

# Solvias AG

## General Terms of Sale

### 1. SCOPE OF APPLICATION

These general terms of sale (these "Terms") apply to all quotations and orders for the sale and delivery of products, such as ligands and specialty chemicals, reagents and test kits, chemical hazard monitors, fiberoptic probes and flow cells as well as software for laboratory applications (the "Products") by Solvias AG, Römerpark 2, 4303 Kaiseraugst, Switzerland ("Solvias") to customers (the "Customer").

Different or additional terms, including the Customer's general terms of purchase, shall apply only if agreed in writing by Solvias and the Customer.

No amendments or changes to these Terms shall be effective unless made in writing. If, for any reason, a provision of these Terms becomes invalid, the validity of the remaining provisions will not be affected.

These Terms supersede any and all prior oral quotations, communications, agreements or understandings of the parties in respect of the sale and delivery of the Products. In the event of a conflict between the provisions of these Terms and the provisions of a Purchase Contract (as defined below), the provisions of the Purchase Contract will govern and control.

### 2. QUOTATION, ORDER AND PURCHASE CONTRACT

All quotations made by Solvias are revocable at any time and are binding only if the Customer places a corresponding order within the time specified in the quotation or, if no time period is mentioned, within thirty (30) days.

Solvias reserves all rights of ownership in all quotations and related materials. Such quotations or related materials shall not be passed on to third parties unless Solvias explicitly agrees to this in writing.

The binding agreement between Solvias and the Customer (the "Purchase Contract") is concluded upon acceptance of the quotation or by submission of an order by the Customer in writing (including fax and e-mail) and upon written confirmation by Solvias (including fax or e-mail) or by dispatch of the Products. The silence of Solvias with regard to quotations, orders, requests or other declarations of the Customer shall not imply consent or agreement unless expressly agreed otherwise in writing. Any confirmation of an order created electronically which does not include a signature or a name shall be deemed to constitute written form. Where the confirmation of an order contains obvious mistakes or clerical or calculations errors, it shall not be binding on Solvias.

### 3. CHANGES

Any change(s) to the Purchase Contract submitted by the Customer are subject to written approval of Solvias and may require different terms, including a change in the price and/or time of delivery. In the event of such change by the Customer, as approved by Solvias, the Customer shall bear all of Solvias'

costs and expenses associated with such change, including but not limited to cost of raw materials, labor costs and storage expenses. Solvias shall be free to accept or reject such changes without any further obligation to the Customer whatsoever.

### 4. PRICES

The prices for Products shall be specified in the Purchase Contract. In the absence of such specifications, Solvias' then prevailing standard prices shall apply. Unless otherwise specified in the Purchase Contract, all prices are in Swiss francs. Prices do not include value added tax, sales or use tax, or any other similar applicable federal, state or foreign taxes, levies or charges due in any jurisdiction in connection with the sale or delivery of the Products ("Taxes"), customs duty, shipping or insurance costs which may be invoiced separately as required. Taxes shall be payable by the Customer and, if Solvias is responsible for the collection thereof, such Taxes shall either be added to the price invoiced or be separately invoiced by Solvias to the Customer. In the event the Customer is required by law to make any deduction or to withhold from any sum payable hereunder, then the sum payable by the Customer to Solvias shall be paid to Solvias net of such deduction or withholding. The Customer shall pay the applicable tax authorities any such required deduction or withholding.

As a rule, all prices include the inner and outer packaging. Solvias reserves the right to add a surcharge for smaller volumes and/or for any special shipment conditions (e.g. blue ice or dry ice). Shipping and handling charges apply to all shipments.

All Product prices are subject to change prior to confirmation of an order.

### 5. TERMS OF PAYMENT

Unless otherwise specified in the Purchase Contract, invoices are payable net, within thirty (30) days of the invoice date without deduction or discount whatsoever.

The terms of payment depend specifically on the country of delivery.

In the case of new business relationships or for other reasons, Solvias reserves the right to require an advance deposit of up to 100% of the purchase price any time prior to delivery as a condition of performance.

The Customer shall not be entitled to offset any amounts payable to Solvias against any amounts owed or alleged to be owed from Solvias. No discount will be granted in the event of payment before due date. Interest of 1.0% per month, payable in arrears, shall be charged on late payments. The Customer must pay all costs of collection on unpaid amounts, including but not limited to attorneys' fees.

