

# **SIGMA-ALDRICH®**

## **General Purchase Conditions of SIGMA-ALDRICH Logistik GmbH (hereinafter: SIGMA-ALDRICH)**

### **I. Scope of Application**

1. These Purchase Conditions apply to all business transactions between SIGMA-ALDRICH and the supplier, even if they are not referred to in subsequent contracts. They apply correspondingly to works and services. In the case of works, acceptance of the goods supplied shall be replaced with the acceptance of the work, and in the case of services, it shall be replaced with the receipt of the service.
2. Terms of the supplier which conflict with, supplement the scope of or deviate from these Purchase Conditions do not become part of the contract unless SIGMA-ALDRICH has expressly agreed to their application in writing. These Purchase Conditions apply even if SIGMA-ALDRICH accepts the supplier's delivery without reservations while being aware of the supplier's conflicting or deviating terms.
3. Arrangements which supplement the scope of or deviate from these Purchase Conditions and which are made between SIGMA-ALDRICH and the supplier for the performance of a contract shall be set out in writing in the contract. This applies also to the cancellation of this requirement of the written form.
4. Rights beyond the scope of these Purchase Conditions to which SIGMA-ALDRICH is entitled according to the statutory provisions remain unaffected.

### **II. Formation of Contract and Changes to the Contract**

1. A request for a quote submitted to the supplier by SIGMA-ALDRICH or by any person acting on behalf of SIGMA-ALDRICH does not include an assumption by SIGMA-ALDRICH of the cost of preparing the quote. The supplier may demand to be paid for preparing the quote only if it has made a written arrangement to this effect with SIGMA-ALDRICH in advance. The supplier shall keep its quote as close as possible to SIGMA-ALDRICH's request. If deviations from the request cannot be avoided, this must expressly be pointed out to SIGMA-ALDRICH by the supplier. Unless the supplier has stipulated a different period of time, its offer shall be binding upon it for 60 days.

2. Orders do not become binding until after they have been placed by SIGMA-ALDRICH in writing or, in the case of orders placed verbally, by telephone or with the use of other means of telecommunication, until after they have been duly confirmed in writing. Orders which have been generated with the use of automatic devices and contain no signature and name shall be deemed written orders. SIGMA-ALDRICH's failure to reply to quotes, requests or other declarations of the supplier shall be deemed consent only where this has expressly been agreed upon in writing. To the extent that the order contains obvious mistakes or orthographic or arithmetic errors, it shall not be binding upon SIGMA-ALDRICH.
3. The supplier is obliged to notify SIGMA-ALDRICH in writing before the formation of the contract if the ordered goods are subject to export controls or to other restrictions on marketability according to the regulations applicable in the Federal Republic of Germany. Otherwise, SIGMA-ALDRICH will be entitled to withdraw from the contract without first setting a deadline and without having regard to whether or not there has been fault on the part of the supplier. This does not exclude further claims of SIGMA-ALDRICH.
4. The supplier shall issue without undue delay, but no later than one week after the receipt of the order, a confirmation of the order in which the price and the delivery date are expressly stated. If the confirmation of the order deviates from the order, the deviations will be deemed agreed upon only if and when they are expressly confirmed by SIGMA-ALDRICH in writing. The same shall apply with respect to subsequent changes to the contract.
5. SIGMA-ALDRICH will be entitled to change the order. The supplier must advise SIGMA-ALDRICH in writing of the consequences (such as an increase in costs, postponement of deadlines, or deteriorations in quality and/or safety) of any desired change to the order. The supplier may not implement changes until after SIGMA-ALDRICH has given its written consent to the consequences of the desired change.
6. If the supplier realizes during the performance of a contract that deviations from the originally agreed specifications are necessary or advantageous, it must so advise SIGMA-ALDRICH without undue delay and submit change proposals. SIGMA-ALDRICH will inform the supplier of whether it wishes the supplier to make changes to the original order and if so, what changes. If, as a result of these changes, there is a change in the cost incurred by the supplier for the performance of the contract, both

SIGMA-ALDRICH and the supplier shall have the right to demand an according adjustment of the agreed prices.

