

General Terms and Conditions of Purchase of Oxxynova GmbH **Last updated: February 2019**

1. Scope of application Unless otherwise agreed in writing, these General Terms and Conditions of Purchase shall apply exclusively to the present orders/contracts and to any and all future orders/contracts. Conflicting or additional general terms and conditions of Contractor shall not be binding on us even where we do not expressly object to such terms and conditions or accept the delivery/service without reservation.

2. Orders, Offer

2.1 Verbal collateral agreements to the order/contract must be made in writing to be effective. Contractor may not invoke any collateral agreements unless such collateral agreement has been agreed with us in writing at the time of entering into the contract.

2.2 We shall be entitled to withdraw from the contract where insolvency proceedings have been applied for against Contractor's assets and Contractor has not yet performed the contract or has not performed the contract in full or to terminate the contractual relationship without notice for cause within the scope of a continuing obligation.

2.3 Contractor's offers are to be made free of charge; cost estimates shall only be remunerated upon written agreement.

3. Correspondence The order number, the date of the order/contract and the material designation and number assigned or communicated by us are to be indicated in all of Contractor's documents.

4. Quality management Contractor must maintain a quality assurance system, e.g., in accordance with DIN ISO 9001 and/or DIN ISO 14001. We shall be entitled to inspect Contractor's system as part of quality audits.

5. Subcontractors

5.1 Our prior written consent is required for the involvement of any subcontractors by Contractor. Any and all obligations incumbent upon Contractor towards us with respect to the tasks assumed by Contractor are to be imposed on the subcontractors, and Contractor is to ensure compliance therewith.

5.2 Where Contractor uses third parties to provide services, Contractor shall be responsible for the services of such third parties as for Contractor's own services. Contractor shall be liable for the fault of third parties as for Contractor's own fault.

5.3 Contractor shall ensure that, in the event of subcontracting, Contractor will procure the services from third parties in Contractor's own name and for Contractor's own account and that an agreement is only entered into between Contractor and the third parties. Contractor is not entitled to represent us or to enter into contracts on our behalf.

6. Shipment/Cost/Transfer of ownership

6.1 Contractor is to observe the shipping address stated in the order/contract. Any relevant tariff, transport and packaging regulations for rail, road transport, ship transport, air transport, etc. must be complied with during shipment.

6.2 In addition to the shipping address, the order details (order no., order date, place of delivery, if applicable the recipient name and the material designation and number assigned or communicated by us) must always be indicated in freight documents. Where subcontractors are used, they are to indicate Contractor as their customer in correspondence and freight documents, including the order data.

6.3 The unit weight must be attached to loading units (from 1 t) in a clearly visible and permanent manner.

6.4 Contractor shall only be entitled to make partial deliveries/services upon our prior written consent.

6.5 Unless otherwise agreed in writing, the prices are to be understood DDP – Delivery Duty Paid, ICC Incoterms 2010 Oxxynova GmbH, Borsteler Weg 50, 31595 Steyerberg, Germany, including packaging and ancillary costs. The risk of material damage is to be borne by Contractor until the goods have been accepted by us.

6.6 We hereby expressly object to any provisions which have as their object an extended and/or expanded retention of title to the delivered goods.

7. Information on hazardous substances, Product information

7.1 The delivery items are to be labelled in accordance with the provisions of the Hazardous Substances Ordinance and the EC/EU Directives on hazardous substances/preparations.

7.2 Contractor undertakes to provide us with any and all necessary product information, in particular with respect to composition and durability, such as safety data sheets, processing instructions, labelling regulations, assembly instructions, work protection measures, etc., including any changes thereto, in due time prior to delivery/service.

7.3 Contractor shall ensure that hazardous chemicals (Regulation (EU) No 2018/172) are prepared for shipment, loading and unloading in accordance with the applicable statutory requirements for handling and transport. Contractor shall indemnify and hold us harmless on first demand from and against any and all claims by third parties arising from the breach of the aforementioned obligation and, to the extent that we are injured, shall pay compensation for damages.

