

General Terms and Conditions of BUYER

1. Introduction

1.1 Unless otherwise agreed in writing between the Parties, these General Terms and Conditions of Purchase (“Conditions”) govern the offering and performance or supply of the Goods and/or of the Services (when applicable) (hereinafter collectively the “Work”) from SELLER to BUYER.

1.2 The Conditions supersede any and all prior oral and written quotations, communications, agreements and understandings of the Parties in respect of the supply of Goods and/ or providing Services and shall apply in preference to and supersede any and all terms and conditions of any order placed by BUYER and any other terms and conditions submitted to BUYER by SELLER. SELLER’s commencement of providing the Services or delivery of Goods shall be deemed or construed as acceptance of these Conditions. Any communication or conduct of SELLER which confirms an agreement for the realization of the Work by SELLER, as well as acceptance by SELLER of any realization of the Work shall constitute an acceptance by SELLER of the Conditions.

1.3 The Conditions may only be modified or waived by a duly executed written agreement between BUYER and SELLER. In that case a specific agreement will be signed by the Parties.

1.4 The headings contained in the Conditions are included for mere convenience of reference and shall not affect their construction or interpretation.

1.5 By making a quotation and/or supplying Goods or performing services on the basis of the Conditions, SELLER agrees to the applicability of the Conditions. BUYER shall be entitled to update and/or amend these Conditions regularly and by and as of the moment of notifying SELLER of such update or amendment or by sending SELLER the updated or amended Conditions, these revised Conditions shall apply to all dealings between BUYER and SELLER.

1.6 Definitions:

- BUYER: means BUYER, with its offices located at 23, Avenue Jules Rimet, 93210 La Plaine Saint-Denis, France and any Affiliated companies of The Dow Chemical Company. The words “Buyer”, “Company”, or equivalents thereof, which may be used elsewhere in the Agreement, shall have the same meaning as BUYER.

- Affiliated companies: means The Dow Chemical Company and any company, corporation, subsidiary, partnership, limited liability company, association, trust, organization or other enterprise in which The Dow Chemical Company directly, or indirectly through one or more intermediaries, has an ownership interest of at least fifty (50%) (as a result of ownership of stock or other voting securities, contractual relationship, or otherwise).

- SELLER: means the person, corporation or company identified in the Agreement as the SELLER of the Work. The words “Vendor”, “Supplier”, “Successful Bidder” or equivalents thereof, which may be used elsewhere in the Agreement, shall have the same meaning as SELLER.

- Sub-SELLER: means any person, corporation or company, other than SELLER, having a Agreement with SELLER for the supply of the Work or a part of the Work. This being done under the sole responsibility of the SELLER.

- Subcontract: means the contract made between the SELLER and the Sub-SELLER.

- Goods: means the delivery of goods, products, materials, liquids, equipment, design, and/or all pertinent documents to be supplied as specified in the Agreement.

- Services: means providing the services as specified in the Agreement.

- Work: means the delivery of Goods and/ or providing the Services that are the subject of the Agreement.

- Agreement: means the purchase Agreement, the purchase-order, call-off order or equivalents thereof off agreed and accepted by BUYER and SELLER, including all the specifications, drawings and documents explicitly listed or referred to therein.

- Quotation: means the document established by SELLER according to the bidding documents attached to the request for Quotation, which describes the conditions of delivery of Goods and/or performance of Services by SELLER and the corresponding price for a particular project.

- Day: means a calendar day.

- Business Day: means a day, other than a Saturday or a Sunday or a bank holiday, and references to times of day shall be to local time in the place of receipt.

- Party: means BUYER or SELLER.

- Parties: means BUYER and SELLER.

2. Quotation

2.1 The Quotation shall be received by BUYER no later than the date designated in the request for Quotation of BUYER. From this date, the Quotation may not be modified or withdrawn by the SELLER.

2.2 The Quotation shall be irrevocably and shall remain binding upon the SELLER until the date as set forth in BUYER’s request for Quotation.

2.3 If requested by BUYER, the Quotation shall be submitted on a form identical to the Quotation Form attached to the request for Quotation.

2.4 The SELLER represents that it has familiarized itself with the bidding documents attached to the request for Quotation, that it has given BUYER written notice of all conflicts and errors it has discovered in them and that no additional information is required to enable him to perform the Work.

2.5 The SUPPLIER has notably filled in properly and in good faith all documents required by BUYER, in the form required by BUYER.

