

## **GENERAL SALES CONDITIONS**

### **Art. 1 – Scope of the Agreement**

1.1 These general conditions (the “General Conditions”) shall apply to the sale and supply of products (the “Products”), identified in the Order (as defined hereinafter), by the Italmatch Group legal entity identified in the written order confirmation (hereinafter “Seller”) to the customer (the “Purchaser”). Seller and the Purchaser shall be hereinafter jointly referred to as the “Parties” and each of them as “Party.”

1.2 Unless otherwise agreed in writing, by entering into any sale or supply agreement with Seller, the Purchaser accepts the General Conditions hereof.

1.3 The order sent by the Purchaser and accepted in writing by Seller’s order confirmation (the “Order”), any special conditions agreed upon in writing by the Parties (the “Special Conditions”) and the General Conditions shall constitute the entire agreement between the Parties (the “Agreement”).

1.4 In case of discrepancy or conflict between the provisions set forth in the Order and those set forth in the Special Conditions or in the General Conditions, the provisions set forth in the Order shall prevail. In case of discrepancy or conflict between the provisions set forth in the Special Conditions and those set forth in the General Conditions, the provisions set forth in the Special Conditions shall prevail. Notwithstanding any of the foregoing, Articles 4, 8, 10, 11 and 12 of these General Conditions shall not be modified by any provisions set forth in the Order or the Special Conditions.

### **Art. 2 – Orders and Offers**

2.1 Unless otherwise set forth in the Agreement, every order of the Purchaser which has not been accepted in writing by Seller within 15 (fifteen) days from its receipt, shall be deemed rejected. Seller is not bound to accept any order. Likewise, the offers made by Seller

(the “Offers”) which have not been accepted by the Purchaser within 15 (fifteen) days from their receipt shall be deemed cancelled and invalid unless otherwise specified in the Offers. A late acceptance of the Offer by the Purchaser will be considered as an Order which, in order to be valid, will require Seller’s explicit written acceptance.

2.2 The offers made by agents and/or representatives of Seller are not binding until they have been written accepted by Seller.

2.3 The sending or publication of the General Conditions by Seller shall not be deemed a contractual offer nor implies acceptance of any offers made by the Purchaser. Nonetheless, the General Conditions supersede and replace any general conditions previously proposed by one of the Parties.

2.4 The sending or publication by Seller of catalogues or of descriptive/promotional materials for the Products not containing the word “offer” or other equivalent, shall not be deemed contractual offers.

### **Art. 3 – Delivery of the Products**

3.1 Unless otherwise set forth in the Agreement, Seller will deliver the Products ex-works (Incoterms: EXW). Packaging, transportation, taxes and insurance costs shall be borne by the Purchaser.

3.2 Unless otherwise set forth in the Agreement, the terms of delivery specified in the Order and in any case agreed upon in writing by the Parties shall be deemed merely indicative and not binding. Delays in the delivery of the Products shall not entitle the Purchaser to refuse the Products, to terminate the Agreement or claim compensation for damages.

3.3 Whenever Purchaser detects shortages or damages in the packaging of the delivered Products, he shall accept the goods “with due reservation,” by affixing such statement on the transport document (DDT or other) and by

promptly notifying Seller in writing within and not later than 5 working days from receipt of said Products in order to obtain a further inspection for the integrity of the Product. By accepting without reservation, or notifying after 5 working days, the Purchaser waives its right to object shortages or damages to the Products and, consequently, to claim compensation for damages.

#### **Art. 4 – Guarantees and liabilities**

4.1 Any defect or lack of quality in the Products shall have to be notified in writing by the Purchaser by means of registered mail return receipt requested within 8 days from discovery and, in any case, no later than 30 days from receipt of the goods, under penalty of expiration. A copy of the relevant invoice or transport document shall have to be attached to said complaint. No activity of Seller may be deemed as an admission of a defect unless such circumstance is expressly acknowledged in writing.