7.4 Contractor undertakes to notify us in writing and in binding manner of the non-preferential or preferential origin of the goods delivered (Regulation (EU) No 2015/2447) within a period of fourteen (14) days of our request to do so and on the form provided by us. In addition, we must be notified in writing of any changes in the non-preferential and preferential origin of goods without undue delay. Contractor shall enclose a corresponding proof of origin with the respective delivery for items which may receive preferential treatment in the importing country or for which proof of origin in the importing country is required due to other local import regulations.

8. Default

8.1 The delivery/service date stated in our order/contract is binding. Contractor shall be obligated to notify us without undue delay if circumstances arise and become apparent to Contractor according to which the specified delivery/service date cannot be met. In the event of default, we shall be entitled to the statutory claims.

8.2 Contractor may only refer to the absence of necessary documents/data to be supplied by us where Contractor has not received such documents/data within a reasonable period despite a written reminder.

8.3 In derogation of Section 341(3) German Civil Code, we may still declare the reservation of agreed and forfeited liquidated damages to Contractor until the due date of the final invoice, at the latest, however, until the final payment.

9. Additional provisions for work and service contracts

9.1 Use of employees

9.1.1 Contractor shall provide the contractual services exclusively through employees who are sufficiently qualified for the respective services. With respect to foreign employees, Contractor is to prove the existence of any necessary work permits upon our request.

9.1.2 Where the appointment of specific employees is agreed for providing the contractual services, any exchange of employees by Contractor shall require our prior consent, which we shall not unreasonably withhold. In any event, the newly appointed employee must have at least the same qualifications as the replaced employee; Article 9.2.1 hereinbelow shall remain unaffected. Any additional costs incurred by Contractor as a result of the training of the new employee shall be borne by Contractor.

9.1.3 We shall be entitled to request the replacement of appointed employees where we have reasonable doubts about the suitability or ability of such employees to perform the services owed or about their personal reliability.

9.2 Remuneration, Expenses and costs

9.2.1 Where a fixed price has been agreed, all services, expenses and costs of Contractor shall be covered unless expressly agreed otherwise.

9.2.2 Where remuneration is agreed on a time basis, remuneration shall be based on hourly rates. Unless agreed otherwise, time invoiced at hourly rates is to be recorded in at least 30-minute increments and invoiced with presentation of comprehensible proof of activity. The agreed remuneration shall cover all other costs and expenses of Contractor in full.

9.2.3 Where invoicing is agreed on a daily rate basis, one working day shall be at least ten (10) hours. Where the working time is less than 10 hours, the accumulated hours will be charged at 1/10 of the daily rate. Section 9.2.2 sentence 3 shall apply accordingly.

9.2.4 Travel times shall only be remunerated as working hours if used for the provision of services.

9.2.5 Contractor shall not be entitled to additional remuneration for any evening or night work or for work on Saturdays, Sundays or public holidays, unless the performance of work on Saturdays, Sundays or public holidays and the additional remuneration arising therefrom is agreed with us in writing in advance in individual cases.

9.2.6 Unless agreed otherwise, travel and accommodation costs shall only be reimbursed to Contractor where Contractor's employees are travelling for the purposes of performing the order and upon our prior written consent to assume the corresponding costs. Unless agreed otherwise, travel and accommodation costs in such events shall only be reimbursed on presentation of the corresponding receipts as follows: Train: 2nd class, Airplane: Economy class, Rental vehicles: up to mid-size category (including navigation system and snow tyres where necessary), travel costs with private vehicle: kilometre allowance according to the guidelines of the tax authorities, accommodation in hotels up to the medium category (i.e., up to three stars). The most appropriate and cost-effective means of transport is to be chosen, taking into account the time constraints.

9.2.7 Other costs and expenses of Contractor shall only be reimbursed if and to the extent that they have been agreed in advance and meet the requirements for economic efficiency as agreed in advance. Costs and expenses are to be invoiced without surcharge. Copies of receipts for costs and expenses incurred are to be submitted with the invoices. We may request the presentation of the original documents at any time.

