

**SIBUR INTERNATIONAL GMBH  
PURCHASE TERMS AND CONDITIONS**

## CONTENTS

<b>ARTICLE 1. APPLICATION OF THE PTC</b>	<b>3</b>
<b>ARTICLE 2. DELIVERY CONDITIONS</b>	<b>4</b>
2.1. EXW	Ошибка! Закладка не определена.
2.2. FCA	4
2.3. FOB	5
2.4. CFR	6
2.5. CIF	6
2.6. CPT	7
2.7. DAP	7
2.8. DDP	8
<b>ARTICLE 3. TRANSPORT</b>	<b>9</b>
3.1. General Delivery Terms	9
3.2. Special Conditions of Delivery by RTC/railway wagon(s)	9
3.3. Special Conditions of Delivery by Sea	10
3.4. Special Conditions of Delivery by Auto Truck(s)	11
3.5. Special Conditions of Delivery in Shipping Containers	12
<b>ARTICLE 4. PAYMENT</b>	<b>13</b>
4.1. General payment conditions	13
4.2. Letter of Credit	13
4.3. Stand-by Letter of Credit	13
4.4. Prepayment (advance payment)	14
4.5. Post payment	14
<b>ARTICLE 5. GENERAL CONDITIONS</b>	<b>15</b>

These Purchase Terms and Conditions (hereinafter referred to as "PTC") shall constitute an integral part of any Purchase Order executed between SIBUR International GmbH (as a 'Buyer') and the Seller. The PTC may be amended, revised, restated or supplemented by SIBUR International GmbH from time to time. The last version of the PTC is available at [www.sibur-int.com](http://www.sibur-int.com).

**ARTICLE 1. APPLICATION OF THE PTC**

- 1.1. The PTC shall govern and be incorporated into every Purchase Order.
- 1.2. Execution of the Purchase Order by the Seller shall (without affecting any other manner in which acceptance of the PTC may otherwise be evidenced) be deemed to constitute unqualified acceptance of the PTC.
- 1.3. If there is any conflict between the terms of the Purchase Order and the PTC, the Purchase Order shall prevail.
- 1.4. The PTC shall apply to the exclusion of, and shall prevail over, any terms or conditions contained in or referred to in any documentation, or in any correspondence or elsewhere, or implied by trade custom, practice or course of dealing, unless specifically excluded or varied in writing by any authorized representative of the Buyer.  
If, subsequent to any Purchase Order which is subject to the PTC, a Purchase Order is made with the Seller in any form without reference to any conditions of sale or purchase, the PTC shall apply to the new Purchase Order.

**ARTICLE 2. DELIVERY CONDITIONS****2.1. EXW****2.1.1. Delivery Date**

Delivery Date shall mean the moment of the receipt of the Seller's notice to the Buyer, within the agreed shipment period(s), that the Goods are ready for loading.

**2.1.2. Delivery Terms**

The Seller shall provide the usual packaging and marking of the Goods, except when the Buyer gave special instructions to the Seller on this matter within reasonable time before shipment.

**2.1.3. Licenses and clearances**

Where necessary, the Seller shall provide the Buyer with reasonable support in acquisition of all appropriate export and import licenses and clearances; provided that the Buyer shall reimburse the Seller's costs and expenses arising out of or in connection with such support.

**2.1.4. Taxes prior to delivery**

All taxes, customs and other duties and fees incurred as a result of the conclusion and execution of the Purchase Order which are levied on the Goods prior to delivery or required for the dispatch of the Goods outside the customs territory of the Russian Federation will be paid by the Seller. However, the Buyer shall reimburse the Seller for any related expenses.

**2.1.5. Taxes after delivery**

Unless otherwise expressly agreed by the Parties in the Purchase Order, all taxes, customs and other duties and fees incurred as a result of or in connection with the conclusion and execution of the Purchase Order if any, after delivery will be paid by the Buyer.

**2.2. FCA****2.2.1. Delivery Date**

The Delivery Date shall mean the moment when:

- a) Seller's auto truck(s), loaded with the Goods, arrive to Place of Destination and stand ready for unload by Buyer's representative or Carrier.
- b) Seller's RTC / railway wagon(s), loaded with the Goods, arrive to Place of Destination and gives Notice of Arrival ("NOA") to the Carrier or Buyer's representative at the zone of unloading.
- c) Seller's Vessel, loaded with the Goods, arrives to Place of Destination and gives Notice of Readiness ("NOR") to the Carrier or the Buyer's representative at the port of unloading.
- d) The Goods have been loaded at the Place of Shipment on the means of transport provided by the Carrier nominated by the Buyer – if the delivery is at the Manufacturer or warehouse or storehouse.

**2.2.2. Delivery Terms**

- a) The Buyer provides the Seller with full and timely information about the Place of Destination and the Carrier, including any special location access instructions and all contact information of the Carrier. The named information is to be provided to the Seller via facsimile or by other means agreed upon by the Parties, at least 5 (five) Business Days prior to each scheduled date of shipment of the Goods by the Seller. Such information can be changed by the Buyer with written notification to the Seller and no later than 1 (one) Business Day before each scheduled shipment.  
The information must include:
  - i. The name of the Carrier (person or entity).
  - ii. Documentation testifying Carrier's rights to accept and carry the Goods (should be presented by the Carrier at delivery).
  - iii. The identity, location and address of Place of Destination, with instructions for access to the Place of Destination.
  - iv. Any other information requested by the Seller.
- b) If applicable, the Nomination shall be made in accordance with the PTC.
- c) Immediately upon the receipt of Seller's Nomination, but not later than one day from the receipt of Seller's Nomination, the Buyer shall provide the Seller with full written instructions regarding the particulars for the Bills of Lading including consignee, contact details and address of the authorized person of the consignee, other information necessary for the delivery and reasonably required by the Seller, number of the copies, addresses, etc. and such other information which may be required by the Place of Shipment, Place of Destination and/or the Seller. The Seller shall have the right to issue its own instructions if the Buyer fails to provide such instructions and/or information required by this Clause.
- d) The Parties shall obtain any licenses, permits and documents which are necessary for successful import and export clearance of the Goods.
  - (i) Export permits shall be timely obtained by the Seller.

- (ii) Import permits shall be timely obtained by the Buyer.
- e) All delays for the reason of absence of custom clearance shall be at the expense of the liable Party.

#### 2.2.3. Taxes prior to delivery

All taxes, customs and other duties and fees incurred as a result of the conclusion and execution of the Purchase Order which are levied on the Goods prior to delivery or required for the dispatch of the Goods outside the customs territory of the Russian Federation will be paid by the Seller.

#### 2.2.4. Taxes after delivery

Unless otherwise expressly agreed by the Parties in the Purchase Order, all taxes, customs and other duties and fees incurred as a result of or in connection with the conclusion and execution of the contract if any, after delivery will be paid by the Buyer.

### 2.3. **FOB**

#### 2.3.1. Delivery Date

- a) The Delivery Date shall mean the moment when the Goods have been loaded on board of the nominated Vessel by customary means of the loading port at the Place of Destination which date is set in the Bill of Lading.
- b) For the liquid Goods the Delivery Date means the moment when the Goods passes the flange connection between the delivery hose and the permanent hose connection of the vessel at the Place of destination.

#### 2.3.2. Delivery terms

- a) The Buyer provides the Seller with full and timely information about the Vessel and the Place of Destination, including but not limited to the required documents, the mode of operation. The named information is to be provided to the Seller via facsimile or by other means agreed upon by the Parties, at least 2 (two) Business Days prior to each scheduled date of shipment of the Goods by the Seller.

The information must include:

- i. The name of the Place of Destination (loading port).
  - ii. The identity of the expected arrival terminal(s) at loading port.
  - iii. The name of the Vessel and Vessel's Master contact information.
  - iv. Any other information requested by the Seller.
- b) The Nomination, if applicable, shall be made in accordance with the PTC. The information on the Vessel to be submitted by the Buyer shall include:
    - i. name of vessel, date built, flag;
    - ii. position at 10:00 gmt on the date of nomination and ETA loadport;
    - iii. deadweight;
    - iv. draft;
    - v. length and width;
    - vi. ballast type;
    - vii. type of hull;
    - viii. cp speed;
    - ix. three previous cargoes;
    - x. demurrage rate;
    - xi. vessel's approvals;
    - xii. ship's agents loadport;
    - xiii. details of any other cargo on board and conditions of segregation.

#### 2.3.3. Notice of Readiness (NOR)

- a) The Buyer shall arrange for the Master of the Vessel loading under the contract to advise telegraphically to Seller's local representative about the following notices within the limits specified:
  - i. At least 72 (seventy-two) hours before arrival to advise ETA.
  - ii. At least 48 (forty-eight) hours before arrival to confirm or amend ETA.
  - iii. At least 24 (twenty-four) hours before arrival to confirm or amend ETA.
  - iv. On arrival to advise the exact time of arrival.
- b) Upon arrival of the Vessel at the customary anchorage for the Place of Destination, the Master of the Vessel or his local representative shall give Seller's local representative a written NOR evidencing the Vessel's readiness to load the Goods.
- c) The Parties shall obtain any licenses, permits and documents which are necessary for successful import and export clearance of the Goods.
  - i. Export permits shall be timely obtained by the Seller.
  - ii. Import permits shall be timely obtained by the Buyer.
- d) All delays for the reason of absence of custom clearance shall be at the expense of the liable Party.

