

## General Terms and Conditions of Purchase Clarios Germany GmbH & Co. KGaA

### 1. Area of Application

- 1.1. These General Terms & Conditions of Purchase (hereinafter "**Terms & Conditions**") govern the legal relationships of Clarios Germany GmbH & Co. KGaA and those of its associated companies relying on these Terms & Conditions with our business partners and Suppliers (hereinafter "**Supplier**") with respect to our Suppliers' supplies, services and quotations to us.
- 1.2. The services contracted to us are based exclusively on these Terms & Conditions unless, in individual cases, expressly conflicting Terms & Conditions are agreed between us and the Supplier. The Supplier's General Terms & Conditions will not be recognized by us, even if not expressly rejected by us.
- 1.3. These Terms & Conditions apply to all current and future business relationships between us and the Supplier, insofar as the latter is an entrepreneur. An entrepreneur in this context is any individual or legal entity or partnership with legal capacity undertaking a transaction in pursuit of its commercial or self-employed activity. A partnership with legal capacity is any partnership which has the legal capacity to acquire rights and incur liabilities.

### 2. Concluding Contracts, Orders

- 2.1. Our orders may be placed as follows: Delivery schedule (electronic/per fax), Kanban system, e-procurement, SAP ordering, written order forms. In addition, we reserve the right to introduce other ways to order at any time.
- 2.2. The Supplier must confirm our order within 2 weeks, in writing, or unconditionally execute the order (Acceptance). A delayed acceptance is deemed to be a new offer by the Supplier and requires our acceptance.
- 2.3. If the order conformation differs from the original order, the Supplier must explicitly point out such difference. A contract will only come into being if we have agreed to such difference(s) in writing.

### 3. Prices, Payment Conditions, Invoice Details

- 3.1. Insofar as nothing has been agreed to the contrary, the Suppliers' prices are fixed prices, including any statutorily valid VAT, and include delivery to/provision of service at our DDP premises (Incoterms 2010); the prices take into account all the Supplier's costs, in particular the costs for freight & packing, equipment & vehicle costs, contingencies, travelling time, overtime and/or performance payments.
- 3.2. Insofar as the nature of the packing and shipping are not expressly agreed, the Supplier is obligated to select the customary packing and shipping method which is most cost-effective from our point of view.
- 3.3. Those payment conditions included in the individual orders apply. If no payment conditions are included in an order, 90 days are deemed agreed. The payment term begins as soon as the delivery has been completed or the service provided in full and the properly issued invoice has been received. Insofar as the Supplier has to provide material tests, test logs, quality documents or other documentation, that provision is a condition for the completeness of the delivery and service.
- 3.4. In principle, the order forms/order confirmations to be used are those prescribed by us. All order confirmations, delivery documents and invoices deviating therefrom must show our order number, the item number in the order, the article number and the delivery quantity. Should one or more of those details be missing and consequently, within the framework of our normal business procedures, delay the processing, then the payment term provided for under our payment conditions will be extended by the length of the delay.
- 3.5. Our unconditional payment of the invoiced amount does not represent an acknowledgment of the Supplier's delivery or service as conforming to the contract.
- 3.6. We shall be entitled to set-off and retention rights as well as the plea of non-performance of the contract to the extent permitted by law. In particular, we are entitled to withhold due payments as long as we are still entitled to claims from incomplete or defective performance against the Supplier.

