

# Terms and Conditions of Purchase

## (Supplier)

Unless there is a written agreement covering the purchase of the same products between the entity named in the purchase order ("Supplier") and the member of the Mexichem group acquiring the products ("Mexichem") (each of them Also referred to as a "Party", and collectively as the "Parties"), any purchase of products by Mexichem are subject to these Terms and Conditions of purchase (the "terms as conditions"). Subject to the foregoing, Any previous agreements entered into by and between the Parties are hereby replaced by this Agreement (as defined below) and any additional or different terms proposed by Supplier (including any general terms and condition of sale by Supplier) that Supplier seeks to impose or incorporate are expressly rejected and shall not be binding upon Mexichem unless expressly accepted in writing by Mexichem's authorized representative with specific reference to those terms. Any delivery of Products and/or services shall constitute acceptance of these Terms and Conditions.

### GENERAL CONSIDERATIONS

#### 1. APPLICABILITY AND DEFINITIONS

**1.1** These Terms and Conditions shall apply to every offer or quotation from the Supplier which concerns sales or provision of Products (as defined below) to or for the benefit of Mexichem, every amendment thereof or addition thereto, as well as all (legal) acts in preparation for and/or execution of the Agreement (as defined below).

**1.2** In these Terms and Conditions, the following terms shall have the following meaning:

**Applicable Law:** means any law, statute, order, decree, rule, injunction, license, permit, consent, approval, agreement, regulation, interpretation, treaty, judgment, or legislative or administrative action of a competent governmental authority, which applies to the supply or provision of Products and/or Services.

**Agreement:** means a Purchase Order, together with these Terms and Conditions.

**Performance:** any performance which the Supplier delivers or arranges to be delivered to Mexichem pursuant to the Agreement, such as provision of Products, Services and/or Works in whatever form and/or the results thereof and/or all activities necessary for that purpose, in executing the Agreement in full.

**Products:** all goods, materials, Works and other items which the Supplier supplies or arranges to be supplied to Mexichem pursuant to an Agreement, including any associated designs, drawings and models. Where applicable, a reference to Products may also comprise a reference to associated Works and Services;

**Purchase Order:** means Mexichem's order for the Products or Services submitted in accordance with clause 2;

**Services:** means the services (including digital services) Supplier has agreed to perform to Mexichem under the Agreement, which the Supplier performs or arranges to be performed on Mexichem's instructions, whether or not in return for payment, such as the provision of (technical) advice, designs or calculations, administrative or consultancy services, etc.;

**Supplier:** has the meaning given to it in the introduction;

**Terms and Conditions:** has the meaning given to it in the introduction.

**Mexichem:** has the meaning given to it in the introduction;

**Work:** all works of a material nature which the Supplier establishes or arranges to be established on Mexichem's instructions;

**1.3** In the Agreement,

A reference to a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

A reference to a Party includes its successors and permitted assigns.

A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.

Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

A reference to writing or written includes fax and email.

The introduction and the Appendix shall form part of these Terms and Conditions.

**1.4** In the event of a conflict between a term in this Agreement and any other document agreed between the parties, the term in this Agreement shall prevail. In the event of a conflict between a translated term in a document or this Agreement and the English equivalent, the sworn translation into Portuguese shall prevail in case of a dispute.

**1.5** In the event of a conflict between a term in a Purchase Order and these Terms and Conditions, the term in the document first mentioned shall prevail.

#### 2. FORMATION, AMENDMENT, AND TERMINATION OF THE AGREEMENT

**2.1** These Terms and Conditions apply to each Purchase Order and any additional or different terms proposed by Supplier (including any general terms and condition of sale by Supplier) that the Supplier seeks to impose or incorporate are expressly rejected, regardless of whether the Supplier refers to those terms in a request for a quotation, other communication addressed to Mexichem or otherwise, and shall not be binding upon Mexichem unless expressly accepted in writing by Mexichem's authorized representative with specific reference to those terms.

**2.2** Requests for a quotation shall not be binding on Mexichem but shall be an invitation to issue a quotation. Quotations shall be valid for a minimum period of 30 calendar days. Any costs attached to issuing a quotation shall not be reimbursed by Mexichem.

**2.3** In the event of apparent errors, incompleteness or inconsistencies in a quotation or Purchase Order, Supplier must inform Mexichem accordingly before starting the execution or supply thereof. The consequences of failure to do so shall be entirely at the Supplier's expense and risk.

**2.4** Mexichem shall not be obliged to conclude an agreement with the party quoting the lowest price. Furthermore, Mexichem shall not be required to provide information on whether or not it concludes an agreement with parties other than the Supplier. If no Agreement is formed, all the information which Mexichem provided to the Supplier must be returned to Mexichem free of charge if the latter so requests and any information supplied shall be deemed Confidential Information under these Terms and Conditions.

**2.5** An Agreement shall only come into force if Mexichem accepts a quotation or Purchase Order by confirming this in writing.

### **3. WARRANTIES**

**3.1** The Performance to be delivered by the Supplier must comply with:

a) the description and/or the specification in accordance with the Agreement; (b) the reasonable expectations which Mexichem may hold as regards (inter alia) the characteristics, quality and/or reliability pursuant to (inter alia) regulations and requirements of good workmanship, these Terms and Conditions, the Agreement and the description(s) in the offer or quotation concerned; (c) the requirements and workmanship applying to the relevant sector; (d) the timetable and/or execution schedule issued or (tacitly) approved by Mexichem; (e) the requirement that the persons to be involved by the Supplier are suitable for their duties; (f) the requirement that the costs of (obtaining) the permits required for the execution of the Agreement are included; (g) the requirement that the costs of the drawings and other preparatory activities and/ or development activities to be carried out pursuant to the Agreement are included.

**3.2** The Supplier shall not be allowed to conclude direct agreements with the client(s) (customers) of Mexichem for whom it purchases the Products under an Agreement.

**3.3** Supplier shall comply to the most recent version of the Mexichem Supplier Code of Conduct which is published at [orbia-supplier-code-of-conduct-2023\\_en.pdf](#). Upon request of Supplier, Mexichem shall send a copy.