#### 2.3.4. Demurrage

- a) The Seller shall indemnify the Buyer for all costs for Demurrage. In order to be indemnified, such demurrage

must result from delay in loading of the Goods beyond allowed laytime.

- b) The Seller shall pay demurrage for time used for loading in excess of laytime allowed. Seller's liability for demurrage under the contract shall not exceed the actual demurrage which the Buyer is held liable for under the terms of the charter party, as evidenced by the Buyer's documentation to Seller's reasonable satisfaction.
- c) The Seller shall be unloaded and released from all liability for payment of demurrage if claims for demurrage have not been presented to the Seller in writing with complete supporting documentation within 90 (ninety) days from the date of the Bill of Lading under which the claim for demurrage arises.

2.3.5. Taxes prior to delivery.

All taxes, customs and other duties and fees incurred as a result of the conclusion and execution of the Purchase Order which are levied on the Goods prior to delivery or required for the dispatch of the Goods outside the customs territory of the Russian Federation will be paid by the Seller.

2.3.6. Taxes after delivery.

Unless otherwise expressly agreed by the Parties in the Purchase Order, all taxes, customs and other duties and fees incurred as a result of or in connection with the conclusion and execution of the contract if any, after delivery will be paid by the Buyer.

2.3.7. Deadfreight.

If the Buyer requires the Seller to compensate for the deadfreight it shall provide the Seller with a relevant claim accompanied by all documents substantiating the Buyer's costs and expenses.

## 2.4. CFR

2.4.1. Delivery Date

- a) The Delivery Date shall mean the moment when the Goods have been loaded on board of the nominated Vessel by customary means of the loading port at the Place of Destination which date is set in the Bill of Lading.
- b) For the liquid Goods the Delivery Date means the moment when the Goods passes the flange connection between the delivery hose and the permanent hose connection of the vessel at the Place of destination.

2.4.2. Delivery terms

- a) The Buyer provides the Seller with full and timely information about the unloading port. The named information along with the Buyer's documentary instructions is to be provided to the Seller via facsimile or by other means agreed upon by the Parties, at least 2 (two) Business Days prior to each scheduled date of shipment of the Goods by the Seller.  
The information must include:
  - i. The name of the unloading port.
  - ii. All instructions regarding customary documentation which may be required at the unloading port.
  - iii. The identity of the terminal(s) at unloading port with instruction to enable the Vessel to prepare and submit necessary information to the customs or border authorities.
  - iv. Any other information requested by the Seller.
- b) If applicable, the Nomination shall be made in accordance with the PTC.

2.4.3. Licenses and clearances.

The Parties shall obtain any licenses, permits and documents which are necessary for successful import and export clearance of the Goods.

- a) Export permits shall be timely obtained by the Seller.
- b) Import permits shall be timely obtained by the Buyer.
- c) All delays for the reason of absence of custom clearance shall be at the expense of the liable Party.

2.4.4. Taxes prior to delivery.

All taxes, customs and other duties and fees incurred as a result of the conclusion and execution of the Purchase Order which are levied on the Goods prior to delivery or required for the dispatch of the Goods outside the customs territory of the Russian Federation will be paid by the Seller.

2.4.5. Taxes after delivery.

Unless otherwise expressly agreed by the Parties in the Purchase Order, all taxes, customs and other duties and fees incurred as a result of or in connection with the conclusion and execution of the contract if any, after delivery will be paid by the Buyer.

## 2.5. CI F

2.5.1. Delivery Date

- a) The Delivery Date shall mean the moment when the Goods have been loaded on board of the nominated Vessel by customary means of the loading port at the Place of Shipment which date is set in the Bill of

- Lading.
- b) For the liquid Goods the Delivery Date means the moment when the Goods passes the flange connection between the delivery hose and the permanent hose connection of the vessel at the Place of destination.

#### 2.5.2. Delivery terms

- a) Immediately upon, but not later than one day from the receipt of the Seller's Nomination, the Buyer shall provide the Seller with the following information:
- full written instructions regarding the particulars for the Bills of Lading (consignee, contact details and address of the authorized person);
  - other information necessary for the delivery and reasonably required by the Seller (number of the copies, addresses, etc.);
  - other information which may be required or by the Place of Shipment, Place of Destination and/or the Seller.
- b) The Seller shall have the right to issue its own instructions if the Buyer fails to provide such instructions and/or information required by this Clause.

#### 2.5.3. Licenses and clearances

Where necessary, the Seller shall provide the Buyer with reasonable support in acquisition of all appropriate licenses and clearances for the unloading of the Goods; provided that the Buyer shall reimburse the Seller's costs and expenses arising out of or in connection with such support.

#### 2.5.4. Taxes prior to delivery

All taxes, customs and other duties and fees incurred as a result of the conclusion and execution of the Purchase Order which are levied on the Goods prior to delivery or required for the dispatch of the Goods outside the customs territory of the Russian Federation will be paid by the Seller.

#### 2.5.5. Taxes after delivery

Unless otherwise expressly agreed by the Parties in the Purchase Order, all taxes, customs and other duties and fees incurred as a result of or in connection with the conclusion and execution of the contract if any, after delivery will be paid by the Buyer.

### **2.6. CPT**

#### 2.6.1. Delivery Date

The Delivery Date shall mean the day when the Goods are loaded

- a) in Seller's auto truck(s) to be shipped to the Place of Destination named by the Buyer which day is stated in the stamp on the CMR at the Place of Shipment;
- b) in RTC / railway wagon(s) to be shipped to the Place of Destination named by the Buyer which day is stated in the stamp on the Railway Bill at the Place of Shipment (dispatched railway station).

#### 2.6.2. Licenses and clearances

The Parties shall obtain any licenses, permits and documents which are necessary for successful import and export clearance of the Goods.

- a) Export permits shall be timely obtained by the Seller.
- b) Import permits shall be timely obtained by the Buyer.
- c) All delays for the reason of absence of custom clearance shall be at the expense of the liable Party.

#### 2.6.3. Taxes prior to delivery

All taxes, customs and other duties and fees incurred as a result of the conclusion and execution of the Purchase Order which are levied on the Goods prior to delivery will be paid by the Seller.

#### 2.6.4. Taxes after delivery

Unless otherwise expressly agreed by the Parties in the Purchase Order, all taxes, customs and other duties and fees incurred as a result of or in connection with the conclusion and execution of the contract if any, after delivery will be paid by the Buyer.

### **2.7. DAP**

#### 2.7.1. Delivery Date

- a) Delivery Date shall mean the moment of the Goods arrival at the Place of Destination ready for unloading.
- b) The time of the Goods arrival shall be indicated in the Transport Documents. In the event that Transport Documents do not specify the exact time of the Goods arrival, it is presumed that the Goods are arrived for unload:
- i. for the delivery by railroad – as of the scheduled time of arrival for a relevant train (unless the moment is specified in the Seller's/Carrier's notice to the Buyer); and

- ii. for the delivery by road transport – as of the moment of the Goods arrival specified in the Seller's/Carrier's notice to the Buyer.

2.7.2. Licenses and clearances

Where necessary, the Seller and the Buyer shall provide each other with reasonable support in acquisition of all appropriate export and import licenses and clearances; provided that the other party shall reimburse for the costs and expenses arising out of or in connection with such support.

2.7.3. Import Taxes and customs formalities

All taxes, customs and other duties and fees incurred as a result of the conclusion and execution of the Purchase Order which are levied on the Goods in the country of delivery, as well as any other customs formalities in the country of delivery, will be paid and/or performed by the Buyer.

**2.8. DDP**

2.8.1. Delivery Date

- a) Delivery Date shall mean the moment of the Goods arrival at the Place of Destination ready for unload.
- b) The time of the Goods arrival shall be indicated in the Transport Documents. In the event that Transport Documents do not specify the exact time of the Goods arrival, it is presumed that the Goods are arrived for unload:
  - i. for the delivery by sea – as of the moment NOR is sent to the Buyer;
  - ii. for the delivery by railroad – as of the scheduled time of arrival for a relevant train (unless the moment is specified in the Seller's/Carrier's notice to the Buyer); and
  - iii. for the delivery by road transport – as of the moment of the Goods arrival specified in the Seller's/Carrier's notice to the Buyer.

2.8.2. Delivery Terms

If any of licenses, clearances, other customs formalities or Taxes in the country of import could be performed, arranged or paid only by the Buyer or at the Buyer's side, the Buyer shall (i) inform the Seller thereof as a part of shipping information to be submitted to the Seller according to the PTC and (ii) perform, arrange and pay the same in due time. The Seller shall compensate the Buyer for documented direct expenses in relation thereto, provided that the Buyer furnishes the Seller with primary accounting documents substantiating the Buyer's costs such as acts, invoices, reports, etc.

