

# General Terms and Conditions of Textilchemie Dr. Petry GmbH, Reutlingen

## I. Scope of General Terms and Conditions

1. The following General Terms and Conditions shall exclusively apply to all deliveries and services provided by Textilchemie Dr. Petry GmbH (hereinafter referred to as "the Supplier") unless specified otherwise. Any varying conditions of the Purchaser are not binding for the Supplier, unless the Supplier has expressly confirmed such varying conditions in writing. Such confirmation shall only be binding on the Supplier as far as the affected case is concerned. The General Terms and Conditions shall also apply in cases in which the Supplier, aware of the purchasing conditions imposed by the Purchaser, makes the supply to the Purchaser without any reservation. The receipt of deliveries or services shall be deemed as acceptance of Supplier's conditions.
2. Supplier's General Terms and Conditions only apply if the Purchaser is an entrepreneur (Sec. 14 BGB – German Civil Code), a legal person under public law or a special fund under public law.
3. Supplier's General Terms and Conditions shall apply in their latest version in force at the time when Supplier's offer is made. These General Terms and Conditions shall also apply for all future sales and deliveries contracted with the Purchaser.
4. In addition Supplier's General Terms and Conditions can be viewed at any time on the internet at [www.drpetry.de/GTC.pdf](http://www.drpetry.de/GTC.pdf) and can be saved and printed by the Purchaser in a form suitable for reproduction.

## II. Offer, Conclusion of Contract

1. Supplier's offers are subject to confirmation, unless expressly otherwise provided. The contract between the Purchaser and the Supplier shall be deemed binding at the moment the Purchaser receives Supplier's order confirmation. The scope, the quality and all other characteristics of Supplier's delivery shall be governed by Supplier's written order confirmation. If no such written order confirmation has been issued, but Supplier has provided an offer remaining open for a limited period which has been accepted in good time by the Purchaser, then the scope of delivery shall be determined by Supplier's offer.
2. No subsidiary verbal agreements exist at the time of entering this contract. The Purchaser's individual agreements expressly entered into with Supplier on an individual basis (including subsidiary agreements as well as supplements to and additional information regarding these General Terms and Conditions) shall, but only in case such individual agreements are entered into after the conclusion of the contract, have preference over these General Terms and Conditions in every case. A written contract or, if a written contract is not available, Supplier's written confirmation to the Purchaser shall be authoritative with respect to the content of such individual agreements.
3. The documents pertinent to the offer, such as brochures, samples and weight specifications, are approximate only unless they have expressly been declared as binding. The Supplier may with due regard to the Purchaser's interests, vary the technical structure and the chemical composition of the products. Supplier reserves title and copyrights to all Supplier's drawings, pictures, cost estimates and other documents. These confidential documents are not to be made available to third parties without Supplier's explicit prior written approval.

## III. Prices

Prices are ex works in Euro plus any applicable VAT unless the parties have agreed otherwise. As far as price calculation is concerned, the weight, the number of items and the quantities as determined by the Supplier shall prevail, unless the Purchaser immediately objects. Any additional costs such as for packaging, transport, insurance, customs etc. will be invoiced separately. Any further domestic or foreign costs arising in connection with the delivery will be carried by the Purchaser.

