

## GENERAL PURCHASE TERMS AND CONDITIONS

### 1. DEFINITIONS

Unless expressly indicated otherwise, the following capitalized terms as used in these general conditions will have the following meaning:

- Agreement: The agreement between Brenntag and the Contractor relating to the provision of Deliverables.
- Brenntag Brenntag Nederland B.V., having its registered office in Dordrecht, the Netherlands, as well as any of its direct or indirect affiliates.
- Call-off A binding declaration by Brenntag for the call-off of goods or services under an already concluded supply agreement and/or a framework agreement.
- Conditions: These general purchase conditions.
- Contractor: Any private individual or legal entity having entered, or wishing to enter into an Agreement with Brenntag.
- Confidential Information Any information and data, whether visual, oral, In Writing and/or electronic, directly, or indirectly provided by Brenntag to the Contractor or to the management and/or the employees of the Contractor, including but not limited to information relating to the business operations, Products, manufacturing methods, financial information, prices, market information, customers or suppliers and/or competition sensitive information.
- Deliverables: The supply of Products and/or the provision of Services.
- In Writing: by letter or email.
- Products: Any products marketed by the Contractor and/or to be supplied by the Contractor to Brenntag.
- Services: The services to be provided by the Contractor to Brenntag based on the Agreement.
- Order: Any order issued by Brenntag to the Contractor In Writing (which includes electronically) regarding the provision of Deliverables.
- Party and Parties: Brenntag and the Contractor, either jointly or each individually.
- VOTOB Conditions VOTOB ("*Vereniging van Nederlandse tankopslagbedrijven*") General Conditions of Purchase (version 2017-1 dated 8 March 2017, or any updated version thereof).
- Workdays All calendar days, with the exception of weekends and public holidays in the Netherlands.

### 2. GENERAL

- 2.1 These Conditions apply to all enquiries from Brenntag, offers from Contractor (including but not limited to quotations), delivery call-offs, assignments and agreements entered into and to be entered into by Brenntag, under which Brenntag

will act as the client or potential client or the acquirer of Deliverables, to the extent not expressly agreed otherwise between the Parties In Writing.

- 2.1 Brenntag's Code of Business Conduct and Ethics 2020, published on the website, shall apply to all enquiries from Brenntag. Contractor agrees to comply with the principles of Brenntag's Code of Conduct and Ethics 2020.
- 2.2 The applicability of any general conditions, howsoever denominated, of the Contractor is hereby expressly waived. By the mere entering into an Agreement, the Contractor waives any general conditions on its part, so that all Agreements will be governed exclusively by the present Conditions.
- 2.3 Any variations from these Conditions will be binding on Brenntag only if and to the extent confirmed by Brenntag In Writing and only in respect of the enquiries, offers and Agreements to which they apply. With respect to the other enquiries, offers, and Agreements, these Conditions will remain in full force and effect.
- 2.4 In the event of a conflict between the provisions of the Agreement and the Conditions, the provisions of the Agreement will prevail.

### **3. TANK STORAGE**

- 3.1 In the event of any Services consisting of or related to tank storage, the VOTOB Conditions shall apply to all enquiries from Brenntag, offers from Contractor (including but not limited to quotations), assignments and agreements entered into and to be entered into by Brenntag, under which Brenntag will act as the client or potential client.
- 3.2 The VOTOB Conditions are filed at the offices of the District Courts in Amsterdam, Dordrecht and Rotterdam (the Netherlands) and can be consulted at [www.votob.org](http://www.votob.org). In the event of any inconsistencies in or with the VOTOB Conditions and these Conditions, these Conditions shall prevail.

### **4. FORMATION OF AN AGREEMENT**

- 4.1 If an offer or quotation from the Contractor is followed by an Order of Brenntag, the Agreement will be deemed to have been formed upon dispatch of the Order by Brenntag.
- 4.2 If an Order is issued by Brenntag without being preceded by an offer or quotation from the Contractor, the Agreement will be deemed to have been formed either at the moment of the Order confirmation by the Contractor within five (5) Workdays of the Order, or as a result of the Contractor's commencement of performance of the Order in accordance with the conditions of the Order within such term. In such event the Agreement will be deemed to have been formed upon receipt of the Order confirmation, or copy thereof, or upon commencement of performance of the assignment.
- 4.3 If the Order is not confirmed or performance thereof is not commenced within the said term, Brenntag may assume that the Contractor has accepted the Order tacitly. Even after confirmation of the Order by the Contractor, Brenntag reserves the right to withdraw the assignment within five (5) Workdays, without any liability arising on its part to pay damages to the Contractor.
- 4.4 The content of the Agreement cannot vary from what is stated by Brenntag in the Order, either preceded by a quotation issued by the Contractor or otherwise, unless Brenntag agrees In Writing to such varying contents.