4.2 Under no circumstance shall Seller be liable for the fitness of the Products for the Purchaser's intended use.

4.3 Purchaser shall be liable for damages caused by the Products to goods and persons unless such damages are exclusively attributable to Seller and/or to the Products. Purchaser shall indemnify and hold harmless Seller from any claims or legal actions raised by third parties to the use or fitness of Products and/or to any products incorporating the Products, whether by Purchaser or any third parties.

4.4 Except with respect to wilful misconduct or gross negligence, under no circumstances shall Seller be liable for damages for loss of profit or any other specific or indirect damage of any nature whatsoever, including without limitation any damages caused by potential blockages or interruptions to production suffered by the Purchaser and/or by third parties. Furthermore, Seller is not liable for damages caused by omissions and/or

breaches of the Purchaser vis-à-vis third parties, however such breaches may occur.

4.5 Without prejudice to the provisions set forth under the foregoing articles 4.3. and 4.4. and exception for wilful misconduct or gross negligence by Seller, the liability of Seller arising under the Agreement shall not exceed an aggregate amount equal to the price of the defective Product purchased by Purchaser pursuant to the Order.

#### **Art. 5 – Price and payments**

5.1 The prices specifically agreed upon by the Parties and resulting from the Orders or the Agreement will apply to each Order.

5.2 Unless otherwise set forth in the Agreement, the Purchaser shall pay the price within 30 days from the date of invoice by means of ACH or wire transfer as specified by Seller.

5.3 Under no circumstances shall any complaints made by the Purchaser or any controversy arising between the Parties entitle Purchaser to delay or suspend payments.

5.4 In case of payments by instalments, the omitted or delinquent payment of any instalment shall cause the entire amount owed to Seller by Purchaser to become immediately due and payable.

5.5 Any delay or irregularity in payments will entitle Seller to suspend deliveries as well as the Orders not yet executed, even if not relative to such payments, and/or to cancel the relevant Order and to claim compensation for damages arising from the delay or irregularity in payment.

5.6 With regard to the provisions set forth under articles 5.4 and 5.5 hereto, Seller shall be in any case entitled – from the due date of payment – to interests for late payments without the need of a formal request. Such interest shall be calculated at 18 (eighteen) percent per annum or the maximum allowed by law. Seller shall furthermore be entitled to the reimbursement of any subsequent expense borne by Seller and due to the delayed and/or omitted payments, including without limitation

any attorney's fees incurred in collecting the debt owed on account.

5.7 Any payments made to Seller's agents and/or representatives shall not be deemed received by Seller until the relevant amounts have been credited to Seller.

5.8 The prices indicated by Seller are always net of insurance, carriage and delivery costs, value added tax (and all other similar or equivalent taxes, duties, fees and levies) and expenses respecting the Product, all of which shall be added to the price for Purchaser's account unless otherwise stipulated in writing by Seller. Unless otherwise stipulated in writing by Seller, the Price includes packaging.

#### **Art. 6 – Term and termination**

6.1 Unless otherwise set forth in the Agreement, tacit renewal is hereby explicitly excluded.

6.2 Unless otherwise set forth in the Agreement, in case the term of the Agreement exceeds 30 (thirty) days, Seller may terminate the Agreement at any time by giving the Purchaser a 15 (fifteen)-day prior written notice.

6.3 Without prejudice to any other right set forth by the applicable laws, Seller may at any time terminate the Agreement if:

the Purchaser delays one or more payments due to Seller for more than 15 (fifteen) days after the expiration of the payment term set forth in the Agreement, or

the Purchaser does not provide, or renew, the guarantees set forth in the Agreement.

Without prejudice to the right of Seller to claim compensation for damages.

#### **Art. 7 – Assignment of the Agreement**

7.1 The Purchaser shall not assign the Agreement or the rights therein contemplated without Seller's prior written consent. In case Seller consents to such transfer, the Purchaser shall remain jointly liable with the assignee of the Agreement.

#### **Art. 8 – Confidentiality**

8.1 Each Party shall not disclose to third parties confidential information concerning the other Party contained in the materials obtained or of which it became aware in the performance of the Agreement.