## IV.

1. Delivery dates shall be governed by relevant separate agreements. The delivery dates shall be deemed to be realized if the goods have left Supplier's works or, if Supplier has given notice of his readiness to ship the goods before delivery delay will have expired.
2. Interruptions of operations, exceeding of the delivery time, non-deliveries of subcontractors to the Supplier, lack of raw materials, energy or human resources, strikes, lockouts, difficulties in procuring of means of transportation, traffic interruptions, orders of higher authority and other cases of force majeure on the Supplier's and sub supplier's side which are considerable and unforeseeable by the Supplier and not caused by the Supplier shall extend the delivery time for the duration of the impediment to the extent that they are of importance for the ability to supply the goods. The Supplier shall inform the Purchaser as soon as possible regarding the beginning and the end of such impediments.
3. Partial deliveries that are acceptable for the Purchaser shall be admissible. Deliveries shall, as a rule, be made in standard packaging. As far as the material required to fulfill Supplier's obligations to the Purchaser is concerned, the contract with the Purchaser is subject to correct and timely deliveries to Supplier.
4. The parties are aware that the goods may be subject to export or import regulations, especially obligations to obtain a permit, or that the use of the delivered goods in a foreign country may be restricted. Purchaser shall bear all costs arising from import or export of the delivered goods and shall be responsible for the proceedings necessary. Purchaser shall comply with all applicable export and import control regulations of the Federal Republic of Germany, the European Union and the United States of America as well as all other applicable regulations. Supplier will support Purchaser in doing so. Supplier reserves the right to only perform the contracts which operate within governing laws including national or international rules concerning export or import as well as any other rules of law.

## V. Dispatch, Transfer of Risk, Packaging

1. Unless otherwise provided and taking the interests of the Purchaser reasonably into account, the Supplier shall choose the route and method of dispatch.

2. The risk of destruction, loss of or damage to the goods shall pass to the Purchaser with the release of the goods to the person appointed to dispatch the goods or, in the case of collection, the risk shall pass to the Purchaser when the Supplier has made the goods available for collection and has informed the Purchaser to this effect. This shall also apply to freight pre-paid delivery.
3. The Purchaser shall accept the delivery item, irrespective of warranty rights, and even if it contains insignificant defects.
4. The Purchaser shall send back returnable packing without delay and at his own cost. Any loss or damage of returnable packing, as long as such packing has not been received back by the Supplier, shall be carried by the Purchaser. Returnable packing may not be used for other purposes or for containing other products. They are exclusively intended for the transportation of the delivered goods. Labels may not be removed.
5. Where commercial terms such as FOB, CIF, ex works etc. are agreed upon, they shall be interpreted in accordance with the Incoterms in their version applicable on the date of the contract acceptance.
6. Should the dispatch be delayed by circumstances where the Purchaser is responsible, the risk of accidental loss or the deterioration of product quality shall pass to the Purchaser from the day of readiness for dispatch. Upon written request, the Supplier is willing to insure the shipment on behalf of the Purchaser. The Purchaser bears all costs resulting therefrom. Furthermore, the Purchaser is bound to reimburse the Supplier for all additional costs associated with such delays.

## VI. Payment

1. Unless the parties have agreed otherwise, payments are to be made, without any deduction, 30 days from date of invoice. Bills of exchange and cheques shall be accepted only according to specific agreement and shall not be deemed to constitute payment or be in lieu of payment. The Purchaser shall bear the bank charges and costs. Payment shall only be deemed to be effected when the amount is confirmed available on the Supplier's bank account.
2. If, after entering into the contract, it becomes clear that the Supplier's claim for the purchase price is jeopardized as a result of lacking performance on the part of the Purchaser (e.g. as a result of an application for the institution of insolvency proceedings), Supplier shall be entitled, in accordance with the statutory provisions to reject performance and, where applicable after setting a period, to withdraw from the contract (Sec. 321 BGB). This shall not affect the statutory provisions of the dispensable nature of setting periods.
3. The Purchaser shall be deemed in default of its payment obligation following the issue of a reminder by Supplier. A reminder shall not be required if a period in accordance with the calendar is specified for payment or if payment is to be effective within a certain period following the occurrence of an event. Without a reminder, the Purchaser shall be deemed to be in default 30 days following receipt of Supplier's invoice or, if Supplier cannot specify the time at which the invoice is received, 30 days following the receipt of the goods.
4. Payments by letter of credit shall be governed by the UNIFORM CUSTOMS AND PRACTICES FOR DOCUMENTARY CREDITS valid from time to time, issued by the ICC, Paris. If payment is effected by way of cheque, bill of exchange, letter of credit, cash against documents, documents against acceptance and the similar, it shall be isolated from the underlying transaction. Therefore the Purchaser must refrain from any interference with the flow of payment, in particular in case of claims concerning defects.
5. If payment has been fully or only partially effected within the agreed period, according to Section 288 Paragraph II of the German Civil Code [§ 288 II BGB (Bürgerliches Gesetzbuch)], the Purchaser will be bound to pay interest at the rate of 9 percentage points over the base rate pursuant to Section 247 of the German Civil Code [§ 247 BGB]. Interest will be calculated on the outstanding amount. This does not affect the Supplier's right to claim additional damages from the Purchaser for default of payment.

