

## SIBUR INTERNATIONAL GMBH BUSINESS TERMS AND CONDITIONS

These Business Terms and Conditions (hereinafter referred to as "**BTC**") shall constitute an integral part of any Contract entered into between SIBUR International GmbH ("**Seller**") and a Party buying the Goods (as defined below) ("**Buyer**", and together with Seller, "**Parties**" and each individually, "**Party**").

### PARAGRAPH I. CONTRACT FORMATION PROCEDURE

**1.1** To purchase the Goods, Buyer shall send Seller an order for the Goods which Buyer wishes to purchase in accordance with Article 1.1 ("**Purchase Order**"). A Purchase Order shall specify: (i) the type of goods which Buyer wishes to purchase ("**Goods**"); (ii) the quantity of Goods (the "**Nominated Quantity**"); (iii) the place the Goods are to be delivered to ("**Place of Destination**"); (iv) the Incoterm applicable to the delivery; (v) Buyer's order number; and (vi) other information concerning delivery of the Goods, including any preferred means of transport.

**1.2** Seller shall notify Buyer of its confirmation (including the price at which it is willing to deliver and sell the Goods ("**Price**") and the method for payment for the Goods as provided in Article 3.2) or propose amendments to the Purchase Order by sending Buyer a Seller's offer for delivery of the Goods to Buyer on the certain terms and conditions specified therein ("**Sales Order Confirmation**" or "**SOC**") in accordance with Article 1.2. Buyer shall consider and accept the SOC within the timeframe provided therein. If a SOC is not accepted by Buyer within the timeframe provided therein, Seller's offer in accordance with the terms of the SOC shall be regarded as rescinded. Upon Buyer's acceptance of the SOC (date of such acceptance, the "**Effective Date**"), the SOC and the BTC together shall constitute a binding contract (the "**Contract**") for Seller to deliver and sell, and for Buyer to purchase, the Goods specified under the terms and conditions of the SOC and these BTC. Entry into the Contract by Buyer shall be deemed to constitute unqualified acceptance of the BTC.

**1.3** The Purchase Order, the Sales Order Confirmation and any other communication given or made by the Parties in connection with those documents shall, unless otherwise agreed by the Parties, (i) in hard copy which, in the case of Purchase Orders, SOC's and notifications from the Buyer that it accepts an SOC, shall be signed by an authorized representative of the relevant Party; or (ii) be through email correspondence from the email addresses and contact persons of the Parties designated in advance in the Contract or in official confirmation letter from the Buyer. Any communications given or made in accordance with this Article 1.3 shall be deemed to have been duly authorised by the Party giving or making the communication.

**1.4** If there is any conflict between the terms of the Contract and these BTC, the express terms of the Contract shall prevail. These BTC shall apply to the exclusion of, and shall prevail over, any terms or conditions contained in or referred to in Buyer's acceptance of the Contract, or in any other documentation submitted by Buyer, or in any other correspondence, or implied by trade custom, practice or course of dealing.

### PARAGRAPH II. DELIVERY

#### 2.1 General Delivery Terms

**2.1.1** Unless otherwise agreed in the Contract, delivery of the Goods shall be made by road tanker or rail tank car, not unloaded, at the Place of Destination.

**2.1.2** If the means of transport is not agreed in advance, Seller may, at its discretion, choose a means of transport suitable for delivery of the Goods to the Place of Destination and Buyer hereby unconditionally accepts the means of transport chosen by Seller and waives any and all claims in this regard.

**2.1.3** Seller shall use its reasonable endeavours to deliver the Goods on the date or within the timeframe as specified in the Contract. Time of delivery shall not be of the essence and Seller shall not be liable to Buyer for any loss or damage caused by a delay in delivery of the Goods. Seller shall keep Buyer informed of any material variation from the agreed delivery times. If Seller has failed to deliver the Nominated Quantity of the Goods (taking into account Seller's delivery tolerance pursuant to Article 4.1.2) within the agreed period for any reason, the Parties shall use reasonable endeavours to agree revised delivery terms for the outstanding quantity of the Goods. If Seller has failed to deliver the outstanding quantity of the Goods within ninety (90) days of the agreed original delivery date, either Party shall have a right to terminate delivery of that shipment of the Goods without any further liability to the other Party for such delay and Buyer agrees that such termination right shall be Buyer's sole remedy for Seller's failure to deliver that shipment on the specified date. In the event of a prepayment pursuant to Article 3.2.1, if a Party terminates a delivery in accordance with this Article 2.1.3, Seller shall within ten (10) Business Days return to Buyer the actual amount of prepayment received from Buyer corresponding to the quantity of the Goods whose delivery was terminated pursuant to this Article 2.1.3. For the purposes of these BTC, "**Business Day**" (or "**Banking Day**") shall mean any day other than Saturday, Sunday or any public holiday on which banks in Vienna (Austria) are open for business.

**2.1.4** Seller shall not be liable for a failure to perform its obligations under the Contract if any Carrier refuses to accept the Goods for transportation. For the purposes of these BTC, "**Carrier**" shall mean any person or company performing or procuring the performance of a contract of carriage by rail, road or a combination thereof as may be applicable to the terms of delivery.