7. Confirmations of orders, notices of dispatch, waybills, delivery notes, invoices and other correspondence from the supplier must state, in particular, the order number, order date and supplier number.

### **III. Delivery Period**

1. The agreed-upon delivery periods and delivery dates are binding. Delivery periods commence on the day the order is issued. The goods must be received at the delivery address indicated by SIGMA-ALDRICH within the delivery period or by the agreed delivery date.
2. If it becomes clear to the supplier that the delivery period cannot be met, the supplier shall so advise SIGMA-ALDRICH without undue delay in writing, also stating the reasons for and probable duration of the delay. In the event of a delay in delivery, SIGMA-ALDRICH shall be entitled to withdraw from the contract irrespective of whether or not there has been fault on the part of the supplier. In the event of default of the supplier, SIGMA-ALDRICH may demand liquidated damages of 0.5% of the net order value for each commenced week of delay, but not more than 5% of the net order value in total. SIGMA-ALDRICH must assert its claim for liquidated damages with the final payment, at the latest. Sec. 341 (3) German Civil Code (Bürgerliches Gesetzbuch – “BGB”) shall be excluded in this respect. Events of force majeure are exempt. This does not affect further claims of SIGMA-ALDRICH.
3. SIGMA-ALDRICH's claim for delivery is not excluded until the supplier pays damages in lieu of the delivery after an according request from SIGMA-ALDRICH. Acceptance of the late delivery does not constitute a waiver of claims for damages.
4. Delivery before the agreed delivery date is only permissible with the prior written consent of SIGMA-ALDRICH. SIGMA-ALDRICH will have the right to return or store any goods delivered early at the supplier's expense.

#### **IV. Passing of Risk, Transfer of Title, Shipment**

1. The supplier bears the risk of accidental loss or destruction or accidental deterioration of the goods until their acceptance by SIGMA-ALDRICH. If the supplier is obliged to carry out the set-up or assembly of the goods in the business premises of SIGMA-ALDRICH, the risk will not pass to SIGMA-ALDRICH until after the goods have been placed in operation.
2. Title to the goods will be transferred to SIGMA-ALDRICH directly and free of encumbrances with the handover of the goods.
3. The supplier must observe the rules stipulated by SIGMA-ALDRICH for the shipment of the goods, especially the transport and packaging rules of SIGMA-ALDRICH, as amended from time to time. The goods must be delivered in a packaging appropriate to the nature of the goods. The goods shall, in particular, be packed in such a manner as to prevent damage in transit. Packaging materials shall be used only to the extent required for this purpose. Only environmentally friendly, recyclable packaging materials may be used. As compensation for the incurred costs of disposal, the supplier shall pay at the end of each calendar quarter a lump sum of 0.3% of the net order value of the calendar quarter. The use of reusable packaging is only permissible with the prior written consent of SIGMA-ALDRICH. The supplier must indicate on the packaging the quantity supplied, the order, item and material numbers of SIGMA-ALDRICH, as well as the date of manufacture.
4. The dispatch of the goods must immediately be notified. To the extent it has been agreed that SIGMA-ALDRICH will assume the cost of freight, this applies only for the cost of the least expensive manner of shipment, even if compliance with the agreed delivery periods and delivery dates requires a faster manner of shipment. All consignments must be accompanied by a delivery note.

#### **V. Hazardous Substances**

1. When delivering hazardous substances, the supplier must comply with the statutory rules for the handling of hazardous substances, particularly the German Ordinance on Hazardous Substances (Gefahrstoffverordnung – "GefStoffV").
2. The supplier is obliged to supply SIGMA-ALDRICH timely before the delivery of the relevant goods with all necessary product information, especially the EC safety data sheets (cf. Sec. 6 Ordinance on Hazardous Substances) including information about

the class of dangerous goods, and point out in writing all statutory marketing and other restrictions, especially restrictions under the German Narcotics Act (Betäubungsmittelgesetz – “BtMG”).

3. The supplier must package and label the respective goods in accordance with the statutory requirements and expressly point out hazardous substances in the delivery note. The supplier shall ensure the proper transportation of the goods, especially transportation by authorized persons in appropriately equipped vehicles.
4. If the supplier breaches any of the aforementioned obligations, SIGMA-ALDRICH may refuse to accept the goods. Moreover, SIGMA-ALDRICH will be entitled to withdraw from the contract without first setting a deadline and regardless of whether or not there has been fault on the part of the supplier. This does not exclude further claims of SIGMA-ALDRICH.

