

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. Export Control and Customs

- 13.1. The Supplier shall be obliged to inform us about any applicable (re-) export licence requirements or restrictions for the goods (or incorporated goods) under German, European or US export control law and customs regulations as well as the export control law and customs regulations of the country of origin of the goods in its business documents and to send the following information on goods subject to licence requirements to EMEA-CentralCustoms@clarios.com in good time prior to the first delivery and immediately in case of changes (technical, legal changes or governmental determinations):
 - (a) Clarios material number,
 - (b) Goods description,
 - (c) All applicable export list numbers including the Export Control Classification Number pursuant to the U.S. Commerce Control List (ECN and/or ECCN) in accordance with AWW, EU dual use regulation, EAR and ITAR

- (d) Country of origin of the goods under commercial policy,
 - (e) HS Code of the goods,
 - (f) Full documentation of the De-Minimis calculation if the US share is 10% or more,
 - (g) A contact person in its organization to resolve any inquiries
- 13.2. The Supplier is obliged to notify us of the customs tariff number, the preferential and the non-preferential origin of the delivered goods at the latest at the time of the first delivery.
- 13.3. The Supplier confirms that they have applied or will apply for the status of an Authorized Economic Operator (AEO). If the Supplier does not have an AEO status, he is still obliged to fulfil the requirements of the AEO.
- 13.4. The Supplier declares that the content of each dangerous goods shipment is described by the correct shipping name, is classified, packed, marked, labeled and documented and is in full and proper compliance with international and national dangerous goods regulations. The Supplier will provide all relevant documents, where applicable, such as safety data sheets, certificates or export reports.
- 13.5. The Supplier must observe our additional conditions under "Customs and Export Conditions Clarios - EMEA" at <https://www.clarios.com/suppliers>.

14. Compliance

- 14.1. 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.
- 14.2. 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>.
- 14.3. 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.
- 14.4. 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.
- 14.5. 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.
- 14.6. 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>).
- 14.7. 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.
- 14.8. 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.

15. Final Provisions

- 15.1. The place of performance is the destination named by us for the supplies and services.
- 15.2. 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.
- 15.3. 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.
- 15.4. 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).
- 15.5. 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.

Clarios General Terms and Conditions of Delivery 12/2020

1. Definitions

The following words and phrases shall have the meaning set out below unless the context requires otherwise:

- 1.1 **"Conditions"**: These Clarios General Terms and Conditions of Delivery.
- 1.2 **"Incoterms®"**: The most recent version of Incoterms® published by the International Chamber of Commerce.
- 1.3 **"Clarios Group"**: Clarios and its affiliates.
- 1.4 **"Clarios"**: The Clarios entity named in the contract.
- 1.5 **"Purchaser"**: The person or company to which Clarios delivers or intends to deliver the Products.
- 1.6 **"Products"**: The products to be delivered by Clarios to the Purchaser.

2. Scope

- 2.1 These Conditions apply to all deliveries of Clarios to the. The applicability of general purchasing conditions or other conditions of the Purchaser is excluded, even if Clarios has not expressly rejected such other terms or if Clarios, having knowledge thereof, unconditionally accepts or effects performance.
- 2.2 No variations shall be made to these Conditions, unless expressly agreed by Clarios in writing; this shall also apply to a variation of this written form requirement.

3. Quotations, Conclusion of the Contract, Sales Documentation

- 3.1 Clarios' quotations are non-binding unless Clarios expressly states otherwise in writing. Binding quotations may be modified by Clarios until Clarios receives the Purchaser's written purchase order.
- 3.2 The contract shall only arise when Clarios has accepted the Purchaser's purchase order, either by confirming acceptance in writing or executing the purchase order. Clarios' acceptance of the purchase order, and the contract between the parties, shall be subject to these Conditions. Verbal agreements or commitments must be confirmed by Clarios in writing in order to be binding on Clarios.
- 3.3 Any and all illustrations, drawings, designs, specifications, product descriptions, product data sheets, plans and particulars of weights, size and dimensions or comparable materials submitted by Clarios or contained in the technical or commercial documentation of Clarios ("**Sales Documentation**") are indicative only and shall not be binding unless expressly stated otherwise by Clarios in writing. All Sales Documentation supplied to the Purchaser shall remain the exclusive property of Clarios and shall not be used by the Purchaser for any purpose other than the preparation or the performance of the contract.

