

General Terms and Conditions of Purchase Order of Evonik Industries AG
(Version of December 2007)

- 1. Scope**

Unless otherwise agreed to in writing, these General Terms and Conditions of Purchase Order apply exclusively to this and all future orders/contracts. We will not be bound by conflicting or additional terms of the Contractor ("Contractor") even if we have not expressly contradicted them or have accepted delivery without reservation.
- 2. Order, Offer**
 - 2.1** Any oral side agreements to the order/contract must be made in writing.
 - 2.2** In case of material changes to the basis of the contract, in the event of good cause disturbing any contract for recurring performance, or if composition of insolvency proceedings have been initiated as regards Contractor's assets, and Contractor has not yet or not yet fully performed, we will, without exception, be entitled to withdraw from the contract or—in the case of contracts for recurring performance—terminate the contract without notice.
 - 2.3** Quotes from Contractor will be free of charge; cost estimates will be remunerated only by written agreement.
- 3. Correspondence**

In all correspondence, Contractor must indicate the order number and the date of the order/contract and the material name and/or material number specified by us.
- 4. Execution**

Contractor must maintain a quality assurance system, for example, pursuant to DIN ISO 9001 and/or DIN ISO 14001. We are entitled to review Contractor's system in a quality audit as coordinated with him beforehand.
- 5. Subcontractors**

The employing of subcontractors will require our prior written consent. Contractor will subject the subcontractors to all obligations he has entered into in relation to us and furthermore will ensure compliance with such obligations by his subcontractors.
- 6. Transport**
 - 6.1** Contractor will note the address indicated in the order/contract. The transportation/shipping has to comply with the regulations of the tariff, transportation and packaging of railways, road transportation, shipping, air transportation, etc.
 - 6.2** In addition to the forwarding address, the order information (order no., order date, delivery office, the name of the recipient if applicable and the material name and/or material number specified by us) will always be included in the transportation documentation. If sub-suppliers are employed, they will indicate Contractor as their customer in all correspondence and freight documents, also indicating the date of the purchase order.
 - 6.3** The unit load weight (from 1 t onwards) will be affixed to the unit load in a clearly visible and permanent manner.
 - 6.4** Without prejudice to our further claims, Contractor is entitled to partial delivery/performance only upon our approval.
- 7. Information on hazardous materials, product information**
 - 7.1** The delivery items are to be labeled in accordance with the provisions of the Hazardous Materials Ordinance and the EC/EU Directives for Hazardous Materials/Preparations.
 - 7.2** Contractor shall provide us prior to delivery and in a timely manner with all necessary product information, especially with respect to product composition and shelf life/service life, for example, safety data sheets, processing advice, labeling regulations, assembly instructions, workers' protection measures, etc., including any amendments of the foregoing.
- 8. Delay**
 - 8.1** The date of delivery/performance indicated by us in the purchase order is binding. Contractor shall inform us without undue delay and in writing whenever there is a chance that he may not be able to perform within the agreed time period. In case of delay, we will be entitled to our statutory rights.
 - 8.2** Contractor may claim to his defense that documents or information required from us have not been provided only if he has not received such documents or information within a reasonable period, despite having sent a reminder.
 - 8.3** We may claim any agreed and forfeited contractual penalties until the final payment is due without having to expressly reserve this right according to Section 341, Paragraph 3, of the German Civil Code (BGB).
- 9. Performance Certificates and Taking-Over**

Any performance certificates provided for under contract as well as the Taking-Over will be made free of charge to us and certified by both parties in writing.
- 10. Weights / Volume**

Without prejudice to our further claims, in the event of discrepancies in weight, the weight established by us upon the inspection of incoming goods will prevail unless Contractor proves that the weight calculated by him at the time of passing the risk was measured correctly in accordance with a generally accepted principle. This clause applies to volume accordingly.
- 11. Billing and Payment**
 - 11.1** Invoices must comply with the applicable statutory requirements and have to be issued in duplicate, with the duplicate having to be clearly indicated as such. The invoice will indicate the order number and the material number. Statutory sales tax must be listed separately on every invoice. Invoices will be sent separately to the billing address specified in the order/contract.
 - 11.2** Unless otherwise agreed, we will pay within a period of 30 days net. The payment period begins upon delivery of goods at their destination (shipping address) or at acceptance of performance, and upon receipt of invoice at the billing address indicated in the order/contract. Payments are no indication of approval.
- 12. Notification of Defects**

We perform an incoming goods inspection only in terms of obvious external (transportation) damage and obvious external deviations in terms of identity and quantity. We will send notification of such defects without undue delay after delivery has been made. In all other respects, we will send notification of defects as soon as these have been identified within our normal course of business.
- 13. Claims for Defects, Liability of Contractor, Statute of Limitations**
 - 13.1** Contractor ensures that his delivery/performance has the individually ensured properties and the contractually agreed quality which is suitable for the contractually required use, that it is not negatively affected in terms of value or fitness for the particular purpose, and that it complies with the state of the art as well as current statutory and official regulations.
 - 13.2** If the delivery/performance does not comply with the specifications of Item 13.1 or is defective in any other way, we may demand at our option — in addition to any statutory rights— the short-term and free of charge replacement of defective goods or remedying of defects. Contractor in such a case has to compensate us for all expenses incurred directly or indirectly by us based on his malperformance. In cases of urgent need, or if Contractor is in default with his remedial action, we are entitled to remedy the defect ourselves or by a third party at Contractor's expense without delay. If Contractor has given a guarantee for the quality or durability of the delivery/performance—regardless of the above— we may also assert our rights from the guarantee.

