



## General Terms and Conditions of Purchase of Ecolab Europe GmbH and its Affiliates

(Version 5.0 May 2024)

### 1. Scope

- 1.1. These General Terms and Conditions of Purchase shall apply for all contracts, in particular to orders for the deliveries of products and/or the provision of services, between Ecolab Europe GmbH, Hofwiesenstrasse 349, 8050 Zurich, Switzerland, or any of its Affiliates which may refer to them (hereinafter collectively referred as "Ecolab") and the supplier of products or the service provider (hereinafter referred as "Supplier"). "Affiliate(s)" shall mean any other person or company that directly or indirectly controls, is controlled by, or is under common control with Ecolab Europe GmbH. "Control" or "controlling" means direct or indirect beneficial ownership of more than fifty percent (50%) of the voting or income interest in such person or company; or of the power to direct or cause the direction of management, policies, or activities of a person or entity, whether through the ownership of voting securities or other interest, by contract or otherwise.
- 1.2. Deviating written individual agreements between Ecolab and Supplier take priority over these General Terms and Conditions of Purchase.
- 1.3. Supplier's General Terms and Conditions of Sale shall not apply, even if expressly referred to by the Supplier.
- 1.4. The confirmation and actual performance of a purchase order of Ecolab shall be deemed consent by Supplier to these General Terms and Conditions of Purchase.
- 1.5. The application of the convention of the United Nations on contracts for the international sale of goods dated April 11, 1980 (CISG) is expressly excluded by these General Terms and Conditions of Purchase.

### 2. Purchase orders

- 2.1. A binding contract between Ecolab and Supplier requires a purchase order which is accepted, in accordance with clauses 2.2. and 2.3 below.
- 2.2. Purchase orders of Ecolab are only binding if they are issued or confirmed in writing, via facsimile or in electronic form, by an authorized person.
- 2.3. Supplier shall accept all purchase order issued within the quantities plus twenty percent (+20%) defined in Ecolab last forecast provided to the Supplier. For purchase orders issued beyond the forecast plus twenty percent (+20%), Supplier shall accept the purchase order within five (5) working days, confirming the price and date of delivery. Lack of rejection of the purchase order within five (5) working days shall be understood as acceptance. Deviations from the purchase order of Ecolab as well as later deviations from the contract only apply if expressly agreed upon in writing by Ecolab. Purchase order may be cancelled at any time by Ecolab subject to a reasonable notice period. Any terms and conditions different from these General Terms and Conditions referred to in a purchase order acknowledgement shall be declared null and void.

### 3. Delivery

- 3.1. The date of delivery is met if the ordered products are received or the ordered services are performed, in full, by Supplier within the agreed deadline at the receiving site indicated in the purchase order. Advance deliveries of products/provision of services or partial deliveries/partial provision of services require Ecolab prior written consent. As soon as Supplier recognizes it will not be able to fulfill its contractual obligations, either in full or in part, or not within the stipulated timeframe, it must notify Ecolab in writing. The notice must state both the reason(s) for the delay and the predicted delay in time of delivery/time of performance. Any acceptance by Ecolab of a delayed or partial delivery of products/provision of services shall by no means constitute a waiver of any rights or claims of Ecolab due to late or partial delivery of products/provision of services.
- 3.2. Without prejudice to Ecolab any other rights to claim further damages or to terminate from the contract, in case of delay in delivery of products or in provision of services, Ecolab has the right to claim a penalty which equals two percent (2%) of the order value per each week of delay. Penalties will be calculated on the total amount of the purchase order including eventual amendment(s), each started week of delay shall be considered as a full week. The penalties for late delivery defined in this clause shall be capped to 20% of the total amount of the purchase order.
- 3.3. Each delivery shall include the Certificate of Analysis (COA) or Certificate of Conformance (COC) as the case may be, duly signed by an authorized representative of the Supplier. COA/COC shall mention all information required such as but not limited to compliance with the Specifications agreed or provided by Ecolab, testing methods applied on Products and results

of such testing. Ecolab is entitled to reject a delivery if the COA/COC is not available at the time of delivery or was not communicated prior to delivery. For each combination of Product number and batch number, a corresponding individual COA/COC shall be issued.

