

## **1. Scope**

- 1.1 The following purchasing conditions shall apply to all current and future delivery orders of INEOS Phenol GmbH (the Client) and/or its associated Companies within the meaning of § 15 AktG. (Joint Stock Companies Law) together with its subsidiary companies.
- 1.2 Any deviating sales or delivery conditions or modifications to these conditions on the part of the Supplier will only become a constituent part of the contract if the Client acknowledges these expressly in writing.
- 1.3 The following shall become constituent parts of the order and in the event of inconsistencies shall apply with subsequent ranking after this in the following order:
  - 1.3.1 The provisions of the letter conveying the order together with the description of the service (specifications) including any additional preliminary technical remarks plus the associated drawings and if applicable the record of the proceedings.
  - 1.3.2 The "Purchasing conditions for products/goods "
  - 1.3.3 The safety provisions in force in each case for the place of the execution of the order in their latest version.

## **2. Offers, Placing of Orders**

- 2.1 Offers, including all necessary preliminary work are – unless agreed otherwise – free of charge to the Client. Any deviations from the text of the request are to be indicated as a separate item. Alternative proposals are to be submitted separately.
- 2.2 Orders together with any modifications and expansions of these are required to be in written form; delivery through a computer fax or email without a signature is sufficient here.
- 2.3 All documents which have been made available by the Client shall remain the property of the Client and are to be returned to him without question once the contract has been executed, or if an order is not placed immediately. The content of such documents is to be treated as his trade secrets and is not to be made available or known to third parties, nor is it to be used by the Offerer or Supplier himself for his own (e.g. publicity) purposes.

## **3. Prices**

Prices are fixed prices excluding turnover tax. They include – unless agreed otherwise – all additional costs such as freight, packaging, taxes, insurance, etc. Additional claims of any kind are excluded.

## **4. Packaging, Dispatch, Risk**

- 4.1 Packaging used is to be cost-free to the Client, suitable for the purpose and environmentally friendly. The Supplier's obligation to repurchase the packaging corresponds with the legal requirements.
- 4.2 The dispatch date is to be notified to the Client at least eight calendar days beforehand.
- 4.3 Dispatch is always to be carriage paid to the point of use including any carriage charges. The Client's order number is to be given in the dispatch documents under the heading "Notes for the Recipient". If it is agreed in writing that the freight costs are to be paid by the Client, the Supplier has to choose the most favourably priced transport.
- 4.4 Until the product which is the subject matter of the contract is actually received at the point of use specified by the Client, the Supplier bears the risk for any accidental destruction and/or damage. This applies also in the case of destruction and/or damage caused by third parties.
- 4.5 The Client reserves the right to appoint the carrier or forwarder.

## **5. Delivery, Delivery Date, Default**

- 5.1 Deliveries are to be made in full. Additional or incomplete deliveries and/or any other deviations from the order placed require the prior written agreement of the Client.
- 5.2 If part deliveries are agreed, the Client has the right to specify the individual deadlines and make use of the parts delivered without this meaning in this way that the delivery is acknowledged to have taken place in accordance with the contract.
- 5.3 The handing over of work certificates, acceptance certificates, operating instructions, etc. Is a component part of proper fulfilment
- 5.4 The delivery times and deadlines indicated in the order are binding and to be adhered to unconditionally. The Supplier is not entitled to deliver the product early without the prior written agreement of the Client.
- 5.5 In the event of delays the Client is entitled without prejudice to on-going rights to withdraw from the contract after setting an appropriate extension period without prior warning and/or to demand damages because of non-fulfilment in the case of fault. Delays of any type must be communicated immediately in writing by the Supplier indicating the reasons and the likely duration of the delay.
- 5.6 The Supplier is obliged to make good all indirect and direct damages resulting from the delay.
- 5.7 The Client is entitled to halt completion and/or delivery temporarily.

