

GENERAL TERMS OF SALE TOTAL CORBION PLA B.V. (Version November 2018)

- 1. General**
 - 1.1 In these General Terms ("Terms") the following expressions will have the following meaning:
 - "Contract" means any agreement (written or oral) between Total Corbion PLA and Buyer concerning the sale and delivery of the Product.
 - "Buyer" means the person(s), firm or company to whom Total Corbion PLA supplies the Product.
 - "Delivery" means the moment of delivery of the Product pursuant to the Incoterm® ICC 2010 applicable to the Contract.
 - "Product" means any product(s) of whatever nature (including any of them or any part of them) which Total Corbion PLA sells and delivers to Buyer or any service Buyer receives from Total Corbion PLA under a Contract.
 - "Parties" means Total Corbion PLA and Buyer (and individually a "Party").
 - "Total Corbion PLA" means Total Corbion PLA B.V. and/or any of its subsidiaries, affiliates or group companies.
 - "Specifications" means the technical specifications of the Product, available upon Buyer's request, and mentioned on the certificate of conformity or certificate of analysis, as the case may be. Characteristics mentioned in any product documentation (including, without limitation, product data sheets) do not constitute Specifications.
 - 1.2 Unless otherwise agreed in writing, these Terms are part of and applicable to each request, quotation, order and Contract for the supply of Product by Total Corbion PLA to Buyer.
 - 1.3 Any purchasing terms of Buyer will not apply to any Contract and are explicitly rejected.
 - 1.4 References to any number of days shall mean calendar days.
- 2. Quotations and Agreements**
 - 2.1 Quotations and offers made by Total Corbion PLA for the sale of Product are subject to confirmation.
 - 2.2 Orders from Buyer are only binding upon Total Corbion PLA if confirmed by Total Corbion PLA in writing. The written acceptance of an order by Total Corbion PLA constitutes a Contract between the Parties.
 - 2.3 The quantity, quality and description of the Product shall be as set out in Total Corbion PLA's written acceptance or in the delivery note, as the case may be.
- 3. Price**
 - 3.1 The price for the Product will be the price stated in the Contract. Unless otherwise stated in the Contract, the price shall be exclusive of loading, transport, warehousing and insurance, VAT and any other taxes, duties or levies.
 - 3.2 Unless otherwise agreed in writing, Total Corbion PLA is authorized to adjust the price during the term of the Contract to reflect any increase of Total Corbion PLA's actual costs for purchasing individual components such as raw materials, packaging, energy, etc. Any refusal by Buyer to apply such new price shall entitle Total Corbion PLA or Buyer to cancel performance of the concerned order(s), without any liability or indemnity to the other Party. In this case, Buyer shall cancel the said order(s) within seven days from notification by Total Corbion PLA of the new price. Total Corbion PLA is further authorized to adjust the price during the term of the Contract to reflect (i) any change in delivery dates, quantities or specifications for the Product requested by Buyer, or (ii) any delay caused by failure of Buyer to provide adequate information or instructions.
- 4. Invoicing and Payment**
 - 4.1 Unless otherwise agreed in writing, payment shall be effected against invoice, inclusive of VAT, to the bank account nominated by Total Corbion PLA and within 15 days from the date of invoice.
 - 4.2 Buyer shall make all payments in the currency specified in the Contract, without set-off or counterclaim and free and clear of all taxes, deductions, withholdings and other charges.
 - 4.3 From the moment any sum is due and not paid, Total Corbion PLA shall, in addition to any other damages caused by such action, be entitled to claim payment of one per cent compound interest per month in respect of the total of the invoice value, it being understood that a part of a month will be charged as a full month, until full payment of the outstanding amount has been received by Total Corbion PLA. If payment has not been made in accordance with this paragraph, Buyer shall be obliged to pay all extra-legal (extrajudicial and judicial) costs of collection.
 - 4.4 All claims relating to invoices must be notified in writing with documentary evidence to Total Corbion PLA within seven days from the date of invoice. Thereafter, Buyer shall be deemed to have approved the invoice (subject to the provisions of article 7 of these Terms). Buyer is not entitled to suspend its payment obligations.
- 5. Delivery**
 - 5.1 Total Corbion PLA shall deliver the Product in accordance with the applicable Incoterm® ICC 2010 agreed upon between the Parties.
 - 5.2 Any agreed delivery times are estimates only and Total Corbion PLA shall not be liable for any delay in delivery of the Product. The time of delivery is not of the essence for the Contract, unless otherwise agreed in writing. If Total Corbion PLA becomes aware of, or has reason to believe there are, any circumstances which may affect its ability to deliver all or part of the Product within the agreed delivery times, either on a short or long term basis, Total Corbion PLA shall, without prejudice to force majeure however, immediately notify Buyer thereof.
 - 5.3 Total Corbion PLA may deliver the Product by instalments.
- 6. Transfer of risk and title**
 - 6.1 All risks of loss or damage to the Product and the responsibility for the damages or injuries they may cause shall be transferred to Buyer at the time of Delivery.
