eingang@bcd-chemie.de).
4. The Contractor shall pack, label and ship hazardous substances in accordance with the relevant national or international regulations. Furthermore, the Contractor shall always - irrespective of whether this is required by law - send a safety data sheet (SDS) preferably to the e-mail address [infosbd@bcd-chemie.de](mailto:infosbd@bcd-chemie.de) or to the postal address: BCD Chemie GmbH, Schellerdamm 16, 21079 Hamburg. If necessary, the SDS must be updated immediately and sent to one of the aforementioned addresses. The shipping documents must contain the information specified in the applicable transport regulations.
5. The goods shall be packed and secured for the duration of the transport in such a way that transport damage is avoided. At BCD's request, the Contractor shall be obliged to take back packaging materials, including transport packaging, at the place of delivery within normal operating hours at its own expense; otherwise, the obligation to take back packaging materials shall be governed by the relevant statutory provisions.

#### **IX. Deliveries / work on the premises of BCD**

1. For all deliveries and/or work on BCD's premises, the safety guidelines of BCD for the use of external companies and the respective site regulations in their current version shall apply to the Contractor and any vicarious agents employed by it. The documents shall be handed over to the Contractor upon request.
2. The Contractor shall ensure that its personnel performing the services, in particular when working at locations of BCD or BCD's customers, are not deemed to be employees of BCD or of BCD's customers or to be a person entitled to such employment. In the event of a breach of contract, the Contractor shall indemnify BCD against all costs, expenses and other damages in connection therewith, unless the Contractor is not responsible for this.
3. If the Contractor is required to work at BCD sites or at sites of BCD customers, the Contractor shall, at its own expense, follow all safety rules and procedures applicable there. This includes, in particular, the use of appropriate personal protective equipment, attendance at induction training at the site, removal of waste, debris, surplus materials and temporary structures and leaving the site in a tidy condition. The Contractor shall bear the risk of loss and damage to all materials used up to the completion of the Contract.

#### **X. Compliance with legal requirements**

1. The Contractor is obliged to comply with the applicable statutory provisions. This applies in particular to compliance with
  - Regulation (EC) No 1907/2006 (REACH Regulation)
  - the German Packaging Act (VerpackG)
  - Regulation (EC) No 1272/2008 (CLP Regulation)

- the GGVSEB and the ADR

as amended from time to time.

2. Insofar as BCD is obliged to register the goods in accordance with the statutory provisions, in particular Regulation (EC) No 1907/2006 (REACH Regulation), the Contractor shall provide BCD with all information required for this purpose and available at the Contractor's free of charge and with sufficient advance notice before the start of delivery or performance. If an Only Representative is appointed, BCD shall be informed thereof without delay.

#### **XI. Inspection, incoming goods inspection**

1. Insofar as the subject of the Contractor's performance is the delivery of goods, BCD's incoming goods inspection shall be limited to checking the delivery for obvious identity and quantity deviations as well as transport damage.
2. Obviously recognisable identity and quantity deviations are to be notified to the Contractor within 10 working days after receipt of the delivery. In the case of all other defects, the complaint shall be deemed to have been made in good time if it is made within 10 working days of discovery of the defect. If the goods are delivered directly to BCD's end customer at BCD's behest, the notice of defect shall be deemed to be in time if BCD forwards its customer's notice of defect to the Contractor within 5 working days.
3. BCD shall also be entitled in the event of delayed notification of defects to assert claims for damages in accordance with the statutory provisions which are independent of the notification of defects.
4. If repeated or further tests are necessary as a result of a defect, the Contractor shall bear all costs, subject to further statutory claims, unless he is not responsible for the defect.