### **4. DELIVERY TIMES**

**4.1** The delivery times agreed with regard to (parts of) the Performance to be delivered by the Supplier shall be binding. If these delivery times are exceeded, the Supplier shall automatically be in default under the Agreement without notice of default being required to that effect.

**4.2** For each calendar day by which the aforesaid delivery times are exceeded, the Supplier shall pay to Mexichem an amount of 0.5% of the total sum agreed with a maximum of 10%, which is a genuine pre-estimate of the losses incurred by Mexichem. However, this shall not affect Mexichem's right to claim compensation in full for actual damages incurred.

**4.3** The Supplier shall always be obliged to provide Mexichem in time, and in all cases within 24 hours after the Supplier became aware of this or should reasonably have foreseen this, with adequate and written notification of its impending failure to meet the delivery time. Execution of the Agreement in partial deliveries shall require Mexichem's prior written consent. If Mexichem so requests, the Supplier shall be obliged to submit a written production or execution schedule and/or to cooperate in progress monitoring.

### **5. AMENDMENTS, CONTRACT VARIATIONS**

**5.1** Mexichem shall be entitled to amend the scope and nature of the Performance to be delivered at its convenience. The Supplier must report the amendments necessary to that end in time, and in any case within eight calendar days of the request, to Mexichem in writing. In addition, the Supplier undertakes to execute without delay the amendments required by Mexichem, for example in drawings, models, instructions, specifications and activities.

**5.2** If, in the Supplier's view, an amendment referred to in Paragraph 1 affects the agreed price, the performance of the Agreement and/or the delivery times, the Supplier, before making the amendment, shall inform Mexichem of this in writing as soon as possible, but in all cases within eight calendar days of the request to that end or as

much earlier as Mexichem explicitly stated as the response period in such a request for amendment. If Mexichem does not accept these effects on the price, the performance of the Agreement and/or delivery times reported by the Supplier, Mexichem shall have the right to revoke the amendment. If the amendment requested by Mexichem is required for Mexichem to comply with applicable laws, and Mexichem does not accept the effects on the price, the performance of the Agreement and/or delivery time, Mexichem may terminate the Agreement. Termination pursuant to this paragraph shall not entitle either Party to claim compensation of any damage.

**5.3** If the Supplier has not reported any effects as referred to in Paragraph 2 within the timeframes indicated, the Supplier shall be deemed to agree to the requested amendment(s) and the right to any compensation or other changes in this connection shall lapse. In case of price reductions due to the requested amendment(s), Mexichem shall be entitled to a pro rata reduction of the price.

## **6. PRICE**

**6.1** The agreed price shall be fixed and binding. The price cannot be increased as a result of changes in circumstances and factors that are not attributable to Mexichem, such as exchange rates, rise in energy prices, freight rates, import or export duties, excise duties, levies and other taxes, prices of raw materials or semi-finished products, wages and other services owed by the Supplier to third parties.

**6.2** Unless the Supplier proves the contrary, the price shall also be deemed to include:

- a) import duties, excise duties, levies and applicable taxes unless such tax can be recovered by Mexichem, such as ICMS, IPI, PIS and COFINS taxes, as the case may be (with the exception of VAT); charges and other levies or costs incurred when applying for the permits required for the Performance;
- b) fees for the use of intellectual and industrial property rights, including any software;
- c) all costs relating to or arising from the delivery of the agreed Performance;
- d) the costs of packaging, transport, storage, insurance, premiums, installation and putting into operation on location. This also applies to goods made available by Mexichem in the execution of the Agreement;
- e) all other costs borne by the Supplier pursuant to the Agreement;
- f) all that is necessary for the proper execution of the Agreement, taking account of the applicable standards, regulations and requirements of good workmanship, even if these were not expressly mentioned in the Agreement.

## **7. INVOICING AND PAYMENT**

**7.1** The Supplier shall not invoice the amounts owed by Mexichem any earlier than on the earlier of the date of the delivery of the Performance or the date on which the Performance was accepted by

Mexichem. If the Agreement was implemented completely and correctly, Mexichem shall pay the invoiced amount within 60 days of receiving and approving the invoice, unless otherwise agreed in writing between the Parties. Payment shall not be deemed acceptance of the Performance delivered and shall not release the Supplier of any obligation towards Mexichem. Only invoices mentioning the Purchase Order number will be accepted by Mexichem.

**7.2** If the information which the Supplier must (periodically) submit to Mexichem for the execution of the Agreement and/or the agreed security has not been received, or not in the correct form, Mexichem may suspend the payment of invoices. The same shall apply if the documents referred to in the clauses regarding invoicing, delivery confirmation, or warranties have not been provided or duly signed.

**7.3** Mexichem shall be entitled to offset amounts it owes against amounts it can claim from the Supplier. The Supplier shall not be entitled to offset amounts it owes against amounts it can claim from Mexichem.

**7.4** Any invoices which Mexichem receives more than six months after the delivery of the Products or the date on which Mexichem accepted the Performance shall not be accepted. The Supplier's entitlement to payment of these invoices shall lapse through the mere expiry of that period.

**7.5** If Mexichem has valid reasons to assume that the Supplier is insufficiently solvent to deliver the agreed Performance in full, Mexichem shall be entitled to suspend payment until the Agreement has been implemented in full or until a solvent party has provided sufficient security for compliance, which shall be exclusively at Mexichem's discretion.

**7.6** In the dated and numbered invoices, the Supplier shall in any case state the following details in a clear and orderly fashion. If these details are lacking, any payment obligation on Mexichem's part may be suspended until this information is stated correctly:

- a) Mexichem's contract number (purchase number) and that of the Supplier relating to the Agreement;
- b) the Supplier's name, address and place of residence or business;
- c) the period and the Performance delivered to which the invoice relates;
- d) a reference to the "VAT reverse charge mechanism" if this applies to the Agreement.
- e) The same applies to the amount of VAT; the Supplier's complete bank details;
- f) the wage costs, if applicable;
- g) the confirmation note and/or time sheets signed by Mexichem;
- h) The Supplier's Chamber of Commerce

registration number and VAT number.

**7.7** If Mexichem owes interest to the Supplier, this interest shall be simple and equal to the six-month Euribor rate increased by a surcharge of 100 basis points. This shall be based on the one-month rate applicable on the due date of the invoice. No compound interest shall be paid.