#### **VI. Certificates and Inspection Reports**

Technical certificates, particularly analysis certificates, certificates of origin, other certificates, inspection reports, acceptance reports, quality test reports and other documents required for the agreed use of the goods must be supplied free of charge along with the goods.

#### **VII. Duties to Inform**

Upon prior arrangement with the supplier, SIGMA-ALDRICH shall have the right to be given an insight into the respective production status of the goods and to be provided with information about all circumstances required for performance. Upon prior arrangement, SIGMA-ALDRICH shall additionally have the right to inform itself of the production status in the supplier's business premises during normal business hours without disturbing the supplier's business operations.

#### **VIII. Prices and Payment**

1. The price stated in the order is binding. Unless otherwise agreed in writing, the price includes the cost of packaging, shipping devices and transport up to the delivery address indicated by SIGMA-ALDRICH, as well as customs duties and other public

- dues. Statutory value-added tax is included in the price unless the price has explicitly been designated as a net price.
2. Partial and advance payments must be agreed upon in writing. The supplier must first provide appropriate security (e.g. a bank/insurance guarantee) for the amount of the advance payment.
  3. SIGMA-ALDRICH shall be provided with three copies of the supplier's invoices. As invoices which do not indicate the order number, order date or supplier number cannot be processed, they will be deemed not received. The second and third copies of the invoice must be designated as such.
  4. Payment will be effected upon acceptance of the goods and receipt of the invoice within 14 days with a 3% discount, within 30 days with a 2% discount or within 90 days net. Payment will be made subject to review of the invoice. If a consignment is deficient, SIGMA-ALDRICH may withhold payment until proper performance by the supplier without forfeiting its right to rebates, discounts or similar price reductions. The time allowed for payment does not commence until all defects have been fully remedied. If the goods are delivered early, the time allowed for payment does not commence until the agreed delivery date. To the extent that the supplier is obliged to supply materials tests, inspection reports, quality documents or other documents, the receipt of these documents will be a prerequisite for the acceptance of the goods. In the event of default of payment, the supplier may claim default interest at a rate of 2 percentage points above the basic interest rate applicable from time to time, due regard being had to the current interest situation, unless SIGMA-ALDRICH proves that the damage actually sustained by the supplier remains below this amount. The supplier may withdraw from the contract if, after SIGMA-ALDRICH has defaulted on its obligation to pay, the supplier has set a reasonable additional period of time for payment, also indicating that failure to pay will result in refusal of acceptance, and this additional period of time has expired without payment by SIGMA-ALDRICH.
  5. If, as security for claims based on defects, an amount to be retained for warranty purposes has been agreed upon, this amount shall become due and payable as soon as the claims for defects have become time-barred or the supplier has provided SIGMA-ALDRICH with an irrevocable bank/insurance guarantee of the same extent which is payable on first demand.
  6. Payments will be made solely to the supplier. Counterclaims of the supplier may be set off by the supplier only if they have been finally established by declaratory judgment or

otherwise or if they are undisputed. The supplier may assert a right to retain only if its counterclaim is based on the same contract.