#### **Art. 9 – Personal data handling**

9.1 All personal data provided by the Purchaser shall be exclusively used for purposes strictly connected and instrumental to the performance of the Agreement pursuant to Sect. 12 paragraph b) of Legislative Decree no. 196/03.

#### **Art. 10 – Interpretation; amendments; invalid clauses**

10.1 Recitals and schedules form an integral and essential part of the Agreement. Each reference made to price-lists, to the General Conditions or to any other Seller's material shall be deemed as made to the documents in force at the time reference is made, unless otherwise specified; the corresponding texts previously in force between the Parties shall be deemed superseded. Seller may amend its own price-lists, General Conditions and any other material without prior notice.

10.2 No amendment or addition to the Agreement shall be effective unless agreed in writing. The derogation to one or more of the terms and conditions of the Agreement cannot be construed extensively or by analogy nor may imply the intention to waive in whole or in part the terms and conditions of the Agreement.

10.3 The nullity or invalidity of single provisions of the Agreement shall not affect or impair the validity of the remaining provisions or of the entire Agreement.

#### **Art. 11 – Force majeure**

11.1 Either Party's temporary inability to fulfil its contractual obligations due to a Force Majeure Event (defined below) will entail the suspension of the Agreement until the cause of such inability ceases to exist. As used herein, a "Force Majeure Event" shall include any events limiting or preventing normal production or distribution of the goods not occasioned by the affected party and which results, for example,

from acts of God or public enemy, restrictions, prohibitions, priorities, or allocations imposed by governmental authority, embargoes, floods, fires, typhoons, earthquakes, epidemics, unusually severe weather, delays of similar nature or governmental causes, prolonged discontinuation of supplies and transportation, plant breakdown, the onset of technical problems, and strikes or labor disputes involving the delayed party's employees (each, a "Force Majeure Event"). In the event of a Force Majeure Event affecting Seller's obligations, Seller shall not be liable for Purchaser's incidental or consequential damages resulting therefrom.

**Art. 12 – Applicable law and jurisdiction**

12.1 The Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by the laws of the state of Delaware (USA), without giving effect to its principles of conflicts of laws. The UN Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. Purchaser and Seller agree that any action arising out of or in any way related to this Order and/or any related contract, shall be brought solely in defendant's state or federal court. Both parties submit to the exclusive

jurisdiction and venue of such courts. THE PARTIES FURTHER AGREE, TO THE EXTENT PERMITTED BY APPLICABLE LAW, TO WAIVE ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO ANY CLAIM, COUNTERCLAIM, OR ACTION ARISING FROM THIS AGREEMENT.

**Art. 13 – Code of Ethics**

Seller has drawn up and published its own Code of Ethics regulating the system of ethical principles and values upon which the activities and the business relationships of the Company are based. The Code of Ethics is accessible on the Seller website: [www.Seller.com](http://www.Seller.com). The values and principles contained in the Code of Ethics are binding without exception and all those who directly or indirectly, permanently or temporarily establish business relationships with the Company are expected to comply with the ethical standards therein included. In the performance of any Agreement with the Company the non-compliance with the ethical guidelines included in the Code of Ethics by the other party is deemed as a breach of the Agreement and Seller, at its sole options, has the right to terminate the agreement without any notice and claim for any damages occurred.

# Purchase Order Terms and Conditions

## 1. General

A. These terms and conditions, together with the purchase order applicable to these terms and conditions (collectively, the "Order") constitute the complete and final agreement of Buyer and Seller as to the purchase and sale of goods, material, services and/or labor (collectively, the "Goods") and may not be added to, modified, superseded or altered by Seller's acknowledgement, a course of dealing, or in any other way except by written agreement or modification to this Order signed by Buyer's authorized representative, notwithstanding any terms and conditions which may now, or in the future, appear on Seller's invoices, quotations, acknowledgments or other forms, which are objected to and disallowed, and notwithstanding any acceptance of shipment, payment or other similar act of Buyer.