2.6 The SELLER further warrants that the Quotation complies in every respect with the bidding documents (including any requirements), and that the Quotation price includes all expenses in connection with the completion of the Work (including without limitation taxes, bonds, insurance policy fees and any transportation cost).

2.7 The Quotation shall include names of SELLER’s (sub-)SELLERs to be used for the manufacture and supply of the materials and equipment used for the performance of the Work. In the event of Sub-SELLER contracted with SELLER, SELLER shall ensure that Sub-SELLER will comply with the terms and conditions of the Agreement. Sub-SELLER contracted with the SELLER shall not be changed except with the written consent of BUYER.

2.8 BUYER shall have the right to refuse any Quotation for any reason and at any time.

3. Agreement

3.1 Conclusion. The Agreement will be issued by BUYER in writing, by fax, electronically, or otherwise, depending on the business practices of the BUYER and will be binding to Parties at SELLER’s acceptance in writing, by fax, electronically or otherwise pursuant to BUYER’s instruction. Any modifications of or comments to the Agreement by SELLER are binding only, if accepted prior such modification become effective by BUYER in writing. Performing of any part of an Agreement by SELLER will operate as SELLER’s unconditional acceptance of the Agreement.

3.2 Scope changes. BUYER reserves the right to make changes to the scope of Work under an Agreement and to instruct the SELLER to make any variations to the Work (i.e. any alteration of the Work whether by way of addition, modification or reduction). On receipt of BUYER’s instruction, the SELLER shall, if in his opinion any such variation is likely to prevent or prejudice him from or in fulfilling any of his obligations under the Agreement, notify BUYER thereof with all supporting details.

The SELLER shall submit to BUYER, as soon as reasonably practicable but prior to implementing the variation, a written statement setting forth any effect (which shall be fair and reasonable) such variation would have on the Work, on the price and on the Agreement (including the schedule, the performance guarantees and the warranties).

Whether an agreement was reached or not on all matters identified in such statement, BUYER shall then decide, through a written order, whether or not to effect the variation concerned. The SELLER shall have a right to make proposals to BUYER for variations. In no event shall SELLER carry out a variation except as directed in writing by BUYER. Such variations will become a wholly part of the Agreement, therefore, the SELLER shall be bound by the variations as though they were originally stated in the Agreement.

In order to be valid and binding any change to the Agreement shall be made in writing and approved by the Parties. Approval by BUYER of drawings, documents, samples or proposals shall not imply approval by BUYER of a change of the Agreement unless explicitly confirmed in writing by BUYER.

The SELLER shall not change the design or specifications of the Work without the prior specific written consent of BUYER. If the variations or additional work demanded by BUYER are not feasible or cannot be carried out at prices or conditions acceptable to BUYER, then BUYER shall have the right to demand realization of the Work in its original form or to rescind the Agreement in whole or in part. In that case BUYER is only obligated to compensate the SELLER at the pro rata price for the Work already performed and delivered to BUYER.

4. Prices and Payment

4.1 Prices. SELLER shall perform the Agreement at the price(s) mentioned in the Agreement. Unless otherwise expressly agreed in writing, prices stated in the Agreement are (i) fixed and firm, (ii) not subject to any changes and inclusive (iii) of all taxes, duties, fees, charges and (iv) of the costs of packaging and delivery in accordance with the Incoterms indicated in the Agreement.

4.2 Price changes. In the event of changes to scope of Work result in a material change in the Agreement price, Parties shall negotiate in good faith such price change. If a change results in a reduction of the Work by the SELLER, BUYER shall be entitled to a proportional price decrease.

4.3 Payment. Unless otherwise expressly agreed in writing, BUYER shall pay the agreed price, corresponding to the one indicated in the Agreement, and corresponding to the amount invoiced by SELLER for the Work supplied, by bank transfer within 60 (sixty) days, date of invoice. If the term of payment agreed is "45 days end of month", 45 days will be added to the end of the month of invoice issuance.

BUYER may authorize any Affiliated company to effect the payment (in whole or a part of) of the amounts due by BUYER. Such payment shall be considered as a payment made by BUYER, which will discharge BUYER from its respective payment obligation towards SELLER. Any interest charged by SELLER for delayed payments shall not exceed the minimum rate applicable according to the applicable law of the Agreement.