#### **IX. Guarantees and Claims for Defects**

1. The supplier guarantees that the goods supplied are state-of-the-art and in compliance with the applicable legal provisions and with the regulations and guidelines issued by public authorities, employers' liability insurance associations and trade associations, in particular, the German Ordinance on Hazardous Substances, the German Equipment and Product Safety Act (Geräte- und Produktsicherheitsgesetz – "GPSG") and the accident-prevention, safety-at-work, environmental and other safety and preventive regulations. In the event of liability, the supplier shall indemnify and hold SIGMA-ALDRICH harmless from and against all third-party claims asserted against SIGMA-ALDRICH or its customers for breach of any of these regulations. This does not affect further claims of SIGMA-ALDRICH.
2. The supplier shall be obligated to comply with the safety requirements of SIGMA-ALDRICH when performing the contract. The supplier must particularly comply with the SIGMA-ALDRICH - Guideline QRL 13.02 "Safety Guideline for Third Companies", as well as with any instructions given by the person responsible for safety issues at SIGMA-ALDRICH and, where applicable, by the responsible project manager of SIGMA-ALDRICH. SIGMA-ALDRICH shall have the right to verify at any time whether the safety requirements are being complied with by the supplier.
3. SIGMA-ALDRICH must report visible defects to the supplier within ten working days after the acceptance of the goods, and hidden defects within ten working days of their discovery.
4. Where consignments are comprised of a large number of products which are identical in construction, SIGMA-ALDRICH may limit the examination for defects to a reasonable portion of the products supplied. If the products become impossible to sell as a result of the examination, a random sample of 0.5% of the pieces supplied shall be sufficient. In the event that single random samples of a consignment are defective, SIGMA-ALDRICH may demand that the supplier single the defective pieces out or, at its choice, assert claims for defects with respect to the entire consignment. SIGMA-ALDRICH may carry out the selection itself at the supplier's expense if the supplier fails to commence without undue delay with the selection or if the foreseeable cost of the selection does not exceed €500.00. If defects of the products necessitate an

examination of the products which exceeds the normal scope of an examination of incoming goods, the supplier will have to bear the cost of this examination.

5. Neither SIGMA-ALDRICH's taking delivery of the goods nor the processing of, payment for or issue of subsequent orders for goods which have not yet been found to be defective and which, therefore, have not yet been reported as being defective shall constitute an approval of the delivery or a waiver of its claims for defects by SIGMA-ALDRICH.
6. SIGMA-ALDRICH may demand subsequent performance in the form of repairs, a replacement delivery or, at its choice, new manufacture according to the statutory provisions. The supplier shall compensate SIGMA-ALDRICH for any damage sustained, as well as for any expenses necessarily incurred for subsequent performance. If subsequent performance does not occur within a reasonable period of time or fails, or if the setting of a deadline for subsequent performance is not required, SIGMA-ALDRICH may withdraw from the contract or claim damages in lieu of performance, reimbursement of expenses made to no avail or a reduction of the purchase price according to the statutory provisions. If SIGMA-ALDRICH has claims under guarantees and these claims exceed the statutory rights for defects, the claims shall remain unaffected.
7. If the supplier fails to comply with its obligation to subsequently perform within a reasonable additional period of time set by SIGMA-ALDRICH and the supplier does not have the right to refuse subsequent performance, SIGMA-ALDRICH may carry out the necessary measures itself, or have them carried out by a third party, at the supplier's expense and risk. In cases where it is not possible to notify the supplier of the defect and the impending damage and to set an even short period of time for remedial action because of particular urgency and/or because the damage to be expected in the absence of immediate remedial action is unreasonably high as compared to the warranty obligation, SIGMA-ALDRICH may take the necessary measures immediately and without prior consultation with the supplier.
8. The limitation period for claims of SIGMA-ALDRICH for defects is 24 months. With respect to defects reported by SIGMA-ALDRICH during the limitation period, the claims for defects shall become time-barred no earlier than six months after the defects have been reported. If SIGMA-ALDRICH purchases the goods for resale, the limitation period will not commence until the point in time at which the limitation period applicable to the resale of the goods commences, but no later than 6 months after the goods have

been delivered to SIGMA-ALDRICH. The same shall apply if SIGMA-ALDRICH purchases the goods for further processing.

9. If the supplier carries out repairs or makes a replacement delivery, the limitation period will commence anew unless the supplier carries out the repair or makes the replacement delivery as a gesture of goodwill or for similar reasons, rather than in the performance of an (assumed) obligation of the supplier to subsequently perform.
10. This does not affect further-reaching guarantees given by the supplier.

