

EUROAPI Italy - Terms and Conditions of Sale

1. GENERAL

These Terms and Conditions of Sale ("**TCS**") shall apply to the offering, sales and delivery of any and all Goods and/or Services (by EUROAPI Italy S.r.l. and/or any of its Affiliates (hereinafter together and individually "**EUROAPI**") to any third-party purchaser ("**Customer**"). The Customer is deemed to have read and accepted these TCS in the absence of any written objection on Customer's part prior the Delivery of the Goods and/or the performance of the Services.

These TCS shall apply to the Contract to the exclusion of any and all terms and conditions of any Purchase Order placed by Customer and any other terms and conditions submitted by Customer or which are implied by law, trade custom, practice or course of dealing. For any deviation from these TCS to be applicable and effective, such deviation and/or other terms and conditions shall explicitly be accepted and confirmed by EUROAPI in writing. Failure of EUROAPI to object to terms and conditions set by Customer shall in no event be construed as an acceptance of any terms and conditions of Customer. Neither EUROAPI's commencement of performance nor EUROAPI's Delivery shall be deemed or constituted as acceptance of any of Customer's terms and conditions. If these TCS differ from any terms and conditions of Customer, these TCS and any subsequent communication or conduct by or on behalf of EUROAPI, including, without limitation, a confirmation of an order and the Delivery of Goods, shall constitute a counteroffer and not the acceptance of such terms and conditions submitted by Customer. Any communication or conduct of Customer which confirms an agreement for the Delivery of Goods by EUROAPI, as well as acceptance by Customer of any Delivery of Goods from EUROAPI shall constitute an unqualified acceptance by Customer of these TCS.

These TCS may only be amended or waived in writing by duly authorized representatives of EUROAPI and Customer.

2. DEFINITIONS

- 2.1. "**Affiliate**" shall mean, with respect to a particular party or other entity, any corporation or business entity that directly or indirectly, controls, is controlled by, or is under common control with either party. The term "**control**," "**controlled by**" or "**under common control with**" shall mean the possession of the power to direct or cause the direction of management and policies of such corporation or business entity, whether through direct or indirect ownership of more than fifty percent (50%) of voting securities or otherwise.
- 2.2. "**Confidential Information**" shall have the meaning set forth in Section 9.2 below.
- 2.3. "**Contract**": the contract between EUROAPI and the Customer for the supply of Goods and/or Services which comes into full force and effect in accordance with Article 3.1.
- 2.4. "**Customer's Components**" shall refer to any and all materials or components supplied by the Customer to EUROAPI, as may be listed on the applicable Purchase Order.
- 2.5. "**Data**" shall mean any information related to the Goods and/or the Services provided by EUROAPI.
- 2.6. "**Delivery**" shall mean the delivery of Goods to the Transfer Point and "Deliver" and "Delivered" will be construed accordingly.
- 2.7. "**Facility**" shall mean any facility of EUROAPI, its Affiliates or their subcontractors that is used to produce Goods.
- 2.8. "**Goods**" shall mean any materials, equipment, products, chemicals, raw materials, intermediates, substances, components, compounds, software as set out in EUROAPI's PO Acceptance.
- 2.9. "**EUROAPI PO Acceptance**" shall have the meaning set forth in Section 3.1 below.
- 2.10. "**IP Rights**" shall have the meaning set forth in Section 8.2 below.
- 2.11. "**Purchase Order**" or "**PO**" shall mean the Customer's written order for the supply of Goods and/or Services statement of work, work order, or the Customer's acceptance of EUROAPI's quotation or any other written document setting forth the details of the Goods or Services Customer is purchasing.
- 2.12. "**Services**" shall refer to any and all services and/or all pertaining deliverables rendered by EUROAPI to Customer, as set forth in more detail in EUROAPI's PO Acceptance.
- 2.13. "**Specifications**" shall refer to technical and scientific specifications that conform to the agreed specifications for the Goods or Services as, subject to Section 4.4 below, stated in EUROAPI PO Acceptance or, in the absence of agreed specifications, to the most recent specifications held by EUROAPI at the time of Delivery of the Goods or performance of the Services (as the case may be).
- 2.14. "**Transfer Point**" shall mean the delivery point in accordance with the applicable Incoterms 2020 and the location specified in the applicable EUROAPI PO Acceptance.