4. Delivery Terms, Default of Acceptance of Delivery

- 4.1 Unless otherwise stated in Clarios' order confirmation, delivery shall be effected "CIP" (Incoterms®) named place of destination.
- 4.2 Clarios reserves the right to effect delivery in one or more instalments, with corresponding partial invoices, provided that partial deliveries are reasonable for the Purchaser. For payment purposes each instalment shall be treated as a separate contract.
- 4.3 Unless otherwise expressly stated in Clarios' order confirmation, any delivery date or delivery period quoted by Clarios is a non-binding best estimate only. Clarios shall not be liable to the Purchaser for any failure to deliver on a non-binding delivery date or within a non-binding delivery period.
- 4.4 An agreed delivery period begins with the dispatch of Clarios' order confirmation. Clarios' adherence to a delivery date or a delivery period is subject to the timely performance of the Purchaser's obligations which are a prerequisite for the delivery, such as the provision of any documents required for the delivery or the making of any agreed advanced payments. If this is not the case, then Clarios shall not be responsible for the respective delay.
- 4.5 The Purchaser shall come into default of acceptance of delivery if it does not accept the Products either when the binding delivery period ends or on the binding delivery date. In the case of non-binding delivery periods or delivery dates, Clarios may inform the Purchaser that the Products are ready; if the Purchaser does not accept the Products within two (2) weeks from the receipt of the notification of readiness, then it shall come into default of acceptance of delivery.

4.6 In case of default of acceptance of delivery or other delay in the delivery due to the fault of the Purchaser, Clarios may claim damages which shall include, without limitation, the storage costs. The Purchaser shall pay a lump-sum compensation for the storage costs amounting to 0.1 % of the purchase price for the stored Products per calendar day of the storage, but no more than 1 % per calendar month; Clarios reserves the right to claim further damages. Clarios may dispose of the Products otherwise after the fruitless setting of a reasonable grace period and instead deliver within a reasonable period a similar Product on the terms and conditions of the contract or may cancel the contract as well as claim additional damages.

5. Transfer of Risk, Dispatch and Insurance

5.1 The Products shall be deemed to be delivered and the risks therein shall transfer to the Purchaser in accordance with the applicable Incoterms®. Should delivery be delayed for reasons for which the Purchaser is responsible, the risk shall transfer to the Purchaser on the date of notification of readiness for delivery of the Products or on the date that the Purchaser otherwise comes into default of acceptance of delivery.

5.2 If Clarios, at the Purchaser's request, carries out some of the tasks otherwise of the responsibility of the Purchaser in accordance with the applicable Incoterms® (including but not limited to payment of insurance against transportation, breakage, fire and accidental damage), any such tasks shall be deemed performed on behalf and for the account of the Purchaser and this shall not modify the allocation of risks and responsibilities under the applicable Incoterms®. All costs arising out of the above shall be borne exclusively by the Purchaser who shall reimburse such costs to Clarios upon receipt of the relevant invoice.

5.3 The Products shall be packed customarily or as specified in Clarios' order confirmation.

5.4 Re-usable pallets, special crates and other special packaging are the property of Clarios and shall be returned to Clarios, carriage paid, without interim utilization by the Purchaser. If these items are not returned within eight (8) weeks after delivery, Clarios may charge the Purchaser for these items at the full replacement value.

5.5 Clarios shall not be obliged to deliver the Products to third parties at the request of the Purchaser, unless agreed by the parties in writing.

6. Clarios' Limited Warranty, Disclaimer of Warranty, Remedies

6.1 Clarios warrants that the Products will: (i) be free of defects in material and workmanship; and (ii) conform to the agreed upon performance specifications.

6.2 If any Products are defective at the time of transfer of risk Clarios may at its choice either rectify (repair) the defect or supply a defect-free replacement (jointly "**Supplementary Performance**") at no cost for the Purchaser. Supplementary Performance will be made without acknowledgement of a legal obligation. If Clarios is not prepared or in a position or refuses to provide Supplementary Performance, or if Supplementary Performance is delayed beyond reasonable time for reasons for which Clarios is responsible, or if Supplementary Performance otherwise fails, the Purchaser may, subject to the applicable statutory provisions, cancel the contract or reduce the purchase price, and/or demand damages subject to Section 7. Further warranty rights of any kind whatsoever are excluded.

6.3 The place of fulfillment of Clarios' Supplementary Performance shall be Clarios' place of business. Claims of the Purchaser for costs required for the purpose of Supplementary Performance, notably the costs of transport, journeys, labor and material, are excluded to the extent that the costs are increased as a result of the Products being brought to a place other than the agreed place of delivery. Also excluded are costs for dismounting and installing defective Products. Clarios may charge such increased costs to the Purchaser. The Purchaser may only claim such costs as damages subject to Section 7.

