



TIBCHEMICALS

TIB Chemicals AG's General Terms and Conditions of Purchase (As at 10/2018)

1. General

1.1 Our orders/commissions are made - including in the future - solely on the basis of the following Terms and Conditions of Purchase (GTCP) in the version valid at the time of the conclusion of the contract, even if we do not refer to them specifically in individual cases. These GTCP apply only if our business partner and/or supplier ('Contractor') is an entrepreneur (Sec. 14 BGB [German Civil Code]), a legal entity or a special fund under public law.

1.2 Individual agreements made on a case-by-case basis with the Contractor (including ancillary agreements, supplements and amendments), take precedence over these GTCP. Subject to evidence to the contrary, a written contract and our written confirmation is authoritative for the content of such agreements. The written format is complied with by transmission by fax or email.

1.3 The Contractor's terms and conditions do not apply, even if we have not expressly objected to these, despite knowledge of them, and/or have accepted delivery without reservation.

1.4 The GTCP apply in particular to contracts for the sale and/or delivery of movable goods ('Goods'), irrespective of whether the Contractor manufactures the Goods itself or purchases them from suppliers.

2. Order

Our order is deemed to be binding at the earliest upon written submission or confirmation. Prior to acceptance, the Contractor is to notify us of obvious errors (e.g. spelling and calculation errors) and the incompleteness of the order including the order documents for the purpose of correction or completion; otherwise the contract is deemed not to have been concluded. Each order/commission has to be confirmed in writing by the Contractor within 3 weeks. Any oral ancillary agreements must be recorded in writing. A delayed acceptance is considered a new offer and requires our acceptance.

3. Correspondence

The order number and the date of the order/commission as well as the material number must be stated in all of the Contractor's documents.

4. Execution

The Contractor must maintain a quality assurance system, e.g. in accordance with DIN ISO 9001 and/or DIN ISO 14001. We are entitled to examine the Contractor's system by means of quality audits after coordination with the Contractor.

5. Subcontractors/Staffing agencies

5.1 The involvement of subcontractors requires our prior written consent. The Contractor shall impose on the subcontractors all obligations which are incumbent upon the Contractor vis-à-vis us in relation to the tasks assumed by them, and ensure compliance therewith. The Contractor undertakes to grant employees the minimum wage stipulated within the framework of the statutory and



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collective provisions, in particular the German Minimum Wage Act [Mindestlohngesetz], the German Posted Workers Act [Arbeitnehmerentsendegesetz] and the relevant collective agreements as amended. Upon request, the Contractor shall provide us with corresponding evidence. Furthermore, the Contractor undertakes to comply with all statutory obligations and to ensure that in particular the subcontractors commissioned by it as well as staffing agencies commissioned by it or a subcontractor comply with the statutory obligations, in particular those arising from the German Minimum Wage Act and the German Posted Workers Act.

5.2 The Contractor shall indemnify us against all claims, claims for damages, fines as well as any legal prosecution and defence costs incurred as a result of or in connection with a violation of the provisions of the German Posted Workers Act or the German Minimum Wage Act by the Contractor or any staffing agency appointed by the Contractor or by a subcontractor or any other subsequent subcontractors or staffing agencies. Further claims on our part remain unaffected.

6. Delivery, dispatch, risk transfer, ownership transfer

6.1. The Contractor shall observe the shipping address stated in the order/commission. The relevant tariff, transport and packaging regulations of the railways, road traffic, shipping, air traffic, etc. must be complied with during shipment, in particular with regard to any existing customs and dangerous goods regulations. At the same time, the most favourable means of transport for us must be chosen, unless we have expressly specified specific transportation regulations. Unless otherwise agreed, delivery is to be effected "DAP Destination (Incoterms 2010)". If the place of destination is not specified and nothing else has been agreed, delivery is to be made to our place of business. The respective place of destination is also the place of performance for the delivery and any subsequent performance (obligation to fulfil at the creditor's place of business).

6.2 In addition to the shipping address, the order details (order number, order date, place of delivery, if applicable the name of the recipient and material number) must always be stated in the transport documents.