**ARTICLE 3. TRANSPORT****3.1. General Delivery Terms**

- 3.1.1. The delivery shall be in accordance with relevant Incoterms subject to provisions of the Purchase Order and PTC.
- 3.1.2. The Goods may be delivered by the Seller by sea, railroad, road transport or self-delivered by the Buyer as specified by the Purchase Order. If the means of transport is not specified in the Purchase Order, the Seller may choose a means of transport suitable for delivery of the Goods at the Place of Destination upon written agreement of the Buyer.
- 3.1.3. Delivery of the Goods shall be immediately followed and witnessed by presentation by the Seller to the Buyer or Carrier, or the Buyer's representative of a valid transportation document. Such documents shall be signed and marked by the Seller and Carrier of the Goods or by authorized employee / representative of railway Carrier at the place of loading or by Master of the Vessel respectively.
- 3.1.4. **Transfer of risk and title**  
The risk and title to the Goods shall transfer from the Seller to the Buyer at the Delivery Date, unless otherwise provided in the Purchase Order or the PTC.
- 3.1.5. **Packaging.**  
Unless otherwise specified in the Purchase Order or the PTC, the Packaging shall be per good commercial practice, taking into account the type of the Goods, transportation, storage used. The Packaging could be returnable and non-returnable as provided in the Purchase Order.
- 3.1.6. **Documents**  
Both Parties shall perform any and all acts and execute and deliver any and all documents as may be necessary and proper under applicable law or under the circumstances in order to accomplish the intents and purposes of the Purchase Order and to carry out its provisions.

**3.2. Special Conditions of Delivery by RTC/railway wagon(s)**

- 3.2.1. Where the Seller expressly provides the Buyer with a range of dates within an agreed period of delivery or arrival of RTC / railway wagon(s) loaded with the Goods, delivery shall be performed during these dates provided.
- 3.2.2. No later than 3 (three) Business Days after shipment of the Goods by RTC / railway wagon(s) the Seller shall provide by electronic post or facsimile to the Buyer all information necessary for unloading of the Goods:  
(a) The Purchase Order reference number.  
(b) Railway Bill reference number(s).  
(c) RTC / railway wagon(s) identification number(s).  
(d) Description of the Goods and their Railway Bill quantity.
- 3.2.3. The Buyer in his own option can provide the Seller with written instructions regarding information necessary for efficient unloading of the Goods by the Carrier or the Buyer's representative. In case such information is provided, the Seller or his representatives / employees undertake to honestly follow the instructions where applicable, to partially assist in efficient unloading of the Goods by the Carrier or the Buyer's representative.
- 3.2.4. **Notice of Arrival**  
a) The railway station administration using available contact information of the Buyer presents the Notice of Arrival of the Goods to the Place of Destination station ("NOA") to the Buyer in accordance with customary rules at the railway station. Such NOA corresponds to performed delivery of the Goods by the Seller.  
b) The Buyer shall ensure Carrier's timely presence at Place of Destination at the Date of delivery for unloading of the Goods.
- 3.2.5. **Laytime**  
a) Laytime per each RTC / railway wagon(s) shall be as set out in the Purchase Order. In the event the laytime is not set out in the Purchase Order, then such laytime shall be 24 (twenty four) hours starting on and including the date of arrival to the station as stated on the Railway Bills and shall run until the completion of unloading. For every day of delay the Buyer shall cover the rate amounting to the railcar owner's tariff (as of the date of this version of the PTC – 40,00 (forty) USD per wagon per day, and as may be amended from time to time) in accordance with invoices provided by the Seller, or such other period as may be customary at the Place of Destination, unless otherwise expressly mutually agreed by the Parties in writing. Sundays and Holidays shall be included (SHINC) unless loading on the Sunday or

- Holiday in question is prohibited by law or regulation or custom at the unload railway zone.
- b) Laytime shall commence 2 (two) hours after NOA has been tendered; or when the RTC / railway wagon stands ready at the station / railway unloading zone; whichever is the earlier. For the purpose of calculating of unloading time, unloading shall be deemed to have been completed upon disconnection of the discharging hoses or loading/loading of the last portion of the Goods of the last railway wagon cargo.

### 3.2.6. Railway Transportation Contract Conditions

- a) The Seller may arrange shipment with respect to a standard railway transportation contract. Without prejudice to the generality of the foregoing, such conditions shall be deemed to include the provision that where, at any time after loading but before the commencement of unloading;
- b) Importation of the Goods at the unloading railway zone is prohibited under the laws of the country in which such Goods were produced, or by regulations, rules, directives or guidelines applied by the government of that country or any relevant agency thereof; and/or
- c) If the country, state, territory or region at which the Place of Destination is located becomes a restricted zone, the Goods shall be unloaded at an alternative railway zone nominated by the Buyer that is not subject to any such prohibition.
- d) In such circumstances, such alternative railway unloading zone shall be deemed to be the Place of Destination stipulated under the Purchase Order for the shipment in question and all extra expenses (if any) involved in the RTC's / railway wagon(s) reaching such alternative Destination Place shall be for the Buyer's account.

### 3.2.7. Buyer's Right to Require

The Buyer has the right to require extra services in relation to the Goods at the Place of Destination. The Parties shall decide on a possibility of provision of such services by mutual written agreement no later than 3 (three) days before Estimated Time of Arrival of the RTC / railway wagon(s).

### 3.2.8. Damage to RTC and Wagons

- a) It is presumed that RTC and railway wagons arrive at the Place of Destination for unloading in good condition, unless the Buyer has promptly (but not later than 48 (forty eight) hours after the RTC and railway wagons arrival) informed of the defects.
- b) Within 3 (three) Business days prior to the beginning of dispatches, the Buyer shall provide the Seller with the instruction for filling in the shipping documents for the Goods dispatch, including the delivery period, reference to the number and date of the relevant Purchase Order, quantity of the Goods, full name and address of the consignee, railway code of the consignee, name of the destination station's railway roads, railway station confirmation to accept the Goods.
- c) Under the Buyer's applications the Seller shall arrange for plans (the "Plans") for transportation of the Goods by railways. The procedure and dates for issuance of the Plans shall be regulated by the applicable local laws and regulation.
- d) Should, through the fault of either of the Parties, the Plans not be fulfilled, the Party at fault will be held liable for all damages or fines imposed by the railway(s).
- e) In case of impossibility to unload the Goods due to the technical reasons during periods indicated in the Clauses "Laytime" the Buyer shall notify the Seller on such effect (by telegram, fax, mail or email) within 24 (twenty-four) hours from the moment the rail tank-car arrival to the station of destination.
- f) In case of rail tank-car damage caused by the Buyer's fault within the time period of its disposal of the Buyer or the Buyer's counterparties, the Buyer shall immediately inform the Seller about the occurrence of such event and recover losses incurred due to rail tank-car damage within 90 (ninety) days from the date of the Seller's demand provided that appropriate and sufficient evidence were provided by the Seller to the Buyer. In case a rail tank-car is lost due to the Buyer's fault within the time period of its disposal by the Buyer or the Buyer's counterparties, the Buyer shall pay to the Seller the amount that covers market value of a rail tank-car of identical model and year of manufacture including costs incurred for putting it into operation. A rail tank-car is considered lost if it is not returned to Seller within 120 (one hundred and twenty) calendar days from the date of the Goods dispatch.
- g) In case of readdressing (transferring) the Goods by the Buyer or impossibility to accept the Goods, the Buyer shall notify the Seller of these changes in writing not later than 5 (five) calendar days before the planned date of dispatch. All reasonable expenses of the Seller, caused by the Buyer's actions, shall be paid by the Buyer; provided that sufficient for the Buyer evidence of such expenses were provided by the Seller to the Buyer. The Parties shall undertake their best efforts to mitigate losses.
- h) Instructions for empty rail tank-cars to be advised to the Buyer by the Seller in writing not later than the arrival of full rail tank-cars to the Place of Destination (the date of the Goods' delivery). Otherwise the Buyer shall not be held liable for possible costs which may arise due to absence of the instructions and/or incorrect filling-in the return railway bills for return of empty rail tank-cars.

## **3.3. Special Conditions of Delivery by Sea**

- 3.3.1. On the next day after dispatch of the Goods the Seller shall provide the Buyer with all information necessary for unloading of the Goods:
- a) The Purchase Order reference number.

- b) The name of arriving Vessel, from which the Goods must be unloaded.
- c) Description of the Goods and their Bill of Lading quantity.
- d) Estimated Time of Arrival and date of Bill of Lading.
- e) Number of copies of Bill of Lading.
- f) Details of any other cargo on board of the Vessel, if it can have any influence on unloading of the Goods process.

3.3.2. Where the Buyer shall charter the Vessel, the Buyer shall ensure the Vessel's fitness and cleanliness satisfactory for delivery of the Goods in time and without affecting their quality. The cleanliness shall be evidenced by an appropriate certificate issued by Saybolt, SGS or other reliable body.

3.3.3. Nomination

3.3.3.1. Unless otherwise provided in the Purchase Order, bulk cargo deliveries will require nomination of the Vessel and deliveries of other categories of the Goods will not require nomination.

3.3.3.2. If the nomination is required, a Party chartering the Vessel shall not later than 5 (five) days prior to the first day of the laytime at loading port, nominate for the other Party's acceptance (and such acceptance not to be unreasonably withheld) the Vessel which is to be loaded with the Goods for each scheduled shipment (the "Nomination").

3.3.3.3. The Nomination shall include:

- (i) the Purchase Order reference number;
- (ii) the name of the Vessel on which the Goods will be loaded;
- (iii) a description of the Goods and approximate quantity or the Bill of Lading quantity (if available);
- (iv) ETA of the Vessel;
- (v) the Vessel(s) loading laytime;
- (vi) details of any other cargo on board or to be loaded on board if loading a part of cargo;
- (vii) details of the last 3 (three) cargoes of the Vessel and such cargoes shall be of a nature, which are unlikely to have an adverse effect on the quality of the Goods;
- (viii) Details of the agent at the Place of Destination (if available).