3. QUOTATIONS, PURCHASE ORDERS, CANCELLATION

- 3.1. All quotations issued by EUROAPI shall be valid for a period of thirty (30) days from its date of issue unless otherwise stated in such quotation. Purchase Orders may be used to acquire Goods or Services from EUROAPI. A PO may be placed in any commercially reasonable manner the parties determine is appropriate, including via facsimile or e-mail. Each PO will indicate the Goods or Services and any appropriate specifications related thereto, quantity, price, total purchase price, shipping instructions, requested delivery dates, appropriate billing and shipping addresses, and any other special instructions. All POs are subject to acceptance in writing by EUROAPI

to become binding subject to Sections 3.6, 4.4 and 5.2 ("EUROAPI PO Acceptance") at which point, and on which date the Contract shall come into existence. EUROAPI may at its sole discretion refuse a Purchase Order. In the event of any conflict between the terms of any PO and these TCS, these TCS shall govern the rights and obligations of the parties.

- 3.2. Oral statements and agreements made by EUROAPI's employees, officers, representatives and/or agents are not binding upon EUROAPI unless and only to the extent that such oral statements and agreements are confirmed or made in writing by a duly authorized representative(s) of EUROAPI.
- 3.3. Price quotations based on estimated or projected quantities are subject to increase in the event that actual quantities purchased during the specified period are less than the estimated or projected quantities.
- 3.4. The Customer may provide EUROAPI with Customer's Components or Customer's Confidential Information for the performance of the Contract. Customer represents and warrants that it has all necessary consents, permits, rights, and licenses in Customer Components and Customer Confidential Information required by applicable law to provide such Customer Components and Customer Confidential Information to EUROAPI for the purpose of providing Goods and performing the Services. To the extent that the Goods are to be manufactured with Customer's Components, the Customer shall fully indemnify EUROAPI for any liability arising out of or in connection with any claim made against EUROAPI and its Affiliates for any actual or alleged infringement of a third party's intellectual property rights with respect to EUROAPI's use of the Customer's Components. This Section 3.4 shall survive termination of the Contract.
- 3.5. Each Delivery shall stand as a separate transaction and any failure to deliver shall have no consequences for other deliveries.
- 3.6. Notwithstanding the above provisions of this Section 3, EUROAPI shall retain the right to suspend or delay performance of any EUROAPI PO Acceptance or require adequate assurance satisfactory to EUROAPI when, in its sole opinion, reasonable grounds exist for such action.
- 3.7. In case of cancellation or termination by the Customer of a EUROAPI PO Acceptance, EUROAPI shall retain any advance payments made by Customer and the Customer shall fully compensate EUROAPI for any and all Goods already collected, prepared or provided or any Services that EUROAPI has already engaged, committed and/or performed prior to such cancellation or termination in addition to any other damages caused or costs made by such action.

4. PERFORMANCE

- 4.1. EUROAPI shall provide the Services with reasonable skill and care in accordance with the Specifications, using suitably qualified and experienced personnel.
- 4.2. All EUROAPI obligations set forth in these TCS shall be subject to the following: EUROAPI shall not carry out such obligations where (a) the relevant Services would lead to a conflict of interest with EUROAPI's preexisting contractual or legal obligations; or (b) EUROAPI is prevented from doing so by any reason outside of its reasonable control, including breach of these TCS by the Customer.
- 4.3. EUROAPI shall not guarantee any favorable or useful result arising from the performance of any Services or provision of Goods and Data.
- 4.4. Unless the Specifications have been agreed to be firm for a certain period or quantity of Goods, EUROAPI reserves the right to change or modify the Specifications, and/or the manufacturing of the Goods or the performance of the Services, and to substitute materials used in the production and/or manufacturing of the Goods and the performance of the Services, from time to time. Customer acknowledges that Data in EUROAPI's catalogues, specification sheets and other descriptive publications distributed or published on EUROAPI's website, may accordingly be varied from time to time without notice. Any statement, recommendation, advice, sample or other Data of EUROAPI in relation to the Specifications, the Goods, the Services and the use thereof shall be furnished for Customer's information only.
- 4.5. Customer must utilize and solely rely on its own expertise, know-how and judgement (i) in relation to the Goods and Services and Customer's use thereof and (ii) in Customer's application of any Data obtained at the request of Customer. Consultation provided by EUROAPI shall not create any additional obligations on EUROAPI. Details and Data provided with regard to the suitability and use of the Goods or the Services shall not be binding and EUROAPI does not assume any liability based on such consultations.