6.3 If subcontractors are used, they must state the Contractor as their principal in correspondence and freight documents stating the order data.

6.4 On loading units (from 1 t), the unit weight must be clearly visible and permanently attached.

6.5 Irrespective of our further claims, the Contractor is only entitled to make partial deliveries/services with our consent.

6.6 The risk of accidental loss and deterioration of the Goods passes to us upon delivery at the place of performance. If a delivery with assembly/service has been agreed, the risk transfer takes place after proper execution of the assembly/service and handover.

6.7 If we are in default of acceptance, this is deemed to be equivalent to handover. Statutory provisions apply to the occurrence of our default of acceptance. However, the Contractor must also expressly offer its services to us if a specific or determinable calendar period has been agreed for an action or cooperation on our part.

6.8 If acceptance is provided for by law or contractually agreed, the transfer of risk takes place upon our acceptance. The payment of invoice amounts does not replace formal acceptance, if such has been agreed.

6.9 The acquisition of ownership is governed by statutory provisions.



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7. Data on hazardous substances, product information

7.1 The delivery items must be packaged, labelled and shipped in accordance with the relevant national and international regulations, in particular the provisions of the German Ordinance on Hazardous Substances [Gefahrstoffverordnung] and the EC/EU directives for hazardous substances/preparations (including the REACH Regulation).

7.2 The Contractor undertakes to provide us with all necessary product information, in particular with regard to composition and shelf life, e.g. safety data sheets, processing instructions, labelling regulations, assembly instructions, industrial safety measures, etc., including any changes thereto, in good time before delivery.

8. Delivery time

8.1 The Contractor is obliged to inform us immediately in writing, stating the reasons, if circumstances occur and become apparent to the latter, from which it follows that the specified delivery date cannot be met. Early deliveries/services or partial deliveries/partial services require our prior written consent. The unconditional acceptance of a delayed (partial) delivery / (partial) performance does not constitute a waiver of rights or claims due to delayed (partial) delivery / (partial) performance.

8.2 The Contractor may only rely on the absence of necessary documents/information to be supplied by us if the latter has not received them within a reasonable period despite a written reminder.

9. Proof of performance and acceptance

Any contractually stipulated proofs of performance and acceptance must be made free of charge for us and recorded in writing by both parties.

10. Weights/Quantities

Irrespective of our further claims, the weight determined by us at the time of the determination of receipt applies in the event of weight deviations, unless the Contractor proves that the weight calculated by the latter at the time of risk transfer was correctly determined in accordance with a generally recognised method. The same applies to quantities.

11. Invoice and payment

11.1 The agreed prices are net prices plus any legally owed value added tax.

11.2 The Contractor shall issue a verifiable invoice for each order, which must contain all legally required mandatory information in accordance with German law. Invoices must be issued in duplicate, whereby the second copy must be clearly marked as such. The order number and material number must be stated in the invoice. Each invoice must also show VAT separately. The invoice must be sent separately to the invoice address stated in the order/commission.

11.3 Unless otherwise agreed, invoices meeting the aforementioned requirements must be paid by us within 30 days net. The payment period commences upon delivery of the Goods at the place of receipt (shipping address) or acceptance of the work service and receipt of a proper invoice at the invoice address stated in the order/contract. Payment must be made subject to the determination of



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conformity with the contract and completeness of the delivery/service. If we make payment within 14 calendar days, the Contractor will grant us a discount of 3% on the net amount of the invoice.

11.4 We do not owe any interest on maturity. The statutory provisions apply to default of payment.

12. Notice of defects, claims for defects, liability, statute of limitations

12.1 Insofar as the commercial obligation to inspect and give notice of defects in accordance with Sec. 377 HGB [German Commercial Code] applies, the statutory provisions apply with the following proviso: Our obligation to inspect is limited to defects which become apparent during our incoming goods inspection under external inspection including the delivery documents (e.g. transport damage, wrong and short delivery) or which are identifiable during our quality inspection by random sampling. If acceptance has been agreed, there is no obligation to inspect. A notice of defects is deemed to have been made in good time if, in the case of obvious defects, the Contractor is notified thereof within a period of 2 weeks from delivery. In the case of hidden defects, it suffices if the notice of defects is communicated to the Contractor within a period of 2 weeks from discovery.