3.3.3.4. The acceptance or reasonable rejection of the Vessel shall be advised by the consenting Party as soon as possible, however not later than 12 (twelve) hours upon receipt of such nomination.

3.3.3.5. Unless otherwise specified herein, the nominating Party may substitute any Vessel named in the Nomination not later than five days prior to the first day of the ETA at the loading port. Such substitution shall always be subject to the requirements that a Vessel of a similar size be provided and that the quantity to be loaded shall not, without prior written consent of the other Party, differ by more than 5 (five) % from the quantity specified in the Purchase Order.

3.3.4. NOR

Upon arrival of the Vessel at the Place of Destination (the unloading port or customary anchorage or area or such other place as the Vessel may be ordered to await unload) or other closest possible point to the Place of Destination, the Vessel shall tender its notice of readiness (NOR).

3.3.5. Ice Clause

- a) In case of ice at the Place of Destination or on the voyage to the Place of Destination which directly prevents or hinders safe navigation, the Vessel may only follow a path cut by ice breakers, provided that the master considers such navigation safe. Under no circumstances will the Vessel be obliged to force a path through the ice. If required, the Seller shall, at its own expense, place icebreakers at the Vessel's disposal.
- b) In the event that the Place of Destination is inaccessible due to ice, or in the event that the master deems the Vessel to be at risk of being unable to leave the Place of Destination due to ice, the Vessel will proceed to the nearest ice-free position and request revised orders. Immediately upon receipt of such request, the Buyer shall nominate an alternate ice-free and accessible port or facilities for receiving the Goods, provided that if the Place of Destination is a loading port then such an alternative ice-free and accessible port or facilities shall be agreed with the Seller.

**3.4. Special Conditions of Delivery by Auto Truck(s)**

3.4.1. No later than 1 (one) day after shipment of the Goods by auto truck(s) the Seller shall provide by electronic post or facsimile to the Buyer all information necessary for unloading of the Goods:

- a) The Purchase Order reference number.
- b) CMR consignment note reference number(s).
- c) Auto truck identification number(s).
- d) Description of the Goods and their CMR consignment note quantity.
- e) Estimated Time of Arrival of auto truck(s).
- f) Number of issued CMR consignment notes.

- 3.4.2. The Seller has the right to substitute any of identified auto truck(s) and provide the Buyer with new information not later than 2 (two) days before Estimated Time of Arrival of auto truck(s). Such substitution shall always be subject to the requirements that auto truck(s) shall be of a similar size be provided and that the quantity to be loaded shall not, without prior written consent of the Buyer, differ by more than 5 (five) % from the quantity specified in the present Contact.
- 3.4.3. The Buyer at his own option can provide the Seller with written instructions regarding information necessary for efficient unloading of the Goods by the Buyer. In case such information is provided, the Seller, his Carrier or his representatives / employees undertake to honestly follow the instructions where applicable, to partially assist in efficient unloading of the Goods by the Buyer.
- 3.4.4. Time for Unloading
- a) The time allowed to the Buyer for the unloading of the quantity of the Goods deliverable under the Purchase Order by each auto truck shall be as set out in Article I of the Purchase Order.
  - b) Unloading time shall commence 2 (two) hours after the arrival of each auto truck to the Place of Destination. For the purpose of calculating unloading time, unloading shall be deemed to have been completed upon removal of last item of the Goods from last auto truck's cargo space.
- 3.4.5. Carriage of the Goods by Road Contract Conditions
- The Seller may arrange transportation with respect to a standard carriage of the Goods by road contract. Without prejudice to the generality of the foregoing, such contract shall be deemed to include the provision that where, at any time after loading but before the commencement of unloading:
- a) Importation of the Goods at the Place of Destination is prohibited under the laws of the country in which such Goods were produced, or by regulations, rules, directives or guidelines applied by the government of that country or any relevant agency thereof; and/or
  - b) The country, state, territory or region at which the Place of Destination is located becomes a restricted zone,
- the Goods shall be unloaded at an alternative location nominated by the Buyer that is not subject to any such prohibition and that is acceptable to the Seller (which acceptance shall not be unreasonably withheld).

### **3.5. Special Conditions of Delivery in Shipping Containers**

- 3.5.1. The period of free use and payment for excess use of containers in port of unloading shall be according to the applicable rules of the forwarder's agent/container owner or customary at the Place of Destination.
- 3.5.2. In the event a container is damaged while it is in possession of the Buyer or the Buyer's counterparties, the Buyer shall promptly inform the Seller thereof and within 30 (thirty) days after the Seller's request pay to the Seller the documented repair full costs, including, without limitations, expenses on transportation of the container to the place of repair and surveyor's services. If the owner of the container (or the forwarder agent, if authorized) decides that the repair of the container is impossible or not reasonable as a result of the incurred damage, the container is considered to be lost. In that case the Buyer shall pay the Seller the amount that covers value of the corresponding size and type of container, but in any case not less than the cost of the container set by the owner.
- 3.5.3. The Buyer shall return the container in accordance with the Seller written instructions as soon as possible following the completion of the shipment and in any event within the free use period stated in the customary rules at the Place of Destination. The container is to be freed from all particles of the cargo and material used for the Goods separation.
- 3.5.4. Should the Buyer fail to return the container within the free use period, the Seller is entitled extend the return period and charge 35 (thirty five) USD per each day of use beyond the free use. In the event the container is lost or deemed to be lost (as described in this Clause 3.5), the charge for the use beyond the free use period shall be calculated until the payment of the cost of the lost container.

**ARTICLE 4. PAYMENT****4.1. General payment conditions.**

- 4.1.1. Price.  
The Price for the Goods shall be paid by the Buyer according to the Purchase Order and this PTC.
- 4.1.2. Time of payment.  
Time of payment is not of the essence.
- 4.1.3. Bank details.  
Bank details of the Seller shall be indicated in the Seller's invoice.
- 4.1.4. VAT.  
Unless otherwise expressly defined in the Purchase Order the Price is exclusive of any VAT and the Seller shall have the right to invoice the Buyer for any such VAT in so far as such taxes are not for the account of the Seller according to the Purchase Order.
- 4.1.5. Banking expenses.  
All expenses at the Seller's bank and at the Seller's correspondent bank shall be for the account of the Seller. All expenses at the Buyer's bank and at the Buyer's correspondent bank shall be for the account of the Buyer.
- 4.1.6. Verification Act.  
On a quarterly basis the Verification Act should be fully executed by both Parties. The Seller shall send by fax or by email to the Buyer the Verification Act signed by the Seller once in a quarter. Within 10 (ten) calendar days from the date of receipt of the Verification Act signed by the Seller the Buyer shall check the Goods delivered quantity, amount paid for the Goods, and provide the Seller with its motivated objections (if any). The Seller shall consider such motivated objections within 7 (seven) calendar days and put the corrections into the Verification Act or negotiate with the Buyer on the amicable basis the content of the Verification Act which should be executed by both Parties. Without prejudice to the above, the Verification Act shall be executed upon any Party request if any.

**4.2. Letter of Credit**

- 4.2.1. Issuance of the Letter of Credit  
The Buyer shall issue Letter of Credit within 15 (fifteen) calendar days from the Signing Date in accordance with the terms and conditions set out in this Clause.
- 4.2.2. Validity period of the Letter of Credit  
The validity period for the Letter of Credit shall cover the payment period envisaged in the Purchase Order plus 10 (ten) calendar days.
- 4.2.3. Documents  
The documents to be provided by the Seller pursuant to the requirements of a Letter of Credit shall be the following:  
a) Seller's invoice (fax or email copy);  
b) Transport Document (fax or email copy).  
Documents prepared in English language are acceptable.  
Minor mistakes and misprints in the documents are acceptable.
- 4.2.4. Letter of Credit Conditions  
The payment for the Goods shall be effected by the Buyer as follows:  
a) The Buyer shall issue in favor of the Seller an irrevocable Letter of Credit payable at sight in accordance with the terms and from a bank and in a form confirmed by the Seller.  
b) Expenses in connection with the opening, amendment and utilization of the Letter of Credit shall be paid by the Buyer.  
c) The Letter of Credit shall be issued in the amount of 100% (one hundred per cent) of the Price multiplied by the shipment quantity of the Goods to be delivered.

**4.3. Stand-by Letter of Credit**

- 4.3.1. Issuance of the Stand-by Letter of Credit  
The Buyer shall issue the Stand-by Letter of Credit within 15 (fifteen) calendar days from the Signing Date in strict accordance with the terms and conditions set out in Article I of the Purchase Order.

