

Ashland Industries Italia S.p.A. General Terms and Conditions of Purchase

Article 1 - General

1. As used in the General Terms and Conditions of Purchase contained herein ("General Conditions") the term "Buyer" means Ashland Industries Italia S.p.A., or any affiliate of Ashland Industries Italia S.p.A. making reference to these General Conditions. These General Conditions shall apply to 1) all requests by Buyer for offers and quotations required by Buyer from any (prospective) supplier ("Supplier") as well as Purchase Orders (as hereinafter defined); 2) all Order Confirmations (as hereinafter defined) issued by Supplier to Buyer, in each case relating to the purchase of products and/or services; and 3) all Agreements (as hereinafter defined) between Buyer and Supplier.
2. "Order Confirmation" shall mean the written confirmation by Supplier to sell or supply to Buyer the products and/or services ordered by Buyer. "Purchase Order" shall mean the written order by Buyer to purchase from Supplier any products and/or services.
3. Only (a) the receipt by Buyer of an Order Confirmation that is in compliance with the Purchase Order from which it arises, or (b) in case no Order Confirmation is issued, the start by Supplier to supply the goods or services ordered by means of a Purchase Order, shall constitute an agreement ("Agreement") between Buyer and Supplier. No obligations shall arise on the part of Buyer from (i) any Order Confirmations or other documents issued by Supplier which are not strictly in accordance with the corresponding Purchase Order or (ii) Order Confirmations confirming verbal orders unless such Order Confirmations have been subsequently expressly accepted by means of a duly signed written document issued by Buyer or (iii) any requests for offers or quotations issued by Buyer.
4. Buyer may cancel any Purchase Order and may return delivered products for credit at any time, unless previously agreed otherwise in writing with Supplier.
5. Upon entering into an Agreement with Buyer, Supplier is deemed to have accepted the General Conditions as an integral part of the Agreement. Unless Buyer expressly agrees otherwise in writing, the General Conditions prevail over any conflicting or additional terms or conditions stipulated or referred to by Supplier. Buyer shall not be bound by any modifications to the General Conditions unless Buyer has expressly agreed to such modifications in writing.

Article 2 - Prices

1. All of Supplier's offered, quoted, published or notified prices shall be fixed, irrevocable and open for acceptance by Buyer for a period of 30 days as of their stated date or any longer period stated in such offers and quotations.
2. Unless expressly described otherwise in the Agreement, all prices are inclusive of taxes, packaging and carriage and based upon delivery "Delivered Duty Paid", according to the Incoterms 2000.
3. Supplier shall provide Buyer with such invoices, advice notes, delivery notes, statements and other documentation as Buyer may from time to time specify.

Article 3 - Terms of Payment

1. Buyer shall pay for the products and/or services 120 days after receipt of the invoice or such longer period as specified in the Agreement, unless otherwise provided by statutory law. Supplier shall invoice Buyer after supply of the related products and/or services to Buyer has been completed and accepted by Buyer or at such other time as Buyer may agree in writing.
2. Any amounts due or becoming due to Supplier in respect of any Agreement may be deducted from or offset by Buyer against any amounts due and payable by Supplier to Buyer in respect of products and/or services supplied or on any other grounds.
3. Should Buyer on reasonable grounds object to the invoice that it has received from Supplier, it may suspend payment without being liable for interest or damages.
4. Payment by the Buyer shall not waive Buyer's right to file a claim regarding performance, delivery or any other matter.

Article 4 - Delivery & Packaging

1. The Incoterms 2000 or its subsequent modifications published by the International Chamber of Commerce and any specific product delivery conditions stated on the Purchase Order, shall apply to all deliveries made under the Agreement. In case of any conflict between Incoterms and any terms of the Agreement, the latter shall prevail.
2. Delivery must be made by Supplier on the date specified on the Purchase Order and time shall be of the essence in respect of each Purchase Order. Supplier shall not be entitled to make partial deliveries.
3. Supplier must pack the products properly for shipment to the place of delivery in accordance with Buyer's instructions. At Buyer's first request, Supplier shall collect or have collected from Buyer's premises free of charge all packaging material used for the delivery.

