General Terms & Conditions of Purchase

TER INGREDIENTS

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1. General information and scope of application

1.1. The following general terms & conditions of purchase (GTCP) shall be applicable to all our business relationships with our business partners and suppliers. Our GTCP are only valid for business entities within the meaning of Article 8:1. § Section (1) Point 4. Ptk. [Hungarian Civil Code]. Business transactions conducted with entities organised under public law and special funds governed by public law shall be treated in the same manner as business transactions conducted with business entities.
1.2. Our GTCP are applicable in all cases unless we specifically acknowledge the supplier's terms and conditions in writing. This provision also applies in cases where we receive delivery even though we are aware that the supplier's terms and conditions are contradictory to or at variance with our own. Even if we make reference to documents that contain or refer to the supplier's or a third party's terms and conditions of business, such reference does not imply that we agree that such terms and conditions of business are applicable.
1.3. Our general terms & conditions of purchase are also valid for all future business transactions with the supplier without the necessity for us to again make any particular reference to them.
1.4. Legally relevant declarations and notifications which the seller submits to us (e.g. setting of deadlines, reminders, statements of rescission) must be made in writing in order for them to be valid.

2. Documents

All documents and exhibits, such as drawings, samples or models that we provide to the supplier in connection with our order shall remain our property. We are entitled to the copyright and related rights, as defined by Hungarian copyright law, with respect to such documents and exhibits. They shall be used solely for the purposes of manufacture based on our order; they are to be returned to us without demand once our order has been processed. The supplier has no authority, without our prior written permission, to make the content of any documents and other information that have been provided known to third parties.

3. Conclusion of the supply contract and its content

3.1. Our orders are always non-binding and without obligation, unless we specify a period of validity that is binding on us or a specific time limit for acceptance. A supply contract is only deemed to have been concluded if we expressly confirm the supplier's offer in writing or accept the delivery without reservation. The content of the supply contract is governed by our order confirmation. Oral declarations or promises made before a contract is entered into are non-binding in all cases and are superseded by the written contract, unless they expressly state that they shall remain binding.
3.2. Cost estimates are binding and are not to be settled by payment unless otherwise expressly agreed.
3.3. Delivery call-offs within the framework of an order and delivery call-off schedule shall become binding if the supplier does not object within two (2) working days of receipt thereof.

4. Prices/payment terms

4.1. The price quoted in the order confirmation is binding. The price includes all services and ancillary services to be provided by the supplier (particularly assembly and/or installation) as well as all ancillary costs (particularly proper packaging and transportation costs, including any applicable transport insurance or liability insurance). The supplier is obliged to take back packaging materials at our request.
4.2. The price includes any value added tax arising at the applicable statutory rate.
4.3. Unless otherwise agreed in writing, we will make payment of the purchase price within thirty (30) days of completed delivery or provision of services (including any agreed acceptance procedure), but only after receipt of a proper invoice. If payment is made within fourteen (14) days, the supplier shall grant us a cash discount, amounting to 3% of the net invoice amount.
4.4. We are only able to process invoices if these – in accordance with the provisions contained in our order confirmation – include details of the order number that is specified there. The supplier shall be responsible for all consequences deriving from non-compliance with this obligation, unless he is in a position to demonstrate that he has no related responsibility.
4.5. In the event of default, then the statutory provisions apply.
4.6. We are entitled to rights of offset and retention as well as defense of lack of performance of the contract to the full extent of our statutory rights. In particular, we are entitled to withhold payments that become due as long as we have unresolved claims against the supplier deriving from incomplete or defective deliveries.
4.7. The supplier has a right of offset or retention only in respect of claims against us that have been recognised by a court of law, are undisputed, or which have been recognised by us in writing.