- 4.3.2. The validity period for the Stand-by Letter of Credit is 90 (ninety) calendar days.
- 4.3.3. Documents  
The documents to be provided by the Seller pursuant to the requirements of a Stand-by Letter of Credit shall be the following:
- a) Seller's invoice (fax or email copy);
  - b) Transport Document (fax or email copy).
- 4.3.4. Stand-By Letter of Credit procedure  
The Buyer shall effect the payment 100% (one hundred per cent) of the amount specified in the Seller's invoice within the term specified in the Purchase Order.  
In case of the Buyer's failure to effect the payment on the due date in accordance with the Purchase Order the payment should be done by the aforesaid Stand-By Letter of Credit against the presentation by the Seller to the Seller's bank specified in the Seller's invoice of the following documents:
- a) the Seller's (Beneficiary) letter with the following statements (telex, fax or email acceptable):
    - the Seller has delivered the Goods in conformity with the Purchase Order and that the invoice has been sent to the Buyer; and
    - the payment in accordance with the Seller's invoice for delivery of the Goods is properly due to the Seller, and such payment has not been made to the Seller by the Buyer within the terms of the Purchase Order;
  - b) copy of the Seller's invoice (telex, fax or email acceptable);
  - c) Transport Documents (telex, fax or email acceptable).
- 4.3.5. Stand-by Letter of Credit Conditions  
The payment for the Goods shall be effected by the Buyer as follows:
- a) The Buyer shall issue in favor of the Seller an irrevocable Stand-By Letter of Credit payable in accordance with the terms and from a bank and in a form confirmed by the Sellers.
  - b) The Stand-By Letter of Credit shall be issued in the amount of 100 % (one hundred per cent) of the Price multiplied by the shipment quantity of the Goods to be delivered.
  - c) Expenses in connection with the opening, amendment and utilization of the Stand-By Letter of Credit shall be paid by the Buyer.

#### **4.4. Prepayment (advance payment)**

The payment for the Goods shall be effected by the Buyer as follows:

- a) The Buyer shall pay 100% (one hundred per cent) of the amount specified in the Seller's proforma invoice in advance within 5 (five) Business Days after the date of the Seller's proforma invoice but in any case at least 3 (three) Business Days prior to the Goods dispatch by the Manufacturer.
- b) The Buyer shall effect the payment in accordance with the Purchase Order by telegraphic transfer and without deduction into the Seller's bank account and the Buyer shall indicate the number and the date of the Purchase Order /Amendment and proforma invoice number in the payment reference (the purpose of payment).
- c) In case of the amount paid by the Buyer as the Prepayment for the Goods is less than the amount due to be paid for the Actual Contract Quantity or the Actual Monthly Quantity (as the case may be) the Buyer shall effect the payment of such outstanding balance within 5 (Five) days of an appropriate Seller's invoice.
- d) In case of the amount paid by the Buyer as the Prepayment for the Goods exceeds the amount due to be paid for the Actual Contract Quantity or the Actual Monthly Quantity (as the case may be) the Parties shall mutually agree if (i) such difference between the amounts will be applied to the further deliveries if applicable or (ii) the Seller shall return such difference between the amounts within 5 (Five) days of an appropriate Verification Act is executed by the Parties.

#### **4.5. Post payment**

- 4.5.1. The Buyer shall pay 100% (one hundred per cent) of the amount specified in the Seller's invoice not later than date specified in the Purchase Order.
- 4.5.2. Partial payments shall be allowed.

## ARTICLE 5. GENERAL CONDITIONS

5.1. Terms and definitions

The following terms when used in the PTC with initial capital letters shall have the respective meanings as defined below:

“**Buyer**” shall mean a Party buying the Goods as specified in the Purchase Order.

“**Carrier**” shall mean any person or company contracted by the Buyer or by the Seller as the case may be to undertake to perform or to procure the performance of a contract of carriage by rail, road, sea or a combination thereof as may be applicable to the terms of delivery.

“**Certificate of Origin**” shall mean the document issued by the Seller or the Manufacturer or a chamber of commerce or other agreed third party (as the case may be) specifying the country where the Goods are actually produced.

“**Certificate of Quality**” shall mean the document issued by the Seller in respect of the Goods confirming the quality of the Goods in accordance with the Purchase Order.

“**Confidential Information**” shall have the meaning set forth in the respective Clause of this PTC.

“**Consent**” shall mean any consent, approval, authorization, waiver, permit, grant, franchise, concession, agreement, license, certificate, exemption, order, registration, declaration, filing, report or notice of, with or to any person (and the person for this purpose shall mean any natural person, firm, partnership, association, corporation, company, limited liability company, trust, joint stock company, business trust, Governmental Authority or other organization or entity).

“**Purchase Order**” shall mean any contractual arrangement relating to the supply of the Goods to the Buyer by the Seller.

“**Delivery Date**” shall mean the moment when the Goods are deemed delivered to the Buyer.

“**Euro**” or “**EUR**” or “**€**” shall mean the official currency of the European Union.

“**Force Majeure Event**” shall have the meaning set forth in the respective Clause of the PTC.

“**Goods**” shall mean the goods to be delivered by the Seller to the Buyer as specified in the Purchase Order.

“**PTC**” shall mean the standard terms and conditions of purchase set out in this document.

“**Incoterms**” shall mean the international commercial terms, the official publication by the International Chamber of Commerce No. 715, 2010.

“**Inspector**” shall mean an independent inspector appointed pursuant to the PTC to perform quality and quantity inspection of the Goods.

“**Inspector’s Report**” shall mean any report, conclusion, opinion, certificate or other written document (or combination thereof) issued by the Inspector and reflecting results of the Goods’ quantity and quality inspection as described in greater detail in the respective Clause of the PTC.

“**Law**” shall mean all applicable (i) provisions of all constitutions, treaties, statutes, laws, customs, codes, rules, regulations, ordinances or orders of any applicable authority, (ii) governmental approvals including without limitation any consent, approval, authorization, waiver, permit, grant, franchise, concession, agreement, license, certificate, exemption, order, permit, registration, declaration, filing, report or notice of or from an applicable authority and (iii) orders, decisions, injunctions, judgments, awards and decrees of any applicable authority.

“**Letter of Credit**” or “**Stand-by Letter of Credit**” shall have the meanings set forth in the Uniform Customs and Practice for Documentary Credits, 2007 Revision, ICC Publication No. 600 (UCP).

“**Manufacturer**” shall mean the plant by which the Goods are produced.

“**MT**” shall mean metric tonne (i.e. 1,000 kilograms).

“**Packaging**” shall mean all products made of any materials of any nature to be used for the containment, protection, handling, delivery and presentation of the Goods, including (but not limited to) paper, wooden, plastic and metal boxes, bags, pallets, and not fall within the definition of Transport as specified herein.

“**Party**” and “**Parties**” shall mean parties to the Purchase Order referred to individually and collectively.

“**Place of Destination**” shall mean the place the Goods are to be delivered to as specified in the Purchase Order.

“**Place of Shipment**” shall mean the place where the Goods are to be loaded (dispatched), which shall be without limitations (i) the Manufacturer or warehouse or storehouse, (ii) the load port or terminal, or (iii) any other place, whichever is applicable and as may be specified in the Purchase Order.

“**Price**” shall mean the price per metric ton of the Goods at which the Seller sells the Goods to the Buyer as stipulated in the Purchase Order.

“**Quarter**” shall mean the period of the three consecutive months commencing on 1st January (“Q I”), or 1st April (“Q II”), or 1st July (“Q III”), or 1st October (“Q IV”).

“**RUBLE**” or “**RUB**” or “**RUR**” shall mean Russian Rubles, the lawful currency of the Russian Federation.

“**Seller**” shall mean a Party selling the Goods as specified in the Purchase Order.

“**Signing Date**” shall have the meaning set forth in the introductory paragraph of the Purchase Order.

“**Specification**” shall mean the specification describing the quality of the Goods agreed by the Parties set forth in the Purchase Order.

“**Tax**” or “**Taxes**” shall mean all (i) taxes, fees, duties, tariffs, levies, imposts, or other public charges of any kind, including, without limitation, taxes, required contributions or other charges on or with respect to income, franchise, gross receipts, property, sales, use, profits, capital stock, payroll, employment, social security, health insurance fund, pension fund and other social funds, workers compensation and unemployment or related compensation, (ii) taxes or charges in the nature of excise, withholding, ad valorem, stamp, transfer, value added or gains taxes, (iii) license registration or documentation fees, (iv) customs duties, tariffs and similar charges of any kind whatsoever and (v) any

interest, penalties, additions to tax or additional amounts imposed by any taxing authority with respect to those items enumerated in clauses (i), (ii), (iii) and (iv) of this definition.

“**Third Party**” shall mean any person or entity other than a Party of the Purchase Order.

“**Transport**” shall mean containers used for the Goods delivery, transportation, storage, including tank cars, containers and cisterns, etc.

“**Transport Document**” shall mean a document issued by a Carrier to a shipper, acknowledging that specified the Goods have been received on board as cargo for conveyance to a named Place of Destination as described in greater detail in the respective Clause of the PTC.

“**USD**” or “**US Dollar**” or “**Dollar**” or “**US\$**” or “**\$**” shall mean United States Dollars, the lawful official currency of the United States of America.

“**Verification Act**” shall mean verification act executed between the Buyer and the Seller and confirming the quantity of and amount paid for delivered the Goods for a particular period and as described in greater detail in the respective Clause hereof.

## **5.2. Acceptance of the Goods on quality and quantity**

### **5.2.1. Quality and Quantity of the Goods**

The Goods are considered handed over from the Seller and accepted by the Buyer:

5.2.1.1. in terms of quality: according to the Quality Certificate for the delivered Goods;

5.2.1.2. in terms of quantity: the weight of the Goods specified in the certificate issued by the Seller and receipt by the Buyer/Buyer's Carrier or any other transportation document issued by the Buyer/ Buyer's Carrier shall, in the absence of error or fraud, be final and irrefutable evidence of the actual weight of the delivered Goods.