 - 6.2 Title to Product shall pass to Buyer after payment in full of the corresponding invoice(s), and if applicable, late payment interest. Until such payment in full, Buyer may only resell the Product within the scope of its normal business activities and only in an arm's length transaction.
 - 6.3 Buyer must ensure that the Product that is still the property of Total Corbion PLA remains identifiable. Should Buyer be in default or should there be good reason to suspect that Buyer may default on any of its obligations, Total Corbion PLA shall be entitled to remove the Product that it owns from Buyer's possession or from the possession of a third party holding the Product on behalf of Buyer at Buyer's expense.
 - 6.4 Buyer must insure and keep insured against loss, damage and theft all the Products delivered under the aforementioned retention of title and make the insurance policy available for inspection by Total Corbion PLA upon request.
- 7. Inspection, claims and notification**
 - 7.1 The determination of the quantity shall be made by Total Corbion PLA at Total Corbion PLA's plant or warehouse in accordance with good standard practice.
 - 7.2 Total Corbion PLA will provide Buyer with a certificate of conformity or a certificate of analysis with each shipment of Product.
 - 7.3 The certificates of quantity and quality (or such other equivalent documents as may be issued by the loading terminal) shall, save fraud or manifest error, be used for invoicing purposes.
 - 7.4 Upon Delivery of Product, Buyer shall inspect Product and conduct all appropriate checks to ensure quantitative and qualitative compliance of Product. Buyer shall notify any apparent defect or missing quantities and immediately mark the transport documents accordingly, and shall confirm in writing to Total Corbion PLA any defects discovered during this incoming inspection within seven days following Delivery.
 - 7.5 For any other claim relating to the quantity or quality of Product for any reason, Buyer must provide notice by registered mail, with supporting documentation, to Total Corbion PLA within seven days from the earlier of (i) the date of discovery of the defect or (ii) the date such defect would have been discovered by a reasonable (i.e., a diligent, normal and prudent) person, but in any case no later than 90 days from the date of Delivery. Any and all claims relating to quantity or quality of Product, whether in contract or in tort (including negligence), not notified within the above timeframes and with evidence fully supporting the claim, will be deemed waived.
- 8. Warranties and liability**
 - 8.1 Total Corbion PLA warrants it has good and marketable title to Product sold to Buyer and that, at the time of Delivery Product delivered conforms to Total Corbion PLA's Specifications. Total Corbion PLA makes no other warranties of any kind, express or implied, including any warranty of merchantability or fitness of the Product for any particular purpose, even if that purpose is known to Total Corbion PLA. Total Corbion PLA makes no representations or warranties, express or implied, concerning the suitability of the Product for processing or for Buyer's intended use, processing, application, sale, or marketing. Buyer is solely responsible for the selection of Product and the determination of the suitability of Product for processing, use, sale, marketing, or other application(s). Any technical support, application information, advice, or assistance that Total Corbion PLA may furnish to Buyer is gratuitous and shall in no way be deemed part of the sale. Total Corbion PLA makes no representations or warranties, express or implied, of any technical support, any proprietary information provided, or the results that might be obtained from technical support.
 - 8.2 In case of claim made by Buyer in accordance with the provisions of article 7 and non-conformity is asserted after contradictory examination, Total Corbion PLA's sole and entire liability and Buyer's sole and exclusive remedy for any such claim shall be, at Total Corbion PLA's option, (i) the replacement of non-conforming Product or (ii) the refund of the price of Product if payment has already been effected, or (iii) if the non-conforming Product does not meet the contractual Specifications but is nevertheless usable by Buyer, the negotiation in good faith of a mutually acceptable arrangement in respect thereof (e.g., a reduction of price for such non-conforming Product) and the conclusion of such arrangement will be deemed as an acceptance of non-conforming Product by Buyer; to the exclusion of any other liability or indemnity of any kind. No return of Product shall be accepted without the prior written acceptance of Total Corbion PLA.
 - 8.3 In any case, and to the extent permitted by applicable law, the maximum aggregate liability of Total Corbion PLA for all losses (including breach of warranty), injuries, or damages arising out of or in connection with the Contract shall be limited to Buyer's actual damages, not to exceed the lesser of (i) the value of Product (as invoiced or to be invoiced) related to the claim or cause of action or (ii) USD 250,000.
 - 8.4 Under no circumstances shall Total Corbion PLA be liable for any loss of profit, loss of income, loss of production, loss of business opportunity, loss of contract, loss of reputation, for indirect, special, incidental or consequential damages, whether foreseeable or not.
 - 8.5 After Delivery of Product to Buyer, Buyer assumes responsibility for injury, loss, damage, and compliance with applicable regulations regarding the handling, storage, sale, processing, use, or misuse of Product, and Total Corbion PLA shall have no liability thereof.
 - 8.6 Without prejudice to article 7, Buyer must notify Total Corbion PLA, including supporting evidence, of any claim within six months after the event causing the loss, failing which such claims are deemed to be waived.
 - 8.7 Buyer shall indemnify and hold Total Corbion PLA harmless from and against any claim, liabilities, costs, expenses (including court costs, reasonable legal expenses and attorneys' fees), or damages caused by Buyer's handling, storage, use, processing, application, resale of Product or the end use or application of Product by Buyer.