## VII. Right of retention and set-offs

1. The right of retention, in respect to payments for any type of the Purchaser's claims against Supplier, is excluded unless the right of retention is based on the Purchaser's claims resulting from the same contractual relationship.
2. Set-offs by the Purchaser against Supplier's claims with Purchaser's claims is not permitted unless the claims are undisputed or have become res judicata.

## VIII. Notice of Defects

1. Obvious defects, i.e. legal or material defects, excessive deliveries, incomplete or wrong deliveries as well as the lack of a possible guaranteed quality of the delivery or of the performance (defects) must be notified in writing without delay within 14 days after receipt of the goods. The Purchaser shall check – as required by sample testing – the delivered goods as to their adequacy for the planned application. Written notification of concealed defects must also be received without delay within 14 days after identification of the defect.
2. If the notice of defect is not submitted by the Purchaser within the time limit pursuant to VIII. 1. of these General Terms and Conditions, any claims for such defects against Supplier will be excluded.

## IX. Warranty

1. In case of defects, but only in case of Purchaser's duly notice of defects pursuant to VIII. of these General Terms and Conditions, the Supplier has the choice to repair the defects or replace the delivered goods insofar as the Purchaser furnishes evidence that the goods were defective before the passing of risk.
2. If Supplier has repaired the defective goods twice or has made a one-time replacement of the goods and the defect cannot be remedied, or the Supplier refuses without any reason to complete the necessary repair or replacement, or improperly delays the repair or the replacement, or in the event that the repair is for

other reasons not acceptable for the Purchaser, and the requirements set out by §§ 281 II or 323 II German Civil Code are fulfilled, the Purchaser is entitled to withdraw from the contract and to claim deduction according to the statutory law as well as compensation or compensation of expenses, the latter according to "X. Compensation" of these General Terms and Conditions, instead of remedy or replacement.

3. In case of third-party-products, the warranty of Supplier is limited to the assignment of the claims Supplier has against the supplier of the third party product. In the event that the Purchaser is not able to enforce its rights against the supplier of the third party product, Supplier shall remedy the defect according to these General Terms and Conditions.
4. The Purchaser shall give Supplier upon mutual consultation the necessary time and opportunity to repair or replace the goods.
5. Supplier is not obliged to remedy or replace the goods if this causes disproportional costs. The costs are disproportional if they exceed 25% of the purchase price of the goods.
6. Parts which were replaced during the rectification of the defects become the property of Supplier.
7. Supplier may make the rectification defect conditional upon the payment of the purchase price of the goods delivered. However, the Purchaser is entitled to retain a part of the purchase price reasonably corresponding to the defect.