#### 2.2 Transfer of risk and title

**2.2.1** Risk in the Goods shall pass to Buyer in accordance with the agreed Incoterm (2010) as set out in the Contract.

**2.2.2** In the case of payment by way of prepayment pursuant to Article 3.2.1, title to the Goods shall transfer from Seller to Buyer upon delivery in accordance with the agreed Incoterm, unless otherwise provided in the Contract.

**2.2.3** In the case of payment by way of post payment pursuant to Article 3.2.2, Seller shall retain title to the Goods to the fullest extent permitted by law, until payment for the relevant quantity is actually received from Buyer, even if the Goods have been co-mingled. Until payment is made, the Goods must be separately stored, identified (where possible) and must be returned to Seller or be made available for collection by Seller at Seller's request. Seller may enter Buyer's premises to collect the Goods and Seller may maintain an action for payment, notwithstanding that Seller retains ownership of the Goods.

**2.2.4** Upon delivery of the Goods, Seller shall present valid Transportation Documents to Buyer (for the purposes of these BTC, "**Transportation Documents**" shall mean, for deliveries by rail, a railway bill of, for delivery by road, a CMR (or consignment note)). Such documents shall be signed and marked by Seller and Carrier of the Goods or by an authorized representative of the railway Carrier at the place where the Goods are to be loaded (dispatched), which shall be without limitations (i) the Manufacturer or warehouse or storehouse or (ii) any other place as may be specified in the Contract ("**Place of Shipment**") respectively and shall constitute non-disputed proof of delivery by Seller.

**2.2.5** Buyer warrants that the Place of Destination is (i) reachable by the agreed means of transport and (ii) suitable, safe and equipped, if necessary, for the delivery and unloading of the Goods. Buyer shall be liable for and shall indemnify Seller in respect of any delay in unloading or any loss or damage, including but not limited to any liability for damage to the railway wagon or auto truck, arising out of any breach of the warranties in this Article 2.2.5. Seller shall retain the right to inspect the facilities at the Place of Destination.

#### 2.3 Arrival information

**2.3.1** At least five (5) Business Days before the first day of laytime of a shipment, Buyer shall provide Seller with: (a) details of all documentation required at the Place of Destination; (b) the identity of the terminal(s) at the Place of Destination, with instructions to enable the Carrier to prepare and submit necessary information to the customs authorities; and (c) any other documents requested by Seller.

**2.3.2** Should Buyer fail to timely submit arrival information, Seller may, at its sole discretion, choose to extend the time for delivery of the Goods which, if so extended, will not constitute a waiver of Buyer's breach of the Contract. Any delays in loading the Goods at the Place of Shipment (including circumstances where Seller is entitled to delay shipment) or in unloading the Goods at the Place of Destination caused by Buyer's failure to provide any necessary arrival information, or as a result of omissions or inaccuracies in the arrival information provided by Buyer, will be for Buyer's account. Buyer shall indemnify Seller for all costs, losses and damages, including, but not limited to, demurrage and/or detention incurred by Seller as a result thereof.

**2.3.3** No later than three (3) Business Days after shipment of the Goods from the Place of Shipment, Seller shall provide by email to Buyer all information necessary for unloading of the Goods including: (a) Contract reference number; (b) Transportation Document reference number(s); (c) rail tank car or auto truck identification number(s); (d) a description of the Goods and their Transportation Document quantity; and (e) the estimated time of arrival of a shipment of the Goods at the Place of Destination. The date of shipment shall be the date stamped on the relevant Transportation Document at the departure point.

**2.3.4** The Parties are entitled to use the information from the Automatic Databases to calculate the container turnover period. Information obtained from Automatic Databases is accepted by the Parties as evidence of fulfilment or improper fulfilment of obligations assumed for the turnover of the rolling stock (RTC, tank-containers, GP container, platforms and etc.) or other means of transport used for carriage of the cargo (hereinafter referred to as the

"Transport"). Information obtained from Automatic databases is accepted by the Parties as evidence of fulfilment or improper fulfilment of obligations assumed for the Transport turnover. In case of disagreement with the information regarding Transport turnover stated by Seller and received from the Automatic Databases, Buyer is obliged to provide Seller with copies of documents issued upon the occurrence of the events, information about which is entered into Automatic Databases (hereinafter referred to as Primary documents). If the information received from the Automatic databases contradicts the information indicated in the Primary documents, then the Parties are guided by the indicated Primary documents. For the purposes of these BTC, "**Automatic Database**" shall mean the database of the Russian Railways Main Computing Center (GVC), ETRAN, DHL, TMS and other automatic databases that record information from documents issued during cargo transportation.

#### **2.4 Seller's right to refuse**

**2.4.1** Seller shall be entitled to refuse at any time to undertake or complete a delivery of the Goods if:

- (a) it is not possible to deliver under the intended or customary route to the Place of Destination for reasons beyond Seller's control;
- (b) the cost of the delivery to the Place of Destination (including Taxes) and/or insurance, if applicable, has materially increased from the date on which the Contract was entered into; and/or
- (c) at any time after loading at the Place of Shipment, either: (i) importation of the Goods to the Place of Destination is prohibited by Sanctions or applicable Laws; or (ii) the country, territory or region through which a shipment is scheduled to pass en route to the Place of Destination becomes affected by Sanctions.