5. PRICES – PAYMENTS

- 5.1. EUROAPI's list prices are subject to change without prior notice to the Customer. If EUROAPI grants any discount, this discount only relates to the Delivery specifically mentioned in the EUROAPI PO Acceptance.
- 5.2. EUROAPI may, by giving notice to the Customer at any time up to fourteen (14) days before Delivery or the start of the performance of the Services, increase the cost set out in EUROAPI PO Acceptance to reflect any increase in costs due to: (a) any factor beyond EUROAPI's control (including without limitation, foreign exchange fluctuations, increases in taxes and duties, and increases in labor, raw and auxiliary materials, products obtained by EUROAPI from third parties, transformation cost of third parties, freight costs and insurance premiums, energy, manufacturing and shipping costs, governmental charges); (b) any request by the Customer to change the Delivery date(s), quantities or types of Goods or Services ordered, or the Specification; or (c) any delay caused by any Customer instructions or the Customer's failure to give EUROAPI adequate or accurate information or instructions.
- 5.3. Unless expressly stated otherwise in EUROAPI PO Acceptance, payment shall be made in the currency set out in the EUROAPI PO Acceptance by wire transfer to the EUROAPI's bank account mentioned in the invoice.
- 5.4. With regard to payment time is of the essence. Payment by the Customer shall be due no later than thirty (30) days as of the date of each invoice. Prices are exclusive of taxes and fees, and Customer shall pay all applicable sales tax, including any and all value added tax, levies, shipping, import or export duties, customs fees and freight charges or any charges in any jurisdiction in relation to the Goods and the Services or the delivery thereof. Interest shall be payable, calculated on a daily basis, on any overdue payments, at the maximum rate allowed by applicable law until all outstanding amounts are paid in full. All costs and expenses incurred by EUROAPI with respect to collection of overdue payments (including, without limitation, reasonable attorney's fees, expert fees, court costs and other expenses of

litigation) shall be for Customer's account. Every payment by Customer shall in the first place serve to pay the judicial and extra judicial costs and the interest owed by it and afterwards shall be deducted from the eldest outstanding claim regardless of contrary advice from Customer.

- 5.5. Any complaint with respect to the invoice must be notified to EUROAPI in writing within eight (8) days after the date of invoice. Thereafter Customer shall be deemed to have approved the invoice. Such complaint shall not release the Customer from its timely obligation of payment under this Section.
- 5.6. All amounts due under the Contract shall be paid in full by Customer without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

6. DELIVERY AND ACCEPTANCE

- 6.1. All Goods will be Delivered to Customer under the applicable Incoterms 2020 specified in the EUROAPI PO Acceptance. The risk of the Goods shall pass to Customer on the Transfer Point. The Customer is responsible for controlling the quantity, identity and quality of the Goods upon Delivery and for securing its rights towards the carrier, by expressing any reservations to carrier in a timely manner and in the form set out by the applicable law.
- 6.2. All Delivery dates, performance dates or times with respect to the Goods and Services are best estimates possible based on current and anticipated conditions and shall not be of the essence. In no event shall EUROAPI be liable for any kind of damage or loss, cost or expense caused or incurred by any delay. EUROAPI shall keep the Customer reasonably apprised of the availability and estimated Delivery dates of such Goods or performance of the Services. Delay in Delivery of any Goods or performance of the Services shall not relieve Customer of its obligation to accept Delivery or performance thereof.
- 6.3. EUROAPI is entitled to Deliver the Goods and perform Services stated in EUROAPI PO Acceptance in parts and to invoice separately. Deviations in quantity of Goods Delivered or Services received from that stated in EUROAPI PO Acceptance shall not give Customer the right not to accept the Goods or receive the Services. In case of partial Delivery, Customer shall be obliged to pay the rate specified in EUROAPI PO Acceptance for the actual quantity of Goods Delivered or Services received.
- 6.4. Customer shall accept any Goods or Services that comply with the Specifications set forth in any EUROAPI PO Acceptance. Customer's wrongful non-acceptance or rejection of Goods or Services shall entitle EUROAPI to recover the full price of such Goods and/or Services, in addition to any other damages caused or costs made by such action.
- 6.5. Goods for which Delivery is suspended pending payment by Customer, as well as Goods of which Delivery is wrongfully rejected or not accepted by Customer, shall be held and stored by EUROAPI at the sole risk and full expense of Customer.