**7.8** If Mexichem exceeds a payment term or does not pay an invoice, the Supplier shall not be entitled to terminate or suspend the agreed Performance.

## **8. DUTY OF DISCLOSURE, CHECKS, APPROVAL AND CONSENT**

**8.1** The Supplier shall inform Mexichem immediately and in writing of any circumstance that is likely to affect or prevent the execution of the Agreement. Mexichem shall be entitled, at its reasonable discretion and at the Supplier's expense, to take necessary and reasonable measures and/or demand amendment of the Agreement in order to prevent disadvantages or damage as a result thereof. In addition, Mexichem may on these grounds terminate the Agreement. The foregoing shall also apply if Mexichem suspects on other reasonable grounds that such a circumstance exists.

**8.2** Mexichem shall have the right but not the obligation to check the manner in which the Supplier implements the Agreement. To this end, Mexichem may take all reasonable measures which Mexichem considers necessary, such as inspecting the locations where the Performance is executed wholly or in part (whether or not accompanied by experts) and checking or auditing the Supplier's accounts with regard to the execution of the Agreement.

## **9. MATERIAL FAILURE**

**9.1** Every material failure in the (timely) fulfilment of the Supplier's obligations shall give Mexichem the right to terminate the Agreement in accordance with clause 12.2.

## **10. REMEDIES GUARANTEES AND PRODUCT WARRANTY**

**10.1** Any faulty Performance shall be rectified immediately at the Supplier's expense, or shall be carried out or delivered again by the Supplier free of defects, without prejudice to Mexichem's right to claim damages and other compensation under applicable law. In case of failure of (timely) fulfilment by the Supplier of its obligations to rectify such faulty Performance, Mexichem shall be entitled to assign such performance to another supplier at the risk and the costs of Supplier. If the Products supplied or the result of the Services or Works provided should be wholly or partly lost or appear to be unsuitable for the purpose for which they are intended within the statutory time limit, this shall be regarded as the result of failure in the execution of the Agreement, unless the Supplier proves the contrary.

**10.2** Any warranty agreed shall remain without limiting any right of Mexichem's under the law in the event of any failure in the execution of the

Agreement. If the Supplier fails in the execution of the Agreement, Mexichem, in urgent cases, for example in which the repair of the defect cannot reasonably be postponed, or in cases in which it must reasonably be assumed that the Supplier cannot or will not arrange the repair or replacement, or cannot or will not do so properly or in time, shall have the right to carry out the repair or the correct execution, or arrange for this to be done, at the Supplier's expense. Whether a case is urgent shall be exclusively at Mexichem's reasonable discretion. In such urgent case, no notice of default is required and the Supplier shall be deemed to be in default by sole operation of law. If it should afterwards appear that the situation was not urgent, this shall not affect the operation of this provision.

**10.3** Supplier's Products are warranted to be free from defects in material and workmanship, for the period of 24 months from the date of shipment.

**10.4** If Mexichem is of the opinion that it reasonably needs to take action to prevent further damages (for example by executing a product recall) Mexichem shall be entitled to compensation by Supplier of all connected costs.

## **11. SUSPENSION**

**11.1** Mexichem shall be entitled to oblige the Supplier to suspend the execution of the Agreement for reasons of Mexichem's own reasonable discretion for the duration of a period to be specified by Mexichem. Mexichem shall reimburse the actual direct and reasonable costs demonstrably incurred as a result thereof by the Supplier, unless the suspension is attributable to the Supplier. No further damages or other compensation shall be paid to Supplier.

**11.2** The Supplier shall be obliged to keep the costs arising from such a suspension to a minimum by taking appropriate effective measures.

## **12. TERMINATION OF THE AGREEMENT**

**12.1** Without prejudice to the other provisions regarding (early) termination, Mexichem may terminate the Agreement immediately in the following cases:

- a) if the Supplier or the party that guaranteed the Supplier's obligations or provided security applies for a provisional moratorium. The same applies if the Supplier is declared insolvent, is wound up voluntarily or involuntarily, ceases substantial business activities, decides to wind up its business, or files a winding-up petition or applies for a moratorium;
- b) if there are changes in the Supplier's direct or indirect shareholders, insofar as this, in Mexichem's reasonable opinion, entails a considerable increase in risks for Mexichem;
- c) if an attachment is made against the Supplier or if the Supplier's assets are threatened with



attachment or other judicial measures;  
d) the Supplier is involved in any fraudulent, misleading and/or unlawful activities;  
e) Mexichem has legitimate reasons to believe that Supplier adversely affects the reputation, good name or goodwill of Mexichem or Mexichem's products.

In those cases, a notice of default shall not be required, and the Supplier shall be deemed to be in default by sole operation of law.

**12.2** Without prejudice to the other provisions regarding (early) termination, Mexichem may terminate the Agreement immediately if the Supplier is in breach and failed to remedy the breach within 30 days after having received a notice of default requiring it to remedy the breach, unless the breach is incapable of being remedied (in which case Mexichem may terminate the Agreement immediately and without remedy period).

**12.3** Mexichem shall be entitled, in addition to the cases that may be specifically mentioned in the Agreement, to terminate the Agreement prematurely at any time without specifying the reasons for termination taking into account a notice period of three (3) months. In case the Supplier has made substantial investments to the performance of an agreement, the unilateral termination is effective only after a compatible time elapse to the nature and the amount of the investment made.

### 13. INTELLECTUAL PROPERTY RIGHTS

**13.1** Intellectual property rights developed under or in connection with the execution of this Agreement by the Supplier, including – where applicable – patent rights and rights in software, shall be vested exclusively in Mexichem. The Supplier hereby assigns and transfers, in advance, such intellectual property rights to Mexichem, without any further compensation for such assignment and transfer being due.

**13.2** The Supplier guarantees that the Products and Services to be supplied do not infringe intellectual property rights or any other right of third parties. The Supplier shall indemnify Mexichem against all third-party claims that are based on any (alleged) infringement of such rights and shall compensate Mexichem for all damage sustained as a result thereof and for the costs of putting up a defense against such a claim.