6.4 If the Purchaser is entitled to return the Products this shall only take place following consultation with Clarios and in accordance with Clarios' instructions.

6.5 Clarios shall not be liable for any defects caused by:

- (i) Normal wear and tear;
- (ii) Accident or damage after transfer of risk; or
- (iii) Misuse, alteration, modification, incorrect handling, insufficient inspection and in general failure to follow Clarios

instructions; In addition, in case of sale of batteries:

- (iv) Improper charging; overcharging; improper activation;
- (v) Leaving the battery in a discharged condition;
- (vi) Physical damage to the battery from collision or otherwise; opening of the battery's case in any manner; improper maintenance;
- (vii) Vehicle electrical component or circuitry malfunction or failure;
- (viii) Maximum peak temperature of over 60°C in the area housing the battery, or incorrect storage; or
- (ix) Repeated discharge of the battery because of actions by vehicle users (e.g. leaving the lights on, or running vehicle accessories at rates greater than charging levels, etc.).

- 6.6 The limitation period for the Purchaser's warranty rights is one (1) year from delivery. This limitation shall not apply if a defect was fraudulently concealed or a guarantee for the quality of the Product was given. In the case of claims for damages, this limitation shall also not apply in the following cases: (i) willful intent; (ii) gross negligence of an officer or executive of Clarios; and (iii) injury of life, limb or health.
- 6.7 In the case of Supplementary Performance by way of rectification the remainder of the original limitation period of one (1) year from delivery shall run from the return of the rectified Product. The same shall apply in the case of Supplementary Performance by way of replacement.
- 6.8 Clarios does not accept any liability for the Purchaser's warranty programs under any circumstances. The Purchaser is solely responsible for any warranty that it provides to its own customers.
- 6.9 As a precondition for the Purchaser's rights for defects, the Purchaser shall inspect the Products according to the practices used in the ordinary course of business. Identifiable defects shall be notified without undue delay but no later than within two (2) weeks. Hidden defects shall be notified without undue delay but no later than within two (2) weeks after such defects are discovered. Notices shall specifically indicate the defect and shall be in writing. The Purchaser shall inform Clarios in writing without undue delay about any notice of an alleged defect in the Products received from its customers.

7. Limitation of Liability and Product Liability

- 7.1 Clarios' pricing for the Products reflects the following allocation of risks and limitation of liability.
- 7.2 Clarios is liable for damages caused by slight negligence only if such exist due to the breach of a material contractual obligation in a manner endangering the purpose of the contract. In this case, the liability is limited to the damage which is typical and foreseeable. The latter shall also apply to damages caused by gross negligence of an employee or agent of Clarios, who is not an officer or executive of Clarios.
- 7.3 In the cases of Section 7.2 the liability shall be limited per damage event to the amount of the single order value.
- 7.4 In the cases of Section 7.2 the liability for indirect, incidental, special or consequential damage, lost profit, revenue or goodwill, downtime, business interruption and production failure shall be excluded.
- 7.5 The limitation period for claims for damages shall be two years from the point in time the claim arose and the Purchaser became aware thereof. Regardless of the Purchaser's awareness, the limitation period shall be three years from the damaging event. For claims for defects the limitation period of Section 6.6 shall apply.
- 7.6 The above limitations of liability shall apply to all claims for damages, irrespective of their legal basis, except for: (i) any mandatory liability under applicable product liability laws; (ii) defects for which a guarantee for the quality of the Product was given; (iii) injury of life, limb or health; (iv) willful intent; and (v) gross negligence of an officer or executive of Clarios.
- 7.7 The above limitations of liability shall also apply in the case of claims of the Purchaser for damages against Clarios' officers, executives, employees or agents, if any.
- 7.8 If the Purchaser resells the Products, the Purchaser shall indemnify and hold Clarios harmless from and against any product liability claims of third parties if and to the extent the Purchaser is responsible for the defect giving rise to liability.
- 7.9 The Purchaser shall: (i) document all sales of the Purchaser's final products containing the Products; (ii) impose similar obligations to its customers, provided that such documentation is possible and reasonable for them; and (iii) inform Clarios immediately of any claim, incident of damage or other conspicuous features in connection with the Products.
- 7.10 In the defense of any product liability claims, the Purchaser shall provide Clarios reasonable support, including without limitation necessary information regarding processing of the Products and the proportion of the Products used in the final products manufactured by the Purchaser.