## **6. Granting of usage rights to work results**

- 6.1 For the work results arising from the provision of service by the Supplier (including work results that are the object of ownership rights, copyrights, commercial protected rights or other economic usage rights), from the time of their creation, the Supplier cedes the irrevocable, non-exclusive, transferable usage rights to the Client for the comprehensive usage of these work results for all of the Client's company purposes without time, space and contextual limitations for all types of usage. The granting of rights is covered by the agreed upon remuneration.
- 6.2 The previous granting of rights also includes the authorisation to edit the work results or have these edited, changed, translated, connected with other services and works from the Client and third parties or to be designed in any other way and to use the works/services and edits created in this manner as the original editions of the work results without the Supplier's consent.
- 6.3 If the provision of service by the Supplier includes (a) the creation of databases in accordance with §§ 87a ff. UrhG, the rights to these databases are in the relationship to the Supplier solely given to the client as database creator in terms of § 87a section 2 UrhG , (b) the creation of source code from computer programs and/or edits of such source code, the contractor is obligated to give the Client this source code.

## **7. Security of Product/Security of Supply/Ethics**

- 7.1 The Supplier shall guarantee that all items of the order supplied and manufactured by him correspond with the statutory provisions, the generally acknowledged rules of technology, the industrial safety and the accident prevention provisions, together with the provisions relating to technical equipment, are provided with the necessary means of protection and instructions for use and, in as much as is possible according to the latest technological developments, are in such a condition that any user or third party is protected against any hazards of any kind when they use them in accordance with the provisions, and in particular that any risks of accidents and occupational diseases are ruled out.
- 7.2 Chemical products are to be labelled in accordance with the Order relating to Hazardous Substances (Gefahrstoffverordnung). The Supplier has to bear responsibility for the safety data sheets completed in accordance with DIN 52900 being sent to the Client.
- 7.3 The Supplier must ensure that all communications or products ordered which are stored on EDP data carriers and are intended for the Client are free from harmful programmes (e.g. viruses). The Supplier is obliged to protect against viruses, check programmes and data before these are transmitted electronically to the Client using an anti-virus software which corresponds in each case to the most up-to-date developments in virus protection and therefore corresponds to the Client's level of security. Irrespective of any on-going claims, the Client is entitled to hold the Supplier responsible for any damages and costs arising through the non-observance of the above obligations. This applies in particular to the transfer of viruses which could have been avoided by using the latest version of the anti-virus software of the selected software supplier.
- 7.4 The Client supports the principles which are laid down in the Universal Declaration of Human Rights of the United Nations, in particular the outlawing of forced labour and child labour. The Supplier must ensure that these principles are not prejudiced in the production and/or the procurement of his goods and services.

### **8. Inspection, Acceptance**

- 8.1 The Client has the right to inspect at any time in the manufacturing works himself or using a representative the material provided by the Supplier for the fulfilment of the order, its processing together with the products finished for the Client.
- 8.2 If acceptance is expressly agreed in the contract, the scope and time is to be fixed in good time with the place of acceptance indicated. The inspection costs are borne by the Supplier.
- 8.3 Inspection and acceptance by the Client do not release the Supplier from his own inspection and warranty obligation.

### **9. Warranty, Liability, Product Liability**

- 9.1 The Supplier shall guarantee that the product supplied by him is free of fault and is in the condition agreed in the contract.
- 9.2 In addition to this, the Supplier shall guarantee that the product, including any additional services, corresponds to the generally acknowledged rules of technology for the type of use intended and does not infringe public-law provisions. This shall also apply in favour of third parties who, with the approval of the Client, come into contact with the service.
- 9.3 For the warranty period the statutory provisions shall apply. For products/goods or parts of these replaced or improved within the scope of the warranty, the warranty period shall start to run afresh.
- 9.4 In the event of defects, the Client has the option of requesting that the defect be remedied or the subsequent delivery of products/goods free from defects. The Supplier shall bear all costs arising in connection with the defect, e.g. for the detection of defects, tasks, development, transport and installation. In urgent cases or after a defect elimination period fixed by the Client has expired, the latter shall be entitled to appoint another company to complete the task subsequently at the Supplier's expense. The Client shall reserve the right to claim further statutory rights.
- 9.5 The application of §§ 377, 379 HGB is ruled out unless it is a case of an obvious defect. A notification of defect is made immediately if this is done 2 weeks at the latest after the defect is discovered.
- 9.6 In so far as the Supplier has produced or supplied a delivery/service which is defective within the meaning of the product liability law, he releases the Client to this extent from all third party claims.