**13.3** If the assignment and transfer referred to above is not possible, the Supplier shall grant Mexichem a worldwide, exclusive, perpetual, assignable, royalty-free, fully paid up, and irrevocable license with the right of sublicensing (through multiple tiers of sublicensees) in respect of such intellectual property rights regarding the Products or Services to be supplied by the Supplier. The fee for this license shall be deemed included in the agreed price. Mexichem may enter the license in the appropriate registers or arrange for this to be done, in which the Supplier shall cooperate as required. If a deed or other document or assistance is required by Mexichem for the transfer of intellectual property rights as referred here or the

grant of a license as referred to in the present paragraph, the Supplier shall cooperate without reservation.

**13.4** The Supplier shall inform Mexichem immediately if third parties (are about to) infringe Mexichem's intellectual property rights.

### 14. SECRECY AND DATA PROTECTION

**14.1** Each Party shall comply with all applicable data protection laws. Unless agreed otherwise by the Parties, the Supplier or its subcontractors will not process information relating to any identified or identifiable natural persons for Mexichem or on Mexichem's behalf.

### 15. CONFIDENTIALITY

**15.1** "Confidential Information" means the terms of the Agreement and all non-public information, technical data or know how in whatever form and materials (including samples) concerning the business, Products, Services and/or activities of Mexichem and/or its affiliates disclosed or made available to the Supplier in relation to the Agreement, whether orally or in writing, in electronic or other form, and whether or not marked as proprietary or confidential, and any information derived from the Confidential Information; provided that Confidential Information does not include information (i) known to the Supplier at the time of disclosure or rightfully obtained by the Supplier on a non-confidential basis from a third party; (ii) that is now, or hereafter becomes, through no act or failure to act on the part of the Supplier, generally known in the public; or (iii) that is independently developed by the Supplier without reliance on the Confidential Information, in each case as shown by contemporaneous documentary evidence. The Supplier shall not use the Confidential Information except for the purpose of exercising its rights or performing its obligations under the Agreement (the "Purpose"). The Supplier shall not disclose the Confidential Information to any third party except its employees and agents who have a need to know such information for the Purpose and who are bound by written nondisclosure obligations at least as stringent as those contained in the Agreement. The Supplier shall not reverse engineer any Confidential Information, including any samples, without permission of Mexichem. The Supplier shall take reasonable, prudent safeguards to prevent the use or disclosure of Confidential Information in violation hereof. The Supplier shall be responsible for the obligations of its employees and agents under the Agreement and the Supplier assumes liability for damages arising from any breach of this Agreement by its employees and agents, that would be a breach of this

Agreement if committed directly by the Supplier, including without limitation,

unauthorized use of Confidential Information. Upon Mexichem's request, the Supplier shall promptly return all copies, whether written, electronic, or other form, of any such Confidential Information, or delete and destroy Confidential Information in a secure manner. Notwithstanding the foregoing, the Supplier may retain one copy of the Confidential Information for records management purposes, or copies in enterprise-wide archival back-up systems. Notwithstanding the destruction or retention of the Confidential Information, the Supplier shall continue to be bound by its obligations of confidentiality hereunder. In the event the Supplier is required to disclose any Confidential Information by order of a court or any government agency, by law, regulation, judicial or administrative process, the Supplier shall: (a) give prior written notice of such disclosure to Mexichem, if legally permitted; (b) reasonably cooperate with Mexichem, at Mexichem's request and expense, to resist or limit such disclosure or to obtain a protective order; and (c) in the absence of a protective order or other remedy, disclose only that portion of the Confidential Information that is legally required to be disclosed in the opinion of counsel and assure that confidential treatment will be accorded the disclosed information. Following termination, the obligations of the Supplier under this Agreement with respect to the Confidential Information will continue in full force and effect as follows: (i) in the case of any Confidential Information that constitutes a trade secret within the meaning of Applicable Law, for as long as such information remains a trade secret; or (ii) in the case of any other Confidential Information or materials, for a term of five (5) years from the date of disclosure. Mexichem shall be entitled to injunctive relief for any breach or threatened breach of this provision without the requirement of posting bond or proving damages.

## **16. FORCE MAJEURE**

**16.1** Neither Party shall be liable to the other, nor considered in breach or default of its obligations under the Agreement, to the extent performance of such obligations is delayed or prevented, directly or indirectly, due to causes beyond the impacted Party's reasonable control, including but not limited to: (a) natural or man-made disasters, acts of God, fire, severe weather conditions, earthquake, strikes or other labor disturbances, flood, serious risk of kidnapping, war (declared or undeclared), regional, national or international calamities, civil unrest, or riot (all the foregoing defined as "Force Majeure"); and (b) in the case of Mexichem, acts or omissions of Supplier, including failure to timely provide Mexichem with any access, information, tools, material including raw materials, and approvals necessary to permit Mexichem group to timely perform the required activities, shall also qualify as Force Majeure in favor of Mexichem. The impacted Party shall promptly notify the other Party in the event of a delay under this clause. The delivery or performance dates shall be extended for a period equal to the time lost by reason of such delay, plus such additional time as may be reasonably necessary to overcome the effect of such delay. Supplier also represents and acknowledges that its experience and/or abilities are such, that it will meet its obligations even in cases of Force Majeure

to the maximum extent possible and as permissible under Applicable Law.

**16.2** If a delay arising through circumstances set out in this clause extends for more than 30 (thirty) days and the Parties have not agreed upon a revised basis for resuming work, then either Party (except where such delay is caused by the Supplier, in which event only Mexichem), upon 10 (ten) days' written notice may terminate the Agreement.

## **17. TRANSFER, THIRD PARTIES**

**17.1** The Supplier shall not be entitled to transfer, pledge or entrust the execution of the Agreement either wholly or in part to third parties without Mexichem's prior consent, which consent shall not be withheld on unreasonable grounds.

**17.2** The Supplier shall be fully responsible for any performance by third parties in the execution of the Agreement, as if this were its own Performance. The Supplier guarantees that (sub-)suppliers and third parties will comply with the Agreement, these Terms and Conditions and all other regulations and provisions declared applicable by Mexichem.

## **18. LIABILITY AND LIMITATIONS OF LIABILITY**

**18.1** The Supplier shall be liable for any damage directly or indirectly resulting from non-performance, late performance or improper performance of the Agreement or from the breach of any contractual or non-contractual obligation towards Mexichem or third parties. For the purpose of this clause, third parties shall also include Mexichem staff, third parties engaged directly or indirectly by Mexichem or their staff.