#### **XII. Claims for defects, liability**

1. The Contractor warrants that the delivery or service does not have any defects impairing its value or suitability, in particular that it complies with the agreed specifications or the sample approved by BCD, that it is suitable for the use assumed under the contract as well as for normal use, that it is provided with a high level of technical competence, that it is provided using appropriate procedures and that it conforms to generally accepted technical practice, the legal provisions applicable at the time of delivery, in particular the safety requirements valid at the time of delivery or service as well as the relevant occupational health and safety and accident prevention regulations.
2. If the delivery or service of the Contractor has a defect, BCD shall be entitled to the statutory claims for defects without limitation. In addition, BCD shall be entitled to remedy the defect itself or have it remedied by third parties at the expense and risk of the Contractor if BCD refuses to remedy the defect or if the remedy fails.
3. In all other respects, the Contractor shall be liable within the scope of the statutory regulations.
4. The limitation period for claims for defects is 36 months from the transfer of risk, unless a longer limitation period is provided for by law.

#### **XIIa. Contractual penalty for violations of antitrust law**

If it can be proven that the Contractor or the persons commissioned by it or working for it have entered into an agreement which constitutes an inadmissible restriction of competition, in particular a violation of core restrictions under cartel law within the meaning of Article 101 TFEU, Section 1 GWB (price, submission, quantity, quota, territory and customer agreements), the Contractor shall pay damages in the amount of 10 % of the net contract value, unless the Contractor is not responsible for the violation. This is without prejudice to the Contractor's right to prove a lesser damage. Furthermore, other contractual or statutory claims of the Contractor shall remain unaffected, whereby the contractual penalty shall be offset against other claims for damages.

#### **XIIb. Withholding tax**

In the event that BCD pays royalties to foreign Contractors and is required by law to withhold withholding taxes, a waiver of withholding tax withholding or a withholding tax reduction can only be requested by the Contractor if the Contractor submits an exemption certificate in due time in accordance with the applicable statutory regulations.

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#### **XIIIc. Subcontractors**

The Contractor shall not engage subcontractors without the prior written consent of BCD. The Contractor shall require its subcontractors to comply with all obligations under these Conditions of Purchase, including confidentiality obligations. Notwithstanding any consent given by BCD, the Contractor shall be liable to BCD for acts and omissions of its subcontractors as for its own acts or omissions. A subcontract shall not release the Contractor from its obligation to provide supplies and services or from any liability under the contract.

#### **XIII. Product liability, recall and safety deficiencies**

1. Insofar as the Contractor is responsible for damage caused by a product resold by BCD, he shall be obliged to indemnify BCD against claims for damages by third parties unless he is not at fault. This obligation to indemnify shall apply upon our first demand.
2. Within the scope of its liability for claims within the meaning of XIII.1, the Contractor shall also be obliged to reimburse BCD for any necessary expenses pursuant to Sections 683, 670 German Civil Code (BGB) or pursuant to Sections 830, 840, 426 BGB arising from or in connection with a recall action carried out by BCD. This shall not affect any other legal claims and rights of BCD. BCD shall inform the Contractor about the content and scope of the recall measures before they are carried out - insofar as this is possible and reasonable - and give the Contractor the opportunity to comment.
3. If the Contractor is obliged by law to inform the competent authorities of circumstances affecting the marketability of the goods, the Contractor shall inform BCD thereof in writing without delay.
4. In the event of official measures which result in a restriction of the marketability of the goods delivered by the Contractor, BCD shall be entitled to rescind the contract in whole or in part. In this case, the Contractor shall be obliged to compensate BCD for all damages attributable to this, unless the Contractor was not responsible for the circumstance. Further claims and rights of BCD shall remain unaffected.
5. The Contractor undertakes to maintain sufficient insurance cover for the risks resulting from the contractual relationship, in particular due to any product liability claims, for the duration of the contractual cooperation and the limitation periods and to provide evidence of this insurance cover upon request.
6. The Contractor shall inform BCD without undue delay upon request of all insurance policies which it has taken out in respect of the supplies and services to be provided by it.

#### **XIV. Quality assurance**

1. The Contractor is obliged to introduce a recognised quality assurance system in accordance with DIN EN ISO 9001 or comparable, and to maintain it updated throughout the contractual relationship and to provide evidence thereof.
2. The Contractor shall inform BCD in writing without delay, but at least 6 months before changes in the production processes, the production site and/or the ingredients used. At BCD's request, the Contractor shall provide BCD with all information required by BCD.
3. BCD shall be entitled, after prior notice, to satisfy itself during the Contractor's normal business and operating hours that the provisions of this section are being complied with. In doing so, BCD shall take reasonable account of the Contractor's operational concerns and any need for confidentiality.