9.2.8 Contractor shall invoice all services properly and in compliance with the applicable tax regulations plus any applicable value-added tax at the statutory rate.

9.3 Evidence of performance and acceptance

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

10. Weights/Quantities Notwithstanding our additional claims, the weight determined by us at the time of receipt shall apply in the event of weight deviations, unless Contractor proves that the weight determined by Contractor at the time of the passing of risk was correctly established according to a generally accepted method. The same shall apply to quantities.

11. invoice and payment

11.1 Invoices must be issued in accordance with the applicable statutory requirements and in duplicate, with the second copy being clearly marked as such. In particular, the order number and material number are to be indicated on the invoice. Each invoice must also list value-added tax separately. Invoices are to be sent separately to the invoice address indicated in the order/contract.

11.2 Unless agreed otherwise, invoices shall be paid by us within 45 days net or within 14 days with 2% discount. The payment period shall commence upon delivery of the goods to the place of receipt (shipping address) or acceptance of the work, but not prior to receipt of the invoice at the invoice address indicated in the order/contract. Payment does not include acceptance of the goods.

11.3 Unless agreed otherwise in writing, the price quoted by Contractor shall include taxes, levies or other public-law fees in connection with manufacture, transport, sale or delivery.

12. Notification of defects We shall only perform incoming goods inspection with respect to externally recognizable (transport) damage and externally recognizable deviations in identity and quantity. We shall give notification of such defects without undue delay after delivery. In addition, we shall notify defects without undue delay if and as soon as they are discovered in the ordinary course of business. Section 377 German Commercial Code shall apply to a limited extent in accordance with the foregoing provision.

13. Claims for defects, Contractor's liability, Statute of limitations

13.1 Contractor warrants that Contractor's deliveries/services have the individually guaranteed properties and the contractually agreed quality, are suitable for the contractual purpose, are not impaired in their value and fitness for the agreed purpose, and comply with the generally recognized rules of technology as well as the current statutory and official regulations. Our obligation to purchase and pay for products is always subject to the condition precedent of compliance with the contractually agreed quality.

13.2 Where the delivery/service fails to meet the requirements of Article 13.1 hereinabove or where it is defective on other grounds, we may – in addition to statutory claims and rights – request that Contractor carry out the subsequent performance for us free of charge and without undue delay and reimburse us for any and all expenses incurred by us as a result of the subsequent performance. In urgent cases, we may remedy the defect ourselves or have it remedied by third parties without undue delay at Contractor's expense.

13.3 Contractor shall be liable for defects in title in accordance with the statutory provisions and in particular for ensuring that neither the delivery/service nor its contractually agreed use infringes any patents or other intellectual property rights of third parties in the agreed country of destination. Where claims are asserted against us by third parties on these grounds, Contractor shall be obligated to release and hold us harmless upon our first written demand from and against any and all claims (including court and lawyer's fees) arising from or in connection with claims asserted by third parties. We shall not be entitled to enter into any agreements with third parties at Contractor's expense without Contractor's consent.

13.4 Contractor's liability shall otherwise be governed by the statutory provisions. Contractor shall release and hold us harmless upon our first demand from and against any and all claims for damages by third parties where Contractor or its suppliers have caused and are responsible for the defect triggering the liability.

13.5 Even if intellectual property rights of Contractor exist, we or third parties commissioned by us may carry out repairs to the delivered goods.

13.6 The statutory and/or contractually agreed claims and rights in the event of material defects and defects of title shall become statute-barred in accordance with the statutory provisions.

13.7 Except in the legally provided cases of suspension of the limitation period, the limitation period for claims and rights in the case of defects shall also be suspended during the period between notification of the defect and elimination of the defect. The limitation period shall commence again for deliveries or services which have been newly delivered, replaced or repaired in whole or in part.