**18.2** Inspection, purchase and/or payment by or on behalf of Mexichem shall not release the Supplier from any obligation or liability.

**18.3** SPECIAL OR CONSEQUENTIAL LOSSES. TO THE EXTENT PERMITTED BY THE APPLICABLE LAW THE REMEDIES PROVIDED IN THIS AGREEMENT SHALL BE THE SOLE AND EXCLUSIVE REMEDIES OF SUPPLIER (INCLUDING THIRD PARTY CLAIMS). MEXICHEM SHALL NOT BE LIABLE TO SUPPLIER FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE SUCH AS (BUT NOT LIMITED TO), DELAY DAMAGE, DAMAGE DUE TO BUSINESS INTERRUPTION, LOST PROFITS, LOST SAVINGS, LOST REVENUE, MISSED OPPORTUNITIES, LOSS OF GOODWILL, LOSS OF DATA, REPUTATIONAL DAMAGES OR FORFEITED PENALTIES OR FINES, WHETHER OR NOT SUCH DAMAGES ARE BASED ON TORT, WARRANTY, CONTRACT OR ANY OTHER LEGAL THEORY

**18.4 TOTAL LIABILITY.** TO THE EXTENT PERMITTED BY THE APPLICABLE LAW, MEXICHEM'S TOTAL LIABILITY UNDER OR IN CONNECTION WITH THE AGREEMENT FOR CLAIMS OF ANY KIND (INCLUDING THIRD PARTY CLAIMS) WHETHER IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE ARISING OUT OF THE PERFORMANCE/NON-PERFORMANCE OR BREACH OF THE AGREEMENT, INCLUDING ANY OTHER COMPENSATION UNDER THE AGREEMENT, OR THE PROVISION OF ANY PRODUCTS OR SERVICES SHALL NOT EXCEED THE AMOUNT PAID OR PAYABLE FOR THE SPECIFIC PRODUCT OR SERVICE THAT GIVES RISE TO THE CLAIM.

**18.5 WILLFUL MISCONDUCT.** THE LIMITATIONS AND EXCLUSIONS SET FORTH ABOVE IN THIS CLAUSE SHALL ONLY APPLY TO THE EXTENT PERMITTED BY APPLICABLE MANDATORY LAW AND SHALL NOT APPLY IN CASE OF WILLFUL INTENT OR DELIBERATE RECKLESSNESS OF SUPPLIER OR ITS MANAGEMENT.

## **19. INSURANCE**

**19.1** The Supplier shall be obliged to take out and retain adequate insurance policies at its own expense for its liability in the widest sense of the word towards Mexichem and third parties with regards to the obligations and risks ensuing from the Agreement during its entire term. Such liability shall include professional liability, product liability, third-party liability, and any other insurance required by the applicable legislation in view of Supplier's activities.

**19.2** The Supplier undertakes to assign all claims relating to payment(s) of insurance money to Mexichem – immediately after having been held liable by Mexichem – if the latter so requests.

## **20. APPLICABLE LAW, DISPUTE SETTLEMENT; EXPORT CONTROLS AND BOYCOTTS**

**20.1** The Agreement shall be governed by and construed in accordance with the applicable laws of the jurisdiction in which Mexichem entity was incorporated, excluding in any case conflict of law rules. The Parties acknowledge and agree that the applicability of the United Nations Convention on Contracts for the International Sale of Goods (often referred to as the Vienna Sales Convention) is expressly excluded.

**20.2** Any dispute or claim arising out of or in connection with the Agreement or its subject matter or formation (including noncontractual disputes or claims) shall be subject to the exclusive jurisdiction of the competent courts in the jurisdiction and district where the Mexichem entity that entered into the Agreement is incorporated and the Parties hereby irrevocably submit to the exclusive jurisdiction of those courts for these purposes.

**20.3** Nothing in the Agreement is intended, and nothing herein should be interpreted or construed, to induce or require either Party to act in any manner which is inconsistent with, penalized or prohibited under any applicable laws, regulations or

decrees applicable to such Party which relate to foreign trade control, export controls, embargos or international boycotts of any type.

**20.4** Supplier agrees to comply with all applicable export laws and regulations, including those of the United States and of the United Kingdom or any other country that forms part of the business relationship to ensure Products, parts, and technology not used, sold, disclosed, released, transferred, or re-exported in violation of such laws and regulations. Supplier shall not directly or indirectly export, reexport, or transfer any items or technology sold to Mexichem under the Agreement to: (a) any country designated under Applicable Law as a "State Sponsor of Terrorism" howsoever described; (b) any person or entity listed on a blocked, embargoed or prohibited list maintained by a competent authority under Applicable Laws; or (c) an end-user engaged in any nuclear, chemical, or biological weapons activities. If Products or Services to be exported outside the U.S. and/or EU, or other jurisdictions where laws require "dual use" statements, are considered or likely to be considered as "dual use", Supplier shall (or shall cause the end user of the Products/Service) provide to Mexichem, promptly upon its request, an "End User Statement" in accordance with the applicable legal requirements. Mexichem shall not be liable to Supplier for any delay and shall not be in breach of its obligations in the event of Supplier's failure or delay in providing such statement.

**20.5** Notwithstanding any other provision of the Agreement, the Parties shall at all times comply with all Applicable Law in the performance of the Agreement.

## **SALE AND SUPPLY OF PRODUCTS**

If the Agreement concluded between Mexichem and the Supplier also covers the supply of Products, the following provisions shall apply in addition to the above provisions (clauses 1 to 20 inclusive). In the event of conflict between the above provisions and the following provisions, the latter shall prevail insofar as they concern the supply of Products.