#### **4. Prices, Payment, Offsetting, and retention**

- 4.1. The agreed prices are fixed and firm. Further charges are not allowed. The agreed prices include all costs which are necessary until the contract is fulfilled (including but not limited to costs for packaging, transport, insurance, customs clearance, installation, labour, material). Unless otherwise set forth on all agreed prices under contract are set DDP (INCOTERMS 2020).
- 4.2. The prices are excluding the respective statutory VAT.
- 4.3. Unless otherwise agreed in written between the Parties, Ecolab's payment terms are one hundred and five (105) days from Ecolab's receipt and approval of a properly submitted invoice, plus end of the month, plus one (1) day. No invoice may be issued before delivery of the goods or performance of the services. For example, if the invoice was received and approved on June 15, payment would be due November 1, subject to applicable bank holidays and weekends, in which case payment would be due on the first banking day thereafter.
- 4.4. Invoices must, at a minimum, contain the following descriptions:
  - Complete and correct name and address of Supplier
  - VAT registration number of Supplier - if available
  - Complete and correct name and address of the ordering Ecolab entity
  - VAT number of the ordering Ecolab entity
  - ECOLAB's Purchase order number
  - Invoice date
  - Unique reference (e. g. sequence number) / Invoice number
  - Quantity and description of the products delivered / type and scope of service provided
  - Net amount, gross amount, currency
  - Tax percentage (if applicable), tax amount in currency
  - Payment terms
- 4.5. Supplier is only permitted to offset claims that are undisputed or substantiated by court judgement. Supplier is only entitled to a retention right if the claim, due to which the right of retention shall be deemed valid, has its origins in the same contractual relationship.

#### **5. Transfer of risk and title, shipment**

- 5.1. The risk of loss or damage and the title to the products passes to Ecolab upon proper and complete delivery in accordance with the separately agreed INCOTERMS 2022.
- 5.2. Unless otherwise set forth on all products provided under contract shall be delivered in accordance to DDP INCOTERMS 2022.

#### **6. Warranty**

- 6.1. Supplier warrants that all products delivered, and services performed are good merchantable quality, complete and free from any defects, free of all liens and other encumbrances, meet the warranted quality, fit the defined purpose and comply with the stipulated specifications as well as all applicable laws, regulations and other rules.
- 6.2. Warranties set forth in this clause 6.1. shall apply for a period of twenty-four (24) months from the date of delivery of the products or performance of the services by Supplier.
- 6.3. If any of the products delivered or services performed do not conform with the warranties set out in clause 6.1. and without prejudice to Ecolab any other rights to claim further damages or to terminate from the contract, Supplier shall be obligated (at the discretion of Ecolab) to remedy the defect at its own costs, to reduce the purchase price, to deliver or perform fully conforming products or services without any additional cost to Ecolab in a reasonable period specified by Ecolab and/or to compensate any damages suffered by Ecolab due to the defect. In case of imminent danger Ecolab is entitled after giving notice to Supplier to remedy the defects directly or via a third party at Supplier's cost.
- 6.4. Supplier will respond to any warranty complaint under these terms, within seven (7) working days of its notification.
- 6.5. REACH – Supplier warrants that he has undertaken all necessary measures to comply with the regulation EC 1907/2006 and/or the equivalent REACH regulation into force in United Kingdom if applicable ("REACH") pre-registration and