7. CONFORMITY TO SPECIFICATIONS – REJECTION

- 7.1. Customer shall examine the Goods on Delivery and satisfy itself that the Goods Delivered meet all contractual requirements.
- 7.2. Complaints about the Goods shall be made in writing and must reach EUROAPI not later than seven (7) days from the date of Delivery in respect of any defect, default or shortage which would be apparent from a reasonable inspection on Delivery, and seven (7) days from the date on which any other claim was or ought to have been apparent, but in no event later than six (6) months from the date of Delivery of the Goods. Use or processing of the Goods shall be deemed to be an unconditional acceptance of the Goods and a waiver of all claims in respect of the Goods.
- 7.3. Customer may reject any Goods or Services that do not conform to the Specifications. For proper rejection of any Goods or Services, the Customer shall deliver written notice of its intent to reject the Goods or Services within seven (7) business days of receipt of the applicable Goods or of discovery of the defect (in case of latent defect) but in no event later than six (6) months from the date of Delivery of the Goods, and within twenty (20) business days of receipt of the applicable Services, together with a written indication of the basis for such rejection. If such notice is not delivered within the specified period of time, any such Goods or Services shall be deemed accepted by the Customer.
- 7.4. If any complaint about the Goods is received in accordance with Section 7.1 or 7.2, determination of whether or not Delivered Goods conform to the Specifications shall be done solely by analyzing the samples or records retained by EUROAPI and taken from the batches or production runs in which the Goods were produced in accordance with the methods of analysis used by EUROAPI. Goods that EUROAPI consents in writing to be returned shall be returned to EUROAPI at the risk of Customer, to the destination directed by EUROAPI.
- 7.5. Defects in parts of the Goods stated in EUROAPI PO Acceptance do not entitle Customer to reject the entire Delivery of the Goods. Complaints, if any, do not affect Customer's obligation to pay in accordance with Section 5. Upon receipt of a notice of defect, EUROAPI is entitled to suspend all further deliveries until the complaints are established to be unfounded and/or refuted or until the defect has been totally cured.

8. OWNERSHIP & INTELLECTUAL PROPERTY RIGHTS

- 8.1. Ownership to the Goods and Services but excluding in either case EUROAPI's IP Rights (as defined below) and the title thereto, shall pass to the Customer upon Delivery in accordance with Section 6 and subject to receipt by EUROAPI of full payment of the Goods and/or Services including all secondary costs such as, for example, interest, charges.
- 8.2. Each party shall remain the absolute and unencumbered owner of any intellectual property rights owned by or otherwise in the possession of that party at the date of the EUROAPI PO Acceptance, including without limitation, any know-how, trade secrets, copyrights, trademarks, patent applications, and patents (hereinafter, "**IP Rights**"). EUROAPI has not verified the possible existence of third party intellectual property rights which might be infringed as a consequence of the sale and Delivery of the Goods or Services and cannot be held liable for any loss or damages in that respect.

- 8.3. As between the parties, the Customer shall own any invention to the extent that it is first reduced to practice by EUROAPI during the course of the Services, but solely to the extent that such invention incorporates either the Customer's IP Rights or the Customer's Confidential Information; provided that (i) Customer shall not be granted any ownership rights, licenses, title or any other rights in or to any EUROAPI rights to the extent that such rights relate to any EUROAPI IP Rights, which include, but are not limited to any method, process, assay, software, source code, information, analyses or other technology or know-how used by EUROAPI in its own business; and (ii) the Customer shall not assert or seek to assert against EUROAPI or its other customers any such right to the extent it would preclude EUROAPI from: (x) providing its services to third parties or (y) freely utilizing EUROAPI IP Rights.
- 8.4. Except as set forth above, all IP Rights which arise out of or in the performance of Services automatically vest in EUROAPI. Save as otherwise expressly stated herein, no rights, licenses or obligations are granted by or to be implied by these TCS. Nothing in these TCS shall be deemed to grant the Customer any license to practice any EUROAPI IP Rights.
- 8.5. The sale of Goods shall not, by implication or otherwise, convey any license under any IP Rights relating to the compositions and/or applications of the Goods, and Customer expressly assumes all risks of any intellectual property infringement by reason of its importation, use of the Goods, whether singly or in combination with other materials or in any processing operation.

