

BRENNTAG SPA – GENERAL TERMS AND CONDITIONS OF SALE 2023

1. Object and application

1.1 These General Terms and Conditions of Sale ("GCV") apply to all sales made by BRENNTAG S.p.A. ("Vendor") in favour of any legal entity that operates an undertaking, individually or in company form ("Buyer"), who intends to purchase a supply of products marketed in Italy by the Vendor ("Products"). Natural persons who do not hold a VAT number are expressly excluded.

1.2 The GCV shall apply to all present and future business relations of sale and/or supply between the Vendor and the Buyer. By signing the GCV, and in any case by transmitting the Purchase Orders ("Orders") to the Vendor, the Buyer expressly waives the application of its own general conditions of purchase. In the absence of a signature, the GCV shall in any case be deemed accepted by the Buyer when the Orders are transmitted to the Vendor.

2. Order confirmation and minimum order

2.1 Orders placed by the Buyer shall not be binding until confirmed in writing by the Vendor ("Order Confirmation").

2.2 For orders having a total taxable amount lower than €300,00 the Vendor reserves the right to apply a surcharge of €50,00 to the list price of the ordered products.

3. Delivery of the Products

3.1 Delivery terms of the Products are merely indicative and never essential and binding for the Vendor. The Vendor will not be responsible for delays in delivery and the Buyer will not be entitled to compensation for any damages, direct or indirect, attributable to delays in delivery.

3.2 The Buyer is obliged to take delivery of the Products ordered and confirmed by the Vendor. If the Buyer refuses to take delivery of the Products, in the absence of objective and legitimate causes of force majeure, the Buyer shall be obliged to pay for the Products in full, in addition to any compensation for all costs incurred by the Vendor for the storage, warehousing and eventual final disposal of the Products.

4. Payments and Warranties

4.1 Without prejudice to the provisions of art. 10.2 and 10.3, the Buyer shall pay the amounts due to the Vendor within the terms agreed in the Order (and, in any case, within the terms set forth by Legislative Decree 198/2021 smi, with reference to the supply of agri-food products).

4.2 In the event of delay in payment, the Buyer shall automatically be charged default interest at the rate in effect time payment is due, pursuant to Legislative Decree 231/2002, starting from the due date of the invoice.

4.3 The Vendor shall in any case have the right to suspend supplies of Products in the event of the Buyer's delay in paying the amounts due.

4.4 The Buyer shall not be entitled to assert any claim, dispute or demand against the Vendor, either in action or by way of exception, until the amounts invoiced by the Vendor have been paid in full.

4.5 Advances or partial payments shall always be deemed to be charged, in order, to recovery costs, interest and finally to principal.

4.6 Without prejudice to the provisions of point 11.2 below, in the event of justified doubts of solvency and in the event of the Buyer's default, subject to further claims, the Vendor shall have the right to revoke the terms of payment previously granted to the Buyer pursuant to art. 1186 c.c., as well as the right to request, for subsequent supplies, advance payments and/or further guarantees.

5. Transport

5.1 The Products - even if according to special agreements sold free at destination - always travel at the Buyer's total and exclusive risk.

5.2 The Vendor reserves the right to apply a surcharge to transport costs (all modes of transports, by land, sea and air) agreed between the Parties if, for objective reasons not attributable to the Vendor, should be a percentage change in this cost more than 10% of the transport costs agreed at the time of the order.

6. Packaging and Containers

6.1 The packaging (including pallets, drums, canisters and plastic cubes), where not expressly agreed that they are "returnable", remain the exclusive property of the Buyer.

6.2 In the event the packaging is returnable, the Buyer is obliged to return them, ex works, to the Carrier or other appointee of the Vendor, within 90 days from the delivery date. Once this term has expired, failing compliance, the Vendor shall be entitled to issue to the Buyer an invoice for sale for a fee equal to the value of new packaging, with the same payment terms as those applied to the Buyer for the sales of the Products.