**2.4.2** Should Seller agree to undertake delivery under an alternative route or at an alternative destination nominated by Buyer, Buyer shall indemnify and hold harmless Seller for any additional costs incurred in undertaking the delivery by way of an alternative route or to an alternative destination.

#### **2.5 Laytime**

**2.5.1** Unless otherwise agreed by the Parties in accordance with the procedure set out in the Contract, the allowed laytime for the unloading of a quantity of the Goods shall 1 (one) calendar day for railroad delivery and 3 (three) hours for delivery by road respectively or such a lesser period as may be specified in the relevant charterparty.

**2.5.2** Laytime for road deliveries shall commence upon the arrival of each auto truck to the Place of Destination. For delivery by road, the truck will be deemed to have arrived as of the moment a relevant notice is furnished by the Carrier at the Place of Destination. The Buyer may not refuse to certify the receipt of the notice and if it does so, the Carrier must immediately notify the Seller thereof and the time of arrival shall be according to the Carrier's records. The Carrier may, but not obliged to, engage a third party to certify the carriage's arrival. The Buyer shall pay in full any Carrier's and Seller's expenses and costs related to the Buyer's refusal to certify the notification. For the purpose of calculating unloading time, unloading shall be deemed to have been completed upon disconnection of the discharging hoses and / or removal of last item of the Goods from last auto truck's cargo space.

**2.5.3** Laytime per each rail transport shall be as set out in the Contract. In the event the laytime is not set out in the Contract, then such laytime shall be 1 (one) day starting upon arrival of the loaded rail transport at the Place of Destination and ending upon the date of return of the empty rail transport to the Carrier at the Place of Destination (**Return date**). The day of arrival of loaded rail transport shall not be included into the laytime. Sundays and Holidays shall be included (SHINC) unless loading on the Sunday or Holiday in question is prohibited by law or regulation or custom at the unload railway zone. The date of arrival and period of stay of the railway transport at the Place of Destination until Return date (turnover period) shall be determined based on information received from the Automatic Database.

#### **2.6 Demurrage**

**2.6.1** In circumstances where Buyer is required under the Contract to unload the Goods, if Buyer has not unloaded the Goods within the time allowed in accordance with the laytime provisions of the Contract, Buyer shall pay Seller demurrage in respect of the excess time at the demurrage rate set out in the Contract within five (5) Business Days after the issuance of the relevant invoice by Seller, unless Buyer provides documentary proved evidence arguing the Seller's demurrage claim within Claim period. The period for Seller's demurrage claim consideration by the Buyer shall be 30 (thirty) days upon receipt of the demurrage claim (Claim period).

**2.6.2** Where no demurrage rate has been provided in the Contract, the demurrage rate shall be as set out in the relevant agreement with the Carrier or, if the agreement does not specify a demurrage rate, as per the market rate for the applicable means and size of transport on the date of the completion of unloading as shall be assessed by a mutually agreed independent broker.

**2.6.3** It is presumed that container, railway wagons, container chassis and SILO trucks (each, a "**Transport**") arrive at the Place of Destination for unloading in good condition, unless Buyer promptly (but not later than three (3) hours after arrival) informs Seller of any defects. In the event of damage to Transport by Buyer or Buyer's counterparties, Buyer shall immediately inform Seller about the occurrence of such event and shall indemnify and hold Seller harmless for any losses incurred due to such damage within five (5) days from the date of Seller's demand. If any Transport is lost within the period of use by Buyer or Buyer's counterparties, Buyer shall pay to Seller an amount equal to the market value of the relevant Transport of identical model and year of manufacture including costs incurred for putting it into operation. The Transport shall be deemed lost if it is not returned to Seller within ninety (90) days from the date of the Goods arrival at the Place of Destination.

Buyer is responsible for the transfer of empty rail transport in accordance with Seller's instructions advised pursuant to the Agreement on International Goods Transport by Rail (SMGS). In the event of a wrong or incorrect usage of Seller's SMGS instructions, Buyer shall pay Seller liquidated damages at the rate of USD 500 (five hundred United States Dollars) per rail transport per day. In addition to the foregoing Buyer shall reimburse Seller for all documented costs and expenses incurred due to the incorrect filling of the shipping documents for the empty Transport, resulting in the Transport's return to an incorrect railway station. For the avoidance of doubt, if the shipping documents for the rail tank cars return are filled in accordance with Seller's instruction, Buyer shall not be responsible for any costs and expenses incurred due to their return to an incorrect railway station.

#### **2.7 Customs formalities**

**2.7.1** If Goods are exported from the customs territory of the Russian Federation, Buyer shall ensure the departure of Goods from the territory of the Russian Federation within 90 (ninety) calendar days from the date when the customs procedures for export are completed on the territory of the Russian Federation (date of the stamp "Clearance allowed" in CCD).