9. CONFIDENTIALITY

- 9.1. The parties shall take all steps reasonably necessary to hold the other party's Confidential Information in strict confidence and shall not use such Confidential Information for any purpose other than that expressly stated in these TCS, nor shall either party disclose the Confidential Information belonging to the other party to any third party without the prior written consent of the disclosing party for the term of the Contract and 5 (five) years thereafter. Upon written request of the Disclosing Party, the Receiving Party shall destroy or return all Confidential Information belonging to the Disclosing Party no later than sixty (60) days after such request, except that each party may retain one copy of the Confidential Information of the other party for legal or administrative purposes only.
- 9.2. "**Confidential Information**" shall refer to any non-public information provided to or on behalf of one party (the "**Disclosing Party**") to the other (the "**Receiving Party**") pursuant to or relating to these TCS that is identified by the Disclosing Party as confidential or proprietary or that is reasonably identifiable under the circumstances of disclosure by the Receiving Party as confidential, other than any information which (i) has been published or comes into the public domain other than by breach of these TCS by the Receiving Party; (ii) is known to the Receiving Party prior to the date of disclosure as evidenced by Receiving Party's contemporaneous written records; (iii) is disclosed to the Receiving Party by a third party having the legal right to make such disclosure; or (iv) is developed by the Receiving Party, independently of the Contract. The Receiving Party may disclose Confidential Information belonging to the Disclosing Party solely to the extent required by any applicable law or competent authority ("**Legal Compliance**"), to which the Receiving Party is subject, provided the Receiving Party gives the Disclosing Party a reasonable opportunity to oppose, limit or seek confidential treatment with regard to such required disclosure. Information disclosed for Legal Compliance shall nonetheless be considered Confidential Information subject to the protections of this provision.

10. PUBLICATION

The Customer, and any individuals designated by the Customer may publish the results of work performed with the Goods or Services, except to the extent such results include proprietary Data or IP Rights or Confidential Information belonging to EUROAPI. The Customer shall use reasonable efforts to reference EUROAPI as the provider of the Goods or Services in any scholarly or industry publication arising from the use of the Goods or Services. Notwithstanding, neither party shall use the name, logo, trademark or service mark of the other party, or any variation thereof, for any purpose in advertising, press release, publicity or promotional literature without the prior written consent of the party whose mark is proposed to be utilized.

11. HAZARDOUS MATERIALS

GOODS DELIVERED PURSUANT TO THESE TCS MAY BE EXPERIMENTAL IN NATURE OR HAVE HAZARDOUS OR UNKNOWN PROPERTIES. EUROAPI MAKES NO REPRESENTATIONS OR WARRANTIES, EITHER EXPRESS OR IMPLIED, AS TO THE MERCHANTABILITY OR FITNESS OF THE GOODS OR DATA FOR A PARTICULAR PURPOSE. If Customer provides EUROAPI with Customer's Components for use in the Services, the Customer shall provide all relevant information regarding the safety, handling, use, disposal and environmental effects of such Customer's Components.

12. LIMITED WARRANTY – ASSUMPTION OF RISK

- 12.1. EUROAPI solely warrants that on the date of Delivery, the Goods shall conform to the Specifications. If and to the extent Goods fail to meet such warranty or in case of latent defect which is proven to be attributable to EUROAPI solely and exclusively, as shall be determined in accordance with the provisions of Section 7, EUROAPI may at its own option within a reasonable time either replace the Goods at no charge to Customer, or issue a credit note for any such Goods in the amount of the original invoice price. Accordingly, EUROAPI's obligation shall be limited solely to replacement or for credit of the Goods.
- 12.2. However, EUROAPI's obligation to replace or credit shall be contingent upon receipt by EUROAPI of timely notice of any alleged non-conformance of Goods and, if applicable, the return of the Goods, in accordance with Section 7. The foregoing warranty is exclusive and in lieu of all other warranties, representations, conditions or other terms, express, implied, statutory, contractually or otherwise, including,

without limitation, any warranty of merchantability, suitability or fitness for any purpose, or absence of infringement of any claim in any patent or other IP Rights covering the Goods.