If for any reason Solvias, in its sole and unfettered discretion, deems the ultimate collectability of the purchase price to be in

doubt, Solvias may, without notice to the Customer, delay or postpone the delivery of the Products and may, at its option, change the terms of payment to payment in full or in part in advance, with respect to the entire undelivered balance of Products. In the event of default by the Customer in the payment of the purchase price or otherwise, Solvias, at its option, without prejudice to any other of Solvias' lawful remedies, may defer delivery, cancel the Purchase Contract, or sell any undelivered Products on hand for the account of the Customer and apply such proceeds as a credit, without deduction of any kind, against the agreed upon purchase price, and the Customer agrees to pay the balance then due to Solvias on demand. The Customer agrees to pay all costs, including, but not limited to, reasonable attorney and accounting fees and other expenses of collection resulting from any default by the Customer in any of the provisions of the Purchase Contract.

## **6. RETENTION OF TITLE AND SECURITY INTEREST**

**A TO SECURE THE CUSTOMER'S OBLIGATION TO PAY SOLVIAS FOR THE PURCHASE OF PRODUCTS, SOLVIAS KEEPS FULL TITLE IN ALL PRODUCTS DELIVERED TO THE CUSTOMER UNTIL THE CUSTOMER HAS FULFILLED ALL OF ITS PAYMENT OBLIGATIONS IN CONNECTION WITH THE DELIVERY OF THE RESPECTIVE PRODUCTS. DURING THE RETENTION OF TITLE, THE CUSTOMER SHALL NOT SELL, PLEDGE, MORTGAGE, GRANT SECURITY INTEREST OR OTHERWISE DISPOSE OF THE RESPECTIVE PRODUCTS.**

**B** In jurisdictions that do not allow the enforcement of the right to retention of title as set forth article 6A, the remedies set forth in this article 6B shall apply to the maximum extent permitted by applicable law. Should Solvias extend credit to the Customer for the purchase price for any Products or any other amounts due to Solvias, the Customer hereby grants to Solvias as security for the timely payment and performance of all Customer's payment obligations to Solvias, a first priority security interest (the "Security Interest") in all the Products heretofore or in the future delivered to the Customer for as long as such Products shall not have been sold by the Customer in the ordinary course of business (the "Collateral"). Solvias shall be entitled to file any and all financing, continuation or similar statements under applicable law in any jurisdiction, and take any and all other action necessary or desirable, in Solvias' sole and unfettered discretion, to perfect its Security Interest in the Collateral and to establish, continue, preserve and protect Solvias' Security Interest in the Collateral. The Customer agrees to take any and all actions and provide Solvias with all information necessary to enable Solvias to perfect and enforce this Security Interest in all jurisdictions and vis-à-vis any of the Customer's creditors. This Security Interest shall remain in force until payment in full of the entire purchase price for such Products and any other amounts due to Solvias by the Customer. Solvias may, without notice, change or withdraw extensions of credit at any time.

## **7. DELIVERY**

Products are delivered "CPT" as defined in Incoterms 2010 to the destination named in the Purchase Contract unless otherwise agreed in writing by the parties. Solvias will charge the costs of carriage to the Customer.

The delivery is deemed to be on time when the Products have been sent by Solvias to the Customer no later than on the agreed delivery date notwithstanding any installation, operational or performance qualifications that need to be carried out unless otherwise agreed in writing between Solvias and the Customer.

Solvias is entitled to make partial deliveries in order to perform its contractual obligations unless partial deliveries are expressly excluded in the Purchase Contract.

Solvias may cancel a Purchase Contract if its own suppliers fail to deliver the components or material by the specified dates, and Solvias is therefore unable to deliver the Products to the Customer despite having made every reasonable effort to find substitutes.

The Customer shall examine the Products on receipt. If the Products do not comply with the specifications contained in the Purchase Contract, the Customer shall notify Solvias immediately in writing of any defects or deficiencies and hold the Products for Solvias' written instructions concerning disposition. If such non-compliance turns out to be a defect or deficiency caused by Solvias, Solvias may choose to rectify such defect or deficiency in the Products or to replace the defective Products. If (i) such rectification fails or if (ii) the replacement is itself defective or if (iii) it has not been delivered within a reasonable time period granted by the Customer, the Customer's exclusive remedy and Solvias' sole liability on any claim, whether in tort, contract or warranty, shall be a reduction of the amounts payable by the Customer.

If the Customer fails to notify Solvias within five (5) business days after the Products have been received by the Customer, such Products shall conclusively be deemed to conform to the Purchase Contract and to have been irrevocably accepted by the Customer.

Products which are the subject of complaint may be sent back only with Solvias' explicit agreement and shipping arrangements for the return must be agreed upon by Solvias in advance.

Solvias shall have no obligation to deliver Products to the Customer or otherwise perform any of its obligations set forth in Purchase Contract or herein if the Customer is in breach of any of its obligations hereunder or under such Purchase Contract.

## **8. DELIVERY DATES**

Any delivery dates specified in quotations are estimates only and do not represent a promise by Solvias to deliver Products at a date certain.