### 4. Delivery Date, Delivery, Transfer of Risk, Return of Packaging

- 4.1. Agreed dates and deadlines are binding on the Supplier. Early deliveries are not permissible.
- 4.2. The Supplier is obligated to inform us without delay if circumstances arise or are indicated whereby the delivery and/or performance date – regardless of the reasons – cannot be met. Our agreement to a revised date suggested by the Supplier does not involve an extension of the contractually agreed delivery/performance deadline. Claims for compensation or other statutory or contractual claims with respect to late delivery remain reserved.
- 4.3. We have the right, in the event of delivery or performance delays and after issuing a prior written warning, to levy a contractual penalty of 1 % of the value of the order for each started week of delay, up to a maximum of 5 % of the total value of the order. The Supplier is entitled to prove that we have incurred lesser or no damage; the amount will be reduced or cancelled accordingly. The assertion of additional claims arising under these Terms & Conditions or statutory claims remains reserved. The contractual penalty is to be set off against any damage caused by delay which the Supplier is obliged to compensate.
- 4.4. We shall be wholly or partially released from our obligation to accept the ordered delivery or service in the event of a delay in performance due to force majeure, and shall be entitled to withdraw from the contract insofar as the delay in the delivery or service due to force majeure – from a commercial point of view – is no longer viable for us. Strikes, lock-outs and/or a supply failure are not force majeure events, unless the Supplier can prove that he was unable to avert the event concerned.
- 4.5. Subject to our prior agreement, the Supplier is entitled to make partial deliveries.
- 4.6. For supplies which include installation or assembly, and for services, risk is transferred to us upon acceptance and/or completion of the service; for deliveries not including installation or assembly, with their receipt at the agreed destination.
- 4.7. The Supplier is obligated to promptly collect all delivered packing materials at our request and to dispose thereof in conformity with statutory requirements, free of charge.

### 5. Protection of Property and Retention of Title

- 5.1. We reserve our property rights and copyrights to all orders and contracts as well as the drawings, illustrations, calculations, specifications and other documents placed at the disposal of the Supplier. The Supplier may neither make these accessible to third

parties nor publish them, utilise them themselves or allow third parties to do so or duplicate them without our explicit consent. The Supplier shall return these documents and possible copies in full number without requiring prior request as soon as these are no longer required in the regular course of business, or when negotiations do not lead to the conclusion of a contract.

- 5.2. Tools, equipment and models which we place at the disposal of the Supplier or which are fabricated for the contractual purposes and are invoiced separately by the Supplier remain our property or pass over into our property. Such items are to be identified as our property by the Supplier, are to be stored with all due care, are to be safeguarded against any danger whatsoever, and are only to be utilised in line with demands arising in connection with the contract. Unless otherwise agreed, the contracting parties shall each bear half of the costs of maintaining and repairing these items. If, however, these costs are attributable to defects in such items manufactured by the Supplier or to improper use on the part of the Supplier, its employees or other vicarious agents, they shall be borne solely by the Supplier. The Supplier will inform us without any delay whatsoever about any damage incurred, be it minor or major. The Supplier is committed, upon prior demand, to relinquish these items to us in good condition if they are no longer required to fulfil the contracts concluded with us.
- 5.3. Any processing, mixing or combination (further processing) of items provided by the Supplier shall be carried out on our behalf. The same applies to further processing of the delivered goods by us, so that we are deemed to be the manufacturer and acquire ownership of the product in accordance with the statutory provisions at the latest upon further processing.
- 5.4. The transfer of ownership of the goods to us must take place unconditionally and regardless of the payment of the price. If, however, in individual cases, we accept an offer by the Supplier to transfer ownership conditional on the payment of the purchase price, the Supplier's retention of title shall expire at the latest upon payment of the purchase price for the delivered goods. In the ordinary course of business, we shall remain authorised to resell the goods, even before payment of the purchase price, with advance assignment of the claim arising therefrom (alternatively validity of the simple retention of title extended to the resale (*einfache und auf den Weiterverkauf verlängerte Eigentumsvorbehalt*)). This excludes all other forms of retention of title, in particular the extended retention of title (*erweiterte Eigentumsvorbehalt*), the forwarded retention of title (*weitergeleitete Eigentumsvorbehalt*) and the retention of title extended to further processing (*auf Weiterverarbeitung verlängerte Eigentumsvorbehalt*).

