

General Terms and Conditions of Nitrochemie Wimmis AG (NCW)

1. SCOPE OF APPLICATION

This General Terms and Conditions of NCW govern the conclusion, content and performance of orders released by NCW for the procurement of products.

An order is valid only, if the General Terms and Conditions of NCW and any special conditions of NCW have been accepted in full by the supplier.

With the submittal of an offer, the supplier confirms to have accepted the General Terms and Conditions of NCW.

2. OFFER

The offer, including any demonstrations, shall be free of charge and shall remain valid for at least 90 days from the date of its receipt.

3. PRICES

Unless otherwise agreed in writing, the prices are fixed prices covering all work to be performed, necessary to fulfil the requirements of the order.

The prices shall include commercial packaging and are understood as DAP Wimmis in accordance with INCOTERMS 2010.

Any foreign fees and charges shall be included in the price, but shall not include foreign VAT.

4. DELAY IN DELIVERY

The supplier shall be considered delinquent, if the delivery deadline agreed upon by the parties is not respected.

NCW may give the supplier a second deadline with the legal consequences (Swiss Code of Obligations, section 107).

If the supplier is delinquent, a penalty in the amount of 1% of the purchase price per day of delay is assessed, but not more than 10 % of the total order price. The payment of the penalty does not exempt the supplier from performing the contractual obligations. In case of force majeure, no penalty shall be imposed.

5. INSPECTION AND ACCEPTANCE

The product supplied to NCW shall be inspected by the supplier and shall be in conformity with the order. When the supplied and tested product has passed NCW's incoming inspection, the product is deemed to have been accepted.

6. WARRANTY

As a specialist, the supplier guarantees that the product fulfils all its specifications and that the product is free from any defects in material and workmanship or defects in title which decrease value or suitability for the intended use.

The warranty period expires 24 months after delivery of the product. NCW shall notify the supplier within 30 days in writing of any defects discovered.

After the warranty period has expired the supplier waives its right of claiming statute of limitations for the duration of 24 months, if the defect has arisen within the warranty period and has not been detected by NCW within the 12 months warranty period.

7. RIGHT OF CANCELLATION

If the product does not comply with the order or if the delivery date is not observed, NCW retains the right, subject to granting a grace period, to withdraw from the order in full or in part. Instead of withdrawing from the order, NCW shall be entitled to request replacement or repair at supplier's expense. Any costs regarding the return or replacement of the product shall be fully borne by the supplier. Claims of NCW for damages are reserved.

8. DISPATCH, NOTIFICATION AND INSURANCE

The choice of a suitable method of dispatch or means of transport shall be made by the supplier, who must thereby take into account any conditions stipulated by NCW. Each delivery shall be notified by the supplier by a dispatch note. Any courier shipments forwarded collect shall be refused by NCW.

9. HAZARDOUS PRODUCTS

For all hazardous products to be delivered, safety data sheets including UN number for identification must be made available to NCW.

The supplier shall be responsible for the observance of all valid and applicable environmental regulations.

All applicable packing and transport regulations for hazardous products shall strictly be observed by the supplier.

The supplier shall be liable for any violation of the applicable regulations regarding the packing, handling and transport of hazardous products.

10. PLACE OF PERFORMANCE AND TRANSFER OF RISK

The place of performance shall be the destination stated by the NCW.

The risk shall pass to NCW after receipt of the product at the place of performance.

11. INVOICING AND PAYMENT

The commercial invoice shall include order number and references and be sent in duplicate to NCW.

Payment is due within 30 days after acceptance of the product (according to 5.) and receipt of invoice.

12. MATERIAL SUPPLIED BY NCW

Material delivered free of charge by NCW to the supplier necessary for the execution of the order shall remain property of NCW and shall be designated as such and separated. The supplier shall inspect such material upon receipt. Any damage shall be reported to NCW immediately in writing.

13. ASSIGNMENT AND PLEDGING

Supplier's claims arising from the order may not be assigned or pledged without the written approval issued by NCW.

14. CONFIDENTIALITY

The contractual parties shall keep confidential all information which is not generally known or in public domain. Confidentiality has to be maintained even before signing the order, and the confidentiality requirement remains valid after the fulfilment of the order. Legal disclosure obligations remain.

15. APPLICABLE LAW AND SEAT OF JURISDICTION

This order and all questions connected therewith shall be governed by Swiss Law.

The application of the United Nations Convention on Contracts for the International Sale of Movable Goods, 11 April 1980 (CISG) is expressly excluded.

The law courts of the Canton of Berne shall be the seat of jurisdiction.