#### **X. Product Liability**

1. The supplier is obliged to indemnify and hold SIGMA-ALDRICH harmless from and against any third-party claims arising from product liability which are due to a defect of a product supplied by the supplier to the extent that the supplier is responsible for the product defect and for the damage sustained according to the principles of product liability law. This does not affect further claims of SIGMA-ALDRICH.
2. On the same conditions, the supplier is obliged to reimburse SIGMA-ALDRICH also and in particular for such expenses as result from, or as are incurred in connection with, preventive measures taken by SIGMA-ALDRICH against its being held liable for product defects, especially product warnings, an exchange of products or product recalls. To the extent possible and reasonable, SIGMA-ALDRICH will advise the supplier of the contents and scope of the measures to be taken and give the supplier the opportunity to comment thereon.
3. The supplier must appropriately insure against all risks arising from product liability, including the risk of product recalls, and shall present the insurance policy to SIGMA-ALDRICH as evidence, if so requested.
4. The supplier is obliged to label its products in such a manner that they can be recognized as the supplier's products on a permanent basis, where possible.

#### **XI. Third-Party Property Rights**

1. The supplier guarantees that the supply and use of the goods does not infringe any patents, licenses or other third-party property rights or copyrights. This does not apply in cases where the goods have been developed by SIGMA-ALDRICH.

2. If, due to the delivery and use of the goods, SIGMA-ALDRICH or its customers are held liable by any third party for infringement of any such rights, the supplier shall be obliged to indemnify and hold SIGMA-ALDRICH harmless from and against these claims and to reimburse SIGMA-ALDRICH for all expenses incurred by SIGMA-ALDRICH in connection with the asserted claims.

## **XII. Force Majeure**

1. If SIGMA-ALDRICH is prevented from performing its contractual obligations – in particular, from accepting the goods – by an event of force majeure, SIGMA-ALDRICH shall be released from its obligation to perform for the duration of the impediment and a reasonable start-up period without being liable towards the supplier for damages. The same shall apply if the performance of its obligations by SIGMA-ALDRICH is unreasonably impeded or becomes temporarily impossible because of unforeseeable circumstances for which SIGMA-ALDRICH is not responsible, in particular, because of industrial action, official measures, energy shortage or major disruptions of operations. SIGMA-ALDRICH may refuse to accept the goods if such circumstances impede the sale of the goods because of a decrease in demand.
2. SIGMA-ALDRICH has the right to withdraw from the contract if such an impediment continues for more than four months and if, as a result of such impediment, the performance of the contract is no longer of interest to SIGMA-ALDRICH. At the request of the supplier, SIGMA-ALDRICH will declare after the expiry of the aforementioned four-month period whether it will make use of its right to withdraw from the contract or whether it will accept the goods within a reasonable period of time.

## **XIII. Provision of Items and Manufacture of Tools**

1. SIGMA-ALDRICH retains title to all samples, models, drawings, artworks, tools, software and other items which SIGMA-ALDRICH provides to the supplier for the manufacture of the goods ordered or for any other reasons. SIGMA-ALDRICH will obtain title to any tools which the supplier manufactures on behalf of SIGMA-ALDRICH as soon as their manufacture is completed. SIGMA-ALDRICH will provide the tools to the supplier for the manufacture of the goods ordered.

2. The supplier is obliged to use these items exclusively for the manufacture of the goods ordered or as otherwise specified by SIGMA-ALDRICH. Third parties must not be given access to such items. The supplier is not authorized to make copies, replicas or other reproductions of the items. The supplier must return the items to SIGMA-ALDRICH unasked and without undue delay at its own expense if they are no longer needed.
3. Any processing or transformation by the supplier of items provided shall be made on behalf of SIGMA-ALDRICH. If such items are processed together with other items not owned by SIGMA-ALDRICH, SIGMA-ALDRICH will acquire a co-ownership interest in the new item which corresponds to the ratio of the value of the item provided by SIGMA-ALDRICH and the value of the other processed items at the time of processing.
4. The supplier is obliged to handle and store all items provided with due care. The supplier must insure the items provided in consultation with SIGMA-ALDRICH at replacement value against damage by fire, water and theft. The supplier assigns to SIGMA-ALDRICH already now all claims for compensation arising from such insurance. SIGMA-ALDRICH hereby accepts the assignment. The supplier shall be obliged to carry out all necessary maintenance and inspection work and all servicing and repair work with respect to the items provided in a timely manner in consultation with SIGMA-ALDRICH. The supplier shall advise SIGMA-ALDRICH without undue delay of any damage.
5. Goods which the supplier manufactures in whole or in part according to the specifications given by SIGMA-ALDRICH, or using the items provided by SIGMA-ALDRICH, may be used by the supplier itself, or be offered, supplied or otherwise made available to any third party, only with the prior written consent of SIGMA-ALDRICH. This applies also for goods which SIGMA-ALDRICH has legitimately refused to accept. The supplier will have to pay SIGMA-ALDRICH liquidated damages in the amount of €5,000.00 for each violation of these provisions. This does not affect further claims of SIGMA-ALDRICH.