#### X. Compensation

1. Unless otherwise agreed in these General Terms and Conditions, all claims regarding compensation to the Purchaser of whatsoever nature, including compensation for expenses and indirect damages are excluded. This shall apply in particular but not limited to claims relating to all breaches of duties resulting from the contract as well as from delinquency. The exclusion of liability also applies if Supplier uses employment executive personal or other persons for performing its obligation.
2. Deviations from X. 1. of these General Terms and Conditions: Supplier is liable for whatsoever reason including if Supplier uses employment executive personal or other persons for performing its obligation, only in the event that:
  - (a) Supplier has acted with intent or gross negligence,
  - (b) Supplier fraudulently has concealed the defect or has guaranteed the quality of the goods,
  - (c) damages for injuries to life, body or health occur for which Supplier is responsible; as well as
  - (d) Supplier does not fulfill its substantial contractual obligations ("cardinal duties") i.e.
    - (aa) in the event of material violation of obligation which jeopardize the achievement of contractual purpose, or
    - (bb) in the event of the violation of duties, the fulfillment of which enables the proper performance of the contract in the first place and the observance on which the Purchaser may regularly rely on.
3. In the event that X. 2. (d) of these General Terms and Conditions applies: In regards to violation of cardinal duties, the liability of Supplier shall be limited in case of slight negligence to the typically foreseeable damage.
4. The exclusion of liability does not apply for claims arising from the Product Liability Act. The preceding provisions shall not affect the burden of proof to the disadvantage of the Purchaser.

#### XI. Limitation of claims based on defects

The statutory period for all claims resulting from defective goods is 12 months after the handover of the goods; except where the German law provides for longer statutory periods:

- § 438 section 1 No. 2 BGB, § 479 section 1 BGB and § 634 a section 1 No. 2 BGB
- for damages resulting from injuries to life, body or health caused by a defect
- in case of the willful or grossly negligence breach of duty by Supplier
- in case Supplier has given a guarantee as to the quality of the goods and
- in the event that Supplier has fraudulently concealed the defect.

The preceding provisions shall not affect any claims following from the Product Liability Act as well as statutory provisions according to any periods for the expiry suspension, suspension or restart of statutory periods.

#### XII. Advice on Technical Application

1. Advice on technical application shall be provided by the Supplier to the best of his knowledge. All data and information relating to suitability and application of the products shall not relieve the Purchaser from conducting his own controls and tests with regard to suitability of the products for the envisaged processes and purposes.
2. Furthermore, the Purchaser must absolutely observe the specifications of the safety data sheet for the handling of the delivered substances and their respective field of application.
3. If the Purchaser intends to use the delivered goods for other purposes than discussed, and verbal or written agreement has been obtained from the Supplier, then he may do this only after extensive testing, examination and after obtaining the required licenses and/or certificates issued by the authorities.

#### XIII. Retention of Title

1. Title to goods shall remain with Supplier until the supplier's invoice has been fully settled and all precedent deliveries and performances have been paid including all subsidiary claims irrespective of their legal grounds. In the case that Supplier has accepted payment by check or by bill of exchange, the title to goods shall remain with Supplier until the date on which the amount is at Supplier's disposal (§ 449 Abs. 1 German Commercial Code). The collection of single receivables in a current invoice as well as the statement of account and its acknowledgment shall

not affect the retention of title.