#### **XV. Property rights of third parties**

1. The Contractor warrants that the delivery or service is free of property rights - in particular patent rights, copyrights, personal rights and trademark rights - of third parties which oppose or restrict the use provided for in the contract and the normal use.
2. If third parties assert claims which prevent BCD or its customers from using the delivery or service in accordance with the contract, the Contractor shall, at its own expense and at BCD's option and request, either
  - (a) procure for BCD and/or its customers the right to use the delivery or service, in particular procure the necessary licences;

- (b) design the delivery or service to be free of intellectual property rights insofar as this does not impair the contractually agreed properties; or
  - (c) replace the delivery or service by another with the same properties that does not infringe any third-party property rights.
3. The Contractor shall indemnify BCD against any claims by third parties based on existing third-party property rights. The Contractor's obligation to indemnify shall include, in particular, all expenses incurred by BCD as a result of or in connection with the claim by a third party, including lawyers' fees or other legal costs. This indemnification obligation shall apply to him at our first demand.
4. If third parties assert claims on the basis of existing industrial property rights, the Contractor shall support BCD free of charge in the defence of the claim, in particular by providing all documents and information required for the defence of the claim.
5. The claims under this Clause XV. shall not exist insofar as the Contractor proves that it is neither responsible for the infringement of property rights nor should have been aware of the infringement at the time of delivery if it had exercised due commercial care. In all other respects, the liability pursuant to Clause XII. shall remain unaffected.

#### **XVI. Secrecy**

1. All business or technical information made accessible by BCD shall be kept secret from third parties, used exclusively within the scope of the respective purpose of the contract and made available in the Contractor's own business only to those persons who must necessarily be involved for the purpose of fulfilling the contractual obligations and only to the extent that they are also obliged to maintain secrecy.
2. The Contractor shall only have a right of retention on the basis of undisputed or legally established claims.
3. The information provided by BCD shall remain the exclusive property of BCD. BCD reserves all rights to such information (including copyrights and the right to apply for industrial property rights such as patents, utility models, etc.). At BCD's request, all information originating from BCD (including any copies or records made, if applicable) and items provided on loan must be returned immediately and in full or irretrievably destroyed upon request, unless there are statutory obligations to retain such information.
4. Products which are produced according to documents designed by BCD, such as analysis methods, etc. or other specifications or with process technology from BCD may neither be used by the contractor himself nor offered or supplied to third parties.

#### **XVII. Termination**

BCD may terminate the contract, if it is a continuing obligation, for any reason at any time and, if it is a contract for work and services, for any reason in writing at any time until completion of the work, whereupon all work under the contract shall cease and BCD shall pay the supplier reasonable compensation for the work in progress at the time of termination; such compensation shall not, however, include any loss of profit or consequential loss and shall in principle not exceed the price of the supplies or services under such terminated contract. BCD may demand that supplies and services or the results of services to which BCD's compensation relates be handed over to it in their present condition.

#### **XVIII. Assignment**

Rights and claims may only be assigned by the Contractor with the prior written consent of BCD. The provision of § 354a of the German Commercial Code (HGB) shall remain unaffected.

#### **XIX. Force majeure**

In the event of an external event which has no operational connection and which cannot be averted even by exercising the utmost reasonable care, the parties shall be released from their performance obligations for its duration and to the extent of its effect. The parties are obliged to provide the necessary information without delay within the bounds of what is reasonable. Insofar as this restriction is not only temporary, BCD shall be entitled to withdraw from the contract.

#### **XX. Data protection**

We process personal data within the scope of our business relationships. Further information on data processing can be found in our data protection declaration (available on our company website [www.bcd-chemie.de](http://www.bcd-chemie.de)).