- 12.3. Customer acknowledges that the use of the Goods may be subject to requirements or limitations under applicable law. Customer shall be exclusively responsible for (i) ensuring compliance with applicable law and regulations associated with its intended use of the Goods; and (ii) obtaining all necessary approvals, permits or clearances for such use.
- 12.4. Each Party warrants that it shall comply with all obligations and restrictions arising from applicable law, regulations, or other binding measures of the European Union, any EU member state, the United States of America or any other jurisdiction applicable to the transactions mentioned in Section 1, which relate to economic or trade sanctions, export controls, non-proliferation, anti-terrorism or similar restrictions.
- 12.5. TO THE FULLEST EXTENT PERMITTED BY LAW, THE CUSTOMER SHALL ASSUME ALL LIABILITY FOR DAMAGES OR LOSS THAT MAY ARISE FROM THE CUSTOMER'S USE, STORAGE, TRANSFER, PROCESSING, SALE OR DISPOSAL OF THE GOODS OR SERVICES. TO THE FULLEST EXTENT PERMITTED BY LAW EUROAPI SHALL NOT BE LIABLE TO THE CUSTOMER OR ANY OTHER PARTY FOR ANY KIND OF LOSS, CLAIM OR DEMAND MADE BY OR AGAINST THE CUSTOMER OR ANY OTHER PARTY, DUE TO OR ARISING OUT OF OR IN CONNECTION WITH THE SERVICES OR THE USE OF THE GOODS AND SERVICES, EXCEPT, AND SUBJECT TO SECTION 13, TO THE EXTENT CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF EUROAPI. CUSTOMER SHALL HOLD HARMLESS, INDEMNIFY AND DEFEND EUROAPI AND ITS AFFILIATES AND ITS OFFICERS, AGENTS, AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, INJURIES, ACTUAL AND/OR CONTINGENT DAMAGES, LOSSES, COSTS, EXPENSES OR SUITS INCLUDING ATTORNEY FEES, ARISING OUT OF OR IN CONNECTION WITH THE GOODS, THE SERVICES, CUSTOMER'S USE THEREOF AND/OR CUSTOMER'S USE OR APPLICATION OF ANY INFORMATION DISCLOSED OR PROVIDED BY OR ON BEHALF OF EUROAPI.
- 12.6. Any samples supplied to Customer are supplied solely for information purposes and in no way imply any express or implied conditions or warranties of any kind, including as to quality, description, merchantability, suitability or fitness for any purpose and Customer shall be deemed to have satisfied itself as to such matters prior to ordering the Goods.

13. LIMITATION ON LIABILITY

NOTWITHSTANDING ANYTHING HEREIN CONTAINED TO THE CONTRARY, EUROAPI'S TOTAL AND MAXIMUM LIABILITY TO THE CUSTOMER FOR ANY CAUSE WHATSOEVER IN RELATION TO ANY EUROAPI PO ACCEPTANCE GOVERNED BY THESE TCS SHALL BE LIMITED TO DIRECT COSTS AND DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE GOODS AND SERVICES AND ANY USE THEREOF, ONLY IN AN AMOUNT NOT EXCEEDING THE TOTAL AMOUNT RECEIVED BY EUROAPI FROM THE CUSTOMER FOR THE GOODS OR SERVICES THAT ARE THE SUBJECT OF THE CLAIM UNDER THAT PARTICULAR EUROAPI PO ACCEPTANCE WITH RESPECT TO WHICH THE LIABILITY ARISES. THE PARTIES HEREBY AGREE THAT THE LIMITATIONS CONTAINED HEREIN ARE REASONABLE IN LIGHT OF ALL THE CIRCUMSTANCES. TO THE FULLEST EXTENT PERMITTED BY LAW, ALL LIABILITY THAT IS NOT EXPRESSLY ASSUMED BY EUROAPI IN THESE TCS IS HEREBY EXCLUDED. UNDER NO CIRCUMSTANCES SHALL EUROAPI BE LIABLE TO THE CUSTOMER OR ANY OTHER PERSON FOR ANY SPECIAL, EXEMPLARY, PUNITIVE, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES REGARDLESS OF THE CAUSE, LOSS, COST OR EXPENSE, INCLUDING WITHOUT LIMITATION, DAMAGE BASED UPON LOST GOODWILL, LOST SALES OR PROFITS, WORK STOPPAGE, PRODUCTION FAILURE, IMPAIRMENT OF OTHER GOODS OR OTHERWISE, AND WHETHER ARISING OUT OF OR IN CONNECTION WITH BREACH OF WARRANTY, BREACH OF CONTRACT, MISREPRESENTATION, NEGLIGENCE OR OTHERWISE.