6.3 In the event that damaged packaging is returned, the Buyer will be charged the amount of the value of the packaging shown on the invoice. If the damage concerns the seal of the packaging, the Vendor shall charge the Buyer the additional reclamation costs of €60 + VAT per packaging.

6.4 Should the products need to be delivered in steel cubes – due to their nature or at the Buyer's request – the steel cube shall be understood to be leased to the Customer for the entire period of storage, and the Vendor shall invoice the Buyer, at the beginning of each month and until successful return, for a monthly rental fee of Euro 50.00 + VAT.

6.5 For cases in which the Buyer has paid a security deposit to the Vendor as guarantee of the return of the packaging, should the container be returned on the date set in the invoice, the Vendor shall issue a credit note for the amount of the security deposit. In case of delay in delivery pursuant to point 6.2, the Vendor shall have the right to charge said security deposit and advance on the invoice that will be issued pursuant to point 6.2.

7. Unloading and Idle time

7.1 The activity of unloading the Products and any consequent risk and liability shall be borne by the Buyer, with express indemnity for the Vendor for any damage to persons and/or things that may derive therefrom.

7.2 The waiting time for unloading the products tolerated by the Vendor is 2 hours. Should the Vendor's vehicle have to wait for unloading beyond that time, the amount of 50 €/hour plus VAT shall be charged to the Buyer for each hour or fraction of an hour of further waiting time.

8. Checks. Complaints and Disputes

8.1 All information provided by the Vendor on the Product, such as, but not limited to, prices, samples, analysis, weight, quality or dimensions, shall not be binding unless specifically confirmed in writing by the Vendor with the Order Confirmation.

8.2 The Product guarantee is defined by compliance with the specifications set out in the technical data sheet of the Product and is not extendable to the behaviour of the Product when included in mixtures or formulations prepared by the Buyer and/or other users. The guarantees provided by the Vendor expressly exclude the guarantee inherent to the suitability of the Products for a specific destination, even when known to the Vendor and/or the Buyer has indicated in the Order the use for which the Products are intended.

The Buyer is obliged to ascertain the suitability of the Products upon delivery of the same, and in any case before undertaking their use. Any suggestion provided by the Vendor in relation to the Products shall not exempt the Buyer from carrying out tests, analyses and verifications to determine the use of the Product and its suitability in relation to both its own production process and the final result that the Buyer intends to pursue. Such prior ascertainment constitutes the Buyer's duty of ordinary diligence, and in the absence of the same, no liability and consequent compensation can be placed on the Vendor.

8.3 The Buyer must notify the Vendor, in writing and under penalty of forfeiture, of any qualitative and quantitative discrepancies of the Products delivered, within the following terms

- in the case of patent defects: before unloading or transferring the same into the Buyer's packaging or tanks and, in any case, within the maximum term of 8 calendar days from delivery of the Products;
- in case of latent defects: within 8 calendar days after discovery and, in any case, within a maximum period of six months after delivery.

Once these terms have expired, the Buyer shall no longer have the right to make any objection or claim against the Vendor.

8.4 In the case of split-delivery supplies, any claims, even if timely, shall not release the Buyer from the obligation to collect and pay for all the Products ordered.

9. Vendor's liability

9.1 In the case of the supply of Products that do not comply with the characteristics foreseen or that differ from those ordered, where the Buyer has in any case promptly notified the Vendor of the Product's non-conformity pursuant to point 8.3, the Vendor's liability shall be limited exclusively to the replacement of the Product or, at its discretion, to the withdrawal of the Product at its own care and expense, and to the refund of the price (or part of the price) already received.

9.2 The Vendor's liability for any indirect and consequential damage is expressly excluded. By way of example only, the Vendor shall not be held liable for damages from production downtime, Product recall costs, damages from loss of chance or loss of clientele, damage to image, legal expenses.