B. Any shipment, delivery or other tender of performance of Seller of the Order or failure to deliver written objection to the Order within two days of Seller's receipt thereof shall be taken as Seller's assent to and acceptance of these terms and conditions.

## 2. Performance

A. Buyer shall have the right at any time to change this Order including, but not limited to, the following terms: quantity, specifications, delivery, packaging or means of shipments. Seller's receipt of Buyer's notice of change without response received by Buyer within 2 days or shipment or other performance reflecting the change, whichever occurs first, shall be Seller's acceptance of the change without any price or other adjustment to this Order. Seller shall make no change in the Goods, whether by change in or departure from specifications, design, manufacture, process, machinery, dies and molds, standard or method, or by change in material or composition, whether any such change is at the initiative of Seller or its supplier, without Buyer's prior written consent.

B. Time and quantity are of the essence of this Order. Unless otherwise specified, the delivery of the Goods shall be on DDP basis Incoterms at Buyer's designated place of delivery or designation.

C. Seller will pack, mail, label and ship all Goods (i) in full compliance with applicable laws and regulations and (ii) in an appropriate and suitable manner selected by Seller which will ensure the lowest transportation cost for the Buyer, if any, in the absence of specific instructions contained herein. Buyer's count of the Goods will be final as to all shipments not accompanied by packing list. Seller will inform Buyer immediately of any occurrence which will, or is expected to, result in any delivery of any time or any quantity not specified in this Order and also of corrective measures which Seller has taken to minimize the effect of such occurrence.

D. Seller may not assign this Order or payment of any sums due hereunder.

E. Seller will maintain appropriate occurrence based liability, general third party liability, product liability, insurance and Worker's Compensation insurance covering all employees and will provide certification of such coverage as may be requested by Buyer (Buyer's failure so to request shall not be a waiver of this requirement).

F. In the event that any claims, demands or lawsuits are made or brought against Buyer relating to the Goods or relating to the trade names, trademarks, copyrights or patents ("Intellectual Property Rights") and/or are based upon unfair competition by reason of sale or use of Seller's Goods by Buyer, Seller shall hold Buyer free and harmless, defend all actions against Buyer, pay all cost of any lawsuit, including any attorney's fees, and indemnify and hold harmless Buyer for any costs incurred by Buyer in connection therewith.

## 3. Seller's Warranties

A. Seller warrants that the Goods, including materials and work furnished hereunder shall be of the highest grade and quality and shall meet specifications, models, drawings, or standards agreed upon or samples submitted or approved by Buyer.

B. Seller warrants that the Goods will comply with all applicable laws, regulations, rules, ordinances, or orders, whether foreign, domestic, state or federal, and agency, association or order standards (collectively, the "Laws") and will be in compliance with all standards and agreements incorporated and made a part of this Order. Payment by Buyer shall not constitute an acceptance or waiver of any rights of Buyer hereunder.

C. In the event that any Goods purchased hereunder are not in compliance with any Laws or not in compliance with any agreement or standard incorporated herein now existing or hereafter enacted or amended or are otherwise defective hereunder, Buyer, in its sole option, may (without limitation of additional remedies) return the defective Goods to Seller, who will refund and return to Buyer its cost plus freight to Buyer's warehouse or facility and freight for return to Seller to (at Buyer's option), repair, correct or replace the defective Goods at Seller's cost and expense.

D. Seller warrants that with respect to the Goods delivered hereunder that: (i) title shall be good, merchantable, and rightful and the Goods free of any security interest, lien or encumbrance; (ii) Goods will be new, free from defects in material and workmanship and fit for the purpose for which they are purchased; and (iii) the Goods, the process by which the Goods are made and Buyer's use of the Goods will not infringe on any Intellectual Property Rights. This express warranty shall not be deemed waived by reason of either or both the receipt of the materials and payment therefore by Buyer. The foregoing is in addition to any and all other express or implied warranties applicable to the Goods purchased hereunder.