2. Purchaser is entitled to process the delivered goods in the ordinary course of business. Any processing or transformation of the delivered goods by the Purchaser shall always be made on the behalf of the Supplier provided that no claims arise against Supplier. In the event that goods in the ownership of Supplier are combined, mingled or intermixed according to §§ 947, 948 German Civil Code, Supplier shall become co-owner of these goods proportionately to the invoiced amount of the deliveries and services and the other assimilated goods on the date of processing, combination, intermixture or commingling. In the event that the Purchaser becomes the sole owner due to intermixture or commingling, the Purchaser hereby transfers the co-ownership in the aforementioned relation to Supplier and the Purchaser is obliged to keep the new goods safe for Supplier free of charge.
3. In the event that retention-of-title-goods are sold by the Purchaser alone or in connection with goods which are not in the ownership of Supplier, the Purchaser hereby assigns to Supplier any receivables arising from any resale in the amount of the value of the goods, including any subsidiary rights, which are in the ownership of Supplier. Supplier hereby accepts such assignments. If Supplier is co-owner of the resold products, the assignment of the receivable shall cover the amount which corresponds to the co-ownership share of Supplier. Supplier authorizes the Purchaser, subject to revocation, to collect the receivables assigned to Supplier. In the event that the Purchaser is in delay with its obligations towards Supplier, the Purchaser is obliged to provide Supplier with the debtors of the assigned receivables and shall notify the assignment to these debtors. In this case, Supplier is also entitled to notify the assignment to the debtors by himself and to collect the receivables by himself.
4. If the Purchaser breaches the contract, in particular but not limited to delays in payment, or in the case that the Purchaser does not comply with its duty to treat the retention-of-title-goods with due care, Supplier is entitled to take back the retention-of-title-goods and to withdraw from the contract after a reminder and having set a reasonable time limit (unless such time limit is dispensable according to the statutory provisions). The Purchaser is obliged to return the goods which are in the ownership of Supplier. If Supplier claims its retention of title or pledges the goods, this shall not be deemed as a withdrawal from the contract except when such withdrawal has been declared expressly. The Purchaser hereby agrees that the persons authorized by the Supplier to take back the retention-of-title-goods are entitled to enter the premises of the Purchaser for that purpose.
5. The Purchaser shall be entitled and authorized to sell, to use or to assemble the retention-of-title-goods only in the ordinary course of business and only under the condition that the receivables assigned to Supplier (XIII. 3.) are actually transferred to Supplier or that Supplier becomes co-owner of the goods according to the preceding provisions in relation to the invoiced amount of the processed, mingled or combined retention-of-title-goods as the case may be. The same applies to the produced end product as well as for the goods delivered under the retention of title. The Purchaser is not entitled to further disposals on the retention-of-title-goods. In particular the Purchaser is not entitled to pledge or to transfer the goods as security.
6. In the case of third party execution activities (i.e. insolvency) where retention-of-title-goods are involved, the Purchaser shall immediately inform and hand over all necessary documents for legal appeal even if the Supplier has only partial ownership or if the receivables have been assigned to the Supplier.
7. The Purchaser has to insure all retention-of-title-goods on its own costs in particular but not limited to fire and theft. Any claims against the insurer are hereby assigned to Supplier in regards the retention-of-title-goods. Supplier accepts such assignment.
8. The Purchaser, not having its location / headquarters in Germany, shall take all necessary actions required by the applicable law in order to ensure that the retention of title of Supplier (as provided in these General Terms and Conditions) is effective in the country where the delivery is made.
9. In the event that the value of Supplier's securities corresponds to or exceeds the receivables of Supplier by 150%, Supplier is obliged to release the securities to the Purchaser insofar as they exceed the agreed coverage.

#### XIV. Default and Impossibility

1. Irrespective of the right of the Purchaser to withdraw in the event of defects (see Clause IX. of these General Terms and Conditions), the Purchaser may only withdraw from the contract in the event of a violation of an obligation which is the Supplier's responsibility, i.e. if the performance is impossible or in the event of default.
2. The Purchaser may not withdraw from the contract either prior to the date performance is due or in the event of an immaterial breach of a duty under the contract by Supplier. Ultimately, contract cancellation is barred where the Purchaser is solely or primarily responsible for the circumstances that would otherwise justify cancellation, or where a circumstance beyond Supplier's control arises during the Purchaser's delay in accepting delivery.

#### XV. Place of Performance and Place of Jurisdiction

1. Place of performance for all mutual obligations, especially the payment of Purchaser and the delivery of Supplier, shall be the place of Supplier's registered office, Reutlingen, Germany.
2. Exclusive place of jurisdiction for all current and future claims resulting directly or indirectly from the contractual relationship shall be Supplier's registered office in Reutlingen, Germany insofar as the Purchaser is a general merchant or a legal entity under public law. However, Supplier is also entitled to bring an action to the court of jurisdiction located at the Purchaser's headquarters.
3. The contractual relationship and all legal relations arising therefrom shall be governed solely by the law of the Federal Republic of Germany, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).

As of June 2016