registration obligations for the products, and that it will ensure uninterrupted supply availability to Ecolab of product compliant with REACH. Supplier further warrants that it will support Ecolab's intended use of the products and generate any necessary support information required for REACH compliance. Supplier shall provide Ecolab with six (6) months' prior written notice of any known or anticipated change to the REACH compliance status of a product that could interrupt supply availability to Ecolab. Supplier shall provide immediate written notice to Ecolab should any issues relating to REACH compliance of products previously provided to Ecolab arise or become known to Supplier. Supplier shall send all documents and correspondence relating to REACH to Ecolab's REACH program manager (email: reach@ecolab.com) Ecolab Deutschland GmbH, Ecolab Allee 1, 40597 Monheim am Rhein, Germany. Supplier shall identify and provide up-to-date contact details of the person with day-to-day responsibility for REACH within Supplier's organization. Supplier acknowledges the importance to Ecolab of continuing supply of the products and shall reimburse Ecolab for all costs and damages arising from any REACH non-compliance issue related to the products or any disruption in product supply arising out of or relating to REACH compliance issues.

- 6.6. EU BPR Regulation EC 528/2012 – Supplier confirms that all biocide active substances supplied are listed on a positive list according to Art 95 EU BPR or come to be listed directly, and/or if applicable that all biocide active substances supplied are listed on a positive list according to United Kingdom Article 95 of the United Kingdom Biocidal Products Regulation and shall remain listed accordingly beyond December 31st 2022. Supplier will give free of charge access to any substances data (letter of access to biocide active dossier data (LoA) and a list of endpoints (LoE)) and show technical equivalence of active substances by ECHA (TE). Supplier shall reimburse Ecolab for all costs and damages arising from the non-compliance of the products with the above-mentioned EU BPR requirements or any disruption in product supply arising out of or relating to EU BPR compliance issues. All documents and correspondence relating to BPR will be sent to Ecolab's BPR responsible contact email: EU.Biocides@ecolab.com and Supplier shall identify and provide up-to-date contact details of the person with day-to-day responsibility for BPR within Supplier's organization.
- 6.7. EQUIPMENT COMPLIANCE with European and United Kingdom regulations - Supplier represents and warrants that all Products comply with European Directives and / or United Kingdom Regulations, applicable such as but not limited to: LVD, EMC, RED, RoHS and Machinery (or equivalent United Kingdom Regulations)  
The Supplier shall indemnify, defend and hold harmless Ecolab against all claims for any damage and losses (including but not limited to legal and other professional fees) resulting from the following: (i) the Products not being compliant with European (EU) Directives and/or United Kingdom (UK) Regulations (e.g. including but not limited to those on LVD, EMC, RED, Machinery), (ii) Goods not being CE marked or UKCA marked as the case may be, (iii) failure to supply a requested EU declaration of conformity or UK Declaration of Conformity as the case may be, (iv) failure to immediately report if the Products or any component thereof needs an export license under the EU/UK Dual Use Goods Regulations, and (v) failure to report if the Products or any component fall under the scope of dangerous goods regulations ADR/IMDG/IATA (e.g. Li-Ion-Batteries).  
If any equipment shall be CE/UKCA marked, the Supplier shall send the EU/UK Declaration of conformity to [uequipmentcompliance@ecolab.com](mailto:uequipmentcompliance@ecolab.com) with the Ecolab part number and description.  
All Products supplied must either (i) not contain any Substances of Very High Concern (SVHCs) with respect to the latest European Chemical Agency's (ECHA) candidate list and/or Annex XIV of EU REACH Regulation 1907/2006, or (ii) if present, the identity, weight of the item and the weight-by-weight percentage of the SVHC(s) present must be clearly communicated as required under the EU REACH Regulation 1907/2006.  
The Supplier should confirm that any Product or part supplied to Ecolab comply with RoHS & POP Directives and its amendments (and equivalent UK Regulations).  
If any Product or any part contains any substance restricted under RoHS/POP or any SVHC restricted under REACH (and equivalent UK Regulations), the supplier should immediately communicate it with the detailed information to [uequipmentcompliance@ecolab.com](mailto:uequipmentcompliance@ecolab.com).
- 6.8. At all time, Supplier shall comply with Ecolab Supplier code of conduct which is accessible on the following link: <https://www.ecolab.com/about/suppliers/supplier-policies>.
- 6.9. Supplier shall comply in particular with the human rights and environment related expectations set forth in the Ecolab Supplier code of conduct and Ecolab policy statement with regard to the German Act on Corporate Due Diligence Obligations in Supply Chains ("Lieferkettensorgfaltspflichtengesetz – LkSG"), the latter of which is accessible on the following link: [GSCDDA-Policy Statement](#)
- 6.10. Supplier shall use its best efforts to take appropriate measures to adequately address these human rights and environment related expectations along its own supply chains.