4.4 Invoices. SELLER's invoices should include any legal requirement and notably the following information:

- (a) The Agreement number of BUYER and which relates to the Work performed by SELLER;
- (b) The detailed description of the Work to which the invoice refers;
- (c) The period of time and deliverables to which the invoice refers;
- (d) The unit price (excluding V.A.T. and costs of materials)
- (e) The name and address of the SELLER;
- (g) Any discount (if applicable)
- (h) Conditions of discount for early payment
- (i) Payment term (as agreed between the Parties).

4.5 Set-off. SELLER recognizes BUYER's right to set off any amounts owed by BUYER or its Affiliated company to SELLER with any amounts owed by SELLER according to the Agreement.

5. Goods

5.1 Specifications

Goods: Seller warrants that Goods covered by the Agreement strictly conform to any and all samples, written descriptions, formulas or other descriptions (collectively "Specifications") furnished or specified by BUYER and are merchantable, free from defect, and fit for their intended purpose. BUYER has relied on SELLER's skill and judgment to select or furnish the Goods for a particular purpose, conform to the requirements under law and other government regulations in force in the delivery country of the Goods as well as the applicable international standards in the fields such as quality, health and environment.

SELLER further warrants that the Goods are new, and will be free of defects in workmanship and materials, therefore, in the event that a defect affecting the use of the Goods for which the Goods is intended, would be discovered by the BUYER after the delivery of the Goods, the SELLER will at BUYER's exclusive choice, either (i) reimburse BUYER for the purchase price or (ii) repair or (iii) replace any and all Goods. SELLER agrees that BUYER shall have the benefit of all seller' and manufacturers' warranties and guarantees, , applicable to the Goods. The Documents provided along with the Agreement incorporate by reference any and all representations, warranties (express or implied and whether oral or in writing), and other promises made by SELLER prior to or at the time the Agreement is made, including without limitation, those contained in any written descriptions of the Goods.

Raw Materials: In addition to the above, SELLER warrants that any raw materials furnished shall comply strictly with the SELLER published specifications, or (if SELLER has agreed to furnish raw materials complying with BUYER's Specifications), with BUYER's Specifications.

5.2 Quality inspections and testing. In order to assure that the Goods will comply with the requirements of the Agreement, SELLER shall diligently and continuously control and test the quality of the materials and the operations during manufacture/ production, storage and delivery of the Goods. In case of serial, continuous and batch manufacture/ production of the Goods or parts thereof SELLER shall retain quality and production records, including those of its raw materials, and samples, for not less than one year. SELLER shall provide BUYER with a copy of the quality and productions records upon BUYER's request.

BUYER reserves the right to entrust the inspection and/or testing to third parties. SELLER shall make available to BUYER's inspector, free of charge, the measurement equipment required to perform the inspection and/or testing with sufficient accuracy.

Certificates of conformity to specifications of the Agreement shall be issued by competent and qualified institutes.

Any cost for testing, including but not limited to mechanical, simulation, chemical, hydrostatic, X-ray, ultrasonic and laboratory tests, the compilation of reports and the supply of certificates, as well as any personal expenses for required third party inspectors, including but not limited to cost for travel, living and salaries, shall be borne by SELLER, unless specified otherwise in the Agreement.

Costs for re-testing and/or re-inspection due to any non-conformity appearing from earlier tests or inspections shall be borne by SELLER's account. These costs shall include BUYER's costs for salaries during working and traveling hours, as well as cost for boarding and lodging.

Prior to delivery, BUYER shall have the right to inspect Goods at SELLER's facility prior to their delivery. Should any inspection or test by BUYER indicate a non-compliance to the Specifications, BUYER may reject such Goods. SELLER shall not deliver, nor shall BUYER be obliged to pay for, such rejected Goods.

Upon first use, and within a reasonable time as (notwithstanding any inspection pursuant to the above mentioned clause), BUYER shall have the right to inspect the Goods to determine their conformity with the Specifications. If all or any part of the Goods do not complied to the Specifications, BUYER may reject all or any part of the Goods, whereupon such rejected Goods shall be promptly removed by SELLER or sent to SELLER at SELLER's cost and the price of such rejected Goods shall be refunded to BUYER by SELLER (if already paid) or shall be credited (if still owing).

In either case, if BUYER so directs in writing, SELLER shall promptly replace such non-conforming Goods with Goods conforming to the Specifications. SELLER shall bear all direct and incidental costs of rejection and removal, as well as other damages or losses incurred by BUYER.