## **21. QUALITY AND DESCRIPTION OF THE PRODUCTS TO BE SUPPLIED**

**21.1** The Products to be supplied (and their production process) must:

- (a) be in agreement with what is stated in the Agreement in terms of quantity, description and quality;
- (b) in all respects correspond to and comply with the specifications declared applicable and the samples and examples shown;
- (c) be accompanied by the necessary instructions to Mexichem or the latter's staff, so that they can use the Products independently;
- (d) be made of sound new materials and be well

- constructed;
- (e) be fit and ready for the purpose for which they are intended;
- (f) be made of components and raw materials of which the origin can be traced;
- (g) be accompanied by the necessary documents, such as packing lists, (warranty and quality) certificates, attestations, drawings, instruction manuals, lists of spare parts and maintenance regulations;
- (h) comply in all respects with all the applicable statutory requirements, laws and regulations in terms of their design, composition and quality;
- (i) bear a type, serial and machine number and an indication of the country of origin in the form of an adequate mark applied by the manufacturer or importer. If this is not possible, the packaging of the supplies shall bear such marks;
- (j) be accompanied by an invoice to Mexichem which also states the names of the manufacturer and the importer, as well as the type and production number, if this involves a party other than the Supplier.

**21.2** Supplier shall at any time during the Agreement ensure that all substances (in its own, or as an ingredient in preparations or in articles) delivered to Mexichem are duly compliant with all applicable statutory requirements, laws and regulations. Upon request Supplier shall provide proof thereof. Supplier shall ensure that Mexichem's use of the delivered substances is included in any registration and request for authorization as required in any applicable statutory requirements, laws and regulations regarding such substances (in itself, in preparations or in Products) delivered to Mexichem. In case Supplier decides to terminate the sale of a certain substance (in its own, or as an ingredient in preparations or in articles) delivered to Mexichem, Supplier shall inform Mexichem beforehand with a six months written notice. In case Supplier decides no longer to include a certain substance in a preparation or a Product delivered to Mexichem without notifying Mexichem, Supplier warrants this shall not be of any influence of the quality of the preparation and/or the Product. Supplier shall be liable for all damages of Mexichem including penalties as a consequence of the non-fulfilment by Supplier of the obligations as mentioned in this clause 21.2 and Supplier shall indemnify Mexichem of all third party claims to this respect.

## 22. INSPECTION AND TESTING

**22.1** Mexichem shall be entitled to subject the Products to be supplied to inspections, tests and checks (hereinafter "Inspection"), or to arrange for this to be done, before, during and after delivery, whether or not in the presence of the Supplier. The Inspection shall be carried out in the manner to be determined by Mexichem.

If Mexichem identifies a visible defect in a Product and informs Supplier of that visible defect no later than seventy-two (72) hours from delivery and during the applicable warranty period set out in clause 3, and such Product is found by Mexichem to be defective at Mexichem's sole discretion, then Supplier as the sole remedy shall repair or replace, at its sole discretion, either the Product or the

defective part.

**22.2** If a specific Inspection has been agreed between Mexichem and the Supplier, the Supplier must present the Products supplied or installed for this Inspection at the agreed location and on the agreed date, and if no date has been agreed, at the earliest moment when the Inspection can take place. If no Inspection procedure has been agreed, the Parties shall decide in joint consultation in accordance with what generally acceptable procedure the Inspection will be carried out. Thereby the point of departure shall be that the Inspection must be customary in the relevant sector and/or for the relevant Products.

**22.3** The Inspection shall have been completed successfully if the Supplier receives a written communication to this effect from Mexichem, which may list small defects that constitute no obstacle to putting the Products into full operation. Small defects shall be rectified by the Supplier free of charge within five working days of the receipt of the aforesaid communication, and if this appears to be impossible within reason, as soon as possible after that.

**22.4** If the Products are fully or partially rejected after Inspection, Mexichem shall report this in writing to the Supplier, stating the reason for this.

**22.5** If it appears that the Products, regardless of the results of the Inspection, do not comply with the warranty provisions or specifications pursuant to the Agreement and other applicable criteria, the Supplier shall at its own expense repair or replace – such at Mexichem's discretion – the Products on demand within five working days of having received this demand. Thereafter the Products shall again be subjected to an Inspection pursuant to the provisions of this clause 22. All costs associated with the new Inspection shall be borne by the Supplier. The foregoing shall not affect any other right of Mexichem, such as the right to terminate the Agreement or to claim compensation in accordance with the law.

**22.6** If the Supplier does not collect the rejected Products within ten working days of the date of Mexichem's written communication to this effect, Mexichem shall have the right to return the rejected Products to the Supplier at the latter's expense and shall be entitled to a refund of any amounts already paid within 14 days.

## 23. TRANSPORT, PACKAGING, STORAGE AND INSTALLATION

**23.1** Unless otherwise specified in writing or mentioned in the Purchase Order, delivery of Products shall be Delivery Duty Paid ("DDP") to the location indicated by Mexichem.

**23.2** The Supplier shall be obliged to



provide proper packaging, security and proper transport in conformity with all applicable regulations. The costs of packaging, transport, storage, insurance and installation of Products, including the items made available by Mexichem, shall be borne by the Supplier. Damage caused during loading, transport and/ or unloading shall be at the Supplier's expense, even if the damage is detected at a later time. The Supplier shall be responsible for removing or processing packaging materials, dirt, waste and superfluous material at its own expense insofar as these result from or relate to the supply of Products or Performance of activities falling under the Agreement. In doing so, the Supplier shall observe the laws and regulations applicable at that time.

**23.3** The Supplier shall be obliged to keep a stock of spare parts for the items supplied during the customary lifespan of these items, in any case during a period of at least ten years after the supply of the Products concerned, to be sold and delivered on identical terms.

**23.4** The date of delivery shall be understood to mean the day on which the Supplier presents the Products for the first time for delivery or in fulfilment of the Agreement to Mexichem at the agreed delivery address.

**23.5** If Mexichem requests the Supplier to postpone the delivery, the Supplier shall store, secure and insure the Products to be supplied appropriately packed and clearly marked as intended for Mexichem, whereby only reasonable costs which must be incurred within reason by the Supplier shall be eligible for reimbursement.

## **24. TRANSFER OF OWNERSHIP AND RISK**

**24.1** The ownership of the Products shall pass to Mexichem in conformity with the provisions of clause 23. In the event that Mexichem makes payments prior to delivery, the ownership (title) of the Products, in proportion to the amount paid, shall pass to Mexichem at the moment of payment. In that case, the Supplier must ensure that the Products are identified and kept identifiable as much as possible and the Supplier shall count as the holder for Mexichem in respect of those Products. No retention of title or any other security interest shall exist for the Supplier after the delivery to Mexichem.