## **5. PRICES AND INVOICES**

- 5.1 The prices agreed between the Contractor and Brenntag as indicated in the Agreement or the Order will be fixed and can, therefore, not be subject to revision.
- 5.2 The price is expressed in euros, is exclusive of VAT. The price for the Products and be based on Delivery Duty Paid (Incoterms 2020), unless expressly agreed otherwise In Writing.
- 5.3 In any event, the prices may be changed only with Brenntag's prior consent In Writing, regardless of whatever unforeseen or special circumstances may arise, including but not limited to the situation of price increases of raw materials. If the Parties do not mutually agree on a price change, Brenntag will be entitled to terminate the Agreement with immediate effect upon notification In Writing and without being liable to pay any compensation for damages.

## **6. PAYMENT AND INVOICES**

- 6.1 Unless agreed otherwise In Writing, payment shall take place within sixty (60) days of receipt of the invoice, provided that Brenntag has received and approved the Deliverables provided and – to the extend applicable – has received all accompanying documents, drawings, quality- and warranty certificates.
- 6.2 Invoices will only be processed if they contain: (a) all mandatory details according to VAT; (b) the Order number of Brenntag, if indicated and (c) the delivery/service address, the delivery date or service time.
- 6.3 Any payment conditions as stated in/on the Contractor's invoice will not be deemed to constitute payment conditions In Writing as referred in paragraph 1 of this article.
- 6.4 Brenntag will at all times be entitled, before payment is made, to require security to its satisfaction for performance of the Contractor's (remaining) obligations. Refusal by the Contractor to provide the required security will entitle Brenntag to dissolve the Agreement by notification In Writing with immediate effect and without any liability arising on its part to pay damages to the Contractor, and without prejudice to any of Brenntag's other rights.
- 6.5 Payment by Brenntag will not in any way whatsoever be construed as a waiver of any rights or as approval of the Deliverables.
- 6.6 Brenntag will at all times be entitled to set off all or part of the invoice amount against a claim against the Contractor.

## **7. DELIVERY**

### **Products**

- 7.1 Delivery by the Contractor will take place at the agreed place and punctually at the agreed time and within the agreed term. Unless otherwise agreed In Writing, the Products will be delivered Delivery Duty Paid (Incoterms 2020) to the destination specified in the Order. The delivery times stated by the Contractor will be deemed to be firm deadlines as meant in article 6:83 paragraph a of the Dutch Civil Code.
- 7.2 The delivery shall be accompanied by delivery notes in duplicate and packing slips. The order number, material designation and material number, batch number, gross and net weight, number and type of packaging (disposable/reusable), VAT identification number as well as unloading point and consignee must be stated in all shipping documents and on the outer packaging. Individual containers shall be

marked with material designation, material number, batch number, production date, best-before date as well as net and gross weight.

- 7.3 In the event of the delivery of chemicals, the Contractor shall enclose a certificate of analysis for each individual batch of the delivery as part of the outgoing goods inspection and send it by e-mail to the (email) address provided by Brenntag,
- 7.4 The Contractor shall pack, label and ship hazardous substances in accordance with the relevant national or international regulations.
- 7.5 The time of delivery of Products will be deemed to be the time of Brenntag's taking delivery of the Products. Taking delivery of the Products will not constitute acknowledgment of their sound quality.
- 7.6 The risk of the Products will not pass to Brenntag until Brenntag has taken delivery of the Products. In the event that Brenntag returns the Products if it is discovered, on or after delivery, that all or part of the Products do not meet the requirements, the risk of the relevant Products will pass back to the Contractor upon despatch by Brenntag.
- 7.7 The Contractor shall provide full details of all existing and potential risks or hazards associated with the goods, in particular toxicity, flammability, inhalation or direct contact hazards and whether the hazards arise from direct or indirect use. In addition, the Contractor shall provide full details of the appropriate safety precautions to be taken in connection with the use and handling of the Products and shall mark all packaging and containers of dangerous, toxic or otherwise harmful Products in a prescribed and conspicuous manner to protect persons handling or coming into contact with those Products.
- 7.8 Unless otherwise agreed in individual cases, deliveries shall be made in batches. Products with minimum shelf life shall only be delivered with maximum remaining shelf life. Partial deliveries are only permitted with the prior consent In Writing of Brenntag.