14. CUSTOMER'S INSOLVENCY OR INCAPACITY

- 14.1. If the Customer becomes subject to any of the events listed in Section 14.2, or EUROAPI reasonably believes that the Customer is about to become subject to any of them and notifies the Customer accordingly, then, without limiting any other right or remedy available to EUROAPI, EUROAPI may, if allowed by applicable law, cancel or suspend all further Deliveries under these TCS or under any EUROAPI PO Acceptance without incurring any liability to the Customer, and all outstanding sums with respect to Goods prepared or collected for or Services performed for the Customer shall become immediately due.
- 14.2. For purposes of Section 14.1 above, the relevant events are: (a) the Customer files a petition in bankruptcy or for reorganization pursuant to the French Commercial Code or any similar state or foreign law; (b) an order is made for the appointment of an administrator to manage the Customer's affairs, business and property, or such an administrator is appointed; (c) an order is made for a trustee, receiver or liquidator to be appointed with respect to the Customer, or any creditors of the Customer has an involuntary petition in bankruptcy filed against it pursuant to the French Commercial Code or any similar foreign law, and such order or petition shall not be discharged or dismissed within sixty (60) days; (d) the Customer is adjudicated as bankrupt or be declared insolvent by court decree, or makes an assignment for the benefit of creditors, admits in writing its inability to pay its debts generally as they become due, or consents to the appointment of a receiver or receivers over all or any part of its property; (e) an application to a court for protection from its creditors is made by the Customer (f) any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in condition 14.2(a) to 14.2(e) (inclusive); or (g) the Customer suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

15. ETHICS – DATA PRIVACY

Both parties warrant that any and all of its activities hereunder shall be in compliance with all applicable law, regulations, guidelines governing data protection and privacy, ethics and anti-bribery.

Both parties shall comply with EUROAPI's Code of Ethics available at <https://www.euroapi.com/en/about-us/environmental-social-and-governance/resource-center>, as amended by EUROAPI from time to time.

16. GOVERNING LAW, JURISDICTION, INJUNCTIVE RELIEF, LIMITATION OF ACTION

- 16.1. The parties' rights and obligations arising out of or in connection with EUROAPI PO Acceptance and/or these TCS and the Contract shall be governed, construed, interpreted and enforced according to the laws of France, excluding principles of conflict of laws. The applicability of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded.

- 16.2. Both parties will endeavor to settle amicably any dispute arising under or relating to these TCS, POs, EUROAPI PO Acceptance or the Contract within sixty (60) days. Failing amicable settlement, the dispute shall be finally settled under the then current Rules of Arbitration of the International Chamber of Commerce by one (1) or three (3) arbitrators appointed in accordance with the said rules. The arbitrator(s) should decide in law and not as « amiable compositors » and the decision of the arbitrators shall be final and binding and enforceable by any court of competent jurisdiction. The language used in the hearing and proceedings shall be English. The place of arbitration shall be Paris, France.
- 16.3. Injunctive Relief. A breach of Sections 8, 9, 10 or 12.5 may result in irreparable and continuing harm to a party for which there may be no adequate remedy at law and entitles an affected party to seek injunctive relief as well as other and further relief as may be appropriate. The parties agree to submit to the personal jurisdiction of France and further agree that any relief sought under this Contract shall fall under the exclusive jurisdiction of the Paris.
- 16.4. Subject to and without prejudice to Section 7, Customer shall not bring an action with respect to complaints (other than complaints under Section 7), unless Customer first provides written notice to EUROAPI of any claim alleged to exist against EUROAPI within thirty (30) days after the event complained of first becomes known to Customer and an action is commenced by Customer within twelve (12) months after such notice.