**2.7.2** Unless otherwise provided in the Contract, for the delivery by road transport and/or for the delivery by railroad within 7 (seven) Business Days from the date of issue of railway bills and / or CMR, Buyer shall provide the copies of: railway bills with legible notes made by the destination railway station; and/or CMR with legible notes of border crossing. For the execution of the above conditions Buyer should send the scan copies to the email address: [docsved@sibur.ru](mailto:docsved@sibur.ru) (standart for one letter = MAX 5 MB). The originals should be sent by DHL Express to the address: LLC "SIBUR", Postal address: Motalny pereulok, 8-Bugrov Business Park, Building A, Att.: Shubny Alexander (+78314636400, 2674), Foreign Economic Activity Support Department.

**2.7.3** If Buyer fails to fulfil the obligations under this Clause Buyer shall pay Seller liquidated damages amounting to 25 % of Goods' value.

**2.7.4** The Parties confirm that the above liquidated damages are the reasonable and proportionate to protect Seller's legitimate interest in performance in the event the Transportation Documents are not provided to Seller within specified period.

### **PARAGRAPH III. PAYMENT**

#### **3.1 Payment Conditions**

**3.1.1** The Price (per metric ton) payable for the Goods shall be in accordance with the Contract and as set out in Seller's invoice. Buyer shall make payment by telegraphic transfer. Funds must be received in Seller's nominated bank account as indicated in the invoice by no later than the due date on Seller's invoice or no later than the last Banking Day before the due date if that due date falls on a non-Banking Day. Buyer shall provide Seller with a copy of its SWIFT confirmation within twenty four (24) hours of payment. The date of payment shall be deemed to be the date Seller's nominated bank account is credited with 100% (one hundred per cent) of the amount specified in Seller's invoice. The Parties hereby agree notwithstanding the currency specified in price determination of the Goods in the Contract the currency of the payment may be any of the following currencies: USD, EUR, RMB, RUB or Swiss francs (CHF). The Buyer shall make all payments under the Contract strictly in the currency specified in the respective invoice issued by the Seller and according to the bank details (hereinafter the "Bank Details") specified in the respective invoice. The conditions of this clause 3.1.1 are of the essence and

breach of this clause shall be deemed a material breach for the purposes of the Contract. The payment shall be effected at the exchange rate of the European Central Bank ("ECB"). The invoice amount shall be converted into another currency by using the foreign exchange rate of the European Central Bank ("ECB"), rounded to four decimal places, quoted at 16:00 hours Central European Time as reported on the ECB web site (www.ecb.int), one banking day before the Payment Date. For the purposes of this Clause: "Payment Date" means the value date indicated in a SWIFT message (or other accepted means of written interbank payment instructions) with payment instructions (or in the other respective payment document if applicable) for the respective payment.

**3.1.2** The Price is exclusive of Taxes (including VAT) and Seller shall have the right to invoice Buyer for any VAT or other Taxes in so far as such Taxes are not for Seller's account under the Contract. For the purposes of these BTC, "Tax" or "Taxes" shall mean all (i) taxes, fees, duties, tariffs, levies, imposts, or other public charges of any kind, including, without limitation, taxes, required contributions or other charges on or with respect to income, franchise, gross receipts, property, sales, use, profits, capital stock, payroll, employment, social security, health insurance fund, pension fund and other social funds, workers compensation and unemployment or related compensation, (ii) taxes or charges in the nature of excise, withholding, ad valorem, stamp, transfer, value added or gains taxes, (iii) license registration or documentation fees, (iv) customs duties, tariffs and similar charges of any kind whatsoever and (v) any interest, penalties, additions to tax or additional amounts imposed by any taxing authority with respect to those items enumerated in items (i), (ii), (iii) and (iv) of this definition.

**3.1.3** All payments due or payable to Seller under the Contract shall be paid in full without the right to any discount, deduction, set-off, lien, claim or counter-claim, regardless of whether Buyer is required to withhold or to apply any Taxes on payments made under the Contract. If Buyer is required to withhold or to apply any Taxes on payments made under the Contract, then Buyer shall gross up such payments so that Seller receives after the deduction of Tax, the full sum due and payable under the Contract as if no such Taxes had been deducted, regardless of any withholdings or application of any Taxes on payments made under the Contract. For the avoidance of doubt, Seller shall be entitled at all times to set-off against any and all amount owing at any time from Buyer to Seller against any amount payable at any time by Seller under the Contract.

**3.1.4** If Buyer fails to pay any amount when due under the Contract, Buyer shall pay to Seller interest on the outstanding amount for each day of delay at the rate of eight per cent (8%) per annum.

**3.1.5** If Buyer breaches the terms of payment, Seller may, at its option, suspend delivery of the Goods to Buyer, require security for payment or unilaterally terminate the Contract.

**3.1.7** On a semi-annual basis the Verification Act should be fully executed by both Parties. The Seller shall send by fax or by email to the Buyer the Verification Act signed by the Seller once in a quarter. Within 2 (two) days from the date of receipt of the Verification Act signed by the Seller the Buyer shall check the Goods delivered quantity, amount paid for the Goods, and provide the Seller with its motivated objections (if any). The Seller shall consider such motivated objections within 7 (seven) days and put the corrections into the Verification Act or negotiate with the Buyer on the amicable basis the content of the Verification Act which should be executed by both Parties. Without prejudice to the above, the Verification Act shall be executed upon any Party request if any.