Delivery dates agreed in Purchase Contracts are not binding for Solvias in the case of unforeseeable events which are independent from the will of either party, such as force majeure, and which prevent Solvias from delivering on time, provided Solvias is not responsible for the delay.

If, for reasons other than the foregoing, Solvias should default or delay or not deliver Products, Solvias shall notify the Customer without delay in order to obtain an extension of the delivery period to the extent necessary. If Solvias thereafter is unable to keep to the agreed deadline, the sole remedy of the Customer against Solvias is an option to cancel the Purchase Contract, through prior written notice to Solvias. However, the

Customer shall not be entitled to claim any damages.

Delay in delivery of any installment shall not relieve the Customer of its obligations to accept remaining deliveries.

The Customer's failure to accept delivery of any Products pursuant to a Purchase Contract shall not relieve the Customer of its obligations to accept delivery thereof or make timely payment of any amounts due in accordance with the Purchase Contract.

### **9. PASSING OF RISK**

Risk shall pass to the Customer on delivery of the Products to any common carrier or as specified below. Solvias will inform the Customer when the Products are ready for dispatch. If dispatch is delayed at the Customer's request, or for other reasons beyond the control of Solvias, Solvias may invoice the Products ready for dispatch to the Customer. In such case, the delivery terms shall change to "EXW" (Incoterms 2010) and the date of delivery shall correspond to the date of invoice.

### **10. REALE, DISTRIBUTION AND EXPORT**

Unless otherwise agreed in writing between Solvias and the Customer, the Customer agrees that the Products may not be marketed, resold, distributed or exported for any purpose. Unless expressly warranted in writing in any Purchase Contract, Solvias makes no warranty that the Products comply with applicable law, regulations or specifications in any jurisdiction in which the Products may be marketed or sold by the Customer. Any governmental or other approvals necessary in connection with the marketing, resale, distribution or use of the Products shall be the Customer's sole responsibility.

### **11. WARRANTY**

Solvias warrants that the Products, at the time of delivery, fulfill the specifications contained in the Purchase Contract. However, it remains the sole responsibility of the Customer to determine the suitability of the delivered Products for any intended or specific purpose of use prior to use.

### **12. LIMITATION OF WARRANTY**

The descriptions of Products in catalogues and other documents issued by Solvias are for identification purposes only and do not constitute warranties under any applicable law. Any additional warranty may only be contained in a Purchase Contract and must expressly state that the Product concerned has a particular property and must bear a legally valid signature.

Products sold by Solvias are for the intended purposes only pursuant to the applicable Purchase Contract and may not be used as active pharmaceutical ingredients, medical devices, for in vivo diagnostic purposes, as food or feed additives, human or veterinary medicines, or cosmetics unless otherwise expressly agreed in the Purchase Contract.

**EXCEPT FOR THE WARRANTIES SPECIFICALLY SET FORTH WITHIN ARTICLE 11, SOLVIAS MAKES NO OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO ANY PRODUCTS DELIVERED BY SOLVIAS OR ANY OF ITS AGENTS OR SUBCONTRACTORS. ANY AND ALL WARRANTIES, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTIES THAT THE USE OF PRODUCTS SOLD WILL NOT INFRINGE RIGHTS OF THIRD PARTIES ARE**

**EXPRESSLY EXCLUDED AND DECLINED. NO CLAIM, SUIT OR OTHER PROCEEDING MAY BE BROUGHT FOR AN ALLEGED BREACH OF WARRANTY OF SOLVIAS SET FORTH HEREIN MORE THAN TWELVE (12) MONTHS AFTER DELIVERY OF THE PRODUCTS CONCERNED.**

### **13. LIABILITY**

**IN NO EVENT SHALL SOLVIAS BE LIABLE TO ANY PERSON FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS OR GOODWILL, OR ADDITIONAL EXPENSES INCURRED), RESULTING FROM ANY USE OR FAILURE OF THE PRODUCTS, EVEN IF SOLVIAS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE INCLUDING, WITHOUT LIMITATION, LIABILITY FOR LOSS OF USE, LOSS OF WORK IN PROGRESS, DOWN TIME, LOSS OF REVENUE, PROFITS OR GOODWILL, FAILURE TO REALIZE SAVINGS, LOSS OF PRODUCTS OF THE CUSTOMER OR OTHER USE OR ANY LIABILITY OF THE CUSTOMER TO A THIRD PARTY ON ACCOUNT OF SUCH LOSS, OR FOR ANY LABOR COSTS OR ANY OTHER EXPENSES, DAMAGE OR LOSS OCCASIONED BY SUCH PRODUCT, WHETHER IN AN ACTION IN CONTRACT, TORT, STRICT LIABILITY, OR IMPOSED BY STATUTE, OR OTHERWISE, INCLUDING PERSONAL INJURY, DEATH OR PROPERTY DAMAGE UNLESS SUCH INJURY, DEATH OR DAMAGE IS CAUSED BY SOLVIAS' NEGLIGENCE.**

Solvias shall not be liable for, and the Customer assumes responsibility and shall indemnify and hold Solvias harmless for, any and all claims, including without limitation, claims for personal injury or property damages, resulting from the improper use, unauthorized alteration or modification of the Products, or the Customer's failure to properly communicate Solvias' instructions and warning to users of the Products.