12.2 The statutory provisions apply to our rights in the event of material defects and defects of title of the Goods (including incorrect and short delivery as well as improper assembly, defective assembly, directions of use or operating instructions) and in the event of other breaches of duty by the Contractor, unless otherwise provided for below.

12.3 In accordance with the statutory provisions, the Contractor is liable in particular for ensuring that the Goods have the agreed quality when the risk passes to us. Any product descriptions which - in particular by designation or reference in our order - are the subject matter of the respective contract or which were included in the contract in the same way as these GTCP, are in any case deemed to be an agreement on the quality. It is irrelevant whether the product description comes from us, the Contractor or the manufacturer. In particular, the Contractor shall ensure that all substances contained in the Goods are effectively pre-registered, registered or exempted from registration and, if relevant, permitted for the uses notified by us, in accordance with the relevant requirements of the REACH Regulation. This also applies to substances released by products within the meaning of Article 7 of the REACH Regulation.

12.4 In the event of defects, we may - in addition to the claims and rights regulated by law - demand that the Contractor carry out the subsequent performance for us free of charge and without delay, as well as reimburse us for all expenses incurred by us as a result of the subsequent performance. The place of subsequent performance is, at our discretion, the place of destination or the place of acceptance, if such is provided for by law or contractually agreed, or another place of shipment of the Goods, insofar as this was known to the Contractor at the time the contract was concluded. Subsequent performance also includes the removal of the defective Goods and their re-installation if the Goods have been installed in another object in accordance with their intended purpose. The costs incurred by the seller for the purpose of inspection and subsequent performance (including any dismantling and installation costs) are borne by the seller even if it turns out that no defect actually existed. Our liability for damages in the event of an unjustified demand to remedy defects remains unaffected; in this respect, however, we are only liable if we have recognised or grossly negligently failed to recognise that no defect existed.

12.5 If the Contractor does not fulfil its obligation of subsequent performance - at our discretion, by remedying the defect (rework) or by delivering a defect-free item (replacement) - within a reasonable period set by us, we are entitled to remedy the defect ourselves and demand reimbursement from the Contractor for the expenses required for this or an appropriate advance



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payment. If subsequent performance by the seller has failed or is unreasonable for us (e.g. due to particular urgency, endangerment of operational safety or the imminent occurrence of disproportionate damage), there is no need for a deadline to be set; we shall inform the seller of such circumstances without delay, if possible in advance.

12.6 The Contractor is liable for defects in title in accordance with the statutory provisions, and in particular for neither the delivery nor the contractually agreed use of the items delivered or manufactured by the latter infringing patents or other industrial property rights of third parties in the agreed country of destination. The Contractor shall indemnify us against all claims of third parties asserted against us due to infringement of the aforementioned rights if these are based on a culpable breach of duty by the Contractor. Licence fees, expenses and other costs incurred by us for the avoidance and/or elimination of infringements of industrial property rights are in this case to be borne by the Contractor.

12.7 Further rights arising from statutory liability for defects or guarantees assumed by the Contractor remain unaffected. Otherwise, in the event of a material defect or defect of title, we are entitled to reduce the purchase price or withdraw from the contract in accordance with the statutory provisions. In addition, we are entitled to claim damages and the reimbursement of expenses in accordance with the statutory provisions.

12.8 The statutory and/or contractually agreed claims and rights in the case of material defects become statute-barred two years after delivery or acceptance of the service, unless the law and/or the contract provide for longer periods; in the case of defects in title they become statute-barred thirty years after delivery or acceptance.

12.9 Except in the legally provided cases of suspension of the limitation period, the limitation period for claims and rights in the case of defects are also suspended during the time between notification of the defect and rectification of the defect. The limitation period begins again for deliveries or services which have been completely or partially newly delivered, replaced or repaired.