Performance or non-performance of any inspection, check or test does not relieve SELLER of any obligation, warranty or liability under the Agreement.

5.3 Acceptance. BUYER has the right, but not the obligation, to check the Goods on any visible defects and on any non-conformity with the agreed specifications. Payment, use or (re)sale of the Goods does not imply acceptance of the Goods in question by BUYER. Final, provisional or partial acceptance of the Goods shall only appear from BUYER's explicit and written acknowledgment thereof.

5.4 Non-compliance. If the Goods are not in conformity with the specifications, BUYER may, at no cost to BUYER, choose between:

- correction of the non-conformity by the SELLER;
- replacement of the Goods by the SELLER;
- replacement of the Goods by equivalent Goods, which are in Conformity with the Specifications and at SELLER's cost;
- termination of the Agreement in whole or in part and return of the Goods already delivered against reimbursement of price, without prejudice to BUYER's rights to claim damages and other compensation.

BUYER shall further be entitled to reject any Goods, which are delivered (i) not at the agreed time, (ii) not in the agreed volume and/or quantity, (iii) in inappropriate or damaged packaging or (iv) with other defect(s), without prejudice to BUYER's right to compensation for the losses and damages suffered as a result of SELLER's non-compliance.

Returning of rejected Goods shall be for the account and risk of SELLER. If requested, SELLER shall repair at no costs to BUYER rejected Goods as far as possible or necessary and leave them in free use with BUYER until BUYER has received Goods in replacement, which meet the relevant requirements and specifications, and the rejected Goods can be returned.

In case of breach of any SELLER's warranty, SELLER shall, at BUYER's option, either (i) reimburse BUYER for the purchase price or (ii) repair or (iii) replace any and all non conforming or defective Goods, which will not properly function or perform or get defective Repaired or replaced Goods or parts will be warranted for a new period of warranty from the repair or replacement date. The warranty period shall be extended by any period(s) during which the Goods have been out of operation or use or their first operational use has been delayed as a result of a defect to which this warranty applies.

If SELLER fails to comply with its obligations set forth under this warranty, BUYER is, upon formal notification to SELLER, entitled to carry out the repair work or replacement itself or to have it carried out by a third party for SELLER's account, without prejudice to SELLER's obligations under the warranty.

5.5 Regulations. SELLER warrants that the Goods are designed, manufactured, produced, assembled, composed, transported and delivered in compliance with all applicable national and/or European and/or international laws, standards and regulations, including but not limited to registration, export, safety, health and environmental regulations and industry standards. SELLER shall timely obtain any and all licenses, permits or other documents, which are required in the country of origin, of transit and of destination to perform the Agreement. At BUYER's request, SELLER shall provide a copy of such licenses, permits or documents within 5 (five) Business Days from the request.

5.6 Instructions. SELLER shall properly and timely inform and instruct BUYER in writing of any special handling, storage, transportation, treatment, use or maintenance of the Goods required for or beneficial to (i) the safety, health and environment of BUYER, its employees or other persons concerned and/or (ii) the integrity, quality, functioning and lifetime of the Goods.

5.7 Completeness. Items of Goods not specified in the Agreement but necessary for the proper, safe and efficient use, operation, construction or maintenance of the Goods and for the fulfillment of SELLER's warranties are deemed to be included in the Agreement and shall be supplied and/or performed by SELLER at no extra cost to BUYER, unless otherwise specified in the Agreement.

6. Delivery conditions

6.1 Conditions. Unless explicitly agreed otherwise in the Agreement, all Goods shall be delivered DDP at the agreed location of delivery, VAT excluded, as defined in the latest version of Incoterms, issued by the International Chamber of Commerce.

6.2 Title. SELLER expressly warrants that it has good and marketable title to the Goods supplied under the Agreement. SELLER further warrants that the supply of the Goods and the simple use, sale or application thereof by BUYER will not result in or give rise to any infringement or misappropriation of any patent, copyright, trademark, design, trade secret, proprietary data or license.

6.3 Transfer of ownership. SELLER shall arrange for carriage of Goods and shall arrange for Goods to be delivered to BUYER at the time and place specified in the Agreement. Risk and property in Products shall pass to BUYER at the time Goods are accepted by BUYER in accordance with Agreement.