**3.1.8** "Verification Act" shall mean verification act executed between the Buyer and the Seller and confirming the quantity of and amount paid for delivered the Goods for a particular period.

## **3.2 Payment terms**

Payment for the Goods shall be effected by Buyer in accordance with the method set out in the Contract, which shall either be by way of prepayment in accordance with Article 3.2.1 or post payment in accordance with Article 3.2.2.

### **3.2.1 Prepayment**

(a) Buyer shall pay one hundred per cent (100%) of the amount specified in Seller's proforma invoice in advance of delivery by not later the date specified in Seller's proforma invoice. Seller's proforma invoice shall be issued on the basis of the Nominated Quantity.

(b) If the amount paid by Buyer as prepayment for the Goods is less than the amount due for the quantity of the Goods delivered by Seller to Buyer under the Contract as set out in the relevant Transportation Document ("**Delivered Quantity**") Buyer shall pay the outstanding balance within five (5) days of Seller's invoice for the balance.

(c) If the amount paid by Buyer as prepayment for the Goods exceeds the amount due for the Delivered Quantity, the Parties shall mutually agree if (i) such difference between the amounts will be applied to future deliveries under a Contract or otherwise; or (ii) Seller shall reimburse Buyer such difference.

(d) Should Buyer pay less than 100% of the amount specified in Seller's invoice according to Article 3.2.1(a) above, Seller may, but shall not be obliged to, deliver a quantity of the Goods corresponding the actual amount of prepayment received from Buyer.

(e) In case of partial prepayment The Buyer shall pay the Goods via the following terms: 5% - 50 % (as specified in the proforma invoice) of the Total Goods Value shall be paid by the Buyer in advance before the Goods dispatched from Manufacturer but in any case not later than within than 5 Business Days after the date of the Seller's proforma invoice, 50 % - 95 % (as specified in the proforma invoice) of the Total Goods Value shall be paid by the Buyer after the Goods dispatched from the Place of Shipment but in any case not later than 5 Business Days after date of Bill of Lading issued at the Place of Shipment. In case the Buyer fails to pay the remaining amount of the Total Goods Value within 5 days as specified above, the Seller shall not be liable to deliver the Goods to the Buyer and is entitled to retain the advance payment paid by the Buyer for compensation of the Seller's expenses and/or losses. Transfer of title and risk shall occur after receiving 100% payment to the Seller's bank account.

### **3.2.2 Post payment**

Buyer shall, upon delivery, pay one hundred per cent (100%) of the amount specified in Seller's invoice by no later than the due date specified in Seller's invoice. In case financial institutions (ING, RBI, EXIAR) decrease Buyer's credit limit for Seller so that it is not enough to fully cover further supplies under the Contract (which shall be confirmed via e-mail by pdf confirmation from the respective financial institution), Seller is entitled to unilaterally switch Buyer to prepayment terms of payment upon notification of Buyer within 3 Business days.

## **PARAGRAPH IV. QUALITY AND QUANTITY**

### **4.1 Quantity Certification**

**4.1.1** The Delivered Quantity under the Contract shall be equal to the quantity stated in the Transportation Document.

**4.1.2** Seller shall be entitled to a delivery tolerance of ten per cent (+/-10%) of the Nominated Quantity without any right for Buyer to claim that Seller did not meet the Nominated Quantity, and/or require Seller to take back any quantities in excess of the Nominated Quantity.

**4.1.3** In case of the amount paid by the Buyer as the prepayment for the Goods exceeds the amount due to be paid for the Nominated Quantity the Parties shall mutually agree if (i) such difference between the amounts will be applied to the further deliveries if applicable or (ii) the Seller shall return such difference between the amounts within 5 (Five) days of an appropriate Verification Act is executed by the Parties.

### **4.2 Quality and Quantity Inspection**

**4.2.1** The quantity of the Goods stated in the Transportation Documents shall be based on the weight determined at the Place of Shipment.

**4.2.2** Unless otherwise agreed by the Parties in accordance with the procedure set out in the Contract, the quality and quantity of the Goods may, at the Buyer's election, be verified at the Place of Destination by an independent-recognised inspector appointed by the Parties to perform quality and quantity inspection of the Goods such as SGS (or similar internationally recognized inspection company mutually agreed between the Parties) ("**Inspector**") in accordance with the standard practice at the Place of Destination. The costs of the inspection pursuant to this Article 4.2.2 shall be borne by Buyer. Seller shall, at its own cost and expense, have the right to have a representative present to witness the inspection.

**4.2.3** The results of the Goods' quantity and quality inspection at the Place of Destination shall be documented in the report, conclusion, opinion, certificate or other written document (or combination thereof) issued by the Inspector ("**Inspector's Report**") and shall be conclusive and binding on the Parties for invoicing purposes and for quality purposes and/or for quantity purposes, except in case of fraud or manifest error. The Inspector's Report shall be issued to the Parties as soon as practicable upon completion. The Inspector shall retain samples taken for at least ninety (90) days from the date of inspection.