13. Insurances

13.1 The Contractor must maintain liability insurance cover for itself, its vicarious agents and its performance agents with conditions customary in the industry, and a minimum coverage of EUR 2 million per damage event for the duration of the contractual relationship including contractual warranty and limitation period. The Contractor must prove this to us on request; lower insurance amounts are to be agreed with us in individual cases.

13.2 The Contractor's contractual and statutory liability remains unaffected by the scope and amount of the latter's insurance cover.

14. Information

14.1 All information including drawings and other documents which we require for the installation, operation, maintenance or repair of the delivery item must be made available to us by the Contractor in good time, without being requested to do so and without charge.

14.2 Models, samples, drawings, data, materials and other documents which we make available to the Contractor remain our property and must be returned to us at our request at any time. A right of retention of the Contractor to our documents is excluded.



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15. Entering and using the factory premises / construction site

When entering and using our factory premises/construction site, the instructions of our specialist personnel must be obeyed. Entry to or use of the factory premises/construction site must be notified in good time. The regulations of the StVO [German Road Traffic Act] must be complied with, unless otherwise specified in the Works Regulations. If services are rendered on the factory premises/construction site, the corresponding Works Regulations apply.

16. Liability

We and our employees are only liable for gross negligence and intent, irrespective of the legal grounds. This does not apply if the breached obligation is of great significance for achieving the purpose of the contract or if a contractual obligation is affected which typically entails risks of injury to life, limb or health or to privately used property in accordance with the German Product Liability Act [Produkthaftungsgesetz].

17. Waste disposal

Insofar as waste within the meaning of the German waste law arises in the course of the Contractor's deliveries/services, the latter shall recycle or dispose of the waste - unless otherwise agreed in writing - at its own expense in accordance with the provisions of the German waste law. Ownership, risk and responsibility under German waste law pass to the Contractor at the time when the waste is generated, unless the contracting parties have agreed otherwise.

18. Confidentiality

The Contractor undertakes not to disclose to third parties any information, knowledge and documents, e.g. technical and other data, measured values, technology, operating experience, trade secrets, know-how, drawings and other documentation (hereinafter referred to as INFORMATION) received from us or otherwise made known to it from our division or from a division of a TIB Chemicals AG company and to use them only for the purpose of processing the respective order/contract. The Contractor undertakes to return to us without delay all INFORMATION which is physically transmitted hereafter, such as documents, samples, specimens or the like, upon corresponding request by us, without retaining copies or records, and to destroy without delay its own records, compilations and evaluations containing INFORMATION upon our request and to confirm this to us in writing. We are entitled to the property rights and copyrights to all INFORMATION.

19. Planning documents

Drawings, drafts etc. prepared by the Contractor in accordance with our special specifications become our unrestricted property without additional remuneration. Conflicting declarations of the Contractor, e.g. with regard to the documents handed over to us, are not binding.

20. Advertising material

Referring to the existing business relationship with us in information and/or advertising material is only permitted with our prior express written consent.



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21. Prohibition of assignment, company change, offsetting, retention

21.1 Assignments by the Contractor outside the scope of application of Sec. 354 a HGB are excluded; exceptional cases require our written consent in order to be effective.

21.2 The Contractor shall notify us immediately in writing of any transfer of the contract occurring by operation of law and of any change in its company.

21.3 We are entitled to transfer rights and obligations under the contract with the Contractor to TIB Chemicals AG companies or to any of its affiliated companies within the meaning of Sec. 15 Aktiengesetz [German Stock Corporation Act] at any time without the Contractor's prior consent.

21.4 The Contractor is only entitled to offset undisputed or legally established claims. The Contractor is only entitled to a right of retention if the claim for which the right of retention is asserted originates from the same contractual relationship.