13.8 With respect to the goods delivered by Contractor, Contractor shall be obligated to comply with any and all legal regulations, treaties, conventions, administrative acts to be observed, in particular with respect to safety and environmental protection. This shall include compliance with the requirements of the REACH Regulation (EC Regulation No 1907/2006).

14. insurance

14.1 Contractor shall be obligated to maintain liability insurance cover with conditions customary in the industry, with a minimum coverage of EUR 2 million per damage event, for the duration of the contractual relationship including guarantee and limitation periods. Contractor must prove this to us upon request; lower cover amounts, if any, are to be agreed with us in individual cases.

14.2 All shipments directly addressed to us (e.g., deliveries on the basis of purchase contracts, work deliveries, maintenance orders or custom-made products, but not material deliveries for work contracts performed by Contractor in our facilities) shall be insured by us for transport. Any premiums for such damage insurance or other self-insurance shall be borne by Contractor.

15. **Information** Any and all information including drawings and other documents which we require for the installation, operation, maintenance or repair of the delivered goods shall be made available to us by Contractor in due time, unsolicited and free of charge. Section 434(2) German Civil Code shall remain unaffected.

16. **Accessing and driving on the works premises** When accessing and driving on our works premises, the instructions of our specialist personnel must be followed. In all other respects, Contractor shall obtain own information about and comply with the applicable local factory regulations (e.g., safety regulations).

17. **Liability** We, our legal representatives and our employees shall only be liable, irrespective of the legal basis, for gross negligence, intent or if the breached obligation is of material importance for achieving the purpose of the contract (cardinal obligations). In the event of a breach of cardinal obligations due to simple negligence, our liability for compensation of damages and reimbursement of expenses shall be limited to the foreseeable damage typical for this type of contract. This shall not apply where we are liable in the case of injury to life, body or health or for damage to privately used items under the German Product Liability Act or are mandatory liable on other grounds.

18. **Waste disposal** To the extent that waste within the meaning of German waste law is generated in the course of Contractor's deliveries/services, Contractor shall – unless agreed otherwise in writing – recycle or dispose of the waste at Contractor's own expense in accordance with the provisions of waste law. Ownership, risk and responsibility under waste law shall pass to Contractor at the time the waste is generated.

19. **Non-disclosure** Contractor undertakes to keep secret any and all 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 from our sphere or from the sphere of one of our group companies, and not to make any such information accessible to third parties and to use such information exclusively for the purpose of performing the respective order/contract. Contractor undertakes to return to us upon our request and without undue delay any and all information which is physically transmitted in accordance therewith, such as documents, samples, specimens or the like, without retaining copies or records, as well as to destroy Contractor's own records, compilations and evaluations containing information without undue delay and to confirm this to us in writing. We are entitled to the property rights and any industrial property rights to our information.

20. Planning documents Drawings, drafts etc. produced by Contractor according to our particular specifications shall become our unrestricted property without additional remuneration, irrespective of whether they remain in the possession of Contractor. Conflicting declarations of Contractor, e.g., on documents handed over to us, are not binding.

21. Advertising material It shall only be permitted with our prior express written consent to refer to the existing business relationship with us in Contractor's information and/or advertising material.

22. Assignment of claims

22.1 We shall be entitled to assign the claims arising from our business relations.

22.2 Assignments by Contractor outside the scope of application of Section 354a Commercial Code shall be excluded; exceptional cases shall require our prior written consent to be effective.

23. Legal venue and Applicable law

23.1 The exclusive legal venue shall be the place of our company's registered office if Contractor is a merchant. We shall, however, also be entitled to file legal action before the courts having jurisdiction at Contractor's place of business.

23.2 All legal relationships between Contractor and us shall be governed by and construed in accordance with the laws of the Federal Republic of Germany to the exclusion of the conflict of law rules. The application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall be excluded.

24. Severability clause Should individual provisions of these General Terms and Conditions of Purchase be ineffective in whole or in part, the effectiveness of the remaining provisions shall remain unaffected.