### **10. Safety at Work, Rules of Conduct, Supplier Damage Compensation Claims**

- 10.1 The Supplier is – even with regard to the subcontractor employed by him – responsible for adhering to all provisions relating to industrial safety, and in particular the conditions referred to in Item 10.1 of the official instructions/additional provisions and any internal safety provisions of the Client. In addition to this, the Supplier is obliged to guarantee compliance with the General Equality of Treatment Act (AGG) by its employees together with any subcontractors employed. The Supplier is obligated to guarantee that both they and their sub-contractors comply with the guidelines from the Posted Workers Directive (AEntG) and the Minimum Wage Act (MiLoG). In the event of significant violations, the Client is entitled to immediately terminate the contract. Furthermore, the Supplier must compensate for any damage that arises through a violation of this obligation and must release the Client of all claims due to the MiLoG or the AEntG
- 10.2 **IT and automation security:**  
The Supplier has to adhere to the procedural rule VA-Tech-4.03 including the contained regulations for the handling of its IT-systems. It is generally prohibited to connect foreign IT systems or devices to INEOS IT-systems or networks. Likewise no work on/ with INEOS IT-systems must be executed without proper authority. Each operation requires suitable authority by the client of INEOS Phenol Gladbeck, who has assigned and is responsible for the work to be carried out.
- 10.3 If the Supplier, his subcontractors, one of his employees or anyone else employed suffers any damages of whatever nature and for whatever reason on the Client's site or in the Client's areas and/or the areas of operation, then the client is only liable if they acted with gross negligence or intention or claims against them arise due to a loss of life, bodily injury or health problems or it deals with product liability claims or they have violated a significant contract obligation, this means a typical and basic obligation for the contract, and damages have occurred that are typically predictable through the contract. The contractor must immediately inform the client of any accidents that occur.
- 10.4 The aforementioned limitation of liability applies to the same extent to the vicarious agents and officers of the Client.

### **10.5 INEOS Live Saving Rules**

The following INEOS Life Saving Rules apply at any of Client's sites:

1. No consumption or being under the influence of alcohol or drugs at the site.
2. No smoking outside dedicated smoking areas.
3. No work on live equipment/machines to commence without authorization.
4. Safety critical devices/interlocks must not be disabled or overridden without authorization.
5. Persons working at height must use proper fall protection.
6. No entry to confined space without authorization and gas test.
7. Lifting & hoisting: no unauthorized person to enter the defined danger zone where objects can fall.

In addition to and in precedence of any of the existing rights and obligations as set out in the respective Contract, in each event of any breach of the INEOS Life Saving Rules by the employees of the Supplier or subcontractor working for the Supplier the following shall apply:

- (a) The individual who breached any of the INEOS Life Saving Rules shall be immediately removed from the Site by the Supplier on request of Client and the breach shall be reported to Client. The individual shall then not be allowed to return to the site or any other Client site for subsequent 12 months and only then if adequate evidence of suitable training to prevent re-occurrence can be provided, and
- (b) the Supplier shall pay per infringement of INEOS Life Saving Rules as liquidated damages an amount equal to 2.0% of the site turnover of the previous calendar year, and in case of a new Supplier the Year-to-Day (YTD) site turnover, based on paid invoices. This will be capped to a 4% malus in any 12 months period.