8. Prices and Payment

- 8.1 Unless expressly otherwise stated, the prices specified in Clarios' quotation or order confirmation are net prices and apply to Products delivered "CIP" (Incoterms®) named place of destination, but excluding packaging, which shall be added to the price.
- 8.2 Payment of invoices shall be made in full without any deduction within thirty (30) days of the date of shipment. Receipt of payment on Clarios' account is decisive for payment in time. Payment by draft is only allowed upon prior written agreement. Drafts and cheques are accepted by Clarios as conditional payment and only apply as payment upon full redemption. All bank fees and costs incurred for payment or collection of drafts and cheques shall be borne by the Purchaser. Clarios accepts no liability for timely and proper presentation, protest and notification. Discounts are not granted for payment made by draft.

- 8.3 The price of the batteries consists of two components: (i) the base price; and (ii) the lead surcharge. The base price is fixed and depends on the battery type. The base price is subject to regular price adjustments; at least once per calendar year. The lead surcharge is variable and linked to the lead amount in the specific battery type. The lead surcharge is adjusted monthly in case of significant changes of the average price for lead on the London Metals Exchange (LME). Adjustments, if any, shall be communicated by Clarios to the Purchaser four (4) weeks in advance. The lead surcharge is subject to annual revision. The parties agree that there is variability in the material weight of any particular battery as it is manufactured.
- 8.4 Clarios may adjust agreed prices if and to the extent that: (i) costs of materials and raw materials needed for manufacture of the Products have increased or decreased; (ii) wage costs (salaries) have increased or decreased; or (iii) import duties and taxes have increased or decreased. The extent of the adjustment shall be in line with the actual costs change. Clarios shall notify the Purchaser of the price adjustment, in the event of a price increase at least one (1) month prior to the new prices taking effect. In the event of a price increase the Purchaser may cancel the contract by written declaration within two (2) weeks from receipt of the price increase notification.
- 8.5 Clarios may credit the Purchaser's payments against older debts of the Purchaser in the following order of precedence: (i) costs incurred; (ii) interests; (iii) the main debt.
- 8.6 In the case of default of payment by the Purchaser: (i) Clarios may suspend shipments on open orders until all open payments have been settled; (ii) all other outstanding invoices shall immediately become due; (iii) Clarios may claim interest on overdue accounts at the rate of eight (8) percentage points above the base rate of the European Central Bank from the relevant start of the default onward; and (iv) Clarios reserves the right to claim additional damages.
- 8.7 If it emerges after the conclusion of the contract with the Purchaser that based on the financial condition of the Purchaser (particularly in the event of cessation of payments, application to initiate insolvency proceedings, seizure or compulsory enforcement measures, levy of draft or cheques protests and refusals to honor direct debits, and also vis-à-vis or to third parties) the fulfillment of the contractual obligations of the Purchaser is at risk, then Clarios may, at its choice, withhold delivery until the entire purchase price for the respective Products has been prepaid in full or until appropriate security (such as third party guarantee) has been provided. The same shall apply if, as a result of the Purchaser's default of payment, reasonable doubts as to the Purchaser's solvency or financial standing emerge.
- 8.8 In the cases of Section 8.7 Clarios may also withhold deliveries until all open payments have been settled or until appropriate security has been provided. However, for claims that are not yet due for payment, including claims for which Clarios is obliged to advance performance under previously concluded contracts, and claims without any inherent or economic connection to the delivery, this shall apply only to the extent that Clarios has a justified interest therein. If in the cases of Section 8.7 individual or all of Clarios' claims are included in a current account, Clarios may also withhold deliveries until all payments owed against the recognized account balance have been fully paid.
- 8.9 If in the cases of Section 8.7 the prepayment is not made or the security is not provided by the Purchaser within two (2) weeks after Clarios' request, then Clarios may cancel the contract.
- 8.10 The Purchaser may only exercise a right of retention or set-off if its counterclaim is undisputed or has been finally adjudicated. No interests shall be charged to Clarios.
- 9. Retention of Title**
- 9.1 The Products delivered to the Purchaser shall remain the property of Clarios until any and all of Clarios' claims against the Purchaser arising from the business connection have been fully paid. This also applies, if individual or all of Clarios' claims are included in a current account, until all payments owed against the recognized account balance have been fully paid.
- 9.2 The Purchaser shall be allowed to resell the Products delivered subject to retention of title ("**Retained Goods**") in the course of the Purchaser's normal and proper business to third parties. The Purchaser shall not pledge the Retained Goods, grant liens on them or make other dispositions endangering Clarios' title to such Retained Goods. The Purchaser hereby assigns to Clarios its claim for the proceeds from any onward resale of the Retained Goods together with all incidental rights, and Clarios hereby accepts such assignment. The Purchaser is granted the revocable authorization to collect in trust the claims assigned to Clarios in its own name. Clarios may revoke such authorization and the right to resell the Retained Goods if the Purchaser is in default of the performance of material obligations such as making payment to Clarios, or if insolvency proceedings have been opened or respective petitions been filed against the Purchaser's assets. In the event of such revocation, Clarios may collect the respective claim itself and, at Clarios' request, the Purchaser shall notify any debtors about the assignment and provide Clarios with any information and documentation required for the collection of the claim.
- 9.3 Should the realizable value of the securities furnished for Clarios - taking into account customary bank valuation markdowns - exceed all of Clarios' claims which are to be secured by more than 10 %, Clarios hereby undertakes to release securities as selected by Clarios but at the Purchaser's request.
- 9.4 The Purchaser shall treat the Retained Goods with due care and shall adequately insure the Retained Goods at its own costs at new for old value against damage by fire, water and theft. Should the Retained Goods be seized or should Clarios' rights be endangered in any other way the Purchaser shall advise the third party of Clarios' ownership and inform Clarios immediately. In consultation with Clarios the Purchaser