- 6.11. To the extent Ecolab identifies risks in relation to violations of these human rights and environment related expectations by Supplier, Supplier agrees to cooperate in and to actively support appropriate preventive and/or control measures of Ecolab and, in the event that an actual violation has occurred, take immediate corrective action to end such violations.
- 6.12. Supplier warrants that the products and services are free from rights of other parties and that delivery of the products and/or performance of the services do not violate any rights of third parties.

## 7. Liability

- 7.1. The Supplier shall be fully liable toward Ecolab for any liability, loss (including but not limited to any direct, indirect, immaterial and consequential losses), damage, expense or proceeding whatsoever in connection with the execution of the Purchase Order, without any limitation, and regardless of whether the claim arises out of contract, tort, warranty or any other legal ground.
- 7.2. Indemnification – The Supplier shall be legally liable for and fully indemnify and hold harmless Ecolab upon first demand, or any of its officers, directors and employees against any liability, loss (including but not limited to any direct, indirect, immaterial and consequential losses), damage, expense or proceeding whatsoever in connection with any purchase order, including, without limitation, in respect of i) personal injury to or the death of any person; ii) any loss or damage to property or otherwise; iii) any loss or damage resulting from a third party claim made against Ecolab.

## 8. Insurance

Supplier shall be obligated at all times to maintain sufficient liability insurance – including but not limited to product liability insurance with an adequate minimum insurance amount of 2 Millions € for each single occurrence of personal and property damage - at its own expense for damage for which it or its subcontractors or agents for which it is vicariously liable are responsible. Evidence of the amount of insurance coverage for each occurrence of damage shall be provided to Ecolab upon request. Supplier's contractual and legal liability remains unaffected by the extent and the amount of its insurance coverage.

## 9. Quality requirements

- 9.1. Quality reviews - the Supplier shall regularly, in any event no less than once a year, perform quality reviews of the Product in order to verify the consistency of the production process utilized in the production of the Product. The results of the review together with the Supplier's assessment of same shall be made available to Ecolab upon request.
- 9.2. Change Control – The Supplier shall have a documented and effective change control system in place and shall inform Ecolab of any product discontinuation and any significant changes to the manufacture of the Product and in the Specifications agreed or communicated by Ecolab, mentioning expressly the changes which may have an impact on the quality of the Product, on any regulatory applications if applicable, and on the lead times. These changes include changes in the certification system such as ISO or other quality system being in place. The Supplier shall notify the Customer within a reasonable time (minimum 12 months but in any case, as soon as reasonably practicable) prior to implementation and/or discontinuation, to allow Ecolab to assess the potential impact of the change. Dependent on the change proposed, Ecolab will consider whether a re-validation is required prior to any decision being taken. In this event, Ecolab shall communicate a qualification plan to the supplier in a timely manner. The Consequences of any unauthorized or non-communicated changes being introduced shall be considered as a material breach of this Agreement.  
In respect of changes required to comply with applicable laws and/or regulatory agency requirements, the Supplier shall notify Ecolab in writing of such requirements as soon as the Supplier becomes aware of the need for such change. Communications under this clause 9.2 shall be made to the following email: [discontinuation@ecolab.com](mailto:discontinuation@ecolab.com).
- 9.3. Right to Audit – The Supplier shall allow Ecolab or its representatives to carry out on-site audits by appointment. The Supplier shall permit all reasonable access to the manufacturing, packaging, warehousing and laboratory areas related to the manufacture of the Product, including pertinent documentation. Any such audit shall take place during business hours and may not unreasonably interfere with the Supplier's manufacturing operations.  
Ecolab can decide to proceed to a remote audit and require documents and information to the Supplier remotely such as but not limited to supplier questionnaires who shall respond within twenty (20) working days following the request.  
The results of the audit and the observation(s) shall be sent to the Supplier in the form of a written report. The Supplier must ensure a satisfactory follow up to the observations made during the audit performed by Ecolab, and take corrective actions where needed.
- 9.4. Reference and retention samples – The Supplier shall have Reference and Retention Samples of a size sufficient to enable the performance of at least 2 (two) full Specification Analyses in respect of the Reference Samples as well as the Retention Samples held.