**4.2.4** In the event that the quality of the Goods does not conform to the specification describing the quality of the Goods agreed by the Parties set forth in

the Contract ("**Specification**"), the Parties shall discuss any discounted Price that can be paid by Buyer for such non-conforming Goods, or, if no agreement is reached on a discounted Price, Seller shall, at its option, either: (a) replace the defective portion of the Goods with an equal quantity of the Goods within a reasonable time of receiving Buyer's notice; or (b) in the event of a prepayment pursuant to Article 3.2.1, refund any prepayment of the Price in respect of that portion of the Goods which is shown to be defective.

#### **4.3 Claims**

**4.3.1** Any claims in respect of the quantity of the Goods or in respect of damage in transit must be made by Buyer to Seller within three (3) Business Days after the Delivery Date. For the purposes of these BTC, "**Delivery Date**" shall mean the moment when the Goods are deemed delivered to Buyer and which concurs with the transfer of risk and/or title from Seller to Buyer as per the Incoterm specified in the Contract.

**4.3.2** Any claims in respect of non-conformity to the Specifications or any other claim related to the quality of the Goods noticed during the initial inspection at the Place of Destination must be made by Buyer to Seller as soon as Buyer becomes aware of such non-conformity and, in any event, within two (2) weeks after the Delivery Date. Claims in respect of defects that could not have been reasonably detected during unloading and an inspection at the Place of Destination shall be made to Seller as soon as Buyer becomes aware of such defect, and in any event prior to the processing or co-mingling of the Goods or within ninety (90) calendar days of the Delivery Date, whichever is the earlier.

**4.3.3** If Buyer fails to make a claim within the relevant periods provided in this Article 4.3 such claim will automatically be considered as time barred, null and void, and such delivered Goods shall be deemed to be accepted by Buyer and in conformity to the Specifications and further claims in respect of such Goods shall not be permitted.

### **PARAGRAPH V. LIABILITY**

#### **5.1 Late acceptance and non-acceptance**

**5.1.1** If Buyer fails or refuses to accept a delivery of the Goods or any part thereof within the applicable laytime; provided that such Goods have been delivered in accordance with the Contract, without prejudice to Seller's other rights under the Contract or applicable law, Seller may either (a) pass the Goods to an appropriate local logistics and/or storage company at Buyer's risk and expense of which Buyer shall be notified within a reasonable time; or (b) sell the quantity of the Goods which were not taken by Buyer. Seller shall also be entitled to claim without limitation all and any transport costs, cancellation costs, storage costs, customs duties, demurrage and other similar or related costs and expenses arising out of or in connection with such late acceptance or refusal together with the difference in the price obtained for the Goods when compared to the Price under the Contract.

**5.1.2** Seller is entitled to exercise its rights under Article 5.1.1 irrespective of whether title to the Goods has passed to Buyer under the Contract. The quantity of the Goods confirmed by such a logistics or storage company upon receipt shall be deemed as due confirmation of the quantity of the Goods delivered by Seller.

#### **5.2 Limitations of Liability**

**5.2.1** Nothing in this Agreement shall limit or exclude either Party's liability for: (a) death or personal injury resulting from the negligence of that Party or its directors, officers, employees, contractors or agents; (b) any losses to the extent caused by fraud, fraudulent misrepresentation, deceit or dishonesty; or (c) any other liability which cannot be excluded or limited by applicable law.

**5.2.2** Neither Party shall be liable whether in contract, tort (including negligence), under any indemnity, breach of statutory duty, or otherwise arising out of, or in relation to, the Contract for: any loss of profit or revenue; loss of goodwill; any cost of labour; loss of further business; repudiatory breach; or any indirect or consequential loss.

**5.2.3** Seller's liability to Buyer whether based on an action or claim in contract, tort (including negligence), under an indemnity, breach of statutory duty or otherwise arising out of, or in relation to, the quality of the Goods delivered hereunder, shall not exceed, in relation to a shipment of the Goods, at the lesser of (i) fifty per cent (50%) of the amount, in respect of a relevant shipment of the Goods, calculated by multiplying the Delivered Quantity by the Price or (ii) the amount of the Goods processed by the Buyer within the relevant shipment.

### **PARAGRAPH VI. MISCELLANEOUS**

#### **6.1 Health, Safety and Environment**

**6.1.1** The Goods supplied shall be in a condition which Seller reasonably considers to not constitute a hazard to health or safety, provided that the Goods are handled, used and stored in accordance with best industry safety practices applicable to the Goods. Buyer shall consult the Manufacturer's Material Safety Data Sheet (MSDS) (if any), relevant codes of practice and factory inspectorates with regard to adequate hygiene, safety and environmental standards and enforcement thereof, with respect to handling, processing and storing of the Goods and any by-products and wastes. Buyer shall have no claim of any kind against Seller directly or indirectly arising from damage to any property or person as a result of direct or indirect exposure to the Goods. For the purposes of these BTC, "**Manufacturer**" shall mean the plant by which the Goods are produced.