#### **Services**

- 7.9 The Services to be provided will be completed in accordance with the specific description in the Agreement, including any rights and materials to be delivered with the Services by way of a completion protocol In Writing. For purposes of this article, Services will be deemed to include the delivery of all materials and associated auxiliary materials (including personal protective equipment and tools of staff) and documentation, such as an EC declaration of conformity, the technical construction file, the user instructions or manual in the language(s) of the country of use, drawings, test certificates, quality, inspection and warranty certificates, maintenance and instruction booklets with manual and item and safety information, including but not limited to Material Safety Data Sheets (MSDS).
- 7.10 The Contractor shall document the performance of the Services and shall send these documents to Brenntag on request or after completion of the Services.
- 7.11 The time at which the Services are to be completed will be deemed to be the day and time as agreed upon. The Services will be deemed to have been provided after approval by Brenntag In Writing.
- 7.12 In the event of Services on the basis of a cost-plus contract, weekly timesheets of hours worked will be submitted for approval by Brenntag. The approved timesheets will be attached as an annex to the invoice. In the event of replacement of staff engaged in the Services to be provided, the costs of transfer of knowledge and induction training given to new staff may not be charged.

**Deliverables**

- 7.13 The Contractor will deliver the Deliverables ordered by Brenntag in accordance with the assignment of Brenntag. If the Deliverables have been modified or are temporarily unavailable, the Contractor will not deliver any other (alternative) Deliverables, unless expressly agreed otherwise In Writing. Brenntag shall be notified In Writing of any variation to the assignment not later than three (3) Workdays prior to delivery.
- 7.14 At Brenntag's request, the Contractor shall provide Brenntag without delay and free of charge with the necessary documents and declarations for deliveries or services, in particular declarations of origin, health certificates and classifications under export control law.
- 7.15 As soon as the Contractor knows or should know that delivery will not take place, or will not take place punctually or properly, but not later than upon expiry of the delivery period, it will immediately notify Brenntag thereof In Writing, stating the circumstances giving rise to such non-performance. If Brenntag deems the time by which the delivery period is thus exceeded unacceptable, it may dissolve the relevant Agreement with immediate effect and without any judicial intervention being required, by giving notice In Writing, without any liability arising on its part to pay damages to the Contractor, and without prejudice to any of Brenntag's other rights.
- 7.16 In the event that the agreed delivery periods for the Deliverables are exceeded by the Contractor, or an (anticipated) delay in delivery is not, or not punctually, reported by it as described in this article, the Contractor will be liable for any and all damages to be suffered by Brenntag, including but not limited to third-party claims for damages.
- 7.17 In addition to the other provisions of this article, in the event that the delivery period is exceeded, in any event a penalty will be forfeited equal to 0.5% of the total net invoice value of the Order based on which the Deliverables were to be provided, for each calendar day that the delivery period is exceeded. The penalty will be related solely to the relevant delay and will, moreover, not affect any right of Brenntag in addition to claim damages or other costs.
- 7.18 Delivery prior to the agreed time may be refused by Brenntag.

**8. TRANSPORT AND RISK**

- 8.1 The method of transport, despatch, etc., will, if no further instructions have been given by Brenntag, be determined by the Contractor acting as a good contractor, with due observance of the applicable statutory rules.
- 8.2 Transport of Products will be entirely at the Contractor's risk. The Contractor is to take out adequate insurance against such risk.

**9. TRANSFER OF TITLE**

- 9.1 Title and risk in respect of the Products delivered by the Contractor will not pass to Brenntag until the time of approval of such Products by Brenntag. The Contractor will indemnify Brenntag from and against any infringement by the Contractor or by third parties of Brenntag's property rights. Products that have been lost or damaged prior to acceptance are to be replaced or repaired by and at the expense of the Contractor, or the Contractor will fully hold Brenntag harmless in that respect.
- 9.2 Any goods, such as raw materials, auxiliary materials, tools, drawings, illustrations, specifications and software, that Brenntag may make available to the Contractor for the purpose of performance by the Contractor of its obligations will remain the

property of Brenntag. The Contractor will store the relevant goods separate of any goods belonging to the Contractor itself or to any third parties. The Contractor will label any such goods as the Brenntag's property. The Contractor shall not make those available without the express prior consent In Writing of Brenntag.