However, in case a Agreement requires advanced or progress payments by BUYER, SELLER shall mark and identifiably store (i) any raw materials and semi-finished goods allocated for the manufacture/production of the Goods and (ii) the finished Good(s) itself and transfer of ownership thereof shall coincide with and to the extent of BUYER's payments. The risk of such Goods shall nevertheless remain with SELLER until delivery and acceptance thereof by the BUYER.

6.4 Change of delivery address. BUYER shall be entitled to change the address of delivery at all times in sufficient time before shipment. In that event BUYER will compensate any corresponding additional costs incurred by the SELLER as a direct result of the change of destination.

6.5 Delivery time. The delivery time of the Goods specified in the Agreement is of the essence and any delay shall be considered a material default. Notwithstanding above provisions, BUYER may postpone an agreed time of delivery prior to that time, without any charge being due. In that event the SELLER shall, until the transfer of the title, keep and secure the Goods in suitable packaging. Such Goods shall be clearly identifiable as being exclusively dedicated to BUYER. SELLER shall take all required measures to prevent reduction of quality.

6.6 Foreseeable delay. SELLER shall immediately notify BUYER in writing of any foreseeable delay and submit its proposal indicating the measures SELLER shall take, at SELLER's expenses, to avoid the delay in order to maintain the agreed delivery time. Should SELLER fail to take foresaid measures or should BUYER not approve the measures, BUYER reserves the right to require SELLER to forthwith implement, at SELLER's expenses, the measures BUYER deems necessary. In the event BUYER determines that SELLER's performance is such that it will cause a substantial delay in delivery of the Goods, BUYER reserves the right, at BUYER's option, (i) either to cancel, upon written notice to SELLER, all or part of the Agreement, (ii) or to remove the Goods or any part thereof from SELLER's and/or Sub-SELLERs' premises and to complete the manufacture/production or have the manufacture/production completed elsewhere at SELLER's expenses and without prejudice to any other rights BUYER may have under the Agreement or in law.

6.7 Expediting. SELLER shall expedite manufacture/ production and delivery of the Goods within its own organization and with its authorized Sub-SELLERs. BUYER reserves the right to expedite manufacture/ production and delivery of the Goods and to enter for that purpose the premises of SELLER and its authorized Sub-SELLERs at any time. For the benefit of BUYER, SELLER shall stipulate the same rights from its Sub-SELLERs. BUYER may -for the purpose of expediting- request SELLER to provide with copies of its Agreements with Sub-SELLERs free of charge.

6.8 Packaging. Delivery of the Goods shall be effected in adequate packaging commensurate with the required mode of transportation, handling and storage of the Goods. The costs of packaging are included in the prices and BUYER will not pay for any costly and re-usable packaging, caution money, rental or cost of wear. At the request of BUYER, any packaging including costly and re-usable packaging shall be taken back by SELLER, at its expenses, within a reasonable time after the delivery.

6.9 Transport and packaging regulations. The SELLER shall be responsible for complying with the national, international and supranational regulations concerning packaging and transport, by the SELLER as well as by carriers contracted by or on behalf of the SELLER.

7. Services

SELLER warrants that all Services will be performed in a professional manner in accordance with the highest industry standards and practices.

7.1 Requirements. Services shall be provided by SELLER (i) in accordance with the requirements and specifications of the Agreement, (ii) observing the exercise of that degree of skill, workmanship, diligence, prudence and foresight, which would reasonably and ordinarily be expected from a skilled and experienced SELLER, engaged in the same type of undertaking and under the same or similar circumstances, seeking to comply with its contractual obligations, and (iii), with regard to deliverables, these being unused, free from any and all defects, of good materials and workmanship and free of all liens and encumbrances. SELLER warrants that the Services will be and remain suitable for the purpose for which BUYER wants to deploy them. SELLER further warrants and shall procure and produce evidence that the Services are delivered at the agreed time and place, in the agreed extent and in accordance with the Agreement.

7.2 Key personnel. To the extent the Agreement requires so, SELLER shall make available for the purposes of the Services any individuals named in the Agreement as key personnel. SELLER shall provide BUYER with a list of the names of all others regarded by SELLER as key personnel. SELLER shall not without the prior written approval of BUYER make any changes in the key personnel referred to hereinabove.

7.3 Regulations. SELLER warrants that the Services are performed in compliance with all applicable national and/or European and/or international laws, standards and regulations, including but not limited to registration, import, export, safety, health and environmental regulations and industry and professional standards. SELLER shall timely obtain any and all licenses, permits or other documents, which are required to perform the Agreement. At BUYER's request, SELLER shall provide a copy of such licenses, permits or documents within 5 (five) Business Days from the request.

