

## **General Terms and Conditions**

### **1. Scope**

(1) All deliveries, services and quotations by EnviroFALK PharmaWaterSystems GmbH (hereinafter “the Contractor”) are provided exclusively on the basis of these General Terms and Conditions (hereinafter “T&Cs”) in their currently applicable version. They form part of all contracts that the Contractor concludes with its contractual partners (hereinafter “the Client”) for the deliveries or services that it offers. They also apply to all future deliveries, services or quotations provided to the same Client even if they have not been separately agreed upon again. Deviating terms require written confirmation from the Contractor.

(2) Terms and conditions of the Client or third parties do not apply even if the Contractor does not object to their application separately in the individual case. Even if the Contractor makes reference to a written document containing the terms and conditions of the Client or a third party or referring to the same, this does not constitute consent to the application of those terms and conditions.

(3) Individual Client agreements expressly made with the Contractor in the individual case (including ancillary agreements, addenda and amendments to these T&Cs) take precedence over these T&Cs provided that these agreements were made after the conclusion of the contract. The content of such individual agreements is determined by a written contract or – if no such contract exists – a written confirmation provided by the Contractor to the Client. This requirement for confirmation applies in each case, including in cases where the Contractor unconditionally delivers to the Client in the knowledge of the latter’s general terms and conditions. No oral ancillary agreements exist at the time of the conclusion of the contract.

### **2. Quotation, acceptance**

(1) All the Contractor’s quotations are subject to change and non-binding unless they are explicitly identified as binding or they contain a specific deadline for acceptance. The Contractor has fourteen (14) days from receipt of orders or contracts to accept them. Until the Contractor has decided whether to accept or reject an order, the Client is accordingly bound to its order for fourteen (14) days. An order may be revoked within this deadline only with the Contractor’s written agreement.

(2) The designations given to quotations and their associated illustrations/images, descriptions and information on dimensions and weights are merely approximate and are also non-binding with regard to cases where deviations and changes that are reasonable for the Client may be made due to new findings and improvements.

(3) The Contractor retains the title, or reserves the copyright, to all drawings, illustrations, calculations, brochures, catalogues, models, plans, sketches, photographs, operating instructions, production know-how, tools and other documents and aids that it makes available. Without the Contractor’s express agreement, the Client may neither make these objects available to third parties, either as such or the content thereof, nor make them known, nor use or reproduce them itself, nor have third parties do the same. At the Contractor’s request, the Client shall return these objects in their entirety to the Contractor and destroy any copies that may have been made if the Client no longer requires them in the ordinary course of its business or if negotiations do not lead to the conclusion of a contract. The storage of data provided in electronic form for usual back-up purposes is excluded from the foregoing.

### **3. Conclusion of the contract, performance**

(1) The legal relationships between the Contractor and the Client are governed exclusively by the contract concluded in writing, including these T&Cs.

(2) Addenda and amendments to the contract (including these T&Cs) must be made in writing to be effective. With the exception of managing directors and authorised signatories (*Prokuristen*), the Contractor's employees do not have the right to make oral agreements that deviate from the written agreement.

(3) Information provided by the Contractor concerning the deliverable or service (e.g. weights, dimensions, use values, load-bearing capacity, tolerances and technical data) and visual representations of the same (e.g. drawings and illustrations) are merely approximate unless their usability for the purpose provided for in the contract necessitates precise accordance. Such information does not constitute warranted quality characteristics. Deviations that are made due to legal regulations or which represent technical improvements, as well as the replacement of components with equivalent parts, are permitted provided that they do not impair usability for the purpose provided for in the contract. The Client is not permitted to unilaterally change the delivery or service to be provided by the Contractor.

(4) Unless expressly agreed otherwise in the contract, the deliveries or services conform to the currently applicable technical standards and safety regulations in the country in which the Contractor has its registered office.

(5) The Client has a duty to cooperate on matters relating to the provision of the service. In particular, it shall completely fulfil its own advance performance obligations in a timely manner. The Contractor is not obliged to make the Client aware of the dates for the fulfilment of its duties to render performance and cooperate. The Client shall compensate the Contractor for all costs and other pecuniary prejudices caused by its failure to fulfil its duties to render performance and cooperate in a timely manner and/or in full.