- 9.3 As soon as any good, such as raw materials, auxiliary materials and software, belonging to Brenntag have been processed in goods of the Contractor, there will be a new good that will be the property of Brenntag.

## **10. PACKING**

- 10.1 The Contractor will properly pack the Products, so as to ensure safe transport of the Products to, and unloading thereof at, the place of delivery. The Contractor will be required to take back all packing used, including boxes, crates, loading boards, etc at the place of delivery within normal operating hours at its own expense; otherwise.
- 10.2 The Contractor is to pack the Products with due observance of the applicable laws and regulations, including covenants and decrees.

## **11. WARRANTY, REACH AND INSPECTION**

- 11.1 The Contractor warrants that the Deliverables provided;
- (i) are in compliance with the Agreement and the agreed specifications;
  - (ii) are in compliance with the applicable laws and regulations;
  - (iii) are fit for their intended purpose, are of good quality and are free of defects;
  - (iv) do not infringe any third-party rights, including but not limited to rights of intellectual and industrial property;
  - (v) contain a high level of technical competence, using appropriate procedures and are in conformity with the generally accepted technical practice;
  - (vi) are in compliance with the legal provisions applicable at the time of delivery, in particular the safety requirements valid at the time of delivery or service as well as the relevant occupational health and safety and accident prevention regulations.
- 11.2 The Contractor expressly warrants compliance with Regulation No. 1907/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH). The Contractor will particularly ensure that the substances used in preparations or items are registered with the European Chemicals Agency in Helsinki, Finland, as provided in such Regulation. If the Contractor fails to perform its obligations under the Regulation, it will indemnify and hold Brenntag harmless against any damage, costs, expenses or liability as a result of such failure. Moreover, in the event of any such failure, Brenntag will be entitled to dissolve the Agreement with immediate effect by giving notice In Writing to the Contractor, without any liability arising on its part to pay damages to the Contractor.
- 11.3 The warranty period for Products, including any installation and/or assembly thereof, will be at least twenty-four (24) months, to be calculated from the time of commissioning by Brenntag or, in the absence of commissioning, from the time of delivery. Expiry of the warranty period will not prejudice the rights that Brenntag can derive from the law and the Agreement.
- 11.4 If the Contractor has shown or provided a model, sample or example, the Products are to be delivered in accordance with the model, sample or example shown or

provided. The qualities and properties of the Products to be delivered may, in principle, not differ from the model, sample or example.

- 11.5 Inspection, checking and/or testing of the Products by Brenntag or by persons or bodies designated by Brenntag can take place prior to, during or after performance of the Agreement. Brenntag will not be under any obligation to inspect, check and/or test the Products upon receipt. Brenntag may check and/or test the Products at the Contractor's (production) facility.
- 11.6 If repeated or further tests are necessary as a result of a(n) (alleged) defect to the Products, the Contractor shall bear all costs, subject to further statutory claims, unless it is not responsible for the defect.
- 11.7 If it is discovered, on or after delivery, that all or part of the Products do not meet the requirements set in this article, the Contractor will, in the event of supply of Products, within a reasonable term remedy the defects by repairing the defective Products and/or replacing the Products and/or arranging an additional delivery of the Products, all at Brenntag's option. In the event of Services, all or part of the Services will be performed again. All costs involved will be payable by the Contractor.
- 11.8 For Products or parts of Products replaced during the warranty period, the warranty period will take effect again as from the date of delivery of the replacement Product.
- 11.9 In the event of rejection of the Products during or after performance of the Agreement, the risks associated with the rejected Products will continue to be borne by the Contractor or will pass to the Contractor with effect from the date of the notice referred to.
- 11.10 If the Contractor fails to perform its warranty obligations under this article within a reasonable term set by Brenntag, Brenntag will be entitled to perform the necessary repairs itself or cause a third party to perform such repairs, or purchase replacement and/or additional Products and/or Services from a third party, all at the Contractor's expense.

## **12. QUALITY ASSURANCE**

- 12.1 The Contractor is obliged to introduce a recognized quality assurance system in accordance with DIN EN ISO 9001 or comparable, and to maintain it updated throughout the contractual relationship and to provide evidence thereof.
- 12.2 The Contractor shall inform Brenntag In Writing without delay, but at least six (6) months before changes in the production processes, the production site and/or the ingredients used. At Brenntag's request, the Contractor shall provide Brenntag with all information required by Brenntag.
- 12.3 Brenntag shall be entitled, after prior notice, to satisfy itself during the Contractor's normal business and operating hours that the provisions of this section are being complied with. In doing so, Brenntag shall take reasonable account of the Contractor's operational concerns and any need for confidentiality.