## 4. Price, Taxes, Transportation, Payment

A. All Prices shall be F.O.B. place of delivery (destination), unless otherwise specified herein, inclusive of applicable taxes, excise, duties, quotation fees or any other governmental impositions on or related to the production, sale or transportation of the Goods, except as only otherwise specified herein in compliance with any ceiling or other limitation of price established by any governmental authority, and subject to increase only with prior written consent of Buyer. Buyer and Seller will cooperate upon request in obtaining and furnishing such certificates or other evidence of in applicability of or exemption from any sales, excise or other taxes to which either of the parties may be entitled.

B. Unless otherwise specified herein the price of the Goods shall be payable within NET 60 (or equivalent) from the date of invoice provided by Seller. Any payment made by Buyer does not affect its rights or remedies if the Goods are determined, in Buyer's sole opinion, to be defective.

## 5. Force Majeure

Either Buyer or Seller, by giving prompt notice to the other party, may suspend performance during the occurrence of an excusable delay, which shall mean and include any delay not occasioned by the fault or negligence of the delayed party and which results from the acts of God or public enemy, restrictions, prohibitions, priorities or allocations imposed by governmental authority, embargoes, floods, fires, typhoons, earthquakes, epidemics, unusually severe weather, delays of similar nature or governmental causes, and strikes or labor disputes (of or involving the delayed party's employees only). Excusable delays do not include shortage of labor, lack of or inability to obtain raw materials, fuel or supplies or any other industrial disturbance. Nothing contained in this paragraph shall limit Buyer's rights hereunder in any way, except that in the event of Seller's excusable delay Seller shall not be liable for Buyer's incidental or consequential damages resulting from that delay.

## 6. Buyer's Property, Patents, Trade Secrets, Know How

Unless otherwise specified in separate written agreement between Buyer and Seller, all tools, equipment, dies and jigs, drawings, specifications and other material of every description furnished

to Seller or paid for by Buyer shall be and remain the sole property of Buyer, shall be plainly

marked and/or otherwise clearly identified by Seller as "Property of Italmatch Chemicals Group" shall be stored separate and apart from Seller's property shall be treated as confidential and used so as to prevent disclosure inconsistent herewith, shall not be used except pursuant to this Order shall be subject to Buyer's immediate possession on demand and, in any event, shall be returned to Buyer simultaneously with final shipment or termination under this Order.

## 7. Indemnity

Seller shall indemnify and hold Buyer and its subsidiaries, affiliated companies, customers, agents and vendors free and harmless, respond to and defend all claims, demands, threats, proceedings, liens or lawsuits made or brought or brought against Buyer or its subsidiaries, affiliated companies, customers, agents and vendors relating to the Goods, including but not limited to: (i) any actual or alleged violation of Laws, (ii) any actual or alleged infringement of Intellectual Property Rights, (iii) injury, death or property damage resulting, in whole or in part, from any negligent act or omission on the part of the Seller or which may result from the installation, operation or use of the Goods furnished hereunder, (iv) a defect in the manufacture or design of the Goods supplied hereunder, or (v) any breach or alleged breach by Seller of any representation, warranty, or other provision of these terms and conditions. Seller shall further indemnify and hold Buyer, its subsidiaries, affiliated companies, customers, agents and vendors harmless from any and all expenses, losses, claims, royalties, profits, and damages, including court costs and attorneys' fees, resulting from the bringing of such suits or proceedings or the threat thereof and from any settlement, decree or judgment therein. Buyer reserves the right to control any such suit or proceeding.

## 8. Termination

A. Buyer may at any time terminate this Order in whole or in part by written notice, whereupon Seller shall terminate work pursuant to the terms of such notice and without any further liability of Buyer or Seller.