- 9.5. Expiry date – The Supplier commits not to sell any Product to Ecolab with an expiry date that is earlier than minimum eighty per cent (80%) of the Product Self-life.
- 9.6. Stability - The Supplier warrants that it has assigned retest dates (or expiry dates, where applicable), and confirmed storage and shipping conditions, based upon stability studies conducted. The Supplier shall provide stability data to Ecolab upon reasonable request.
- 9.7. Complaints - The Supplier shall respond to complaints by Ecolab pertaining to the quality of the Product without delay, as mentioned in Article 6 above, including all information requires such as but not limited to information in relation with secure containment measures, root cause definition and verification, permanent corrective and preventive actions. The Supplier shall record and reference, to the applicable batch records, all the decisions made and measures taken in consequence of a complaint. Ecolab shall, where appropriate, make available relevant information and samples of the affected batch(es)/lot(s) of the Product to assist the Supplier in its investigations. The Supplier shall without delay inform Ecolab in writing of any complaint/s received from any third party which affects and/or pertains to the Product, and which complaint/s, if justified, may have serious implications (i.e., the complaint pertains to a potential risk to patients' health or safety) in respect of any Products supplied by the Supplier to Ecolab. In case of a major defect (qualified as major according to Ecolab escalation process), Supplier agree to comply with Ecolab full investigation required for such defects such as Ecolab SCAR procedure or a similar process. Supplier shall in such case, furnish Ecolab in writing the conclusions drawn, the corrective and/or preventative measures and all further information or actions required by the process within ten (10) days from Ecolab request and shall close the SCAR or equivalent process within twenty-eight (28) days from Ecolab request. All costs associated to an Ecolab complaint such as but not limited to complaint handling costs, market actions to be taken, facility repairs, shall be borne by the Supplier.
- 9.8. Recall - In the event of either Party ("Impacted Party") being required or decide voluntarily to initiate a recall, withdrawal or field correction of field alert report or comparable report in respect of any batch of, Product or in the case of Ecolab, of Final Product, the Impacted Party shall notify the other Party accordingly in writing and the other Party shall reasonably co-operate with the Impacted Party to implement same. In the event that the Supplier becomes aware of information that may warrant Ecolab taking any action, which may include a recall, with respect of any batch of Product delivered to Ecolab, the Supplier shall immediately provide the Customer with such information. The Parties shall co-operate in determining whether or not action is required, and in the event that action is required, in determining the nature of such action. Without derogating from any other duty that may rest upon the Supplier either in terms of the Agreement or applicable law, the Supplier shall notify Ecolab in writing as soon as practicably possible after the occurrence of an event pertaining to the manufacturing of the Product, which event is required to be notified by the Supplier to any governmental and/or regulatory body, a public or internal recall, an authority injunction and/or a major or critical non conformity of a notified body. Supplier shall indemnify Ecolab for all costs in relation with a recall including legal and regulatory associate costs.
- 9.9. Storage and distribution - The Supplier shall have processes in place that prevent during packaging and storage of the Product, the possibility of deterioration, contamination, or mix-ups with any other material. Distribution shall occur in such a manner as to ensure the ability to recall the Product from the distribution network. Packaging shall be in compliance with the requirements of the Product and all governmental or regulatory requirements pertaining to the Product.