10. Force majeure and hardship

10.1 The Vendor is exonerated from any liability in the event of failure/incomplete supply due to company and/or general strikes, insurrection, war, natural or nuclear disasters, Authority measures, fires, epidemics, pandemics, shortage of raw materials and/or energy sources and, more generally any other event or circumstance constituting force majeure. In the event of any such event, the Vendor shall notify the Buyer and shall have the right, at its discretion, to revoke acceptance of the order (with the return of any advance payments received without interest) or to set a deadline, not exceeding 60 days, for the execution of the supply.

10.2 If, during the execution of an Order, the supply of Products becomes excessively onerous for the Vendor due to the occurrence of unexpected, extraordinary and unforeseeable events (by way of example but not limited to: increases in the cost of raw materials and/or Products, increases in the cost of transport, variations in taxes and Customs duties, reduced availability of products on the market, etc.), the Vendor will have the right to apply a revision of the agreed prices and modify the supply conditions, notifying the Buyer. In the event of the Buyer's refusal, to be transmitted within and no later than 7 days from receipt of the Vendor's communication or within another shorter term expressly indicated by the latter, the Order shall be considered terminated with immediate effect pursuant to and for the purposes of art. 1467 of the Italian Civil Code. In the latter case, the Vendor shall have no obligation to continue to execute the Order in favour of the Buyer and the latter shall have no right to claim indemnity or make other claims for compensation.

10.3 In the case of Scheduled Orders/Open Orders that envisage supplies spread over time, the provisions of article 10.2 shall in any case be understood to refer to the single supply subject to the extraordinary and unforeseeable variation. The rights and obligations relating to subsequent supplies not affected by the variation are therefore unaffected.

11. Withdrawal

11.1 The Vendor shall be entitled to withdraw from the CGV without any charge and not to accept any further Orders from the Buyer in the event of the occurrence of facts or circumstances that alter the stability of the markets, the value of money, the conditions of the industries producing the Products and raw materials and the conditions of supply.

11.2 The Vendor shall also have the right to terminate the CGV without charge if the Buyer becomes insolvent, if its assets are reduced, if protests are levied, if injunctive, enforcement or precautionary actions are taken against it or if bankruptcy proceedings are initiated.

12. European Regulation 1907/2006 ("REACH")

12.1 The European REACH Regulation (Registration, Evaluation and Authorization of Chemicals) requires suppliers of chemicals to provide customers with certain information to allow them to use the products more safely and imposes a specific time frame for the registration process of chemical substances and preparations. REACH obliges customers to provide their suppliers with any useful information about the dangers and possible inadequacies of their risk management system related to the substances or preparations they use.

12.2 Should the Vendor's supplier fail to correctly fulfil said procedure and meet the deadlines, this might affect the subsequent supply from the Vendor to the Buyer, and might also entail the case of discontinued supply where the substances and preparations in question should require a supplement of scientific tests. The Vendor shall inform the Buyer of any delays caused by the circumstances above, without prejudice to the provisions of point 3.

12.3 The Vendor shall provide the Buyer with the appropriate safety data sheets and – where required – annexes indicating the possible risk exposures of the Products, in order to allow the Buyer to ascertain whether the actual use of the same is consistent with the indications of the safety data sheet and any of its annexes.

12.4 Where the Buyer should intend to use the Products other than indicated in the documentation provided to them, they must immediately notify in writing the Vendor who in their turn shall contact their supplier to ascertain the feasibility and possible risks associated with said different use.

Until the relevant information has been provided by the Vendor to the Buyer, the latter may use the Products only for the uses set out in the safety data sheet and any annexes thereof.

BRENNTAG s.p.a.

Sede Legale e amministrativa
Milanofiori Strada 6, Pal. A/13
20057 Assago (MI)
Tel. 02 48333.0 (ric. aut.)
Telefax 02 48333.330

Cap. Soc. € 18.300.000,00 i.v.
R.E.A.: MI 472696
Registro Imprese di Milano
e C.F. n. 00835510157
Part. IVA IT 00835510157

Società con socio unico
Società soggetta all'attività di direzione e coordinamento da parte della Brenntag SE

Tutte le nostre certificazioni sono scaricabili sul sito internet: www.brenntag.com/it-it/sostenibilita/certificazioni

12.3 Any liability of the Vendor shall in any case be excluded not only for the Buyer's failure to comply with the requirements of REACH, but also, in accordance with point 8.2 and 8.3 of these CGV, with regard to the suitability of the Products supplied for the use to which the Buyer intends to put them.