## **5.3. Quality and Quantity Inspection**

The Buyer may require in its own option a quality inspection pursuant to the provisions below:

5.3.1. Unless agreed otherwise, quality and quantity inspection is to be determined by an Inspector such as SGS or similar internationally recognized inspection company mutually agreed between the Parties and in accordance with the standard practice (i) at the place of the inspection or (ii) of the Inspector if there is no standard practice at the place of inspection, unless the Purchase Order or the PTC provides otherwise.

5.3.2. The quantity Inspection of the Goods shall be as per the quantity in vacuum (unless the Purchase Order explicitly applies measurement in air). The Seller shall be notified of the Inspection at least 3 (three) days in advance and the Buyer shall provide the Seller's representative opportunity to present in order to observe the Inspection.

5.3.3. The inspection results shall be documented in the Inspector's Report and shall be conclusive and binding on the Parties for invoicing purposes, for quality purposes and/or for quantity purposes and shall be final and binding for both Parties, except in case of fraud or manifest error.

5.3.4. In the event that (i) the quality of the Goods does not conform the contractual Specification or (ii) the quantity of the Goods does not conform the conditions of the Purchase Order, the Parties shall discuss the Buyer's remedies for such non-conforming Goods. The remedies may include, for example, a price adjustment for the Goods. The outcome of the Parties' discussion shall be documented in written.

5.3.5. The costs of the inspection shall be equally shared between the Seller and the Buyer (and the terminal, if the terminal participates in the inspection).

5.3.6. The Inspector shall issue his report to the Seller and the Buyer as soon as practicable. The Inspector shall retain samples taken for at least 90 (ninety) days from the date of inspection.

## **5.4. Claims**

5.4.1. Claims if any on quality and/or quantity of the Goods to be provided by the Buyer to the Seller within 90 (ninety) calendar days after the Delivery Date, unless other terms are not specified by the Parties in the relevant clauses of the PTC.

5.4.2. The Seller undertakes to examine the claim of the Buyer and send to him a grounded response to the presented claim within five (5) calendar days after the date of the presentation of the claim by the Buyer; provided that the Buyer has got written confirmation of the Seller's receipt of the respective claim.

## **5.5. Responsibilities of the Parties**

5.5.1. **Delivery liquidated damages.** For each full Week that the Seller delivers the Goods late commencing

10 (ten) calendar days after the latest date for delivery specified in Article I of the Purchase Order, the Buyer shall be entitled to demand liquidated damages from the Seller for such delivery delay in the amount equal to 1% (one per cent) of the price for the late delivered Goods.

- 5.5.2. **Health, Safety and Environment.** The Goods supplied by the Seller in the condition in which it is sold is considered not to constitute a hazard to health or safety applicable to the Goods and the Seller shall provide the Buyer with all necessary information in respect of the storage facilities required for the receipt of the Goods reasonably in advance. The Seller shall be liable for any cost, loss or damage resulting from the Goods which is not in accordance with the condition above. The Seller shall indemnify the Buyer against any claim which any third party might have or bring against the Buyer in this respect.
- 5.5.3. **REACH.** Notwithstanding any other provision to the contrary in the Purchase Order or the PTC, in providing the Buyer with a Chemical Abstract Service Index number and/or Existing Commercial Chemical Substances Number and/or any other health, safety and environmental information relating to the Goods pursuant to this Clause, regardless of their source, the Seller provides warranty or representation as to the accuracy or completeness of such identification number(s) or information relating to it and needed by the Buyer and/or reasonably requested by the Buyer to comply with the requirements of REACH, and the Seller accepts liability for loss, damage, delay or expense incurred by the Buyer for whatever reason arising from its reliance on the accuracy of the identification numbers or other information hereunder provided and /or the existence of a valid (pre-) registration of the Goods to be imported into the EU/EEA.

#### **5.6. Limitations of Liability**

- 5.6.1. UNDER NO CIRCUMSTANCES SHALL EITHER PARTY BE LIABLE WHETHER IN CONTRACT, IN TORT (INCLUDING GROSS NEGLIGENCE), UNDER ANY WARRANTY OR OTHERWISE, FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR FOR EXEMPLARY OR PUNITIVE LOSSES OR DAMAGES, OR ANY LOSS OF PROFITS (SAVE IN RELATION TO SELLER'S LOSS OF PROFIT ARISING FROM THE BUYER'S FAILURE OR REFUSAL TO TAKE OR ACCEPT DELIVERY OF THE GOODS OR ANY PART THEREOF CONTRARY TO THE TERMS OF THE PURCHASE ORDER) OR REVENUES, OR ANY COST OF LABOR, RESULTING FROM OR ARISING OUT OF OR IN CONNECTION WITH THE GOODS OR SELLER'S PERFORMANCE UNDER, OR BREACH OF, THE PURCHASE ORDER, EVEN IF THE PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EACH PARTY SHALL UNDERTAKE ITS BEST EFFORTS TO MITIGATE ITS LOSSES.
- 5.6.2. FOR THE AVOIDANCE OF DOUBT, EITHER PARTY MAY SEEK TO RECOVER FROM THE DEFAULTING PARTY ANY ACTUAL DIRECT DAMAGES INCURRED AS A RESULT OF THE DEFAULTING PARTY'S BREACH OF PURCHASE ORDER (INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEYS' FEES AND COSTS); PROVIDED, HOWEVER, THAT NOTWITHSTANDING ANYTHING CONTAINED HEREIN, TO THE FULL EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL THE BUYER'S LIABILITY IN CONNECTION WITH THE GOODS OR THE PURCHASE ORDER EXCEED THE TOTAL GOODS VALUE (INCLUDING, BUT NOT LIMITED TO TRANSPORTATION COSTS, STORAGE COSTS, ETC.) PAID TO THE SELLER BY THE BUYER FOR THE GOODS.
- 5.6.3. UNDER NO CIRCUMSTANCES SHALL THE BUYER BE LIABLE FOR THE SELLER'S LOSS OF PROFIT, NON RECEIPT OF REVENUE, BUSINESS INTERRUPTIONS, THE SUSPENSION OF COMMERCIAL ACTIVITIES, OR FOR ANY INDIRECT LOSS IRRESPECTIVE OF ITS CHARACTER AND REASON.
- 5.6.4. BOTH PARTIES ACKNOWLEDGE AND AGREE THAT THE EXCLUSIVE REMEDIES AND LIMITATIONS OF LIABILITIES SET FORTH HEREIN WERE BARGAINED FOR ON AN EQUAL FOOTING AND ARE CONDITIONS OF THE PURCHASE ORDER.
- 5.6.5. NOTHING IN THE PURCHASE ORDER SHALL LIMIT OR EXCLUDE THE LIABILITY OF EITHER PARTY FOR DEATH OR PERSONAL INJURY RESULTING FROM ITS NEGLIGENCE OR FOR FRAUDULENT MISREPRESENTATION.

#### **5.7. Arbitration and Law**

- 5.7.1. The Purchase Order shall be governed by, interpreted and construed in accordance with the laws of England and Wales notwithstanding the choice of law rules of any jurisdiction and determined without reference to the principles of conflicts of laws.
- 5.7.2. Any dispute, controversy, claim or difference relating to or arising out of, or in connection with, the Purchase Order, including any question regarding the existence, scope, validity or termination of the Purchase Order

shall be settled, to the exclusion of the ordinary courts, by arbitration in accordance with the rules of the London Court of International Arbitration in force on the date that the notice of arbitration is submitted. The number of arbitrators shall be 3 (three). Each Party shall nominate one arbitrator and the two appointed arbitrators shall appoint a third arbitrator who shall serve as the chairman of the arbitration tribunal. Unless otherwise agreed by the Parties, all arbitrators shall be fluent in English and have experience in acting as an arbitrator.

- 5.7.3. Each Party shall submit the documents in English. Documents submitted in a language other than English shall be translated into English at the expense of the Party submitting the documents. Each Party shall have the right, at its sole cost and expense, to have an interpreter attend the arbitration hearings if it so chooses.
- 5.7.4. The seat of the arbitration shall be London, England where all hearings shall take place. The arbitration proceedings shall be conducted in the English language, and the award shall be in English.
- 5.7.5. The decision of a majority of the arbitrators shall be final and binding on the Parties. The arbitrators' awards shall be consistent with the limitations of liability and other terms and conditions set out in the Purchase Order, to the extent permitted by English law.
- 5.7.6. The United Nations Convention on Purchase Orders for the International Sale of Goods shall not apply.

#### **5.8. Duration and Termination**

- 5.8.1. The Purchase Order shall come into effect on the Signing Date and shall continue in force until all obligations have been fulfilled (unless earlier terminated hereunder or the Parties agreed otherwise in writing) and in the part of payments – until such time that same are made in full.