7.4 Instructions. SELLER shall properly and timely inform and instruct BUYER in writing of any special use or treatment regarding the Services, required for or beneficial to the safety, health and environment of BUYER, its employees or other persons concerned.

7.5 Identification. All personnel employed by the SELLER must be able to identify themselves at any moment at the location where the Work is carried out.

7.6 Completeness. Items of services or goods not specified in the Agreement but necessary for the purpose of the Services and for the fulfillment of SELLER's warranties are deemed to be included in the Agreement and shall be supplied and/or performed by SELLER at no extra cost to BUYER, unless otherwise specified in the Agreement.

7.7 Social payments. The SELLER shall pay on time all social insurance premiums and wages and salaries tax due and fulfill on time its obligations arising from the applicable collective employment agreement. At BUYER's request, SELLER shall provide a statement certifying that it complies with its social obligations, within 5 (five) Business Days from the request.

7.8 Social security and tax legislation. At BUYER's first request, the SELLER shall also provide BUYER with all information and documents, which BUYER may reasonably desire in order to ascertain whether the SELLER fulfills its obligations arising from social security and tax legislation. The SELLER shall have, and at the request of BUYER submit for inspection to BUYER and/or provide BUYER with copies of:

(a) a valid certificate of registration with registration number;

(b) a permit to establish a business, if required;

(c) a recent statement regarding both the payment made by the SELLER to the Collector of Taxes and the Industrial Insurance Board;

(d) the name of the key contact of the SELLER for the performance of the Agreement;

(e) a statement specifying the amount of wages and salaries, which is incorporated in the Work as it has been carried out and specifying the period of time in which the Work was carried out; within 5 (five) Business Days.

7.9 SELLER warrants that, on the day the Agreement is signed, and during the performance of the Agreement, it complies with all legislation regarding the lawfulness of its personnel hiring who may have to work in BUYER's site.

For the personnel hired under French law, SELLER undertakes to provide BUYER on first demand and in any case every 6 months, with all the certificates and other documents required by the legislation in force and applicable to SELLER's activities, in particular (as may be updated based on future regulations):

- the provisions of articles L. 1221-10, L. 3243-1, L. 3243-2 and R.3243-3 of French Labour Code;

- the provisions of articles D.8222-5 or D.8222-7 and D.8222-8 of French Labour Code;

- the provisions of articles L.8251-1 et L.5221-8 of French Labour Code ;

These documents shall be written in French.

SELLER confirms to have filled in all required declarations in case of posting, (including in case of transnational posting) of its employees for the performance of the Works on site, and that such declarations had been duly transmitted in accordance with laws to the relevant local public authority. SELLER undertakes to provide BUYER on first demand, a copy of such declarations.

The lawfulness of personnel hiring is an essential condition of the Agreement. SELLER shall apply this legislation to any of its employees, in compliance with the certificates the SELLER signs.

SELLER shall ensure that the temporary work companies and/or Sub-SELLERs and/or subcontractors to which SELLER may entrust Works within the framework of the Agreement, also apply the regulatory and legislative provisions applicable as set forth here above and shall obtain the certificates required by the legislation in force. In the event those companies would be incorporated or domiciled abroad, SELLER shall be provided with the documents required by the legislation in force referred to in articles D-8222-5 point 3°, D 8254-2 and D 8254-3 of French Labour Code, as soon as the contract with the temporary work companies and/or sub-SELLERs and/or subcontractors is signed.

If BUYER reasonably believes that SELLER does not comply with the above mentioned legislation, BUYER may terminate the Agreement, without any further justification and indemnification, without prior notice.

8. Liability

To the fullest extent permitted by applicable law, SELLER shall indemnify BUYER and hold BUYER harmless, from and against all loss, claims, damages and liability arising from or relating to SELLER's performance of the Agreement or any defects in the Goods or Services supplied, provided such loss, claims, damages and liability are caused in whole or in part by any act or omission of SELLER or any employee, officer or agent of SELLER or anyone else for whose acts SELLER may be liable, or provided SELLER may be held responsible for such loss, claims, damages and liability under applicable product liability or other law.