B. If Goods ordered hereunder are made specifically for Buyer and cannot be sold to other purchasers, upon termination by Buyer, Seller shall promptly advise Buyer of the quantities of applicable work and material on hand or purchased prior to termination and the most favorable disposition that Seller can make thereof. Seller will comply with Buyer's instructions regarding disposition of such work and material. All claims by Seller based on such termination must be asserted, in writing and in full, within 60 days from the date of notification of the termination or order price of finished work and the cost to Seller, excluding profit or losses, of work in process and raw material, less however (1) the agreed value of any items used or sold by Seller with Buyer's consent and (2) the reasonable value or cost (whichever is higher) of any defective, damaged or destroyed work or material and any items sold or used by Seller without Buyer's consent. Buyer will make no payments for finished work, work in process or raw materials fabricated or procured by Seller unnecessarily in advance or in excess of Buyer's delivery requirements. The payment provided for in this clause shall constitute Buyer's only liability in the event this Order is terminated as provided herein. The foregoing provisions of this section shall not apply to any termination by Buyer for default of Seller or under the following provisions of this section.

C. To the extent this Order covers items normally carried in inventory by Seller (as distinguished from items specifically made to Buyer's specifications), Buyer shall not have liability for any termination of this Order, in whole or in part, prior to actual shipment or for any termination, except that, within 10 days after receipt of Goods by Buyer, its liability shall be limited to returning said Goods and reimbursing Seller for direct cost of handling and transportation.

## 9. Inspection and Test

A. Seller will submit to Buyer all production, functional and quality control test reports and offer data as may be requested by Buyer from time to time concerning the Goods in order that Buyer can ensure quality control. Seller grants to Buyer and Buyer's customer the right to enter Seller's premises during any reasonable business hours to make such inspection and examination as Buyer may deem appropriate and agrees to fully cooperate with Buyer in effecting such an inspection.

B. All Goods ordered may be subject to final inspection and test by Buyer after receipt irrespective of the day of payment and any items which are not fully satisfactory to Buyer may be rejected by notice to Seller. Said rejected items are to be replaced with applicable items within the latest reasonable time after notice of rejection or at the option of Buyer exercised by written notice the quantity of Goods may be reduced by the number of rejected items. Seller warrants that the Goods delivered to Buyer shall conform to the specifications of such Good for its entire shelf-life.

## 10. Cover; Delivery

In case of default by Seller, Buyer may obtain Goods from other sources and hold Seller responsible for any damages occasioned thereby. The dates of delivery and quantities specified herein are of the essence for this order and delivery must be effected within the specified time period. If deliveries are not made on time and in the quantities specified, Buyer reserves the right to cancel and to purchase the Goods elsewhere and hold Seller accountable therefore. Seller shall cooperate with Buyer in respect to all customs formalities applicable to the import or export of the materials, shall be responsible for determining proper import or export classifications, and shall provide Buyer documentation to Buyer's satisfaction for such classifications.

## 11. Assignment; Code of Ethics

Seller may not assign this purchase order or any of Seller's obligations hereunder without Buyer's written consent. Buyer is bound by the Code of Ethics found at [www.Italmatch.com](http://www.Italmatch.com), which such terms are incorporated into this Order by reference. The values and principles contained in the Code of Ethics are binding without exception on Buyer and all those who directly or indirectly, permanently or temporarily establish business relationships with the Buyer are expected to comply with such ethical standards. Non-compliance with the Code of Ethics by Seller, or any third party Seller is engaged with in developing the Goods, is deemed as a breach of this Order and Buyer, at its sole options, has the right to terminate the agreement, effectively immediately, without any notice and/or claim for any damages occurred.

## 12. Governing Law and Venue

This Order between Buyer and Seller shall be construed, and the respective rights and duties of Buyer and Seller shall be determined, according to the laws of the State of Delaware, without giving effect to its principles of conflicts of laws. Buyer and Seller hereby agree that any action arising out of or in any way related to this Order and/or any related contract, will be brought solely in any state or federal court located in New Castle County, Delaware. Both parties hereby submit to the exclusive jurisdiction and venue of any such court. THE PARTIES FURTHER AGREE, TO THE EXTENT PERMITTED BY APPLICABLE LAW, TO WAIVE ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO ANY CLAIM, COUNTERCLAIM OR ACTION ARISING FROM THE TERMS OF THIS AGREEMENT.