13. Compensation

The Buyer may not set off against any claims for damages that have not been legally established or previously accepted in writing by the Vendor.

14. Liability ex Legislative Decree 231/2001

The Buyer declares that it is aware of the regulations in force concerning the administrative liability of legal persons and, in particular, Italian Legislative Decree 231/2001 as amended. In this regard, the Buyer declares: (i) to be aware of the fact that BRENNTAG SPA has adopted a specific Organisational Model and specific protocols aimed at preventing the risk of occurrence of the offences indicated in the aforementioned Decree and related regulations; (ii) to have read the Code of Ethics adopted by BRENNTAG SPA and the Organisational, Management and Control Model that can be consulted and downloaded at the web address: <https://www.brenntag.com/en-it/about/compliance/>. By virtue of the foregoing, the Buyer undertakes - also for its own possible employees, directors, consultants and collaborators and subcontractors, in the performance of the contractual relationship - to comply with the rules, procedures and behavioural principles contained therein as applicable, as well as to refrain from conduct that may constitute the offence hypotheses referred to in the same decree (regardless of the actual commission of the offence or its punishability). Failure to comply with any of the provisions of the Model and of the Code of Ethics that is carried out in the performance of the contractual relationship shall constitute a serious breach thereof and shall entitle the Vendor to terminate it with immediate effect pursuant to and for the purposes of Article 1456 of the Civil Code, without prejudice in any case to the right to compensation for damages.

15. Data Protection and Confidentiality

The Parties undertake to comply with the Personal Data Protection legislation pursuant to Regulation (EU) No. 2016/679 (GDPR Regulation). The Buyer undertakes to keep confidential any information it comes into possession of as a result of the execution of the CGV and not to use it for purposes other than those envisaged in the CGV,

16. Applicable Law and Jurisdiction

The interpretation of the CGV and the Orders shall be governed exclusively by Italian law. For all disputes that may arise, the parties acknowledge the exclusive jurisdiction of the Court of Milan.

17. Final provisions

17.1 Without prejudice to the special conditions contained in the Orders, further derogations from the CGV shall not be effective unless they result from a written and signed agreement between the Vendor and the Buyer.

17.2 Tolerances in use, as codified in the collection of usages of the Province of Milan for the trade of chemical products in general, are allowed.

17.3 The Vendor's tolerance, even repeated, of the Buyer's non-performance does not constitute a waiver of the exercise of contractual and legal rights.

Milan _____

The Buyer (stamp and signature) _____

Pursuant to Art. 1341 of the Italian Civil Code, the following clauses are expressly undersigned: 1.2, 3.2, 4.4 (limitations to the right to raise objections), 4.3 (suspension of supplies), 4.6 (unilateral variations), 8.3, 8.4 (forfeitures), 8.3, 9 (limitation of liability), 11 (withdrawal), 16 (exclusive jurisdiction).

The Buyer (stamp and signature) _____

BRENNTAG s.p.a.

Sede Legale e amministrativa
Milanofiori Strada 6, Pal. A/13
20057 Assago (MI)
Tel. 02 48333.0 (ric. aut.)
Telefax 02 48333.330

Cap. Soc. € 18.300.000,00 i.v.
R.E.A.: MI 472696
Registro Imprese di Milano
e C.F. n. 00835510157
Part. IVA IT 00835510157

Società con socio unico
Società soggetta all'attività di direzione e coordinamento da parte della Brenntag SE

Tutte le nostre certificazioni sono scaricabili sul sito internet: www.brenntag.com/it-it/sostenibilita/certificazioni