In addition, if SELLER fails to deliver the Goods as specified or perform the Services according to the agreed date, BUYER may cancel the Agreement in whole or in part and charge SELLER for all loss incurred as a result of such failure. In the event of late deliveries or late performance, a penalty that corresponds to 20% (twenty percent) of the agreed price for such Goods or Services shall be paid (without any prior notice being required) by the SELLER to the BUYER, notwithstanding the right for the BUYER to claim an additional compensation for damages and losses incurred by BUYER as indicated above.

9. Force Majeure

Neither Party shall be held responsible for any loss or damage caused by any delay or failure in the performance under this Agreement, if such delay or failure is caused by an event of "Force Majeure" as defined. by precedents from the French *Cour de Cassation* at the day the Force Majeure event is claimed. The mere fact of late supply of materials, labour or utilities to SELLER or Sub-SELLERs shall not be deemed force majeure. In case a situation of force majeure continues for more than 30 days, BUYER shall be entitled to terminate or cancel all or part of the Agreement by written notice.

10. Suspension and termination

10.1 Termination for default. Without prejudice to its right to claim damages BUYER may terminate the whole or any part of the Agreement without compensation to or indemnification of SELLER, in case of any default by SELLER that has not been remedied within reasonable time and at the latest 30 days after written notice of default to SELLER (unless otherwise agreed). After such termination BUYER may return received Goods in whole or partly against repayment.

10.2 Suspension or termination for convenience. BUYER may terminate or suspend the whole or any part of the Agreement for convenience by written notice to the SELLER. Upon such termination or suspension BUYER and SELLER shall negotiate reasonable termination or suspension charges.

10.3 Termination/cancellation for insolvency. Subject to applicable laws, this Agreement shall terminate immediately in the event of SELLER's insolvency or the institution of insolvency, bankruptcy, receivership or similar proceedings by or against SELLER.

10.4 Survival. Expiry, termination or cancellation of the Agreement shall not affect any right and/or obligation, which expressly or by its nature survives such expiry, termination or cancellation, including but not limited to representations, warranties, confidentiality obligations, intellectual property rights and accrued rights.

10.5 Parties' independency. Nothing in this Agreement shall create any association, partnership or joint venture between the Parties. Neither Party shall have any authority to bind the other Party in any way.

11. Miscellaneous

11.1 Severability. The illegality, invalidity or unenforceability of any provision of this Agreement shall not affect the legality, validity or enforceability of the remainder thereof. If any provision of this Agreement is found to be illegal, invalid or unenforceable, the Parties shall substitute a provision in a form similar to the offending provision.

11.2 Waiver. Failure by either Party to require strict fulfillment by the other Party of any obligation hereunder shall in no way affect its right thereafter to enforce any obligation, nor shall a waiver by either Party of any breach be held to be a waiver of any previous or later breach. No waiver will have any effect unless specific, irrevocable and in writing.

11.3 Insurance. SELLER shall procure and maintain, at its own expense, appropriate insurance as required by law and as prudently and customarily maintained in respect of all risks and liabilities incidental to its operations and performance of the Agreement including (without limitation) contractual, in tort and product-related liability. SELLER shall insure property until the date that risk in such property passes from SELLER to BUYER. All such insurance shall be carried with companies acceptable to BUYER, and have limits satisfactory to BUYER. At BUYER's request, SELLER shall provide a copy of insurance policy within 5 (five) Business Days from the request.

11.4 Health, Safety & Environment (HSE) policies. Health, Safety and Environment and are essential to BUYER's activities. All SELLERs and business partners are required to comply with and act in accordance with the applicable BUYER guidelines. SELLER shall report any deviation to this respect and the Parties will discuss possible remedies. For ease of reference such policies are listed under the following Internet:

<http://www.dow.com/sustainability/commit.htm>

11.5 Local instructions. SELLER shall observe all applicable local instructions and regulations and site access regulations. During the realization of the Work at site, the SELLER shall keep the site reasonably free from all unnecessary obstruction and shall store or dispose of any SELLER's equipment and surplus materials and clear away and remove from site any wreckage, rubbish or temporary works no longer required.

11.6 Intellectual property. "Intellectual Property Right" (IPR) means any patent, utility model, registered design, trademark, service mark, copyright, application for any of those rights, trade and business names (including internet domain names and email address names), goodwill, unregistered trademarks and service marks, know how, database rights, rights in designs and any associated rights or rights of the same or similar effect or nature subsisting in each case at any time and in any jurisdiction.