#### **XXI. German Due Diligence Supply Chain Act**

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1. BCD is committed to conducting human rights and environmental due diligence in its supply chains to avoid or minimize risks to human rights or environmental risks or to end violations of human rights or environmental obligations (hereinafter "Supply Chain Compliance"). The terms "human rights risk", "environmental risk" (together "Risks"), "violation of human rights-related obligations" and "violation of environmental obligations" (together "Violations") shall have the meaning as defined in the German Supply Chain Due Diligence Act (the "Act"), as amended from time to time.
  2. In order to ensure supply chain compliance within the meaning of the preceding paragraph, the Contractor undertakes to cooperate to the best of its ability with BCD to enable BCD to comply with its legal obligations as described above. In particular, the Contractor shall use its best efforts to require its own suppliers in the supply chain to comply with the relevant regulations. In particular, the Contractor undertakes to avoid and/or minimize Risks in the supply chain and to remedy Violations. In addition, the Contractor undertakes, e.g. through the use of internal systems or policies, to instruct its officers and employees to meet BCD's compliance expectations in the supply chain and to train its officers and employees accordingly. If necessary, BCD will support the Contractor in the training by providing information material.
  3. Upon prior written notice, BCD shall have the right to conduct audits itself and/or through authorized third parties to ensure compliance with the Contractor's obligations under this clause. The Contractor shall provide BCD and/or the Auditor with all data, documents and other information in written, oral and/or electronic form that BCD and/or the Auditor may reasonably request for the audit.
  4. If BCD identifies any suspicion or evidence of a breach by the Contractor or any of its contractors or suppliers of any tier, the Contractor shall take and implement appropriate corrective action or cause the relevant contractors or suppliers to take and implement such action as BCD may reasonably request in writing.
  5. At BCD's request and without unreasonable delay, the Contractor shall (i) develop with BCD a plan to end the breaches (the "Corrective Action Plan"), including a specific timetable for such plan, and (ii) take such actions as BCD may reasonably request to implement the Corrective Action Plan.
  6. BCD shall have the right to terminate any contractual relationship to which these Terms and Conditions of Purchase apply with immediate effect if (i) the Contractor fails to comply with its obligations under this clause, (ii) the Supply Chain Compliance expectations are materially breached or (iii) the implementation of the Corrective Action Plan does not remedy the breaches within the timetable set out in the Corrective Action Plan.
  7. The Contractor undertakes to inform its freelance and permanent employees or other third parties engaged by it - whether on its own behalf or on behalf of third parties - of the possibility to confidentially make use of a whistleblowing complaint procedure via the BCD website. The complaints procedure enables individuals to report human rights and environmental risks as well as violations of human rights or environmental regulations that have arisen as a result of business activities by the Contractor in its own operations or by a direct supplier of the Contractor.
  8. The Contractor is obliged to inform BCD immediately of any significant changes in human rights and environmental risks in its business area, e.g. due to the introduction of new products, projects or a new business segment.
  9. If claims are asserted against BCD by a third party due to a breach of Supply Chain Compliance and these claims are based on a culpable breach of the obligations agreed with BCD attributable to the Contractor, the Contractor shall be obliged to indemnify BCD against these claims upon first request. The indemnification obligation shall also apply to all reasonable expenses necessarily incurred by BCD as a result of or in connection with the claim by a third party.
- XXII. Place of performance, jurisdiction, miscellaneous**
1. Amendments and supplements to the contract must be made in writing to be effective.
  2. The place of performance for the delivery or service is the specified address, for payment the registered office of BCD. The exclusive place of jurisdiction for all disputes arising out of or in connection with this contract and its validity shall be Hamburg, Germany. However, BCD shall also be entitled to assert claims against the Contractor at the latter's general place of jurisdiction.
  3. All legal relations between the Contractor and BCD shall be governed exclusively by German law, excluding the law of conflicts of law and the provisions of the United Nations Convention on Contracts for the International Sale of Goods ("CISG").
  4. Should individual provisions of these Terms and Conditions of Purchase or of the contract concluded on the basis thereof be or become invalid, this shall not affect the validity of the remaining provisions. The parties shall negotiate in good faith to replace the ineffective clauses with such provisions that come as close as possible to the economic purpose of the ineffective clause. This shall apply accordingly in the event of gaps.
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- 1) The English version of these general terms and conditions of sale and delivery is a convenience translation. The German version is authoritative.