(6) Unless otherwise agreed, the Client must, independently and at its own expense, obtain any authorisations/approvals that are required for the system from third parties (including, but not limited to, public offices and authorities) or issue to third parties any notices/notifications and authorisations/approvals that are similarly required for the system.

(7) Changes to the service are permitted at the Contractor's absolute discretion provided that the changed service corresponds qualitatively and quantitatively to the originally agreed service. Changes to the service are also permitted if they are required due to local/building conditions and/or regulatory/technical requirements or if the Contractor's suppliers cause it to make changes.

### **4. Prices, payment**

(1) Prices are ex works Leverkusen for the scope of service and delivery specified in the order confirmation. Additional or special services will be charged separately. Prices are in euros and subject to statutory value added tax at the applicable rate; they do not include packaging costs unless expressly agreed otherwise. Other taxes, customs duties and fees that are imposed by the state or other third parties are not included in the prices and are to be additionally reimbursed to the Contractor.

(2) If the delivery or service is to be provided more than four months after the conclusion of the contract and no agreement concerning fixed prices has been made, the Contractor reserves the right to make reasonable price adjustments due to changes in wage, material and distribution costs.

(3) The amounts invoiced are payable net within thirty (30) days of receipt of the invoice unless otherwise agreed in writing. The date that payment is made is the date of receipt of payment by the Contractor. Cheque payments are not permitted unless they have been separately agreed in the individual case. If the Client enters into default of payment, the Contractor may demand interest from the date payment was due; this interest is calculated at 5 percentage points above the current base rate of the European Central Bank per annum in the case of consumers and 9 percentage points above the said central bank rate per annum in the case of entrepreneurs; the right to claim higher rates of interest and other damages in the case of default remains unaffected.

(4) The Client is entitled to offset with counterclaims only if the counterclaims are undisputed, have been finally determined by a court of law or are ready for a decision. The Client is entitled to assert rights of retention only on the grounds of counterclaims arising from the same contractual relationship.

### **5. Delivery, delivery periods**

(1) Deliveries are EXW (Incoterms 2020) Leverkusen unless otherwise agreed in writing.

(2) Any deadlines and dates for deliveries and services proposed by the Contractor are always merely approximate unless a fixed deadline or fixed date has been expressly confirmed or agreed. If no deadlines and/or dates have been agreed for deliveries and services, the Contractor shall set them at its reasonable discretion.

(3) Deadlines set for deliveries or services can be kept only if all the documentation to be provided by the Client and the required approvals and clearances, in particular plans, are received in time, and the Client complies with timely payment and its other duties, and all technical questions are resolved. If these conditions are not fulfilled in time, the deadlines shall be extended within reason; this does not apply if the Contractor is responsible for the delay. The right to assert the defence of non-performance of the contract is reserved. In all other respects, the stated delivery dates and the commencement of the stated delivery periods are subject to the timely and correct delivery of supplies to the Contractor by third parties, in particular sub-suppliers and other service providers.

(4) The Contractor assumes no liability for the impossibility of delivery and/or provision of the service or for delays in delivery and/or provision of the service to the extent that they are caused by force majeure or other events that were unforeseeable at the time of the conclusion of the contract (such as epidemics/pandemics, war, natural disasters, operational disruptions of all kinds, difficulties in procuring materials or energy, transport delays, strikes, lawful lockouts, shortages of labour, energy or raw materials, climatic influences that were normally not to be expected at the time of the submission of the quotation, difficulties in obtaining the required regulatory approvals, measures by the authorities or the failure by suppliers or third parties providing services to deliver or to deliver correctly or promptly) and for which the Contractor is not responsible. If such events significantly impair or render impossible the delivery or service by the Contractor, and the disruption is not merely temporary, the Contractor is entitled to rescind or terminate the contract. Claims for damages by the Client are excluded in such cases. In the case of temporary disruptions, the deadlines for delivery or provision of the service are to be extended, or the dates for delivery or provision of the service are to be postponed, by the duration of the disruption plus a reasonable lead time. If it is not reasonable for the Client to accept the delivery or service due to the delay, it may rescind or terminate the contract by making a written declaration to the Contractor without undue delay; in such cases, the Contractor may charge the contractual prices for the services that have been delivered.