SELLER warrants that the Services, Goods, or any other items purchased hereunder by BUYER do not infringe any IPR and agrees to assume the defense of any proceedings brought against BUYER claiming that such Services, Goods, or other items infringe any patent or other IPR, and to pay any damages or other sums that may be awarded in any such proceedings and indemnify BUYER against all other costs of such defense including (without limitation) its legal fees. SELLER further agrees to indemnify BUYER from all costs, damages, and expenses arising out of claims for infringement of IPR in the use, either by BUYER or its customers, of such Goods or Services.

Where any Specification of Goods or Services has been provided by BUYER, the copyright, design right or other Intellectual Property therein shall remain the property of BUYER. Unless otherwise agreed, all final reports, prints, designs and drawings produced by SELLER in the course of performance of the Agreement shall become the property of BUYER and SELLER hereby assigns to BUYER all rights therein.

11.7 The Dow Chemical Company's intellectual Property Rights. SELLER is not entitled to make use of or refer to any trademark, trade name, domain name, patent, design, copyright, or other intellectual property right of BUYER, any of its affiliates or customer(s) of BUYER, unless prior obtained written consent of BUYER.

11.8 Ownership of developments. All intellectual property rights and know-how relating to the Work generated and/or developed by SELLER or its Sub-SELLER under the Agreement for the benefit of the BUYER will be exclusively owned by BUYER immediately upon their creation, and without any condition, and shall at first request be fully assigned and transferred at no extra costs to BUYER. SELLER will procure that the same obligations will apply to each of its Sub-SELLERs. Notably, if Work includes non tangible assets such as intellectual property rights on plans and/or maps, such plans and/or maps shall be transferred to BUYER from time to time as soon as the transfer is requested by BUYER.

11.9 Confidentiality. SELLER shall not reveal to any third person that BUYER has purchased or contracted to purchase Goods or Services, or advertise that it is a SELLER to BUYER. SELLER agrees to keep BUYER's confidential information confidential and not to disclose or use it except as may be necessary for performance of the Agreement or under applicable law. The SELLER shall comply with such obligation during 10 years after the termination of the Agreement.

11.10 External publication. SELLER is not entitled to refer to (part of) the Agreement in external communication or publication without prior written consent of BUYER.

11.11 Assigning. BUYER may, without any prior agreement being required, assign or otherwise transfer the Agreement in whole or part to any Affiliated company of The Dow Chemical Company or to any company acquiring the assets of the BUYER related to the part of the Agreement to be assigned or transferred. Save as so provided, the Agreement is not assignable, in whole or in part, to any third party, by either Party without the prior written consent of the other, and any purported assignment shall be void.

11.12 Conflict between the Agreement and the Conditions. In the event of a conflict between the terms of the Agreement and the Conditions, or any other document, the terms of the Agreement shall prevail over the Conditions.

12. Governing law and jurisdiction

12.1 The Parties' rights and obligations arising out of these Conditions shall be governed, construed and enforced according to the laws of France, excluding principles of conflict of laws. The United Nations Convention on Agreements for the International Sale of Goods, concluded at Vienna on 11th of April 1980, shall not be applicable to the Agreement.

12.2 The Parties agree that any suits, actions or proceedings that may be instituted by any Party shall be initiated exclusively before the Commercial Court of Paris, France ("Tribunal de Commerce de Paris, France), France.

13. Notices

Any notice required to be given under the Agreement shall, except otherwise specifically provided, be in writing in English.

Any such notice shall be addressed to the receiving Party's registered office or other such address as the Parties may from time to time notify to each other. Any notice or document shall be deemed to be given:

- (a) if delivered by hand, at the time of delivery; or
- (b) if sent by registered letter, at 10:00 a.m. (Buyer's place of business) on the second Business Day after the date of posting or, if sent by airmail from a country other than that of the receiving party's address, on the fifth Business Day following the day of posting; or
- (c) if sent by facsimile, when dispatched, subject to confirmation of uninterrupted transmission by a transmission report, provided that any notice dispatched after 5:00 p.m. (Buyer's place of business) on any Business Day or at any time on a day which is not a Business Day shall be deemed to have been given at 9:00 a.m. (Buyer's place of business) on the next Business Day; or
- (d) if sent by electronic mail, when actually received in readable form but subject to the same provisions regarding dispatch and receipt after 5:00 p.m. (Buyer's place of business) as apply to notices sent by facsimile.