22. Termination, rescission

In the event of a disruption of the business basis, in the event of good cause within the framework of a continuing obligation or if insolvency proceedings are applied for against the assets of the Contractor and the Contractor has not yet fulfilled the contract or has not completely fulfilled it, we are in any case entitled to rescind from the contract or - in the case of a continuing obligation - to terminate the contractual relationship without notice. Good cause also exists if the Contractor violates a contractual obligation and does not remedy the situation within a reasonable period of time set by us, and a threat of termination provides a remedy, or was unsuccessfully admonished, or if the other contractual partner does not fulfil its obligation to pay taxes or social security contributions, or if further performance is or becomes wholly or partially inadmissible due to statutory or official regulations. The right to termination or rescission for other reasons remains unaffected.

23. Data protection

23.1 We collect, store, process and use the Contractor's personal data if, to the extent and for the duration necessary for the establishment, performance or termination of the contractual relationship. Further collection, storage, processing and use of personal data of the purchaser only takes place to the extent a legal requirement requires so, permits, or the customer has consented.

23.2 The Contractor is aware that the collection, processing and use of, among other things, the Contractor's name, address, telephone number, fax number, email address and bank details are necessary for the implementation of pre-contractual measures and fulfilment of the contract on the basis of Art. 6 para. 1 lit. b GDPR.

23.3 We are entitled to transfer the Contractor's data to third parties if and insofar as this is necessary for the implementation of pre-contractual measures for the fulfilment of this contract (e.g. invoice payment, customer service) in accordance with Art. 6 para. 1 lit. b GDPR. We reserve the right to pass on this data to third parties (e.g. debt collection) within the framework of what is legally permissible, and under certain circumstances also for the purpose of asserting claims in accordance with Art. 6 para. 1 lit. b and/or f GDPR.



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23.4 We maintain current technical measures to ensure the protection of personal data. These are adapted to the current state of the art in each case.

23.5 On request, we shall provide the Contractor with information on the stored personal data relating to the Contractor under the statutory requirements (Art. 15 GDPR). This also concerns the recipients or categories of recipients to whom this data is disclosed and the purpose of the storage. In addition, the Contractor has the right to demand correction under the conditions set out in Art. 16 GDPR and/or erasure under the conditions set out in Art. 17 GDPR and/or restriction of the processing under the conditions set out in Art. 18 GDPR. Furthermore, the Contractor may demand data transmission at any time under the conditions set out in Art. 20 GDPR. Personal data is only stored as long as it is necessary for the respective purpose. This usually corresponds to the duration of the contract.

23.6 The Contractor may object to any use of its personal data to safeguard legitimate interests (Art. 6 para. 1 (1) lit. f GDPR) at any time by informing us informally with effect for the future. If we are unable to establish overriding compelling reasons for use worthy of protection or the processing is not necessary to assert, exercise or defend legal claims, we will no longer use the data concerned for these purposes after receipt of the objection.

23.7 The Contractor may at any time object to the use of the Contractor's data for the purpose of direct advertising with effect for the future; this also applies to profiling insofar as it is connected with direct advertising. In the event of objection, we will refrain from any further processing of the Contractor's data for the purpose of direct marketing.

23.8 The body responsible for all questions relating to data protection and for exercising the rights described in Sec. 14 is: TIB CHEMICALS AG, Mülheimer Straße 16-22 68219 Mannheim, Tel.: +49 621 8901-0, Fax: +49 621 8901-900, E-Mail: info@tib-chemicals.com, Web: www.tib-chemicals.com

24. Place of jurisdiction

If the Contractor is a merchant, a legal entity under public law or a special fund under public law, or if it has no general jurisdiction in the Federal Republic of Germany, then the exclusive jurisdiction is that of the registered office of our company. If we institute legal proceedings, the Contractor's general jurisdiction also applies. Mandatory legal rulings on exclusive jurisdictions remain unchanged by this provision.

25. Applicable law

For all legal relationships between us and the purchaser the law of the Federal Republic of Germany applies exclusively. The United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG) does not apply.

26. Final provisions

Should individual provisions of these Terms and Conditions be or become wholly or partially ineffective in a legal sense, the effectiveness of the remaining provisions remain unaffected. A legal, permissible provision is to replace the ineffective provision or fill the regulatory gap that, as far as possible, corresponds to what the contractual partners had intended or, would have intended within the meaning and purpose of these Terms and Conditions, if they had identified the regulatory gap.