## **13. WORK ON THE PREMISES OF BRENNTAG**

- 13.1 For all deliveries and/or work on Brenntag's premises, the safety guidelines of Brenntag for the use of external companies and the respective site regulations in their current version shall apply to the Contractor and any vicarious agents employed by it. The documents shall be handed over to the Contractor upon request.
- 13.2 The Contractor shall ensure that its personnel performing the Services, in particular when working at locations of Brenntag or Brenntag's customers, are not deemed to

be employees of Brenntag or of Brenntag's customers or to be a person entitled to such employment. In the event of a breach of contract, the Contractor shall indemnify Brenntag against all costs, expenses and other damages in connection therewith, unless the Contractor is not responsible for this.

- 13.3 If the Contractor is required to work at Brenntag sites or at sites of Brenntag customers, the Contractor shall, at its own expense, follow all safety rules and procedures applicable there. This includes, in particular, the use of appropriate personal protective equipment, attendance at induction training at the site, removal of waste, debris, surplus materials and temporary structures and leaving the site in a tidy condition. The Contractor shall bear the risk of loss and damage to all materials used up to the completion of the Contract.

#### **14. PENALTY**

In the event of any breach of any material obligation of Contractor under the Agreement and/or the applicable laws and/or regulations – including at least but not limited to any antitrust violation –, Contractor will be liable without prior notification and without any legal measures having to be taken, to pay to Brenntag an immediately due and payable penalty of €100.000 (in words: hundred thousand euros) per breach and an immediately due and payable penalty of €10.000 (in words: ten thousand euros) for each (part of the) day that this breach continues, without prejudice to the obligation of Contractor to compensate Brenntag in full for the actual damages.

#### **15. TERMINATION**

- 15.1 Unless agreed otherwise In Writing, either Party will – if the Agreement is a continuing performance relationship for an indefinite period (*duurrelatie voor onbepaalde tijd*) – at all times be authorized to terminate the Agreement (early) by giving notice In Writing to the other Party, with due observance of a notice period of six (6) months. After expiry of the notice period, the Parties will discontinue performance of the Agreement.
- 15.2 If the Contractor fails to perform the Agreement entered into between the Parties by failing, or failing punctually or properly, to perform any of its obligations under the Agreement or any other ensuing agreements resulting from same, the Contractor will be in default without any further notice of default being required. In such event, Brenntag will be entitled unilaterally to dissolve all or part of the Agreement without any judicial intervention being required, by giving notice In Writing to the Contractor. In such event Brenntag may also suspend its payment obligations and/or assign performance of all or part of the Agreement to third parties, without prejudice to any of Brenntag's other rights, including Brenntag's right to claim full damages.
- 15.3 In the event that any of the circumstances referred to in paragraph 2 of this article occur, all Brenntag's claims against the Contractor will become immediately and fully due and payable and subject to the statutory commercial interest (article 6:119a in conjunction with article 6:120 of the Dutch Civil Code) as from such time or the earlier due date. The Contractor will thereby also pay Brenntag the extrajudicial costs in accordance with article 6:96 paragraph 2 (c) of the Dutch Civil Code in conjunction with article 6:96 paragraph 5 of the Dutch Civil Code. Furthermore, Brenntag may suspend, terminate or dissolve any and all other Agreements with the Contractor. The Contractor will thereby also pay Brenntag all extrajudicial costs to be incurred by Brenntag, equal to at least fifteen percent (15%) of the outstanding claim (if any), all without prejudice to the Brenntag's right to claim judicial costs.

Furthermore, Brenntag may suspend or terminate any and all other Agreements with the Contractor.

- 15.4 Brenntag may terminate the Agreement with immediate effect by giving notice In Writing, without any liability arising on its part to pay any form of damages to the Contractor:
- (i) in the event that bankruptcy or a (provisional) moratorium on payment of debts is filed for,
  - (ii) or in the event of stoppage, winding-up, dissolution, discontinuation or takeover, or any similar situation, in respect of the Contractor's business,
  - (iii) or in the event of a change a) in control as a result of transfer of title or beneficial ownership in respect of all or part of the shares in the Contractor's issued capital or b) in the management and/or governance of the Contractor (change of control).
- 15.5 In the event of termination or expiry of an Agreement, the Contractor will immediately return all originals and copies of Confidential Information made available to it by Brenntag for the purpose of performance of the Agreement.
- 15.6 Any obligations which, by their nature, are intended to survive termination or dissolution of the Agreement will continue to be in effect after termination or dissolution, irrespective of the ground for termination or dissolution. Such obligations will include, but are not limited to: confidentiality, liability, applicable law, dispute resolution, and this article.
- 15.7 The provisions of this article are without prejudice to the rights and remedies to which Brenntag is entitled under the law.