(5) Partial deliveries or partial provision of services is permitted.

(6) If the Contractor enters into default of delivery or performance, or if it becomes impossible for it to provide a delivery or service for whatever reason, the Contractor's liability to pay compensation for damages is limited as set out in these T&Cs.

### **6. Place of performance, transfer of risk**

(1) The place of performance for deliveries or services by the Contractor and for payments by the Client is the Contractor's place of business unless agreed otherwise. If the Contractor is obliged to perform installation – where applicable as an additional service – the place of performance for the installation is the place where the installation is to take place.

(2) Risk passes to the Client at the time when the Contractor makes the goods available in a condition ready for loading at the agreed time. The Contractor is not obliged to load the goods.

(3) If services in the Client's works form the object of the contract, risk passes to the Client at the latest upon acceptance of the service. The acceptance procedure is to take place after completion. The acceptance procedure is to be performed without undue delay on the date of acceptance or, alternatively, after the Contractor has given notice of readiness for acceptance. If the Contractor is to provide planning services only, the handover of the documentation also constitutes a notice of readiness for acceptance. The Client may not refuse acceptance due to the presence of an insignificant defect. If the acceptance procedure is delayed or if the acceptance procedure does not take place due to circumstances that are not attributable to the Contractor, risk passes to the Client on the day on which the notice of readiness for acceptance is given. If the Client does not refuse acceptance, by stating at least one significant defect, within fourteen (14) working days after the issuing of the notice of readiness for acceptance, acceptance shall be deemed to have been granted.

(4) Storage costs after the transfer of risk are borne by the Client. If the goods are stored by the Contractor, the storage costs amount to 0.5% of the net invoice amount for the objects to be stored for each week that elapses, plus statutory value added tax, but no more than EUR 5,000.00 per day. Both parties have the right to assert and demonstrate that additional or lower storage costs were incurred.

### **7. Warranty, defects**

(1) The Client must duly fulfil all the duties of inspection and notification incumbent upon it under Section 377 of the German Commercial Code (HGB) in order for any warranty rights to become effective. In this respect, Section 9 of these T&Cs must be observed in particular.

(2) The warranty period is twelve (12) months, commencing upon the transfer of risk or, if an acceptance procedure is required, from acceptance. This period does not apply to claims for damages by the Client on the grounds of injury to life, limb or health or on the grounds of an intentional or grossly negligent breach of duty by the Contractor.

(3) If defects are present in the deliverables or services, the Contractor is obliged and entitled to repair the defect or provide a replacement delivery at its option, with this choice to be made within a reasonable deadline, unless the Client is a consumer within the meaning of Section 13 of the German Civil Code (BGB).

The Client shall, at the agreed time or times, provide the Contractor with proper and safe access and sufficient space at the place of installation to render the cure. If work is to be performed in a danger zone, the Client shall notify the Contractor of this in advance.

(4) The warranty lapses if the Client, without the Contractor's consent, makes changes to the deliverable and/or services or has a third party make changes to them and it thereby becomes impossible or unreasonable to remedy the defect. In any case, the Client shall bear the additional costs for remedying the defect that arise as a result of the change.

### **8. Liability**

(1) The Contractor's liability to pay compensation for damages, irrespective of the legal grounds, and including but not limited to compensation for impossibility, default, defective or incorrect deliveries, breach of contract, breach of duties during contractual negotiations, or tort – insofar as it is at fault – is limited as set out in this Section 8. The limitations on liability do not apply to cases of intent or gross negligence on the part of the Contractor or in the case of a culpable breach of essential contractual duties. With the exception of intentional contractual breaches, the Contractor's liability is limited to foreseeable, typically occurring damage.

(2) The foregoing exclusions and limitations of liability apply to the same extent to the organs, legal representatives and employees of the Contractor and to other persons that it employs in performance of an obligation.