**6.1.2** Seller shall not be liable for any cost, loss or damage resulting from the receipt of the Goods in non-compliant storage facilities. Buyer shall indemnify Seller against any claim which any third party may bring against Seller in this respect.

**6.1.3** Any advice given by Seller concerning storage, transport, use or application of the Goods delivered shall be on a without prejudice basis and Seller shall not be liable for any loss, damage or expense resulting from observance to such advice.

**6.1.4** Notwithstanding any other provision to the contrary in the Contract, in providing Buyer with any health, safety and environmental information relating to the Goods required or reasonably requested by Buyer in order to comply with REACH, regardless of their source, Seller provides no warranty or representation as to the accuracy or completeness of such information and Seller accepts no liability for any loss, damage, delay or expense incurred by Buyer for whatever reason arising from its reliance on the accuracy of such information and/or the existence of a valid (pre-) registration of the Goods to be imported into the EU/EEA.

#### **6.2 Force Majeure and Sanctions**

**6.2.1** Neither Party shall be liable to the other Party for any delay or non-performance of any obligations under the Contract if such delay or non-performance is due to circumstances reasonably beyond such Party's control and could not have reasonably been prevented by such Party ("**Force Majeure Event**"). For the purposes of this Article 6.2, any decrease in the production of the Manufacturer shall be deemed to be a Force Majeure Event. A Party seeking relief under this Article 6.2 shall promptly notify the other Party of the relevant event, which notification shall be accompanied by a certificate or other document describing the occurrence of the Force Majeure Event and its anticipated duration issued by the respective Chambers of Commerce of Seller's or Buyer's country or of a transit country or any other Applicable Authority, or, in the event of a failure to supply by the Manufacturer and/or Seller, a notice issued by the Manufacturer and signed by the authorised representatives of the Manufacturer and Seller. For the purposes of these BTC, "**Applicable Authority**" shall mean (a) any supranational organization or any state or political subdivision thereof, and (b) any authority exercising executive, legislative, judicial, regulatory or administrative functions on behalf of the supranational organization, the state or its political subdivision, including without limitation any supranational authority, government authority, ministry, agency, department, board, commission or instrumentality and subdivisions thereof, pursuant to the rights granted thereto by applicable law. In the event that the affected party's inability to perform exceeds three (3) months, the Party not affected by a Force Majeure Event shall, on giving of 30 (thirty) days written notice, have the right to terminate the Contract. Where the Contract is so terminated, neither Party will be entitled to compensation or damages arising from or in connection with this Clause, save in respect of shipments delivered prior to the Force Majeure Event.

**6.2.2** Where any performance by a Party would be in violation of, inconsistent with, or expose such party to the Sanctions, such Party (the "**Affected Party**") shall, as soon as reasonably practicable give written notice to the other Party of its inability to perform. Once such notice has been given the Affected Party shall be entitled: i. to immediately suspend the affected obligation (whether payment or performance) until such time as the Affected Party may lawfully discharge such obligation; and/or ii. where the inability to discharge the obligation continues (or is reasonably expected to continue) until the end of the contractual time for discharge thereof, to a full release from the affected obligation, provided that notwithstanding the foregoing, where the relevant obligation relates to payment for the Goods which have already been delivered under the Contract, the affected payment obligation shall either (i) remain suspended until such time as the Affected Party may lawfully resume payment, or (ii) be cancelled by the Seller, provided that the Parties will have

the opportunity to carry into execution the return of such Goods to the Seller, unless otherwise agreed by the Parties in writing; in each case without any liability whatsoever (including but not limited to any damages for breach of Contract, penalties, costs, fees and expenses).

Seller shall not be obliged to deliver any shipment of the Goods if it considers that Buyer shall not be able to perform its payment obligations in relation to that shipment of the Goods as a result of Sanctions.

For the purposes of these BTC, (i) "**Sanctions**" shall mean economic, financial or trade sanctions laws, regulations, embargoes or other restrictive measures adopted, enacted or administered by any governmental authority of the European Union or any of its member, the United States of America, the United Nations, the United Kingdom, Switzerland, Ukraine, Lithuania, Latvia, Finland, Estonia or the Russian Federation; and (ii) "**Affiliate**" shall mean any person or entity that directly or indirectly controls, is controlled by, or is under the common Control of Seller or Buyer ("Control" shall mean direct or indirect beneficial ownership of more than fifty percent (50%) of the authorized share capital which provide voting rights or other voting interests in the entity in question).

### **6.3 Arbitration and Governing Law**

**6.3.1** The Contract and any non-contractual rights and obligations arising out of or in connection with it shall be governed by, interpreted and construed in accordance with the laws of England and Wales notwithstanding the choice of law rules of any jurisdiction and determined without reference to the principles of conflicts of laws. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to the Contract.

**6.3.2** Any dispute arising out of or in connection with this Contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration under the rules of the Arbitration Institute of the Stockholm Chamber of Commerce valid at the date of claim submission ("**SCC Rules**"), which SCC Rules are deemed to be incorporated by reference into this Article. The legal seat of arbitration shall be Stockholm, Sweden.