17. MISCELLANEOUS

- 17.1. Integration. These TCS, the EUROAPI PO Acceptance and the Contract governed by it, are the final, complete and exclusive agreement of the parties with respect to the subject matter hereof and supersede and merge all prior discussions or proposals between the parties. This TCS takes precedence over any conflicting terms, including without limitation, terms included on an invoice or Purchase Order.
- 17.2. Independent Contractors. The relationship between the parties is that of independent contractors. Nothing in these TCS shall be interpreted to create a partnership, joint venture, agent or employment relationship. No party may act as an agent of the other party hereunder, except as otherwise provided herein. No sale to or obligation of either party towards a third party shall in any way bind the other party.
- 17.3. No Third-Party Beneficiaries. These TCS is not enforceable by any person or entity that is not a party to it.
- 17.4. Force Majeure. Neither party shall be liable in any way for any damage, loss, cost or expense arising out of or in connection with any delay, restriction, interference or failure in performing any obligation towards the other party caused by any circumstance beyond its reasonable control, including, without limitation, acts of God, laws, statutes, ordinances, regulations, legislative measures, acts of governments or other administrative measures, orders or decrees of any court, earthquake, flood, fire, explosion, war, terrorism, riot, sabotage, accident, epidemic, strike, lockout, slowdown, labour disturbances, difficulty in obtaining necessary labor or raw materials, lack of or failure of transportation, breakdown of plant or essential machinery, emergency repair or maintenance, breakdown or shortage of utilities, delay in Delivery or defects in goods supplied by suppliers or subcontractors ("**Force Majeure**").
- Upon the occurrence of any event of Force Majeure, the party suffering thereby shall promptly inform the other party by written notice thereof specifying the cause of the event and how it will affect its performance of its obligations under EUROAPI PO Acceptance. In the event of any delay, the obligation to Deliver shall be suspended for a period equal to the time loss by reason of Force Majeure. However, should a Force Majeure event continue or be expected to continue for a period extending to more than two (2) months after the agreed Delivery date, either party is entitled to cancel the affected part of EUROAPI PO Acceptance without any liability to the other party.
- 17.5. Notices. Any notice required under these TCS shall be in writing and shall be delivered by certified mail, return receipt requested; postage prepaid, or guaranteed overnight delivery service to the addresses provided by each party to the other.
- 17.6. Assignment. The Customer shall not assign or transfer any rights or obligations under any POs, related EUROAPI PO Acceptance under these TCS without the prior written consent of EUROAPI, which shall not be unreasonably withheld. If EUROAPI consents to any assignment, such consent shall not relieve Customer of or from any of the obligations or duties under POs and related EUROAPI PO Acceptance. EUROAPI may freely assign or transfer the rights and obligations under any POs, related EUROAPI PO Acceptance under these TCS, in whole or in part, to an Affiliate or to a third party pursuant to a merger, acquisition or sale of substantially all of the assets of the company.
- 17.7. Severability and Waiver. If any provision of these TCS shall be void, unlawful or for any reason unenforceable, that provision shall be severed from these TCS and, if possible, replaced by a term or provision which, so far as practicable achieves the legitimate aims of the parties and the legal and economic intent of the original provisions to the maximum extent permitted by applicable law. Any provision deemed void, unlawful or for any reason unenforceable shall not affect the validity and enforceability of the remaining provisions of these TCS. Failure, delay or omission by EUROAPI in enforcing or partially enforcing at any time any provision of these TCS and the Contract shall not be construed as a waiver of its rights under these TCS and the Contract to enforce any such provision. Any waiver by EUROAPI of any breach of Customer's obligation shall not be deemed a waiver of any other prior or subsequent breach. The parties shall not be required to give advance notice to enforce strict adherence to the terms of these TCS.
- 17.8. Amendments. The parties agree that any deviation from, amendment, revision, waiver or alteration to these TCS shall be in writing and signed by both parties.
- 17.9. Survival of Rights. The parties' rights and obligations shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, directors, officers, employees, agents and legal representatives. Termination of one or more of the rights and obligations of the parties, for whatsoever reason, shall not affect the provisions of these TCS and the Contract which are intended to continue to have effect after such termination.
- 17.10. Headings. The headings contained in these TCS are included for mere convenience of reference and shall not affect their construction or interpretation.