(3) If the Contractor provides technical information or advisory services that do not fall within the scope of the contractually agreed service that it is bound to deliver, such information or advisory services are provided free of charge and with the exclusion of any liability. If the Contractor, as a courtesy, provides any services free of charge beyond the service that it is contractually bound to deliver and the Client accepts these services, all liability is excluded in respect of such services.

(4) The limitations under this Section 8 do not apply to the Contractor's liability for intentional acts, any warranted quality characteristics or injury to life, limb or health, or liability in accordance with the German Product Liability Act. Mandatory legal provisions concerning liability remain unaffected.

### **9. Defect notifications**

(1) The deliverables and services provided are to be carefully inspected without undue delay after the transfer of risk to the Client or the third party appointed by it. They are deemed to have been approved by the Client in respect of obvious defects or other defects that would have been identifiable during a careful inspection performed without undue delay if the Contractor does not receive a written defect notification within seven (7) working days from the transfer of risk. In respect of other defects, the deliverables and services are deemed to have been approved by the Client if the Contractor does not receive the defect notification within seven (7) working days from the point in time at which the defect became apparent; however, if this defect was already apparent at an earlier point in time in the case of normal use, the deadline for receipt of the defect notification is determined based on this earlier point in time. Defect notifications are to be made in text form, enclosing proof such as images/documentation, samples and packing slips, and stating the invoice number and invoice date.

(2) Rejected deliverables or services may be returned only with the Contractor's express agreement.

### **10. Retention of title**

(1) The retention of title agreed in the following serves to secure all the Contractor's current and future claims against the Client arising from the commercial relationship between the contracting parties (including claims to outstanding balances arising from a current account relationship that is limited to this commercial relationship).

(2) The goods provided by the Contractor to the Client remain the property of the Contractor until full payment of all the secured claims. The goods, and any goods covered by the retention of title that take their place in accordance with the following provisions, are hereinafter referred to as “Retained Goods”.

(3) The Client shall hold the Retained Goods on behalf of the Contractor without charge. The Client shall handle the Retained Goods with care.

(4) The Client is entitled to sell the Retained Goods in the ordinary course of its business unless a case in which the security is to be realised occurs (No. 8). It is not permitted to pledge or transfer the goods by way of security.

(5) If the Retained Goods are sold on, the Client transfers the resulting payment claim against the purchaser – in proportion to the co-ownership share if the Contractor holds a co-ownership interest in the Retained Goods – by way of security to the Contractor. The Contractor grants the Client a revocable authorisation to collect the claims transferred to the Contractor in its own name.

(6) If third parties attempt to seize the Retained Goods, in particular by way of attachment, the Client will inform them without undue delay that the Retained Goods are the property of the Contractor, and will also notify the Contractor in writing to enable it to assert its proprietary rights.

(7) If the value of the security to which the Contractor is entitled exceeds the value of the Contractor’s claims against the Client that are to be secured by more than 10%, the Contractor shall release securities. It is at the Contractor’s discretion to decide which security is to be released.

(8) If the Contractor rescinds the contract in the event of a breach of contract by the Client – in particular in the case of payment default – this constitutes a case for the realisation of the security, and the Contractor is entitled to reclaim the Retained Goods.

## **11. Final provisions**

(1) If the Client is a merchant within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, the exclusive place of jurisdiction – including in international proceedings – for all disputes arising from the contractual relationship between the Contractor and the Client is Leverkusen.

(2) The contractual relationships between the Contractor and the Client are governed exclusively by the law of the Federal Republic of Germany to the exclusion of conflict-of-laws rules. The application of the UN Convention on Contracts for the International Sale of Goods (CISG) is expressly excluded.

(3) Should any provision of these T&Cs be or become ineffective, either in whole or in part, or if they should set an impermissible deadline, this will not affect the validity of the remaining provisions. The parties shall replace any ineffective provision by such effective provision as comes closest to the economic purpose of the ineffective provision. They are to proceed *mutatis mutandis* if a contractual provision should be missing.