**6.3.3** The rules for expedited arbitrations established by the Arbitration Institute of the Stockholm Chamber of Commerce shall apply where the amount in dispute does not exceed EUR 100,000. Where the amount in dispute exceeds EUR 100,000 the standard SCC Rules shall apply. The arbitral tribunal shall be composed of a sole arbitrator where the amount in dispute exceeds EUR 100,000 but not EUR 1,000,000. Where the amount in dispute exceeds EUR 1,000,000, the arbitral tribunal shall be composed of three arbitrators.

**6.3.4** If the size of the claim is amended, such that a different procedure should apply under this Article 6.3, the relevant arbitration proceedings shall be terminated and recommenced in accordance with the newly-applicable procedure. The amount in dispute includes claims made in the request for arbitration and any counterclaims made in the answer to the request for arbitration.

**6.3.5** The decision of the arbitrators shall be final and binding on the Parties. The arbitrators' awards shall be consistent with the limitations of liability and other terms and conditions set out in the Contract, to the extent permitted by English law. The arbitration proceedings shall be conducted in the English language, and the award shall be in English. Each Party shall submit the documents in English.

**6.3.6** Each party hereby irrevocably and unconditionally and to the fullest extent permitted by applicable law waives any rights of sovereign immunity which it may have now or which it may subsequently acquire in respect of its position or any property and/or assets (present or subsequently acquired) belonging to it.

### **6.4 Duration and Termination**

**6.4.1** The Contract shall come into effect on the Effective Date and shall continue in force until all obligations have been fulfilled (unless earlier terminated hereunder or the Parties agree otherwise in accordance with the procedure set out in the Contract) and/or until such time as all payments are made by Buyer in full.

**6.4.2** Seller may, at its sole discretion and in addition to any other legal remedies it may have, upon giving five (5) Business Days' written notice to Buyer, suspend all deliveries under the Contract and/or unilaterally terminate the Contract where: (a) Buyer is in breach of any condition of the Contract; (b) unloading of the Goods is delayed by more than ten (10) hours after a train or truck has arrived at the Place of Destination due to reasons attributable to Buyer and such delay is not excused by any other provision of the Contract; (c) there is a change in the direct or indirect ownership of Buyer or its parent company; and/or (d) Buyer or its parent company either: (i) commences, or becomes the subject of, any bankruptcy, insolvency, reorganization, administration, liquidation or similar proceeding or is in Seller's reasonable opinion expected to be unable or unwilling to pay its debts as the same become due; or (ii) ceases or threatens to cease to function as a going concern or conduct its operations in the normal course of business.

**6.4.3** Any termination under this Article 6.4 shall be without prejudice to the rights and obligations of each Party as accrued on the date of termination (including for the avoidance of doubt Buyer's obligation to make payments under the Contract).

**6.4.4** Except in relation to any failure or inability to make a payment due under the Contract, and Buyer's liability for demurrage due hereunder, (which shall not be excused), neither Party shall be liable to the other Party for any delay or non-performance of any obligations under the Contract if such delay or non-performance is due to circumstances reasonably beyond such Party's control.

## **PARAGRAPH VII. FINAL PROVISIONS**

**7.1.1** Seller warrants that it has full legal title to the Goods and that it has full right and power to convey such title to Buyer. Seller makes no other guarantees, warranties, representations, express or implied, written or oral as to merchantability, quality, fitness for purpose and any such warranties, conditions or other terms implied by applicable law, custom, contract or otherwise, are specifically excluded to the fullest extent permitted by applicable law.

**7.1.2** The Contract constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

**7.1.3** If, at any time, any provision of the Contract is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

**7.1.4** Neither Party may assign the Contract or any of its rights under the Contract or transfer any obligations under the Contract, without the other Party's prior written consent, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, Seller may, without the consent of Buyer, assign or transfer its rights and/or obligations under the Contract in whole or in part to any Seller Group Company or to any bank. Any attempt at assignment or transfer in violation of this Clause shall be null and void. For the purposes of these BTC, "**Seller Group Company**" shall mean any legal entity falling under the same corporate group of companies as Seller.

**7.1.5** All information received by a Party from the other Party relating to the Contract shall be treated as confidential. Seller is permitted to disclose, without Buyer's prior consent, any such confidential information to (a) any bank for the purposes of the factoring of invoices issued hereunder and (b) to any Seller Group Company.

**7.1.6** No amendment or variation of the Contract shall be effective unless in writing and signed by a duly authorized representative of each of the Parties to it, (except for a Sales Order Confirmation concluded by electronic means pursuant to Paragraph I above). Without limiting the above, Seller is entitled to unilaterally change these BTC from time to time by uploading a new version of the BTC to Seller's website at [www.sibur-int.com](http://www.sibur-int.com). For the purposes of the Contract, the new version of the BTC shall come into force, and the Contract shall be deemed amended, ten (10) Business Days after such upload.

**7.1.7** In purchasing the Goods, Buyer shall not obtain any rights to any intellectual property in or relating to the Goods, including (without limitation) any trade marks, copyright, patents or rights in designs and, where such intellectual property is capable of registration, whether or not the same is registered.