- 9. Specifications and samples**
 - 9.1 Total Corbion PLA is entitled to make changes to the Specifications which are required to conform to any applicable statutory requirements or which do not materially affect the quality of the Product, provided it informs the Buyer thereof.
 - 9.2 Unless otherwise agreed in writing, any samples supplied to Buyer are for information purposes only and do not imply any express or implied representation or warranty, or commitment by Total Corbion PLA that the Product will have the same characteristics as such sample.
- 10. Non-performance and termination**
 - 10.1 If at any time for the duration of the Contract Buyer:
 - a. is in breach of the Contract and/or the order and does not remedy the breach within seven days from the receipt of written notice from the party requiring remedy or such breach is incapable of remedy; or
 - b. is declared bankrupt, requests suspension of payment, is declared commercially incompetent by order of a court, enters into liquidation, compounds with its creditors or takes or suffers any similar action in consequence of debt or is unable to pay its debts as they mature, or is involved in any insolvency or reorganisation proceedings supervised by a court, then, Total Corbion PLA may, without prejudice to any other rights and remedies it may have under the Contract or at law, and upon written notice taking effect immediately, (i) terminate the Contract and/or the order, (ii) cancel or suspend further deliveries, (iii) take repossession of any delivered Product not yet paid in full, and (iv) demand compensation for the damages and costs incurred.
 11. **Force majeure**
 - 11.1 Neither Party (the "Affected Party") shall be liable for any failure to perform or delay in performance of the Contract, except the making of payments, causes directly or indirectly by an event of force majeure that the Affected Party could not reasonably have predicted and to the extent that the Affected Party was unable to reasonably avoid or overcome such event or its consequences.
 - 11.2 Each of the following occurrences shall constitute an event of force majeure even if the above criteria are not fulfilled: acts of civil or military authority, fire, epidemic, flood, earthquake, riot, war, sabotage, terrorist attack, strikes, labor disputes, lock out of workers, transport problems, import or export restrictions, (partial) breakdowns of or accidents to machinery, shortage of materials in the market, financial or other crisis, failure of suppliers or governmental action.
 - 11.3 The Affected Party shall provide the other Party with written notice of the nature and anticipated duration of the force majeure event as soon as practically possible. The Affected Party may omit purchases or deliveries during the force majeure period and the contract volume shall be reduced by the quantities so omitted. In no event shall Total Corbion PLA be required to purchase products, raw materials, feedstocks, energy or materials from others or a different source in order to deliver Product to Buyer.
 12. **Confidentiality**

Parties will not disclose to any third party (a) the commercial terms and conditions of the Contract and (b) the information of a confidential nature received during the term of the Contract, except (i) to affiliates, (ii) if the information enters into the public domain, or (iii) as a result of a decision by a court or governmental authority.
 13. **Miscellaneous**
 - 13.1 The provisions of the Contract may only be amended upon the mutual written agreement of the Parties.
 - 13.2 Buyer shall not assign or otherwise transfer all or part of the Contract without the prior written consent of Total Corbion PLA. Total Corbion PLA shall be entitled to freely assign the Contract to any of its Affiliates, in which case Buyer expressly agrees Total Corbion PLA shall be released from its contractual obligations.
 - 13.3 In the case of a company restructuring or change of control, Buyer shall notify Total Corbion PLA with adequate information to allow Total Corbion PLA to assess the impact of changes and Total Corbion PLA shall have the right to terminate the Contract with a two weeks' notice without prejudice to any other rights and remedies.
 - 13.4 Whenever possible, the provisions of this Contract shall be interpreted in such a manner as to be valid and enforceable under the applicable law. However, should any provision of the Contract be or become invalid or unenforceable under any law, regulations or court decision, such provision shall be considered as not written. All other provisions of the Contract shall, however, remain valid. Moreover, in such an event, the Parties shall amend the invalid, illegal or unenforceable provision(s) or any part thereof and/or agree on a new provision, in such a way as to reflect insofar as possible the purpose of the invalid, illegal or unenforceable provision(s).
 - 13.5 Failure of any of the Parties to enforce at any time or for any period of time any of the provisions of the Contract shall not constitute a waiver of such provisions and shall not preclude any further enforcement of such provisions.
 14. **Governing law and jurisdiction**
 - 14.1 The Contract shall be governed by the laws of the Netherlands with no reference to conflict of laws provisions.
 - 14.2 Without prejudice to provisional and conservatory measures, the Parties shall attempt to amicably resolve any dispute or conflict regarding the validity, interpretation or performance of the Contract. If the dispute cannot be amicably settled by the Parties within a period of two calendar months after the date of notification (by registered mail) of the dispute by one Party to the other, the dispute shall be resolved by three arbitrators in accordance with the Rules of Arbitration of the International Chamber of Commerce then in force. The seat of arbitration shall be Amsterdam and the language of the arbitration shall be English.
 - 14.3 The Parties expressly waive application of the United Nations Convention on Contracts for the International Sale of Goods, which was concluded in Vienna on April 11, 1980.