**24.2** The risk of loss of or damage to the Products shall only pass to Mexichem at the moment when both the actual delivery and the transfer of title to Mexichem have taken place in accordance with the Agreement. If the installation of the Products has been agreed, the Supplier shall bear all the risk in respect of the Products until these have been installed and accepted or put into operation by Mexichem, regardless of whether Mexichem already has full title to these Products. If Mexichem makes items available to the Supplier for the execution of the Agreement (including raw materials, semi-finished products, materials and components, models, specifications, drawings, software and information carriers), these items shall remain Mexichem's property. Subject to Mexichem's

written consent, the Supplier shall refrain from acting or failing to act in such a way with regard to these items that Mexichem loses the ownership thereof, whether by specification, accession, confusion of property or in any other way whatsoever. Furthermore, the Supplier shall guarantee that the items are not encumbered or burdened with third-party rights. The Supplier shall have no right of retention or right of suspension in respect of these items. After the execution of the Agreement, these items must be returned in good condition.

## **25. US EXPORT**

**25.1** If the Products incorporate (American) technology that comes under the US Export Administration Regulations and/or US export control laws, the Supplier shall be obliged to notify Mexichem of this in time in accordance with the relevant provisions, failing which the consequences shall be for the risk and account of the Supplier.

## **SERVICES & CONTRACTING OF WORK**

If the Agreement concluded between Mexichem and the Supplier also covers the supply of Services and contracting of work (Work), the following provisions shall apply in addition to the above provisions (clauses 1 to 25 inclusive). In the event of conflict between the above provisions and the following provisions, the latter shall prevail insofar as the supply of Services or Work are concerned.

## **26. PROVISION OF DATA**

**26.1** The Supplier shall submit all information required under applicable law and regulations, such as but not limited to information required to meet financial and administrative obligations. If Mexichem has not received one or more of the requested documents within ten (10) days of making the request, Mexichem shall be entitled to suspend payment until the moment of receipt, or to terminate the Agreement without any liability.

**26.2** Every change in the data submitted under clause 26.1 must be immediately reported to Mexichem in writing.

## **27. DELIVERY SCHEDULE**

**27.1** If Mexichem so requests, the Supplier shall submit a delivery schedule showing, inter alia, the start and completion times of the successive parts of the Services and the

Work and the staff members deployed. If it has been agreed that Mexichem will deploy equipment, the times of this deployment shall also be stated in this execution schedule. After approval by Mexichem, the delivery schedule shall form part of the Agreement.

**27.2** The Supplier shall report on the

progress of the Services and the Work and all related aspects as agreed, and in the absence of such an agreement on a regular basis in order to enable Mexichem to monitor the progress sufficiently.

## **28. SUPPLIER'S STAFF**

**28.1** The Supplier shall be responsible for the day-to-day management and the supervision of the execution of the Services and the Work. The number of authorized and competent supervisors which the Supplier makes available for this purpose must be in agreement with the scope and nature of the Performance and the reasonable requirements set by Mexichem in this respect. Supervisors must have a good command of the Portuguese and the English language.

**28.2** The Supplier guarantees that the Performance to be executed by its staff shall be carried out in an expert and professional manner, without interruptions. The staff members shall comply and continue to comply with the agreed and in all cases the required level of training, expertise and experience.

## **29. HEALTH, SAFETY, AND THE ENVIRONMENT (HSE)**

**29.1** The Supplier shall be responsible for health, safety and adequate environmental conditions at the location where the Work is carried out and for compliance with all the applicable HSE statutory regulations, standards and local HSE regulations in the execution of the Performance.

**29.2** Supplier shall take all actions necessary to provide a safe, healthy, and secure work environment, including transportation and accommodation, if applicable, for Mexichem's personnel. Supplier shall inform Mexichem of any known risks, hazards, or changed conditions impacting worker health, safety, or the environment, including the presence or potential presence of hazardous materials, and provide relevant information, including safety data sheets, site security plans, risk assessments, and job hazard analysis.

## **30. INTERVENTION IN THE ACTIVITIES**

**30.1** If, in Mexichem's reasonable opinion, the activities are progressing in such a way that the agreed date for the Performance to be delivered or a part thereof will be exceeded, Mexichem shall notify the Supplier of this in writing. The same applies if, in Mexichem's opinion, the Work and connected activities are not or have not been carried out in accordance with the provisions of the Agreement and/or the requirements of good workmanship. The Supplier cannot derive any rights from the absence of such a notification.

**30.2** The Supplier must, within one week of receiving a notification as referred to in paragraph above or as much earlier as is necessary in view of the circumstances, take such measures as to ensure clearance of the backlog and compliance with the above provisions and requirements within a short period. If this does not happen, Mexichem

may take all measures that are necessary in its own reasonable opinion, without judicial intervention being required. Thus, Mexichem or third parties acting on its instructions can take over the activities from the Supplier. In that case, the Supplier shall give Mexichem and those third parties its full cooperation.

**30.3** All external and internal reasonable costs which Mexichem incurs in connection with the provisions of the paragraph above shall be borne by the Supplier. The latter shall reimburse Mexichem for such costs immediately, including payment for supervision and overheads.

## **31. COMPLETION, ACCEPTANCE, PUTTING INTO OPERATION AND RISK**

**31.1** Completion and acceptance shall be deemed to have taken place only after Mexichem has accepted the Work carried out or the Service concerned in writing.

**31.2** Mexichem shall be entitled to put the Work into operation or a part thereof, or arrange for this to be done, before it is completed. Actually putting the Work into operation shall not mean that the Work or the part concerned is regarded as completed or accepted. If the Supplier, by virtue of the Work being put into operation, is required to do more than may reasonably be expected, the consequences of this shall be arranged within reason by the Parties. Until completion, the Supplier shall bear the risk in respect of the Work.

## **32. TRANSFER OF RIGHTS AND OBLIGATIONS AND OUTSOURCING**

**32.1** The Supplier shall not (a) outsource the execution of the Agreement or any part thereof to third parties or (b) engage third parties or borrow staff from third parties for this purpose except where Mexichem has given its prior written consent. Mexichem may attach conditions to such consent. Third parties shall include inter alia: independent workers without employees, directors and major shareholders, sub-Suppliers and employment agencies. Subject to Mexichem's written consent, the Supplier shall include the same risk-limiting measures in its agreement with one or more third parties as have been laid down in these Terms and Conditions and in the Agreement.