- 9.5 shall take all necessary steps to avert such endangerment. At Clarios' request the Purchaser shall assign claims to Clarios if this is deemed prudent for protection of the Retained Goods.
- 9.6 Should the Purchaser be in breach of material obligations such as payment to Clarios, Clarios may take back the Retained Goods and, after cancellation of the contract, otherwise realize them for the purpose of satisfying its due claims against the Purchaser, without prejudice to any other rights Clarios may have. In such case the Purchaser shall grant Clarios or Clarios' agents immediate access to the Retained Goods and surrender the same. If Clarios demands surrender, this alone shall not constitute a cancellation of the contract.
- 9.7 In the case of deliveries to other jurisdictions in which the foregoing provisions on retention of title do not have the same security effect as in Germany, but in which Clarios may retain other comparable security rights, then Clarios may enforce such other security rights. The Purchaser shall take all actions and cooperate in all measures such as registration or publication, which are necessary and beneficial to the validity and enforceability of such security rights.

10. Intellectual Property Rights

- 10.1 Unless otherwise expressly agreed by Clarios in writing, no right, title or interest is granted to the Purchaser by the contract, in the names, trademarks, patents, patents pending, know-how, copyrights or other intellectual and industrial property rights held by Clarios or the Clarios Group relative to the Products and to any associated documentation.
- 10.2 The Purchaser may only use the brand names or trademarks of Clarios or the Clarios Group in its promotion activities: (i) with Clarios' prior written approval; (ii) in accordance with Clarios' guidelines; and (iii) in their original layout and for original Products without changes. Clarios reserves the right to revoke any given approval at any time.
- 10.3 Clarios shall indemnify and hold the Purchaser harmless from and against any claim that the actual use of the Products as provided by Clarios directly infringes the intellectual property rights of any third party in the Purchaser's country provided that: (i) Clarios shall have been promptly notified in writing of the suit and of any claim preceding the suit; (ii) Clarios shall have the right to assume sole authority to conduct the defense or settlement of such claim or any negotiations related thereto at Clarios' expense; (iii) the Purchaser shall provide Clarios with all reasonable information and assistance requested by Clarios in connection with such claim or suit; and (iv) the Purchaser shall have used the Products strictly in accordance with their ordinary purpose.
- 10.4 The indemnity given above is expressly limited to any damages awarded to a third party in a court of final judgment or to the amount of money, settlement or compromise agreed by Clarios.
- 10.5 In case the use of the Products is enjoined as a result of such claim, Clarios may at its option either: (i) replace the infringing Products by non-infringing products with functionalities similar to those of the infringing Products; (ii) procure a license to the Purchaser to use the Products at reasonable conditions; or (iii) refund to the Purchaser the purchase price of the Products less a reasonable allowance for use, damage or obsolescence.
- 10.6 The foregoing states the entire liability of Clarios with regard to the infringement of any third party intellectual property rights by the Products.
- 10.7 Clarios is not obliged to examine particular specifications stipulated by the Purchaser with regard to infringement of third party rights. Should any infringement of third party rights occur due to compliance with such specifications, the Purchaser shall indemnify and hold Clarios harmless from and against any claim arising out or related to such infringement.
- 10.8 Clarios may destroy specific templates (including but not limited to design and layout of labels, etc.) designed for the Purchaser, after one year from the date of the last delivery, with no obligation to inform the Purchaser in advance.