5. Delivery, service and transfer of risk

5.1. The due date of delivery included in the order confirmation is binding. In cases where a delivery period is not specified in the order and has also not been otherwise agreed, then it is agreed as being four (4) weeks from the date of conclusion of the contract.
5.2. The supplier is obligated to notify us in writing immediately if circumstances occur or become known to him that will result in him not being able to comply with the specified delivery period; he shall inform us without delay of the expected revised date of delivery.
5.3. If the supplier does not perform the delivery at all or within the period specified, or if the supplier is in default (or delay), then the statutory provisions apply, particularly those covering the right of withdrawal from the contract and the entitlement to damages. The provisions included in section 4 remain unaffected.
5.4. In case of delay in delivery, we are entitled, in addition to any further legal claims that may be processed, to demand lump-sum damages for delay in the amount of 1% of the net value of the goods that are delayed for each complete week, but not more than 5% in all. We reserve the right to claim for additional damages. The supplier is entitled to provide evidence that we have incurred no damages at all or that the damages incurred by us were lower.
5.5. Partial delivery or performance will only be accepted if prior permission is granted in writing.
5.6. The supplier shall package, label and ship dangerous products in compliance with the laws and regulations that are applicable at the time the delivery is made.
5.7. The supplier is not authorised to allow work that he has contracted to perform to be performed by third parties (e.g. sub-contractors) without our prior written permission. The seller bears the risk of procurement in respect of the work that he has to perform, except in cases where a custom-made product is involved.
5.8. The delivery shall be made free of charge to the location named in the order confirmation. If the place of destination is not specified, and nothing else has been agreed, then delivery shall be made to the address of our registered location of business in Vienna (Perfektastraße 69, 1230 Wien). The respective place of destination is also the place of performance (obligation to deliver at customer's place of business).
5.9. The supplier is obliged to supply a delivery note with the delivery, which includes the date of delivery, the content of the delivery and our order number. If the delivery note is missing or incomplete, then delays, for which we are not responsible, are inevitable in processing and making payment. A separate dispatch note is to be sent to us with the same content.
5.10. The costs and the risk of transport shall be borne by the supplier. The risk of accidental loss and deterioration of the ordered item shall be transferred to us at the time of its delivery to us at the place of performance. Inasmuch as acceptance is required, then this shall be definitive for the passing of the risk. Incidentally, in case of acceptance, the statutory provisions of the Hungarian Civil Code [vállalkozási szerz dés] are correspondingly applicable. The transfer, or respectively the acceptance, is deemed to have been performed if we are in default of acceptance.
5.11. The statutory provisions are applicable if a situation occurs in which we are in default of acceptance. The seller must, however, also then explicitly offer to perform the requested delivery if a definite or definable calendar date or period has been agreed for an act to be performed by us or for our cooperation (for example: provision of materials). If we find ourselves in a situation that we are in default of acceptance, then the seller may demand compensation for

any additional expenses incurred in accordance with the relevant statutory provisions. If the contract concerns an item which is to be manufactured by the seller that is considered to be untenable (i.e. a custom-made item), then the seller shall only avail himself of any additional rights if we have committed ourselves to some form of cooperation and we are responsible for the lack of cooperation.

6. Warranty and liability

6.1. Our rights in respect of defects in quality and in title (including incorrect delivery and under-delivery as well as incorrect assembly or defective assembly instructions, operating instructions or instructions for use) and other breaches of duty on the part of the supplier are governed by the relevant statutory provisions in the absence of any other specific written agreements to the contrary.
6.2. In accordance with the relevant statutory provisions, the seller is particularly liable to ensure that the good exhibit their agreed properties at the time of transfer of risk to us. In any event, all product descriptions - such as those, for instance, that are the subject matter of the respective contract through descriptions or references that are made in our order - shall be deemed to be agreements as to the properties of the goods. It is irrelevant whether the description originates from us, from the supplier or from a third party.
6.3. In deviation from 6:157.§ (1) Ptk., we shall be entitled to make claims due to defects if the defect was unknown to us at the time the contract was concluded due to gross negligence.
6.4. The statutory provisions with respect to the commercial obligations for inspection and giving notice of claims for defects shall apply with the following proviso: our obligation to make an inspection is limited to a control of incoming goods involving an external appraisal, including examination of the delivery documents, and making a sample test for quality purposes. Notice of claims for (obvious) defects which are discovered during this control procedure is required. Apart from that, it depends to what extent inspection is expedient taking into account normal proper business procedures. Our obligation to give notice of claims for defects that are identified at a later stage shall remain unaffected. In all cases, the inspection of the goods and the notice of claims (notification of the defects) shall be made within a reasonable period. Notice of claims for defects shall be received by the supplier without delay either of the date of receipt of the goods in the case of obvious defects that are identified or of the date of discovery in the case of defects that are detected at a later date (hidden defects).
6.5. If the goods are delivered directly to our customers within the context of a drop shipment transaction (delivery through to customer), then the customer shall be entitled to give notice of claims for defects on our behalf in accordance with the above provisions. The possibility for us to lodge the notice of claims for the defects remains unaffected.
6.6. Inasmuch as a defect in the quality of the goods or a deficiency in title to the goods exists, then we have the general right, at our choice, to request the supplier to remove the defect (rectification) or to make a delivery that is free of defect (replacement delivery). In such circumstances, the supplier is obliged to bear all costs that are required to be incurred for the purpose of removing the defect or making the replacement delivery.
6.7. The costs incurred by the seller in connection with examination and rectification shall be borne by the seller even though it is later determined that in actual fact no defect existed. Our liability to pay compensation for requesting unjustified removal of a defect remains unaffected; in this respect, we shall only be liable, however, if we realised, or if we failed to realise in a grossly negligent manner, that a defect did not exist.
6.8. If the seller does not comply with the obligation of subsequent fulfilment at our choice within a reasonable period of time, as specified by us, then we are entitled to rectify the defect ourselves and to demand from the seller reimbursement of any required costs that we incur or, respectively, to demand an advance payment to cover such costs. If subsequent fulfilment by the seller is unsuccessful or is unacceptable to us (especially in cases involving particular urgency or the potential incurrence of excessive damages), then the setting of such a deadline becomes unnecessary; the seller shall be informed of such circumstances without delay, where possible in advance.
6.9. Moreover, in the event of a defect in the quality of the goods or a deficiency in title to the goods, we are entitled to reduce the purchase price or to rescind the contract in accordance with the applicable statutory provisions. In addition, we are entitled to claim for compensation and reimbursement of any expenditure incurred in accordance with the statutory provisions.