Should there be a 2nd breach of the INEOS Life Saving Rules within 12months by the employees of the Supplier or subcontractor working for the Supplier then such breach of the INEOS Life Saving Rules shall be considered as a material breach under the respective Contract and, in addition to the measures above, Client reserves the right to reduce the contract scope or even terminate the contract without notice. Upon such termination the Supplier shall be entitled to payment for any work/services completed up to the date of termination, but shall not be entitled to reimbursement for any costs resulting directly or indirectly from such termination. The Supplier shall hand over to Client the results of the work which have been produced up to the time of termination (materials, documentation etc.) and grant unlimited and unrestricted use of such.

### **11. Confidentiality/Data Protection**

- 11.1 The Supplier undertakes that he and his collaborators will keep secret from third parties the services carried out, the work results achieved and the documents and data carriers prepared together with all information of a technical and commercial nature obtained from the Client during the period of the contract including drawings, samples etc., and also over and beyond the duration of the contract as long and in as much as these services, results, documents, data carriers and information have not become generally known in any other way or unless the Client has specified in a written waiver that these do not need to be treated as confidential.
- 11.2 The unauthorized passing on of personal passwords can – without prejudice to other rights - lead to the cancellation of the contract without notice. The Supplier will have his collaborators sign a corresponding declaration of obligation and deliver this to the Client.
- 11.3 The Client has the right to process data relating to the Supplier or his vicarious agents connected with the business relationship, within the meaning of the Federal Data Protection Act.
- 11.4 The Supplier shall undertake to observe the provisions of the Federal Data Protection Act (BDSG) in force together with the provisions relating to Social Secrecy (§ 35 SGB I), in particular

- to treat as confidential personal data coming to his knowledge together with industrial or commercial secrets and only process these within the framework of the execution of the contract,
- only to employ personnel who were under obligation verbally and with reference made to the criminal consequences of an infringement of duty to keep data secret in accordance with § 53 BDSG,
- to adhere to the guidelines and instructions related to data protection and data security issued by the Client (§ 71 BDSG).

11.5 The order may not be used for publicity purposes.

**12. Patent infringement, Industrial Property Rights**

The Supplier shall undertake to guarantee that his delivery or service does not infringe any domestic or foreign property rights; he has to procure the necessary licences for the Client if applicable at his own expense. At the Client's request the Supplier has to intervene at his expense in any legal dispute which is brought against the Client because of such a protection infringement. The Supplier is obliged to release the Client from any third party claims and to pay him for all damages arising from them including in and out-of-court costs.

**13. Third Party Liability Insurance**

The Supplier is obliged to provide proof of the existence of a third party liability insurance of a level and scope appropriate to the contract and have at least a coverage of 2 million EURO for personal and property damage per individual case of damage. A liability limit is not agreed upon through this.

**14. Invoicing, Payment, Offsetting**

- 14.1 Invoices are to be submitted separately for each order, giving the Client's order number, to the billing address given in the order. The turnover tax is to be indicated separately in the invoices.
- 14.2 The Client is entitled to send back incomplete invoices (Item 11.1) for completion and/or correction.
- 14.3 Payment terms shall start after the delivery conforming to the contract from the day on which the invoice complying with the placing of the order reaches the Client. In the event of the invoice being returned for a reason which cannot be justified by the Client, payment terms shall not start before the amended invoice has been received.
- 14.4 The Client is entitled to offset against his claims or retain funds because of such claims.

**15. Non-transferability**

Without the written agreement of the Client, the Supplier may not transfer either his rights or his obligations from the Client's order to third parties either in full or in part or hand these over to be exercised.

**16. Place of Jurisdiction, Applicable Law**

- 16.1 The exclusive place of jurisdiction shall be Gladbeck. For orders which are placed by companies associated with INEOS Phenol GmbH within the meaning of § 15 AktG, the exclusive place of jurisdiction shall be the registered office of the associated company concerned.
- 16.2 The Law of the Federal Republic of Germany shall apply to the exclusion of German private international law; in particular the UN Convention on Contracts for the International Sales of Goods of 11.04.1980 shall not apply.

**17. Partial Invalidity**

Should individual parts of these conditions be or become in full or in part legally invalid, this shall not affect the validity of the remaining provisions together with any other contract concluded.