11. Confidentiality

- 11.1 All information, including, but not limited to contractual terms, terms of the order or order confirmation, including prices, shall be treated confidentially by the parties. Any reference to business links between Clarios and the Purchaser or to the deliveries of the Products shall not be made (except disclosure to professional advisers of each party on a need-to-know-basis) without the prior written approval of the other party. The parties' obligations under this Section 11 will continue for a period of three years from the date of disclosure of information. The restrictions and obligations of this Section 11 shall not apply to information that: (i) is already publicly known at the time of its disclosure; (ii) after disclosure becomes publicly known through no fault of the other party; (iii) the other party can establish by written documentation that it was properly in its possession prior to disclosure; or (iv) was independently developed by the other party without use of or reference to the disclosing party's information.
- 11.2 Following the expiration or termination of the contract, upon Clarios' request, the Purchaser shall promptly deliver to Clarios any and all documents and other media, including all copies thereof and in whatever form, which contain or relate to Clarios' confidential or proprietary information.

12. Termination

- 12.1 Clarios reserves the right to cancel the contract or any purchase order, and any order which is in the process of being carried out, in case of breach of contract by the Purchaser that has not been remedied after a reasonable cure period set by Clarios to the Purchaser.
- 12.2 Clarios may terminate any ongoing supply relationship at any time giving three (3) months' prior written notice. Any rights of Clarios under applicable laws to terminate for cause shall remain unaffected.

13. Force Majeure

- 13.1 Events due to force majeure such as war, natural disasters, earthquakes, industrial and labor disputes (also including those limited to Clarios' premises), shortage of raw materials, fire, lack of supply impeding the fulfilment of Clarios' obligations under the contract or any other events which are unforeseeable, unavoidable and beyond the sphere of influence of Clarios and for which Clarios is not responsible, shall release Clarios for the duration of their effects from the duty of timely delivery of the Products. Agreed delivery times shall be extended for the duration of the event and the effects thereof; the Purchaser shall be informed in an appropriate manner of the occurrence of such event and with regard to its repercussions. If the end of the event and its repercussions are not foreseeable, or should it last longer than three (3) months, Clarios may cancel the contract completely or partially by written notice. This Section 13.1 also applies when sub-contractors or sub-suppliers of Clarios are affected by these events.
- 13.2 In cases of force majeure and provided that the quantity of the Products available to Clarios are insufficient to satisfy all of its customers, Clarios may allocate the available Products to its customers at its own discretion.

14. Export Restrictions – Re-exportation

Any (re-)export of the Products by the Purchaser shall be made under the sole responsibility of the Purchaser. The Purchaser shall comply with all applicable national and international export control regulations. The Purchaser shall obtain any necessary export license or other documentation prior to the (re-)export of the Products. The Purchaser shall indemnify and hold Clarios harmless from and against any liability, damages, costs, fines, penalties resulting from, and more generally shall reimburse to Clarios any amount of money (including attorney's fees) Clarios would have to pay as a consequence of, the non-compliance by the Purchaser with any such applicable export control regulations.

15. Governing Language

The original version of these Conditions is written in English. Should it be translated into another language and should discrepancies appear between the English text and the text in the foreign language, the English version shall prevail.

16. Severability

Should any term, clause or provision contained in these Conditions be declared or held invalid by a court of competent jurisdiction, such declaration or holding shall not affect the validity of any other term, clause or provision contained in these Conditions. The invalid term, clause or provision shall be replaced by a term, clause or provision with similar economical effects to the purpose the parties would have intended commercially.

17. Governing Law and Jurisdiction

- 17.1 All contracts between Clarios and the Purchaser are exclusively governed by the laws of Germany, with exception of its rules of conflict of laws, and the United Nations Convention on Contracts for the International Sale of Goods (CISG), which are hereby excluded.
- 17.2 Any disputes arising out of or in connection with a contract between Clarios and the Purchaser shall be irrevocably and exclusively submitted to the courts of Hannover, Germany. Clarios may also file claims against the Purchaser at the latter's general legal venue.