## 10. Confidentiality, Ownership

- 10.1. All information, including, but not limited to, formulas, know how, processes, customer lists, cost and pricing information, marketing information and strategies, financial information, drawings, materials, products, equipment or apparatus, technology, and technical information disclosed or delivered by one party to the other party or arising from the performance of this contract (collectively, "Confidential Information") must be treated by the receiving party as confidential and proprietary information. None of the Information may be (i) used by the receiving party for any reason other than to assist it in the performance of its obligations under this contract, or (ii) disclosed by the receiving party to any third party. The receiving party must use all reasonable efforts to safeguard the Confidential Information, but under no circumstance may the receiving party use safeguards that are less rigorous than the safeguards the receiving party employs to protect its own confidential information. The receiving party may disseminate the Confidential Information to its employees and agents but only to the extent those employees and agents have a need to know the Confidential Information to assist the receiving party in the performance of this contract. The receiving party must advise and inform its employees and agents

of its obligations under this clause and require that those employees and agents abide by the receiving party's obligations. Upon either party's request (or immediately, upon the expiration or termination of this contract), the other party must promptly return all Confidential Information to the requesting party, including all copies, notes and extracts regarding the Confidential Information.

- 10.2. The restrictions above do not apply to information which (i) was known to the receiving party prior to the receipt of that information from the disclosing party; (ii) was patented or otherwise in the public domain at the time of disclosure by the disclosing party to the receiving party, or subsequently enters the public domain through no breach of this contract; (iii) was obtained by the receiving party from a third party who was under no duty of confidentiality to the disclosing party; (iv) can be proven, by written records, to have been independently developed by the receiving party without the aid, application or use in any way of information, material or assistance obtained from the disclosing party pursuant to this contract. In the event the receiving party is required by judicial or administrative process to disclose the Confidential Information, where legally permissible, the receiving party shall promptly notify the disclosing party and in writing of such requirement to allow intervention by the disclosing party (but in any event prior to the disclosure), and uses its best efforts to cooperate with the disclosing party to contest or minimize the scope of the disclosure (including application for a protective order), and limits such disclosure to the party entitled to receive the Confidential Information and to the scope of the legal requirement.
- 10.3. All objects, samples, models, drawings etc. which will be handed over to Supplier remain the ownership of Ecolab.
- 10.4. The confidentiality obligation shall survive the end or termination of the purchase order for a period of five (5) years.

## **11. Termination**

Either party has the right to terminate the contract for good cause, without prior intervention by a court or arbitral tribunal being required, upon written notice of said good cause, with immediate effect or with effect as of such later date as specified in the notice.

Following events (without this list being limitative) are considered as "good cause" under this contract:

- (a) the failure to perform any of a party's obligations under this contract, which failure is not cured within thirty (30) days of the other party's written notice specifying the Event of Default; and
- (b) the other party becomes insolvent or enters into dissolution or liquidation, files for a petition in bankruptcy, has been declared bankrupt, has been dissolved or has filed a voluntary petition for proceedings in temporary relief of creditors, or any similar events under the laws of any competent jurisdiction.

## **12. Data protection**

In case the Supplier, in the course of performance of the contract, receives from Ecolab or otherwise obtains personal data related to employees of Ecolab (hereinafter referred as "Personal data"), Supplier commits to process Personal Data for the performance of the respective contract exclusively.

Supplier shall ensure that Personal Data is only accessible by its employees, if and to the extent such employees need access for the performance of the contract (need-to-know-principle). Supplier shall not disclose Personal Data to any third party.

Any treatment of Personal data shall be in strict compliance with any applicable law and, including but not limited to the General Data Protection Regulation EU 2016/679. Supplier shall therefore ensure a level of security appropriate to the risk of misuse and loss of Personal Data. Supplier shall inform Principal in case of a Personal Data breach, in particular in case of loss, without undue delay, however not later than twenty-four (24) hours after having become aware of it.

Under no circumstances Supplier will acquire ownership of or other proprietary rights to the Personal Data and any right of retention of the Supplier with regards to Personal Data is excluded. Upon termination of the contract, Supplier shall, according to applicable laws, erase the Personal Data including any and all copies thereof.