- 13.3** Contractor will be liable for defects of title in accordance with statutory regulations; in particular, that the delivery/performance or its contractually agreed use does not infringe patents or other third-party industrial rights in the agreed recipient country. If a claim is asserted against us as a result of such infringement, Contractor will, at our first written request, release us from all claims (including all legal costs) that we incur from or in connection with the third-party claims. We may not make any agreement with the third party at the expense of Contractor without Contractor's consent.
- 13.4** In all other respects, Contractor's liability will be limited exclusively to the statutory provisions. Upon our first request, Contractor will release us from third-party claims for compensation if the defect causing the liability claim is caused by and is the responsibility of Contractor or his suppliers.
- 13.5** Even if Contractor's industrial property rights exist, we or third parties commissioned by us may repair the delivered item.
- 13.6** The statutory and/or contractually agreed claims and rights relating to material defects and defects in title will become statute barred in accordance with statutory regulations.
- 13.7** Apart from in cases of suspension or statutes of limitation provided for in law, the statute of limitations for claims and rights relating to defects will also be suspended for the time between when a defect has been notified and same defect has been remedied. The period of limitation will begin anew for deliveries or performances that are redelivered in full or in part and for deliveries and performances that have been replaced or rectified.
- 14. Insurance**
- 14.1** Contractor must maintain liability insurance with terms customary to the industry, minimum coverage of €2 million per occurrence, for the duration of contract, including the guarantee and warranty period or statute of limitation. Contractor must provide documentation of his insurance coverage upon request; lower levels of coverage will be coordinated with us in the individual case.
- 14.2** We take out transportation insurance for all shipments directly delivered to us (e. g., deliveries under sales contracts, contracts for work and materials, maintenance contracts and specially manufactured products, but not the delivery of materials for use by Contractor on our site). We abstain from taking out an insurance for damages (SLVS) according to ADSp Art. 29.2.1. Any premiums for such indemnity insurance or other self-insurance will be borne by Contractor.
- 15. Information**
- All information, including drawings and other materials we require for assembling, operating, servicing, or repairing the items delivered will be provided to us by Contractor in good time, without any special request and without charge. Our rights under Section 434, Paragraph 2, German Civil Code (BGB) remain unaffected.
- 16. Entering the Plant/Site**
- When entering our plant site/our construction site, everyone has to follow the instructions of our trained personnel. In all other respects, Contractor will obtain and comply with the respective site regulations (such as, safety regulations).
- 17. Liability**
- Regardless of the legal basis, we, our legal representatives, and our employees will be liable only for gross negligence, intent, or if the duty that was breached is essential for fulfillment of the purpose of the agreement (so-called cardinal duty). In case of slightly negligent breaches of cardinal duties, our liability will be limited to compensation for foreseeable damage that is typical for such a contract. This will not apply if we are liable for injury to life or limb or for damage to personal property according to the German Product Liability Act or for other reasons.
- 18. Reservation of Group Clearing**
- 18.1** Receivables that we and companies related to us pursuant to Sec. 15 et seq. Joint Stock Company Act (we will send you a list of the companies on request) acquire against Contractor will inure to all companies of our Group as joint and several creditors. These receivables may therefore be set off against Contractor's claims against each company of our Group. The same will apply for rights of retention or other defenses and exceptions.
- 18.2** Contractor will not object to our stipulation of which receivable is to be set off in the event of several receivables.
- 19. Waste Disposal**
- To the extent that Contractor's deliveries/work leaves waste under the meaning of waste management law, he will recycle or remove such waste, subject to any written agreement to the contrary, at his own expense and in accordance with the regulations of waste management law. Title, risk, and the responsibility under waste management law will pass to Contractor upon the arising of waste.
- 20. Confidentiality**
- Contractor undertakes to keep confidential any information, knowledge and materials, for example, technical and other data, measured values, techniques, business experience, business secrets, know-how, drawings and other documentation (hereinafter: "INFORMATION") received from us or disclosed in any other way by our domain or the domain of another Group company, and will not disclose such INFORMATION to third parties and use it for the purpose of executing the respective order/contract only. Contractor undertakes to return all INFORMATION delivered to him in a tangible form such as documents, samples, specimens, or the like without undue delay upon our request without retaining any copies or notes. In addition, he will delete his own notes, compilations and evaluations containing INFORMATION without undue delay upon our request and will confirm this to us in writing. We have ownership and copyright to all INFORMATION.
- 21. Planning documents**
- Any drawings or drafts etc. made by Contractor according to our special requests will become our property without our being additionally charged for it, regardless of whether they remain in the possession of Contractor. Any statements made by Contractor indicating the opposite or otherwise not in compliance with the aforesaid, for example, printed on the documents handed out to us, will not be binding.
- 22. Advertising Materials**
- Contractor may refer to the business relationship existing between us in his informational and advertising materials only with our express prior written consent.
- 23. Prohibition of Assignment**
- Assignments by Contractor, except under Sec. 354 a of the German Commercial Code, are prohibited; any exceptions will become effective only upon our prior written consent.
- 24. Place of Jurisdiction and Applicable Law**
- 24.1** In case Purchaser is a merchant, exclusive place of jurisdiction will be the location of the registered office of our company. We are entitled, however, to bring a suit before any court having jurisdiction over the location of Contractor's registered office.
- 24.2** The contract and the legal relationship between Contractor and us will be governed by the substantive law of the Federal Republic of Germany, with the exception of conflict of laws principles. The United Nations Convention on Contracts and the International Sale of Goods (CISG) of April 11, 1980, will not apply.