Article 5 - Risk and Title

1. Title of ownership to and risk in the products and/or services shall pass to Buyer upon acceptance of the products and/or services by Buyer after any inspection which Buyer may require, except that if any advance payments are made by Buyer, title of ownership in the products shall transfer to Buyer immediately upon payment.
2. In the case of works to be performed on land or premises of Buyer by Supplier any products or other materials supplied in connection therewith shall be at the sole risk and responsibility of Supplier until completion of the entire works.

Article 6 - Services performed by Supplier

1. If the Agreement (also) covers the performance of services by Supplier, this Article 6 will apply in addition to the other Articles of the General Conditions.
2. Supplier shall perform the services in conformity with the Agreement and any special requirements issued by Buyer, or, if no such requirements are made, in conformity with the generally prevailing requirements of workmanship and expertise.
3. Supplier warrants that the result envisaged under the Agreement will be timely achieved. Supplier must perform the services promptly on or within the agreed times. Agreed times for completion shall be of the essence, unless expressly agreed otherwise in writing. Should Supplier fail to meet any such agreed time frames, it shall immediately be in default.
4. Buyer shall only be obliged to pay Supplier for additional services if such additional services and the remuneration payable therefore have been expressly agreed in writing in advance. Additional services shall be considered services that are not part of the services that Supplier is obliged to perform under the Agreement.
5. Supplier shall be considered as having the legal status of an independent contractor towards Buyer.
6. Supplier shall indemnify and hold Buyer harmless from and against (a) any income, wage and other taxes as well as social security premiums payable in connection with the involvement by Supplier or any of its agents or sub-contractors of any employees, agents or other persons in the performance of the services and (b) any claims by any such persons based on any alleged employment relationship between such persons and Buyer.
7. In the event Buyer shall at any time be dissatisfied with the performance of an individual in carrying out the services, Supplier shall cease to engage such person in the performance of the services and provide a competent substitute.

Article 7 - Intellectual Property

In consideration of all payments due to Supplier from Buyer under the Agreement (which Supplier hereby acknowledges is adequate and sufficient consideration) Supplier hereby transfers to Buyer with full title guarantee and Buyer hereby acquires ownership of all intellectual property and other proprietary rights, which bear a direct relation to or are produced or prepared or collected by Supplier in the consequence of or in the course of the execution of the Agreement. At Buyer's request, Supplier shall take all necessary steps, execute all necessary documents and generally assist in securing such proprietary rights and transferring them to Buyer in compliance with the requirements of the applicable law.

Article 8 - Warranty

1. *With regard to the products Supplier warrants that:* (i) all products supplied by Supplier will be of satisfactory quality and fit for their intended purpose and comply in every respect with any specifications, drawings, samples or descriptions provided by Supplier to Buyer and by Buyer to Supplier and otherwise stated in the Agreement and shall be free from defects, (ii) upon Buyer's written request, Supplier shall submit samples of each item of the product ordered to Buyer for its approval at no charge and no liability will be accepted by Buyer to pay for any products produced prior to approval of samples, (iii) Supplier shall maintain or (where necessary) establish and maintain such quality control procedures and testing and inspection measures as shall be required by Buyer, (iv) Buyer or his duly authorized representative shall be entitled to inspect the products during manufacture while in Supplier's possession or the possession of any sub-contractor to Supplier and on delivery, provided, however, that no such inspection nor any failure to reject approval of the products shall constitute or imply acceptance of the products by Buyer, (v) the design construction and quality of the products (including packaging and labels) comply in all respects with any applicable laws and regulations and (vi) the sale or use of the products by Buyer will not infringe any patent, trade mark, registered design, copyright or other intellectual property right or other proprietary right owned by any third party.
2. *With regard to the services Supplier warrants that:* (i) it is duly qualified to perform the services and has all necessary trade and other permits, licenses and third parties approvals and agreements, (ii) it shall maintain the highest standards of professional conduct and apply its best efforts in the performance of the Agreement in conformity with the general accepted standard for the type of services specified and (iii) it shall perform the services in accordance with any technical standards, specifications or descriptions stated in the Agreement.