In addition, at all time, Supplier shall allow Ecolab or its employees to rectify, erase and/or restrict the processing of the Personal Data.

## **13. Subcontractors, Assignment**

- 13.1. The assignment by Supplier of any of its rights and obligations under the contract to third parties (including but not limited to transfer of receivables or the use of subcontractors) may only take place with the consent of Ecolab granted in writing.
- 13.2. Ecolab, at its sole discretion, may assign or transfer this contract in whole or in part to any Affiliate by notice in writing.

## **14. Force majeure**

- 14.1. Performance of any obligation under the contract may be suspended, in whole or part, by either party without liability to the extent that a Force Majeure Event, which include without any limitation act of God, war, fire, pandemic or any other occurrence unforeseeable and beyond the reasonable control of such party, prevents, restricts or limits the performance of this contract after that party has taken every reasonable step, including reasonable expenditures of money, to remedy the impact of the event. The affected party may invoke this provision by promptly notifying the other party according to clause 14.3 below. If the parties are not able to agree on a mutually satisfactory resolution, then Ecolab has the right to

terminate the contract based on article 11.

- 14.2. Force Majeure Events do not include any of the following events or circumstances: (i) the mere shortage of or inability to obtain labor, equipment, materials or transportation which is not itself caused by a Force Majeure Event; (ii) the insolvency or change in economic circumstances of the affected party and (iii) change in market conditions.
- 14.3. Neither party is liable for any delay in performing or failure to perform its obligations under this contract (excluding indemnification obligations and the obligation to pay undisputed invoices) if and to the extent that the delay or failure is caused by a Force Majeure Event. If a party seeks relief from its obligations to perform under this contract, it shall: (1) give prompt notice to the other party, including the following information: i) Force Majeure Event and its likely effect on the performance of obligations under this contract; ii) a good faith estimate of the duration of the Force Majeure Event; and iii) the actions being taken (or proposed to be taken) to remedy; (2) deliver any notice of allocation within forty-eight (48) hours of its declaration of a Force Majeure Event, or notifying during this notice period the impossibility to make such assessment; the parties shall in such case agree on an extension of such notice in good faith (3) make all reasonable efforts, including expenditure of money, to overcome the Force Majeure Event and to mitigate its effects; (4) if the Force Majeure Event continues, give periodic notices, including monthly allocation notices received by Ecolab no later than ten (10) business days prior to the following month, with any further frequency as directed by Ecolab. Supplier will provide all applicable allocation calculation methodology within each periodic notice. Upon Ecolab's request Supplier will provide a weekly open order report highlighting the fulfillment status of each outstanding purchase order against the allocated volumes. Ecolab has no obligation to make payments to Supplier under this contract which Supplier is unable to perform because of a Force Majeure Event.

## 15. Shortages due to Force Majeure

- 15.1. If there are product shortages due to a Force Majeure Event, Supplier will allocate Product in such a manner that ensures Ecolab does not receive an allocation percentage less than any other internal or external customer. Supplier agrees that Ecolab will have access to first available Product produced within allocation period before other customers. Supplier shall, at its sole expense and with Ecolab prior approval, use all commercially reasonable efforts to provide additional material to Ecolab to make up for any shortfall in supply; including but not limited to:
- Additional shifts and / or overtime of existing shifts
  - Transfer Product Inventory from another global plant location.
  - Offer Feedstock substitutes to produce purchased product
  - Purchasing from alternative sources
- 15.2. For purposes of calculating Ecolab's monthly allocation during a Force Majeure Event, Supplier will apply the greater of (a) Ecolab's highest monthly purchase volume to date or (b) the monthly volume commitment(s), if any, set forth in the Agreement.
- 15.3. If Supplier is unable to supply due for any reason or fails to communicate allocated volumes within the timeframe set forth in the contract, then Ecolab in its sole discretion, may (a) procure the Product from third parties and Supplier is required to reimburse the incremental cost of Buyer purchasing the equivalent Products elsewhere greater than the price hereunder, in connection with but not limited to material costs, over-the-road freight, air-freight, packaging, tooling, logistics/shipping costs, (b) prorate any rebate threshold(s) to account for the delta in Product volume requested by Buyer through written purchase orders, and the Product delivered by Supplier against those purchase orders. Supplier is obligated to pay the full rebate value or percentage against the prorated threshold and/or (c) may terminate this Agreement in whole or in part. In the event of a Force Majeure event that constrains Supplier manufacturing capacity or ability to source raw material(s) for Force Majeure Impacted Product(s), the Buyer reserves the right to direct which Products, ship-to locations and packaging configurations will receive the allocated capacity or raw material(s) for production.