## **16. LIABILITY**

- 16.1 The Contractor will hold Brenntag harmless against any claim on the part of Brenntag relating to the Deliverables. Claims will in any event be taken to include, but not to be limited to, claims for compensation of damage and costs on account of failure and/or wrongful act on the part of the Contractor, its staff or any other persons engaged by the Contractor in the performance of the Agreement or any ensuing agreements, product liability, infringement of intellectual property rights, violation of privacy laws, claims based on the fact that the Deliverables are not in compliance with the applicable laws and regulations, and claims as a result of, or in connection with, the nature of, or defects in, the Deliverables or as a result of the fact that the Deliverables do not have the properties that the third party could expect, etc. The Contractor will be liable for compensation of all damage, losses, costs and charges, etc., that Brenntag may incur, including but not limited to costs of legal assistance and all other legal costs and charges.
- 16.2 The Contractor will in any event, without limitation, be liable for compensation of:
- (i) the transaction damage: the difference between the value of the contractual obligation and the value of the contractual obligation as actually performed by the Contractor;
  - (ii) lost profit;
  - (iii) costs of delay ("default interest");

- (iv) any and all (further) costs, interest and expenditure (including but not limited to legal fees, experts' fees, travel expenses, extrajudicial costs of assessment of the nature and amount of the damage);
  - (v) any and all costs and expenditure that should be deemed to be "useless" (including but not limited to: redundancy pay, fines, costs of transport, assembly, warehouse, insurance, etc.);
  - (vi) any and all costs and expenditure relating to a recall.
- 16.3 Any liability on the part of Brenntag will be limited to an amount of €10,000 (in words: ten thousand euros) per event. The limitation of liability will not apply in the event of intentional act or gross negligence on Brenntag's company management or managing subordinates in the performance of the Agreement or any ensuing agreement.
- 16.4 The Contractor will take out adequate insurance against the liability as referred to in this article and will, if so desired, allow Brenntag to inspect the relevant insurance policy.
- 16.5 In the event that the Contractor can assert a claim for payment under one or more insurance policies in connection with its liability vis-à-vis Brenntag, the Contractor will ensure that such payment or payments will be made directly to Brenntag. For this purpose, the Contractor hereby assigns to Brenntag all existing and future rights and claims on the part of the Contractor pursuant to or under any insurance policy, and hereby grants Brenntag an irrevocable power of attorney at any time to give notice of such assignment to the relevant insurance company and to cause any insurance payments to be made directly to it, which assignment and power of attorney are hereby accepted by Brenntag.

## **17. CONFIDENTIALITY**

- 17.1 All Confidential Information (including the intellectual property rights in such Confidential Information) will remain the property of Brenntag. Provision of the Confidential Information by Brenntag to the Contractor can in no way be deemed to constitute a transfer of rights or the grant of a license to use the Confidential Information.
- 17.2 The Contractor undertakes vis-à-vis Brenntag without the prior consent of Brenntag In Writing not directly or indirectly to disclose or make the Confidential Information available to any third parties, either orally or In Writing, and to observe strict secrecy in respect of the Confidential Information. Furthermore, the Contractor undertakes not to use the Confidential Information in any way that may damage the interests of Brenntag, or for any purpose other than the performance of its obligations under the Agreement entered into.
- 17.3 The Contractor will not make any copies, in any form whatsoever, of the Confidential Information. Furthermore, the Contractor undertakes, on Brenntag's demand, as well as in the event of termination or expiry of the Agreement entered into, promptly to return to the latter: (i) all documents in its possession, as well as any copies made thereof, in any form whatsoever, on which the Confidential Information is recorded; (ii) all other (electronic) data carriers on which the Confidential Information is recorded; (iii) all notes for the preparation of which the Confidential Information has been used; (iv) all documents, memorandums, reports, etc., containing Confidential Information, either in processed form or otherwise, and/or for the preparation of which the Confidential Information has been used.