Article 9 - Indemnification

Without prejudice to any other right or remedy available to Buyer against Supplier, Supplier hereby undertakes to indemnify and keep Buyer, its subsidiaries and employees indemnified from and against any cost, expense, damage, claims, loss incurred by and in connection with (i) Supplier's breach of or failure to comply with any terms of any Purchase Order and/or Agreement, (ii) products and/or services not meeting the applicable specifications, drawings, samples or descriptions referred to in Article 8 or otherwise being defective or (iii) any breach of any representations or warranties given by Supplier hereunder.

Article 10 - Regulations

Supplier shall strictly comply with all applicable laws and regulations relating to the products and/or services and the delivery thereof. Supplier shall provide Buyer with such written information about the composition of the products, when carrying, storing and processing the goods that Buyer will be able to comply with all applicable laws and regulations. Supplier shall familiarize Buyer with and shall keep Buyer fully informed with regard to the nature of any health and/or environmental risks and with regard to the proper and safe handling, storage and processing of the products.

Article 11 - Compliance

1. If Supplier shall have failed to comply with any of the terms of a Purchase Order, the General Conditions and/or an Agreement, Supplier will be considered to be in default (without any prior notice from Buyer being necessary), entitling Buyer (whether or not any part of the products and/or services have been accepted by Buyer) to avail itself of any one or more of the following remedies at its discretion: (i) to cancel the Purchase Order, to reduce the volume or the scope of the products and/or services ordered and/or to terminate the Agreement with immediate effect; (ii) to return the products to Supplier at the cost of Supplier on the basis that a full refund for the products so returned shall be paid forthwith by Supplier; (iii) to give Supplier the opportunity at Supplier's expense to remedy defects in the products and/or services and to carry out any other necessary work to ensure that the terms of the Purchase Order, the General Conditions and/or the Agreement are fulfilled; (iv) to refuse to accept any further deliveries of products and/or services without any liability towards Supplier; (v) to carry out at Supplier's expense any work necessary to make the products and/or services comply with the Purchase Order, the General Conditions and/or the Agreement; (vi) to claim direct, indirect and consequential damages;
2. The rights stipulated in this Article shall be in addition to and without prejudice to any other rights which Buyer may have.

Article 12 - Confidentiality

1. Any technical, commercial and economic information, experience or data concerning Buyer's business, including without limitation its formulas, product specifications, processes, costs, operations or customers, which may come within the knowledge of Supplier, its affiliates, subcontractors and their respective officers and employees in the performance of the Agreement shall be treated as confidential property of Buyer and shall not be used by Supplier except for the benefit of Buyer in the furtherance of the Agreement; and shall not be disclosed to others, including governmental agencies or other authorities during or subsequent to the term of the Agreement without in each instance securing the prior written consent of Buyer.
2. Any such information provided by Buyer to Supplier in writing or other tangible media shall be returned to Buyer either upon Buyer's first request or upon termination of the Agreement.

Article 13 - Governing Law and Disputes

1. Any agreements and documents to which these General Conditions apply shall be exclusively governed by the laws of the country of the domicile of Buyer.
2. Any disputes arising from any agreements or documents to which these General Conditions apply shall be exclusively submitted to the competent courts of the domicile of Buyer.

Article 14 - Miscellaneous

1. Supplier shall not assign, sub-contract or delegate a Purchase Order or Agreement in whole or in part, without Buyer's prior written consent. Supplier shall not be relieved of any of its obligations under a Purchase Order or Agreement, notwithstanding such consent.
2. Should individual terms of the Agreement or these General Conditions be invalid, this shall not affect the validity of the remaining terms and the agreements concluded on the basis thereof. Supplier and Buyer will replace the invalid term by a valid term which closest reflects the meaning and purpose of the invalid term.