#### **5.8.2. Seller's default**

- a) The Buyer may, at its sole discretion and in addition to any other legal remedies it may have, upon giving written notice to the Seller unilaterally terminate the Purchase Order where:
  - i. the Seller is in breach of any condition of the Purchase Order or this PTC;
  - ii. delivery or unloading of the Goods is delayed due to any cause(s) and such delay is not excused by any other provision of the Purchase Order;
  - iii. there is a major change in the direct or indirect ownership of the Seller or its parent company;
  - iv. the Seller or its parent company commences, or becomes the subject of, any bankruptcy, insolvency, reorganization, administration, liquidation or similar proceeding or is in the Buyer's reasonable opinion expected to be unable or unwilling to pay its debts as the same become due;
  - v. the Seller or its parent company ceases or threatens to cease to function as a going concern or conduct its operations in the normal course of business;
  - vi. a creditor attaches or takes possession of all or a substantial part of the assets of the Seller or its parent company; or
- b) Any termination of the Purchase Order by the Buyer shall be without prejudice to the rights and obligations of each Party as accrued on the date of termination.

#### **5.8.3. Buyer's default**

- a) The Seller may at its sole discretion, and in addition to any other legal remedies it may have, upon giving notice to the Buyer terminate the Purchase Order where:
  - i. the Buyer is in a material breach of any conditions of the Purchase Order or this PTC;
  - ii. there is a major change in the direct or indirect ownership of the Buyer or its parent company;
  - iii. the Buyer or its parent company commences, or becomes the subject of, any bankruptcy, insolvency, reorganization, administration, liquidation or similar proceeding or is in the Seller's reasonable opinion expected to be unable or unwilling to pay its debts as the same become due;
  - iv. the Buyer or its parent company ceases or threatens to cease to function as a going concern or conduct its operations in the normal course of business;
  - v. a creditor attaches or takes possession of all or a substantial part of the assets of the Buyer or its parent company.

#### **5.9. Miscellaneous**

#### **5.9.1. Force Majeure**

- a) Neither Party shall be liable to the other Party for any delay or non-performance of any obligations under the Purchase Order if such delay or non-performance is (i) due to circumstances beyond reasonable such Party's control, including explosions, floods, drought, war, sabotage, any local or national health emergency, appropriations of property, civil disorders, government requirements, export or import restrictions or limitations, rules, orders or any other acts issued or requested by any governmental or other public authorities or any person purporting to act on behalf of such authorities, civil or military authorities, acts of aggression, terrorism (or the threat thereof), acts of God or of the public enemy or any

- other causes beyond Party's reasonable control (hereinafter "Force Majeure Event"), and (ii) could not have reasonably been prevented by such Party taking reasonable precautions or customary steps to circumvent or mitigate such circumstances (if and to the extent such events were reasonably foreseeable).
- b) The Party whose performance is affected by a Force Majeure Event shall provide written notice to the other Party of such Force Majeure Event, specifying the nature and the expected duration of the Force Majeure Event, within 5 (five) calendar days after the Force Majeure Event begins, and shall take prompt action using its commercially reasonable efforts to remedy the effects of the Force Majeure Event. If requested by the Party not affected by a Force Majeure Event, the Parties shall discuss the Force Majeure Event and further steps in order to fulfill the Purchase Order obligations.
  - c) The Seller when affected by a Force Majeure Event which prevents or hinders the supply of the Goods to the Buyer or any other customer shall apportion any quantity of the Goods remaining available to it pro rata between itself, the Buyer and third parties (including the Seller's Affiliates) with whom the Seller then has contractual commitments to deliver the Goods, provided that those arrangements were entered into prior to the occurrences of the Force Majeure Event.
  - d) In case of a Force Majeure Event declaration, the party affected by it shall have no obligation to acquire by purchase or otherwise any shortfall of the Goods which by reason of Force Majeure Event such party is unable to deliver to the other party under the contract.
  - e) If the affected party's inability to perform lasts more than 30 (thirty) calendar days, any Goods, the delivery of which has been prevented by the Force Majeure Event, may be cancelled by either of the Parties by giving of notice to the other. In such cases neither of the Parties will be entitled to claim from the other Party any compensation for possible losses.
  - f) A certificate or other document describing the occurrence of the Force Majeure Event issued by the respective Chambers of Commerce of the Seller's or the Buyer's country or of a transit country or any Applicable Authority shall be a sufficient proof of Force Majeure Event and its duration.
  - g) In the event that the affected party's inability to perform exceeds two (2) months, the Party not affected by a Force Majeure Event shall, on giving of 10 (ten) calendar days written notice, have the right to terminate the Purchase Order. Where the Purchase Order is so terminated, either Party will be entitled to compensation or damages arising from or in connection with this Clause, save in respect of the payments made prior to the Force Majeure Event.

- 5.9.2. Entire Purchase Order.** The Purchase Order including attachments thereto, the PTC and any addenda, or amendments constitutes the sole and entire understanding between the Parties with respect to the subject matter of the Purchase Order and supersedes all and any prior oral or written agreements, negotiations and discussions between the Parties pertaining to the subject matter of the Purchase Order or the Purchase Order in whole.
- 5.9.3. Amendments.** Save as expressly provided in the Purchase Order, no amendment or variation of the Purchase Order shall be effective unless in writing in substantially the format set out at Annex A attached hereto and signed by a duly authorized representative of each of the Parties to it. Without prejudice the above, the Buyer is entitled to unilaterally change the PTC from time to time by putting on the new version of the PTC on the Buyer's website at [www.sibur-int.com](http://www.sibur-int.com). The new version of the PTC shall come into force within 10 (ten) days after such putting.
- 5.9.4. Assignment.** Neither Party may assign the Purchase Order or any of its rights under the Purchase Order or transfer any obligations under the Purchase Order, without the other Party's prior written consent, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, the Buyer may, without consent, assign or transfer its rights and/or obligations under the Purchase Order in whole or in part to any Affiliate. Any attempt at assignment in violation of this Clause shall be null and void.
- 5.9.5. Binding effect.** The terms and conditions of the Purchase Order shall be binding upon, and shall inure to the benefit of, the Parties hereto and their respective permitted successors and assigns.
- 5.9.6. No Third Party beneficiaries.** Nothing in the Purchase Order will give rights to any third parties and the provisions of the Purchase Order (Rights of Third Parties) Act 1999 as amended from time to time are specifically excluded.
- 5.9.7. The Parties' relationship.** The relationship hereby established between the Seller and the Buyer is solely that of the Seller and the Buyer. Each is an independent contractor engaged in the operation of its own respective business, and nothing in the Purchase Order shall be construed to create a partnership, agency, joint venture, pooling, franchise or employer-employee relationship between the Parties. Neither Party has the power or the authority to act for, represent, or bind the other Party (or any of the other Party's Affiliates) in any manner.
- 5.9.8. Execution.** Either Party may sign the Purchase Order and any related amendments, attachments, or other documents and send a copy to the other Party by fax or email. Where original documents are required these shall be provided within 30 (thirty) days after the receipt of the copy document(s).

- 5.9.9. The Seller's warranties, guarantees and representations.** The Seller warrants that it has full legal title to the Goods and that it has full right and power to convey such title to the Buyer.
- 5.9.10. Notices.** Any consent, agreement, approval or notice required or permitted to be given or made under the Purchase Order by one of the Parties hereto to the other Party shall be in writing and in English (unless otherwise agreed by the Parties) and shall be delivered in person or by Federal Express, DHL (or other recognized international courier service requiring signature upon receipt) or by facsimile or email (as evidenced by a paper copy of such email).  
In proving the giving of a communication, it shall be sufficient to prove that delivery was made to the appropriate address, or the communication was properly addressed and posted by an appropriate courier, or the fax was properly addressed and transmitted or the email was sent to the appropriate email address and dispatch of transmission from the sender's external gateway was confirmed as specified in the Purchase Order.
- 5.9.11. The date of receipt.** The date of receipt of the notice, demand or other communication will be (i) if delivered by hand, at the time of delivery, (ii) if delivered by courier – on the 14th day after the same is so mailed, except in the event of disruption of the postal service in which event the notice, demand or other communication will be deemed to be received only when actually received; (iii) if sent by fax, at the time of transmission; and (iv) if sent by email, at the earlier of: the time a return receipt is generated automatically by the recipient's email server; the time the recipient acknowledges receipt; and 24 (twenty four) hours after transmission, unless the sender receives notification that the email has not been successfully delivered.
- 5.9.12. Change of notice details.** Either Party hereto shall promptly notify the other Party in writing as to the change of notice details of the Party and the new details to which notice shall be given to it thereafter.
- 5.9.13. The originals provision.** Where original documents are required to be delivered in accordance with the Purchase Order, such documents shall be sent either by certified mail or by courier to the postal address of the receiving Party as stipulated in the Purchase Order.
- 5.9.14. Language of the correspondence.** All correspondence concerning the Purchase Order shall be conducted in English.
- 5.9.15. Expenses.** Whether or not the transactions contemplated hereby are consummated, all costs and expenses (including the expenses, costs and fees of each Party attorneys, auditors and financial and other professional advisors) incurred in connection with the Purchase Order and/or the drafting or negotiation of the terms and conditions of the Purchase Order and/or any other transaction arising out of or in connection with the Purchase Order shall be borne and paid by the Party incurring such costs and expenses.
- 5.9.16. Waiver.** Any failure on the part of any Party hereto to comply with any of its obligations, agreements or conditions under the Purchase Order may only be waived in writing by the Party to whom such compliance is owed but such waiver will not be considered to be a waiver of future failure(s) to comply with an obligation, agreement or condition. No act or omission by a Party may be deemed to be a waiver of any rights if such a waiver is not declared explicitly and in writing.
- 5.9.17. Severability.** If any part of the Purchase Order is deemed to be unenforceable, invalid or in contravention of applicable Law by a court or arbitral tribunal of competent jurisdiction, the remainder of the Purchase Order shall remain in full force and effect. The Parties shall negotiate in good faith to replace the invalid provision with a provision which reflects, to the extent possible, the original intent of the invalid provision.
- 5.9.18. Confidential Information.**
- a) In connection with the Purchase Order a Party (hereinafter the “**Receiving Party**”) may discover, receive, or otherwise acquire, whether directly or indirectly, information related to the other Party (hereinafter the “**Disclosing Party**”) or Affiliates of the Disclosing Party or its Affiliates’ businesses, or information of third parties that the Disclosing Party is obligated to keep confidential (collectively, in whatever form or medium, “**Confidential Information**”). Confidential Information shall not include information (i) that is, or becomes, publicly known through no wrongful act or omission, direct or indirect, of the Receiving Party or its officers, directors, employees, consultants or agents, (ii) that was already known to Receiving Party without obligations of confidentiality prior to the receipt from Disclosing Party, as reasonably evidenced by the Receiving Party, and was legitimately in Receiving Party’s possession, without any obligation to keep such information confidential, (iii) that Receiving Party independently develops without the use of any Confidential Information of Disclosing Party, or (iv) that Receiving Party receives or has received on a non-confidential basis from a source other than Disclosing Party that is entitled to disclose the same to Receiving Party; provided however that Receiving Party is able to provide Disclosing Party with the documentary evidence regarding any of the exceptions (if any) or as required in connection with any rules or requirements of any stock exchange on which such Party is listed or may be