#### **XIV. Confidentiality**

The supplier is obliged for an unlimited period of time to maintain the confidentiality of any and all information about SIGMA-ALDRICH of which it becomes aware and which is designated as confidential or can be recognized as a trade or business secret according to other circumstances, and the supplier may neither record nor pass on or otherwise use such

information as far as this is not necessary for the delivery to be made to SIGMA-ALDRICH. The supplier shall make appropriate contractual arrangements with the employees and agents working for it to ensure that these persons, too, refrain for an unlimited period of time from any use, disclosure and unauthorized recording of such trade and business secrets for their own purposes.

#### **XV. Liability**

SIGMA-ALDRICH will be liable without limitation for any damage resulting from breach of guarantee or from death, bodily injury or damage to health. The same applies for damage arising from willful misconduct or gross negligence. In cases of slight negligence, SIGMA-ALDRICH will only be liable if material obligations which result from the nature of the contract and the performance of which is of particular importance in order for the purpose of the contract to be achieved are breached. If such obligations are breached, as well as in the event of default or if performance is impossible, SIGMA-ALDRICH's liability will be limited to the damage or losses the occurrence of which must typically be expected within the framework of the contract. This does not affect mandatory statutory liability for product defects.

#### **XVI. Right to Withdraw**

SIGMA-ALDRICH will have the right to withdraw from the contract in whole or in part in the following cases:

- in the event the supplier finally discontinues its deliveries;
- if it becomes clear already before the due date that, under normal circumstances and without fault on the part of SIGMA-ALDRICH, timely performance will not be possible and the supplier fails to take additional measures within a reasonable period of time in order to ensure timely performance;
- if it becomes clear already before the due date that, without fault on the part of SIGMA-ALDRICH, the performance owed will not meet the specifications agreed upon and the supplier is not able to find a remedy within a reasonable period of time; or
- if the supplier is illiquid or insolvency proceedings are instituted against the supplier's assets.

This does not affect further claims of SIGMA-ALDRICH.

## **XVII. Final Provisions**

1. The supplier is not authorized to transfer rights and obligations to any third party, or to have an order or material parts of an order carried out by any third party, unless the supplier has obtained the prior written consent of SIGMA-ALDRICH.
2. Subcontractors of the supplier will be deemed persons employed by the supplier in the performance of its obligations and will have to be notified to SIGMA-ALDRICH upon request.
3. If so requested by SIGMA-ALDRICH, the supplier shall be obliged to prove that it has fully paid any goods, works or services obtained from any subcontractor, or that it has provided according security. If the supplier fails to provide such evidence within a reasonable period of time, SIGMA-ALDRICH, in turn, will have the right to retain payments to be made to the supplier.
4. Place of performance for all deliveries, payments and any other performance owed by the supplier and SIGMA-ALDRICH shall be the seat of SIGMA-ALDRICH.
5. The legal relations between the supplier and SIGMA-ALDRICH shall be governed by the laws of the Federal Republic of Germany, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
6. Exclusive place of jurisdiction for all disputes arising out of the business relationship between SIGMA-ALDRICH and the supplier shall be the seat of SIGMA-ALDRICH. SIGMA-ALDRICH may additionally sue the supplier at the supplier's seat as well as at any other permissible place of jurisdiction.
7. Should single provisions of these Purchase Conditions be or become invalid in whole or in part, or should there be found to be a gap in these Purchase Conditions, this shall not affect the validity of the remaining provisions hereof. In lieu of the invalid provision, such valid provision shall be deemed agreed upon as comes closest to the purpose of the invalid provision. In the event of a gap, such provision shall be deemed agreed upon as corresponds to what would have been agreed upon according to the purpose of these Purchase Conditions had the contracting parties considered the matter from the outset.