## 6. Claims arising from Defects

- 6.1. The statutory provisions shall apply to our rights in the event of material defects and defects of title of the goods (including incorrect and shortfall in delivery as well as improper assembly, defective assembly, improper operating or operating instructions) and in the event of other breaches of duty by the Supplier, unless otherwise specified below.
- 6.2. In accordance with the statutory provisions, the Supplier shall be 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 have been included in the contract in the same way as these Terms and Conditions shall be deemed to be agreements on the quality. It makes no difference whether the product description originates from us, the Supplier or the manufacturer.
- 6.3. We shall also be entitled to claims for defects without restriction if the defect remained unknown to us at the time of conclusion of the contract due to gross negligence.
- 6.4. The statutory provisions shall apply to the commercial duty to inspect and give notice of defects, subject to the following provision: Our duty to inspect shall be limited to defects which become apparent during our incoming goods inspection under external examination 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 shall be no obligation to inspect. Otherwise, it depends on the extent to which an inspection is feasible in the ordinary course of business, taking into account the circumstances of the individual case. Our obligation to give notice of defects discovered later shall remain unaffected. Irrespective of our obligation to examine, our complaint (notice of defects) shall be deemed to be immediate and timely if it is sent within 5 working days of discovery or, in the case of obvious defects, of delivery.
- 6.5. Supplementary performance shall also include the removal of the defective goods and their reinstallation if the goods have been installed in another item or attached to another item in accordance with their type and intended use; our statutory claim to reimbursement of corresponding expenses shall remain unaffected. The Supplier shall bear the expenses necessary for the purpose of testing and supplementary performance even if it turns out that no defect actually existed. Our liability for damages in the event of an unjustified demand to remedy defects shall remain unaffected; in this respect, however, we shall only be liable if we have recognised or grossly negligently failed to recognise that no defect existed.
- 6.6. Irrespective of our statutory rights and the provisions in Section 6.5, the following shall apply: If the Supplier does not fulfil his obligation to supplementary performance – at our option by remedying the defect (subsequent improvement) or by supplying a defect-free item (replacement delivery) – within a reasonable period set by us, we shall be entitled to remedy the defect ourselves and demand reimbursement from the Supplier of the expenses required for this or an appropriate advance payment. If supplementary performance by the Supplier has failed or is unreasonable for us (e.g. due to particular urgency, endangerment of operational safety or imminent occurrence of disproportionate damage), no deadline needs to be set; we shall inform the Supplier of such circumstances immediately, if possible in advance.
- 6.7. Notwithstanding the above, in the event of a material defect or defect of title, we shall be entitled to reduce the purchase price or withdraw from the contract in accordance with the statutory provisions. In addition, we shall be entitled to claim damages and reimbursement of expenses in accordance with the statutory provisions.
- 6.8. The statute of limitations for warranty claims is suspended upon receipt of our written notice of defects by the Supplier. The warranty period for replaced and repaired parts shall commence again in the event of a replacement delivery and rectification of defects, unless we had to assume, in accordance with the conduct of the Supplier, that the Supplier did not consider itself obliged to take the measure, but only carried out the replacement delivery or rectification of defects as a gesture of goodwill or for similar reasons.
- 6.9. The general limitation period for warranty claims is 3 years from the passing of risk. If acceptance has been agreed, the limitation period shall commence with acceptance. The 3-year limitation period shall also apply *mutatis mutandis* to claims arising from defects in title, whereby the statutory limitation period for material claims for surrender by third parties shall remain unaffected; furthermore, claims arising from defects in title shall not become statute-barred under any circumstances as long as the third party can still assert the right against us, in particular in the absence of a limitation period.