- listed, or as may otherwise be required by applicable Law.
- b) Receiving Party shall (i) use Disclosing Party Confidential Information solely in connection with exercise of its rights or performance of its obligations under the Purchase Order, and (ii) disclose Disclosing Party Confidential Information only as necessary to its officers, employees, consultants, vendors and contractor including legal advisors and auditors whose duties relate to the Purchase Order and reasonably require familiarity with such information in order for Receiving Party to perform its obligations or exercise its rights hereunder and who are bound by a legally enforceable written obligation of confidentiality with terms that are the same as, or more stringent than, those set out herein.
  - c) Subject to the exceptions to the confidentiality obligations set out in this Clause above, neither Party (nor its Affiliates, subsidiaries or other related parties) may disclose, publish or otherwise reveal the contents of the Purchase Order to any Third Party without the prior express written consent of the other Party (which consent shall not be unreasonably withheld or delayed); provided that (and without limiting the exceptions set out in this Clause), each Party shall be permitted to disclose the terms and conditions of the Purchase Order (i) to actual or potential investors and lenders and their authorized representatives under written confidentiality agreements that protect the confidentiality of the contents of the Purchase Order which are the same as, or more stringent than, those set out herein, or (ii) as required in connection with any rules or requirements of any stock exchange on which such Party is listed or may be listed, or (iii) as may otherwise be required by the applicable Law, or (iv) as may be reasonably required for the performance of the Parties obligations under the Purchase Order; provided however, that the Party making a disclosure pursuant to an exception set forth in the preceding subsections (i) or (iv) shall provide the other Party with prior written notice and shall, to the extent practical, cooperate with the other Party in seeking confidential treatment of the information to be disclosed (if and to the extent available).
  - d) No press release referring to the Purchase Order or utilizing the other Party's name shall be made without the prior written consent of the other Party.

**5.9.19. Set-off.** No set-off may be made against any claims unless otherwise agreed in writing by the Buyer in advance.

**5.9.20. Warranties.** Each Party hereby represents and warrants to the other that:

- a) it has the authority to enter into and perform its obligations under the Purchase Order,
- b) the Purchase Order has been duly executed and delivered on behalf of such Party, and constitutes a legal, valid, binding obligation, enforceable against such Party in accordance with its terms,
- c) it is a corporation duly organized, validly existing and in good standing under the laws and regulations of its jurisdiction of incorporation or formation,
- d) neither the execution of the Purchase Order nor its performance thereunder conflicts with any applicable Law or any other contract to which it is a party or any obligation to which it is subject,
- e) within 5 (five) days after the relevant event, the Party so effected will inform the other Party of any changes or amendments to its direct or indirect ownership.

**5.9.21. Sanctions, Trade Controls and Boycotts**

- a) Notwithstanding anything to the contrary elsewhere in the Purchase Order:
- b) Nothing in the Purchase Order or in PTC is intended, and nothing in the Purchase Order or in PTC should be interpreted or construed, to induce or require either party hereto to act in any manner (including failing to take any actions in connection with a transaction) which is inconsistent with, penalized or prohibited under any laws, regulations, decrees, ordinance, order, demand, request, rules or requirements of the United States of America applicable to such Party which relate to international boycotts of any type.
- c) Neither Party shall be obliged to perform any obligation otherwise required by the contract (including without limitation an obligation to (a) perform, deliver, accept, sell, purchase, pay or receive monies to, from, or through a person or entity, or (b) engage in any other acts) if this would be in violation of, inconsistent with, or expose such party to punitive measure under, any laws, regulations, decrees, ordinances, orders, demands, requests, rules or requirements of the European Union, any EU member state, the United Nations or the United States of America applicable to the parties relating to trade sanctions, foreign trade controls, export controls, non-proliferation, anti-terrorism and similar laws (the "Trade Restrictions").
- d) Where any performance by a Party would be in violation of, inconsistent with, or expose such Party to punitive measures under, the Trade Restrictions, such party (the "Affected Party") shall, as soon as reasonably practicable give written notice to the other Party of its inability to perform. Once such notice has been given the Affected Party shall be entitled:
  - i. to immediately suspend the affected obligation (whether payment or performance) until such time as the Affected Party may lawfully discharge such obligation; and/or
  - ii. where the inability to discharge the obligation continues (or is reasonably expected to continue) until the end of the contractual time for discharge thereof, to a full release from the affected obligation, provided that where the relevant obligation relates to payment for the Goods which have already been delivered, the affected payment obligation shall remain suspended (without prejudice to the accrual of any interest on an outstanding payment amount) until such time as the Affected Party may lawfully resume payment; and/or

- iii. in each case without any liability whatsoever (including but not limited to any damages for breach of Purchase Order, penalties, costs, fees and expenses).
  - e) Nothing in this Section shall be taken to limit or prevent the operation, where available under the governing law of the Purchase Order, of any doctrine analogous to the English Common Law doctrine of frustration.
- 5.9.22. **Anti-Trust.** Each Party hereby warrants to the other party that, as at the date of the Purchase Order and on each subsequent occasion it performs obligations under the Purchase Order, it has not engaged in any Anti-competitive Behaviour in relation to the potential or actual terms and conditions of contract to be agreed or as agreed in relation to the Goods, including but not limited to the amount paid for the Goods, any level of volume discount or any other credit terms.
- 5.9.23. **Anti-Corruption.**
- a) Each Party hereby represents and warrants to the other that it complies with all Anti-Corruption Laws.
  - b) The Buyer and the Seller each represent, warrant and undertake to the other that they shall not, directly or indirectly,
    - i. pay, offer, give or promise to pay or authorize the payment of any monies or other things of value to:
      - a government official or an officer or employee of a government or any department, agency or instrumentality of any government;
      - an officer or employee of a public international organization;
      - any person acting in an official capacity for or on behalf of any government or department, agency, or instrumentality of such government or of any public international organization;
      - any political party or official thereof, or any candidate for political office;
      - any director, officer, employee or agent/representative of an actual or prospective counterparty, supplier or customer of the Buyer or the Seller;
      - or any other person, individual or entity at the suggestion, request or direction or for the benefit of any of the above-described persons and entities, or
    - ii. engage in other acts or transactions,
    - iii. in each case if this is in violation of or inconsistent with the Anti-Corruption Laws.
  - c) Without prejudice to the other rights of the respective Party under the Purchase Order or the applicable Law each Party may terminate the Purchase Order forthwith upon written notice to the other at any time, if in their reasonable judgment the other is in breach of any of the above representations, warranties or undertakings.
- 5.9.24. **Counterparts.** If the Purchase Order is executed in counterparts, each shall be deemed an original, but all of which together shall constitute one and the same instrument. The Parties hereby acknowledge and agree that the Purchase Order has been prepared jointly and no rule of strict construction shall be applied against either Party.
- 5.9.25. **Herein, hereunder, hereinafter.** The terms “herein”, “hereunder”, “hereinafter” and similar terms shall be interpreted to refer to the Purchase Order or the PTC, when made in the Purchase Order or the PTC respectively, unless otherwise follows from the context.
- 5.9.26. **Reference to period.** Where any period in days, weeks, months or years is referred to in the Purchase Order or the PTC, such period shall be calculated in days, weeks, months or years respectively, unless expressly provided otherwise (and the day on which any such period is expressed to commence shall not be counted for the purpose of such period's calculation).
- 5.9.27. **Writing.** A reference to “writing” or any cognate expressions is a reference to any mode of representing or reproducing words in a visible non-transitory form and includes fax and e-mail.
- 5.9.28. **Including.** Any phrase introduced by the terms “including” or “in particular”, or any cognate expression, shall be construed as illustrative and not limiting of any preceding words.