## **33. MATERIALS, ATTESTATIONS, DRAWINGS AND SIMILAR ITEMS MADE AVAILABLE BY MEXICHEM**

**33.1** The Supplier shall insure all the items which the Supplier receives from Mexichem in connection with the execution of the Agreement against risks of total or partial loss or damage as a result of fire, theft or vandalism at its own expense and on the usual conditions.

**33.2** Upon receipt of the items referred to in

this clause, the Supplier must check whether these are in agreement with the applicable specifications. The Supplier shall notify Mexichem in writing within a period of seven days of receiving these items that the items referred to in this clause were not made available to the Supplier in good condition and in accordance with the required specifications, failing which those items shall be deemed to have been provided in good order.

#### **34. WAGES AND SALARY TAX AND NATIONAL INSURANCE CONTRIBUTIONS**

**34.1** The Supplier must comply with the statutory obligations to pay payroll taxes, social security contributions, FGTS deposits and other comparable fiscal obligations in respect to its staff members and shall indemnify Mexichem in this context against any claim from tax, labor and customs administrations. This shall also include interest, fines and expenses, as well as costs of legal assistance to contest a claim for liability, where applicable.

**34.2** The Supplier shall keep such records that the wage bill can always be established for each Agreement or, if the latter consists of several projects, for each project. Mexichem shall always have the right to check these records. The Supplier shall state the actual wage costs on each invoice.

#### **35. ETHICS**

**35.1.** Supplier agrees to source its supplies and workforce sustainably and ethically. Additionally, Supplier represents that it knows, understands, accepts, adheres to, and will comply with the Mexichem Code of Conduct for Suppliers, which is attached as an integral part of this document, as well as with Orbia's Code of Ethics, both found at: <https://wavin.com/br>, which are incorporated by reference to these terms and conditions with any amendments it may have from time to time.

#### **36. CORRUPTION AND MONEY LAUNDERING**

**36.1.** Supplier expressly agrees that in the Performance and during its ordinary business, it will not engage in bribery or corruption practices. Supplier will put safeguards in place to ensure that its officers, shareholders, sub-Suppliers and other related third parties comply with this obligation.

The Supplier represents that its income is not a result from illegal activities, that it does not have a negative record in national or international money laundering prevention lists and agrees that, consequently, it is obliged to protect Mexichem and its third parties for all damages that may be caused because of this representation or a breach to it.

#### **37. ANTI-BRIBERY AND CORRUPTION**

**37.1.** The Supplier shall ensure that it, its directors, employees or subcontractors will not offer, promise, or give any undue pecuniary or other advantage of any kind to employees of the Mexichem or third parties (including civil servants) in order to obtain or retain a business or other improper advantage, in connection with the

Agreement. The Supplier will comply with all applicable anti-bribery legislation (including, but not limited to the US Foreign Corrupt Practices Act and the UK Bribery Act) and have put into place adequate preventative measures to ensure that employees and subcontractors comply with the applicable legislation.

#### **38. ASSIGNMENT, NOVATION & SUBCONTRACTING**

**38.1.** Supplier may not assign or novate the Agreement, in full or in part, including through change of control or of structure or ownership of the Supplier without the prior written consent of Mexichem, which consent shall not be unreasonably delayed or withheld, provided that Mexichem shall be entitled to withhold such consent in any event if the assignee/novatee lacks adequate financial capability, is a competitor or potential competitor of Mexichem or its affiliates, causes Mexichem group to be in breach of Applicable Law, and/or does not meet Mexichem's code of ethics. Mexichem may assign or novate to third parties the Agreement, in full or in part, and Mexichem will give written notice to Supplier in such event. The Parties agree to execute such documents as may be necessary to give effect to the permitted assignments or novations set forth in this clause. In the event of a novation or assignment by Supplier, Supplier shall cause the novatee/assignee to provide additional payment security at Mexichem reasonable request. Any assignment or novation in violation of the above shall be void and without effect for the Parties.

#### **39. GENERAL CLAUSES**

**39.1 Remedies.** All Mexichem remedies set forth in the Purchase Order are in addition to, and will in no way limit, any other rights and remedies that may be available to Mexichem at law or in equity.

**39.2 Notices:** The Parties agree that any notification related to the Purchase Order and these Terms and Conditions must be in writing and will be delivered to the addresses (including electronic addresses) on the cover of the corresponding purchase order. The Parties must notify each other of any change of address or email they make. In the absence of such notice, the notification delivered to the last addresses or emails agreed or notified will be considered valid.

**39.3. Consent:** There was no error, fraud, bad faith, physical or moral duress, or any other defect of consent between the Parties that could invalidate or annul agreeing to these Terms and Conditions.

**39.4. Marketing:** Any news release, public announcement, advertisement, publicity, or any other disclosure concerning the Agreement to any third party except as may be necessary to comply with other obligations stated in a Purchase Order requires prior written approval of Mexichem.

**39.5. Entire Agreement:** The Parties expressly acknowledge that these Terms and Conditions and the respective Purchase Order constitute the only agreement between them, replacing any previous agreement that the Parties had on the same object, and prevails over any term or condition of the Supplier.

**39.6. Headings:** The Parties agree that the headings used throughout these Terms and Conditions are solely for convenience purposes. At no time will they constrain, expand, or serve as a source of interpretation of the content of each clause.

**39.7. No Waiver:** Failure of either Party to exercise at any time any of the provisions of the Purchase Order or of these Terms and Conditions will not be construed to be a waiver of those provisions, nor will any such failure prejudice the right of the Party to take any action in the future to enforce any provision.

**39.8. Separability:** In the event any provision of the Agreement is held invalid or unenforceable, only the invalid or unenforceable part of the provision shall be severed, leaving intact and in full force and effect the remainder of the sentence, clause, and provision to the extent not held invalid or unenforceable.

**39.9. Survival:** All provisions of the purchase order and these terms and conditions which by their nature should apply beyond its term will remain in force after any termination or expiration of the purchase order, including in any event clauses 1, 13, 14, 15, 18, 20 and 39.