## **7. Product Liability, Quality Controls**

- 7.1. Should a third party suffer bodily injury or physical damage as a result of a defect in goods provided by the Supplier, the Supplier must, upon first demand, release us from all liability insofar as the cause of the damage lies within the Supplier's control and organisational sphere, and is himself liable to the third party.
- 7.2. Within the framework of his liability in cases of damage within the meaning of Section 7.1, the Supplier is further liable to reimburse all our expenses arising from or in connection with a recourse to third parties or a recall action initiated by us. We will – insofar as possible and reasonable – notify the Supplier of the nature and scope of such recall and give him the opportunity to comment. Further statutory claims remain unaffected.
- 7.3. The Supplier is obliged to take out and maintain product liability insurance at his own expense with a lump sum coverage of at least EUR 5,000,000.00 per personal injury / property damage, which, unless otherwise agreed in individual cases, does not have to cover the recall risk or criminal or similar damage. The Supplier shall send us a copy of the liability policy at any time upon request.
- 7.4. The Supplier must carry out state of the art quality controls and, on demand, provide proof thereof. The Supplier must provide a quality control system in accordance with applicable standards (ISO, BRC/IOP, IFS, GMP), or as contractually provided for or, at our wish, enter into an appropriate quality assurance agreement. The Supplier shall observe our supplier's quality requirements manual at <https://www.clarios.com/suppliers>.
- 7.5. We shall be entitled, during the regular operating hours at the production sites of the deliveries or services intended for us, to carry out controls ourselves or have them carried out by agents to ensure compliance with the contractual obligations. This does not apply to production areas in which work is carried out or production processes are applied which are subject to secrecy.

## **8. Liability for Defects in Title, Third Party Industrial Property Rights**

- 8.1. The Supplier warrants that no industrial property rights of third parties in countries of the European Union, North America or other countries in which he manufactures or has manufactured the products are infringed in connection with his delivery.
- 8.2. The Supplier shall be obliged to indemnify us upon our first written request against all claims asserted against us by third parties due to the infringement of industrial or intellectual property rights referred to in Section 8.1. This obligation to indemnify also includes the assumption of all expenses incurred by us in connection with claims asserted by third parties. This claim exists regardless of any fault on the part of the Supplier.

## **9. Rights and Duties upon the Ending of the Contract**

With the ending of the contract, all the user rights granted by us to the Supplier and all relevant documentation and reproductions, all notes/documents/stored information based thereon and/or other data carriers are, at our choice, to be handed over to us or, insofar as originals are not involved, destroyed.

## **10. Replacement Parts**

- 10.1. The Supplier is obliged to keep replacement parts for the products delivered to us in stock for a period of at least 15 years after delivery.
- 10.2. If the Supplier intends to discontinue the production of replacement parts for the products delivered to us, he shall inform us immediately after the decision to discontinue such production. Subject to Section 10.1, this decision must be made at least 6 months before production is discontinued.

## **11. Confidentiality**

- 11.1. Insofar as any contract contains nothing to the contrary, the Supplier undertakes to maintain strict confidentiality with respect to our and our customers' operational and business secrets and other technical and business information of which he becomes aware within the framework of the implementation of this contract, to impose a corresponding duty of confidentiality on his employees and sub-contractors and to only make use of information subject to confidentiality in connection with the implementation of the contract.
- 11.2. The confidentiality obligation does not cover information which (a) was verifiably in the public domain at the point in time of the disclosure; (b) to whose use or disclosure the other party in each case had expressly consented, in writing; (c) whose disclosure was required in order to fulfill obligations under the contract; or (d) whose disclosure was prescribed by statute or by order of the authorities.
- 11.3. The confidentiality obligation under this Section 11 continues after an ending or unraveling of this contract for as long and insofar as one of the conditions referred to in Section 11.2 above with respect to such information has not been met.
- 11.4. The Supplier may not refer to our business relationship and/or delivery items made for us in advertising material, brochures, etc., without our prior written consent.

## **12. Assignment, Liens, Set-Off**

- 12.1. The Supplier is not entitled to assign his claims arising from the contractual relationship to third parties. If the transaction is a commercial one for both parties, then the assignment is nevertheless valid. However, we may continue to make payments to the Supplier as a previous creditor, with binding effect.
- 12.2. The Supplier has no rights of lien insofar as they are based on counterclaims arising from other transactions with us.
- 12.3. The Supplier may only exercise set-off against claims which are undisputed or legally enforceable.