## **18. DATA PROTECTION**

- 18.1 The Contractor will take appropriate technical and organizational measures to warrant that all personal data, within the meaning of the General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679), received by the Contractor from Brenntag for purposes of performance of the Agreement, including but not limited to the address details of employees of Brenntag, will be processed in accordance with the applicable personal data protection laws.
- 18.2 With respect to personal data protection, either Party will strictly comply with the applicable laws and regulations, including but not limited to the General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679), and enter into all such agreements as may be necessary in that respect.

## **19. INTELLECTUAL PROPERTY**

- 19.1 All current and future intellectual property rights in existence anywhere in the world, including but not limited to copyrights, database rights, design rights, trademarks, trade names, domain names, patents, knowhow, and other sui generis (intellectual property) rights, either registered or unregistered, and including all priority rights, divisions, continuations, and renewals of such rights, applications for and claims to such rights, as well as all rights and rights of claim attached thereto, including but not limited to the right to claim damages and profit disgorgement (hereinafter: "Intellectual Property Rights") in all items made available to the Contractor under an Agreement, including but not limited to drawings, materials, molds and other movable property, will be owned exclusively by Brenntag. The Contractor will only be granted the - non-transferable and non-sublicensable - right to use the items made available to it by Brenntag in the context of an Agreement during the term of the Agreement and for purposes of performance of the Agreement or Agreements entered into between Brenntag and the Contractor.
- 19.2 To the extent that results of work performed by the Contractor for Brenntag (such as reports, drawings, designs) are subject to Intellectual Property Rights, the Contractor warrants Brenntag's use thereof, to the extent necessary in connection with the Agreement and/or (the unhindered and continuous use of) any Products resulting from it. To the extent possible, such rights will be owned exclusively by Brenntag. Any rights that have been created on the Contractor's part in the context of performance of the Agreement or Agreements between Brenntag and the Contractor will be unconditionally and irrevocably transferred to Brenntag by signing the Agreement, without any fee being due in that respect, which transfer is hereby accepted by Brenntag. If that should prove necessary for formal reasons, the Contractor will, on Brenntag's demand, without setting any further conditions, render its cooperation in the execution of a document and perform all such acts as may prove necessary to arrange that all Intellectual Property Rights that have been created in the context of performance of an Agreement between Brenntag and the Contractor will be owned by Brenntag. To the extent that, despite the foregoing, the said Intellectual Property Rights cannot be transferred to Brenntag, the Contractor hereby grants Brenntag, in advance, also for purposes of necessary maintenance activities, a worldwide, exclusive, transferable license, not subject to termination, to use the said Intellectual Property Rights for an indefinite period of time. If so desired, Brenntag may enter, or cause the entry of, the license in the designated registers, in respect of which the Contractor will lend the necessary cooperation.

- 19.3 Save in the events referred to in paragraphs 1, 4 and 5 of this article, the Contractor may not use Brenntag's Intellectual Property Rights, including its trade name, trademark and designs, without Brenntag's prior consent In Writing.
- 19.4 To the extent that the Contractor is to use patented materials of Brenntag in the performance of an Agreement, Brenntag hereby grants the Contractor the non-transferable right to use such patented materials for purposes of performance of the Agreement, which right is hereby accepted by the Contractor.
- 19.5 All knowhow made available by Brenntag to the Contractor in connection with the performance of an Agreement will be used by the Contractor for purposes of performance, and for the duration, of that Agreement only. The provisions with respect to Confidential Information will fully apply to any and all knowhow made available by Brenntag.

## **20. RESOURCES**

- 20.1 Any materials, software, drawings, designs, moulds, tools, instructions, specifications and other resources made available by Brenntag or purchased or created by the Contractor for the purpose of delivery to Brenntag will remain, or become, the property of Brenntag upon purchase or creation, all unless agreed otherwise In Writing between the Parties.
- 20.2 The Contractor - as holder for Brenntag - will be under the obligation to label the resources referred to in the foregoing paragraph as recognizable property of Brenntag, keep them in good condition, and insure them at the Contractor's expense against all risks, as long as the Contractor acts as the holder of such resources.
- 20.3 The Contractor may not remove or change any proprietary notice of Brenntag on the resources.
- 20.4 The resources will be made available to Brenntag on demand or simultaneously with provision of the Deliverables to which the resources relate.
- 20.5 Any resources used by the Contractor in the performance of the Agreement will be submitted for approval by Brenntag on the latter's demand.
- 20.6 Modification of, or variation from, the resources made available or approved by Brenntag will be permitted only with Brenntag's prior approval In Writing.
- 20.7 The Contractor will not use, or allow the use of, the resources for or in connection with any purpose other than the delivery to Brenntag. The Contractor may not grant the use of, or rent or otherwise give up the resources to any third parties, either for no consideration or against payment of a fee.
- 20.8 On Brenntag's demand, the Contractor will inform Brenntag, by way of a status overview, of the quantity and quality of the resources of Brenntag in the Contractor's possession.
- 20.9 Brenntag may require the Contractor to sign proprietary statements relating to the resources. The Contractor will render its cooperation in that respect.
- 20.10 The method of use of the resources will be entirely at the risk of the Contractor.
- 20.11 In the event of (impending) bankruptcy or a (provisional) moratorium on payment on the part of the Contractor, or in the event of attachment of any nature whatsoever against the Contractor, or in the event of appointment of an administrator for the Contractor pursuant to any statutory provision whatsoever, the Contractor will be under the obligation immediately to notify Brenntag In Writing. The Contractor will