Notwithstanding any of the provisions contained herein, Solvias' liability for any claim – whether based upon contract, tort, equity, negligence or any other legal concept – shall in no event exceed the purchase price paid by the Customer for the Products giving rise to such claim. The Customer hereby acknowledges and agrees that the provisions of these Terms fairly allocate the risks between Solvias and the Customer, that Solvias' pricing reflects this allocation of risk, and but for this allocation and limitation of liability, Solvias would not have entered into an agreement with the Customer to sell Products to the Customer.

In jurisdictions that restrict or preclude limitations or exclusions of remedies, damages, or liability, or do not allow implied warranties to be excluded, the limitation or exclusion of warranties, remedies, damages or liability set forth in these Terms are intended to apply to the maximum extent permitted by applicable law, and these Terms shall be deemed amended to comply with such limitations or exclusions. The Customer may also have other rights that vary by state, country or other jurisdiction.

### **14. CONFIDENTIALITY**

Solvias and the Customer undertake not to disclose to any third party and to maintain as confidential, any and all confidential information received from the other party in connection with the sale of Products by Solvias ("Confidential Information") for a period of ten (10) years from the date of the Purchase Contract.

Such Confidential Information shall include, without limitation, information concerning the disclosing party's business, finances, business or operational know-how and any other information deemed confidential by the disclosing party. Unless otherwise agreed in writing, each of Solvias and the Customer agree not to disclose Confidential Information which is received from the other party in connection with the sale of the Products by Solvias, unless (i) required by law or governmental order, or (ii) the receiving party can prove that such information has been known to it prior to receipt. Without limitation, each of the parties agrees:

- To use the Confidential Information received for its intended purpose only;
- Not to divulge it or make it accessible to any third party without the other party's prior written consent;
- To return or destroy – subject to compliance with applicable laws and regulations – all files, documents or copies of information stored in electronic form containing Confidential Information, at the other party's request; provided that one archival copy may be retained to determine the respective party's obligations under these Terms.

Neither party may issue press releases or scientific publications containing Confidential Information without the other party's prior written permission.

#### 15. APPLICABLE LAW

These Terms, any Purchase Contracts or agreements between Solvias and the Customer shall be subject to and governed by Swiss law without giving effect to the conflict of laws rules thereof. The United Nations Convention on Contracts for the International Sale of Goods (1980) shall not apply.

#### 16. JURISDICTION

Any dispute, controversy or claim arising out of or relating to these Terms and any Purchase Contracts, including but not limited to the execution, performance or termination thereof or to any issue of liability arising out of the performance of these Terms or any Purchase Contract, which the parties have not been able to settle amicably shall be submitted to the exclusive jurisdiction of the ordinary courts of **Basel**, Switzerland. Solvias shall also be entitled to bring legal actions at the place of business of the Customer or any other applicable or permissible legal venue. The parties expressly waive any objection or defense based on the lack of jurisdiction or venue, in particular a plea for "forum non conveniens". **EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THESE TERMS AND ANY PURCHASE CONTRACTS.**

#### 17. EQUITABLE REMEDIES

The parties acknowledge and agree that legal remedies for any violation or threatened violation of any provision of these Terms, in particular article 14 are inadequate and that Solvias would suffer irreparable harm. In the event of a violation or threatened violation of any provision of these Terms, in particular article 14 by the Customer, Solvias shall have the

right, in addition to such other remedies as may be available pursuant to law or these Terms, to temporary or permanent injunctive relief enjoining such act or threatened act in any court of competent jurisdiction without any requirement to post a bond or provide other security.

#### 18. CUMULATIVE REMEDIES

All rights and remedies provided to Solvias in these Terms and any Purchase Contracts are cumulative and not exclusive, and the exercise by Solvias of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available to Solvias under any applicable law in any jurisdiction.

#### 19. ASSIGNMENT; WAIVER

The Customer may not assign the Purchase Contract or any right or interest therein or any other obligation arising hereunder without Solvias' prior written consent. Solvias' waiver of any breach or violation of these Terms or the provisions of any Purchase Contract by the Customer shall not be construed as a waiver of any other present or future breach or breaches by the Customer.

Kaiseraugst, Switzerland, 1 January 2018