7. Reservation of title

7.1. The transfer of title to us shall be unconditional and without any regard to payment of the price. In any event, all forms of expanded or extended reservation of title shall be excluded so that any reservation of title by the seller that has been declared as being effective, where applicable, shall only exist up until payment of the goods that have been delivered to us and only exist in respect to these goods.
7.2. To the extent we provide the supplier with parts, we reserve the title thereto. Any processing or restructuring by the supplier of the parts provided shall always be performed on our behalf as manufacturer within the meaning of 5:65 § and 5:66 § Ptk.. If the supplier processes, restructures, mixes or combines the items provided with other goods not belonging to us to create a new product or to give it a new status, then we shall be entitled to a co-ownership share therein.
7.3. If, based on its value, quality, economic function or for any other reason, either of the merged or mixed goods should be considered as a main component of the new product created by merging or mixing, the owner of such product shall have the option to either retain ownership of the product created by merging or mixing and compensate the other owners, or to surrender it to them in return for compensation.

8. Period of limitation

8.1. The mutual rights of parties to make claims is limited by the statutory period of limitation unless hereinafter provided otherwise.
8.2. In divergence from 6:163. § (1) Ptk., the general period of limitation for claims deriving from defects is three (3) years measured from the time that risk is transferred. In cases where acceptance of the goods has been agreed, the period of limitation commences from the date of acceptance.
8.3. The statutory periods of limitation under Hungarian Law are applicable for all contractual claims with respect to defects to the extent defined by statute. Insofar as we are entitled to make non-contractual claims for damages, then the regular statutory limitation periods (6:22. § Ptk.) apply.

9. Place of performance/applicable law/jurisdiction

9.1. The place of performance for all obligations deriving from the contract, including payment obligations, is Vienna.
9.2. The relationship between ourselves and the supplier is governed by the laws of the Republic of Hungary. Neither the UN-treaty (CISG) nor any other existing or future bilateral or international treaties, even if implemented into Hungarian law, shall be applicable.
9.3. The place of jurisdiction for all disputes arising from or in connection with the delivery contract shall be, at our choice, either Commercial Court of Vienna or the registered place of business of the supplier; for lawsuits filed by the supplier, the place of jurisdiction shall exclusively be the Commercial Court of Vienna. Any statutory provisions regarding exclusive jurisdiction remain unaffected. This jurisdiction-clause is inapplicable for suppliers who are not commercial businessmen.
9.4. The personal data of our business partners and suppliers regarding business transactions are processed to the extent permitted by the provisions of the General Data Protection Regulation (GDPR) and the Hungarian Data Protection Act. For further information, please refer to our privacy policy of the TER GROUP https://www.terchemicals.com/en/privacy.html.
9.5. Business partners and suppliers undertake to treat as business secrets all non-public, business and technical details that become known to them through the business relationship. Sub-suppliers and employees of the business partner and the supplier must be obliged accordingly to keep the business secret.

10. Concluding provisions

10.1. Amendments and additions to this agreement, including this written form clause, must be in writing to be effective. The same shall apply to collateral and supplementary agreements.
10.2. If a provision of this agreement should be or should become ineffective in whole or in part, the ineffectiveness of this provision shall not affect the effectiveness of all other provisions of this agreement. The ineffective provision shall be replaced with a legally valid provision that comes as close to realising the economic purpose of the ineffective provision as is legally permissible. The same shall apply to any gaps in this agreement.

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