also be required promptly to give the receiver, administrator or attaching bailiff access to these Conditions.

## **21. CHANGES**

- 21.1 Provided reasonably feasible, Brenntag will be entitled to require the Contractor to make changes to the nature and scope of the Deliverables to be provided. Brenntag will provide a statement of the required changes in such a way that they can be known by the Contractor.
- 21.2 If, in the Contractor's opinion, a change will have consequences for the agreed price and/or delivery time, it will be under the obligation, before making the change, to notify Brenntag thereof In Writing as soon as possible, but not later than eight (8) Workdays following notice of the required change. Brenntag will be entitled to dissolve the Agreement if the price and delivery time stated by Brenntag are not acceptable to Brenntag.
- 21.3 The Contractor will be authorized to make or implement changes to the performance of the Agreement with Brenntag's prior consent In Writing only. Any requests for changes are to be submitted by the Contractor to Brenntag In Writing.

## **22. ASSIGNMENT AND SUBCONTRACTING**

- 22.1 The Contractor may not assign all or part of the rights and obligations ensuing for the Contractor from an Agreement to any third parties without Brenntag's prior consent In Writing. This provision will have effect both under property law and under the law of obligations within the meaning of article 3:83 paragraph 2 of the Dutch Civil Code.
- 22.2 The Contractor may not subcontract the performance of all or part of its obligations under the Agreement to any third parties or cause any third parties to perform all or part of such obligations without Brenntag's prior consent In Writing.
- 22.3 If Brenntag grants its consent as provided in paragraphs 1 and 2 of this article, it may attach conditions to such consent. Even if Brenntag has granted its consent, the Contractor will remain fully responsible and liable to Brenntag for the proper performance of its obligations under the Agreement and/or any ensuing agreement.
- 22.4 In urgent cases and, furthermore, if after consultation with the Contractor it should reasonably be assumed that the latter can or will not, or not punctually or properly, perform its obligations under the Agreement, Brenntag may require that the Contractor subcontract performance of all or part of the Agreement to one or more third parties to be designated by Brenntag, all at the Contractor's expense and risk. The foregoing will not release the Contractor of its obligations under the Agreement.

## **23. APPLICABLE LAW AND DISPUTE RESOLUTION**

- 23.1 The enquiries, offers, Orders and Agreements, and the performance thereof, as well as these Conditions themselves, will be governed by the laws of the Netherlands, excluding the Convention on International Sales of Goods 1980.
- 23.2 Any disputes, including disputes that are considered as such by one of the Parties only, that may arise as a result of, or in connection with, the Agreement governed by these Conditions, or the Conditions themselves and their interpretation or implementation, whether of a factual or of a legal nature, will be decided by the District Court in Rotterdam.

**24. MISCELLANEOUS PROVISIONS**

- 24.1 These Conditions are subject to amendment by Brenntag. Any such amendments will take effect on the effective date announced, save with respect to Agreements entered into prior to such date. Brenntag will send the amended Conditions to the Contractor in good time. If no effective date has been communicated, amendments will take effect vis-à-vis the Contractor as soon as it has been notified, or has taken cognizance, of such amendment, save with respect to Agreements entered into prior to such date.
- 24.2 The Contractor will be entirely independent in the performance of the Agreement. In no event will there be any employment relationship with Brenntag, or representation etc.
- 24.3 If any provision of these Conditions is void or voided, the other provisions of these Conditions will remain in full force and effect, and the Parties will consult in order to agree new provisions to replace the void or voided provisions, observing the objective and purport of the void or voided provision to the extent possible.