## 16. Compliance, safety, environmental, health

Supplier shall diligently, efficiently, and in a highly professional manner perform the contract. The delivery of the products or performance of the services shall be performed as expeditiously as practicable in accordance with the schedule and time parameters set forth in the purchase order, but giving due regard to all necessary safety precautions and Legal Requirements. Supplier shall be responsible for the quality of the performance and the goods and material, if any, used and warrants that they will be first class in every respect and free of defects of every nature.

Supplier of chemical raw materials shall inform Ecolab about any revision of the Safety Data Sheet of the chemical raw materials sold to Ecolab. The revised Safety Data Sheets must be sent by email to [EURRawMaterialSpecifications@ecolab.com](mailto:EURRawMaterialSpecifications@ecolab.com).

Supplier acknowledges that many of the products produced by Ecolab are hazardous materials requiring special care.



Supplier and its employees, agents, invitees, and subcontractors performing the contract (collectively, the "Personnel") shall therefore exercise extreme caution during contract execution and while being at Ecolab's facilities. Supplier shall not accept a contract that it cannot fully and safely perform in light of these conditions. Supplier shall ensure that all Personnel are thoroughly familiar with (a) Ecolab's products, facilities, and operations guidelines, (b) the work being performed, and (c) the requirements of the Personnel's performance of the contract in compliance with the terms thereof.

Supplier agrees to comply with all applicable foreign, state, and local laws, rules, orders, and regulations and, except to the extent specified otherwise in the relevant purchase order, shall obtain all required permits of the respective regulatory bodies having jurisdiction over the subject matter of this contract, the performance of the contract, and the conduct of Supplier's business (collectively, "Legal Requirements"). Supplier shall pay any and all fees, taxes, assessments, fines, penalties, and other amounts payable in respect of Supplier's compliance (or non-compliance) with Legal Requirements. Supplier and the Personnel shall comply with policies, procedures, and requirements issued by Ecolab and communicated to Supplier.

Upon Supplier's awareness of any incident or accident related to or arising in the performance of the contract, Supplier shall immediately provide Ecolab with an oral and written notification report of such incident or accident. Supplier shall appoint an individual as a point of contact for Ecolab to interact with, regarding information on the incident or accident. Supplier shall provide Ecolab information and update Ecolab on all material developments relating to the incident or accident, including but not limited to the status of the clean-up, developments with all regulatory agencies, copies of correspondence with all regulatory agencies, copies of pleadings, demand letters, or other correspondence, and information on claims or potential claims related to the incident or accident. In addition, Supplier shall provide Ecolab any information Ecolab requests with respect to any incident or accident, including copies of investigation reports and statements from Personnel.

## **17. Place of performance, law and jurisdiction**

- 17.1. Place of performance is the location (delivery address) of the calling manufacturing company. Place of performance for payment claims of the parties is the corporate domicile of Ecolab.
- 17.2. This contract shall be exclusively governed by the substantial laws of Switzerland. In case of dispute, the Parties shall try to reach an amicable settlement. If no amicable settlement can be agreed on within thirty (30) days from the notification of a claim, the competent place of jurisdiction for all disputes between Supplier and Ecolab shall be the competent commercial courts of Zurich, Switzerland.