## **13. Compliance**

- 13.1. The Supplier undertakes to comply with statutory requirements and official requirements relating to his product or performance. The Supplier shall ensure that all externally provided processes, products and services meet the applicable legal and official requirements of the exporting country, the importing country and the country of destination specified by the customer, provided that the Supplier is notified of them. If special monitoring measures have been defined, the Supplier must ensure that this monitoring is carried out as required and maintained on an ongoing basis – if necessary also by subcontractors.
- 13.2. The Supplier, his employees and sub-contractors must observe our ethical rules at <https://codeofethics.clarios.com> and our sustainability principles at <https://www.clarios.com/suppliers>.
- 13.3. Within the business relationship with us, the Supplier undertakes not to offer, grant, demand or accept advantages in business dealings or dealings with public officials that violate applicable anti-corruption regulations.

- 13.4. The Supplier undertakes not to enter into any agreements or concerted practices with other companies within the business relationship with us which have as their object or effect the prevention, restriction or distortion of competition in accordance with the applicable antitrust regulations.
- 13.5. The Supplier warrants to comply with the applicable laws governing the general minimum wage and to oblige subcontractors commissioned by it to the same extent. Upon request, the Supplier shall provide evidence of compliance with the above assurance. In the event of a breach of the above assurance, the Supplier shall indemnify us against claims by third parties and shall be obliged to reimburse any fines imposed on us in this context.
- 13.6. The Supplier shall comply with the respective statutory regulations on dealing with employees, environmental protection and occupational safety and shall work to reduce adverse effects on people and the environment in its activities. To this end, the Supplier shall set up and further develop a management system in accordance with ISO 14001 to the extent possible. Furthermore, the Supplier shall observe the principles of the UN Global Compact Initiative, which essentially concern the protection of international human rights, the abolition of forced and child labor, the elimination of discrimination in employment and occupation, as well as responsibility for the environment (<https://www.unglobalcompact.org>).
- 13.7. In the event of a suspicion of a breach of the obligations under Sections 13.3 to 13.6, the Supplier must immediately investigate possible breaches and inform us of the investigation measures taken and, in justified cases, disclose the affected supply chain. If the suspicion proves to be justified, the Supplier must inform us within a reasonable period of time what internal measures he has taken to prevent future infringements. If the Supplier does not comply with these obligations within a reasonable period, we reserve the right to withdraw from existing contracts or to terminate them with immediate effect.
- 13.8. In the event of serious violations of the law by the Supplier and violations of the provisions in Sections 13.3 to 13.6, we reserve the right to withdraw from existing contracts or to terminate them without notice.

#### **14. Final Provisions**

- 14.1. The place of performance is the destination named by us for the supplies and services.
- 14.2. The conclusion of the contract, as well as later contractual amendments and supplements, including deviations from these Terms & Conditions, must be in writing. This also applies to amendments to this written form clause. Insofar as not otherwise statutorily regulated, emails are not considered as being written form compliant.
- 14.3. If the Supplier is a merchant, a legal entity or a special fund under public law, then the exclusive jurisdiction for all disputes arising from or in connection with contracts between the Supplier and ourselves is Hanover. However, we are entitled to assert our claims against the Supplier at his general place of jurisdiction.
- 14.4. These Terms & Conditions and contracts concluded between ourselves and the Supplier are subject to the laws of the Federal Republic of Germany, excluding references to private international law and the UN Convention on Contracts for the International Sale of Goods (CISG).
- 14.5. Should one or more of the provisions of these Terms & Conditions be or become invalid, contain an impermissible time limit or a gap in the regulations, then the overall validity of the Terms & Conditions will be unaffected. Insofar as the invalidity does not arise from an infringement of the rules governing the application of the General Terms & Conditions, the invalid provision is agreed to have been replaced by a valid provision which comes closest to the commercial wishes of the parties. The same applies in the event of a gap in the regulations. In the event of an impermissible time limit, the legally permitted standard shall apply.