

# **General Terms & Conditions of Purchase of Pulcra Specialty Chemicals ( Shanghai ) Co., Ltd.**

02/2018

科凯精细化工（上海）有限公司一般性采购条款和条件 2018 年 2 月

## **1. Applicability 适用性**

1.1 These General Conditions of Purchase are applicable to this and all future contracts or agreements entered into by Pulcra Specialty Chemicals ( Shanghai ) Co., Ltd. and/or its associated corporate entities (hereinafter referred to as the ‘Purchasers’) with suppliers in commercial business, public law incorporated legal persons and special assets public law corporate entities. Any contradictory or divergent conditions of the supplier or any particular restrictions of the supplier will not be recognised by the Purchasers unless these are expressly agreed in writing to their application in individual cases. In particular, no mere reference on the part of the Purchasers to a communication of suppliers, which may include its conditions of supply, or which refer to such, is not to represent any agreement by the Purchasers to the application of such conditions of supply. These present general conditions of purchase are also to be applicable when the Purchasers unconditionally accept any supplies, deliveries or services, or make any payments whilst being in the knowledge of contradictory supply conditions of the supplier or conditions of the supplier divergent from these present conditions of purchase or any statutory requirements.

该等一般性采购条件适用于本合同，以及科凯精细化工（上海）有限公司和/或其关联公司实体（以下称“采购方”）与商业业务中的供应商、公法法人、特殊资产公法公司实体所有日后订立的合同或协议。采购方不认可供应商任何相反或有分歧的条件或任何特定限制，除非这些条件或限制在个案中以书面形式明确约定适用。特别说明的是，如果采购方只是提及供应商的通讯，且该通讯可能包含其供应条件或涉及其供应条件，这不代表采购方同意适用该供应条件。在采购方无条件接受任何供应品、交付物或服务或支付任何款项时，即使采购方知晓供应商与当前采购条件或任何法定要求相反或有分歧的供应条件，该等当前一般性采购条件同样适用。

1.2 Any other agreements, alterations and side arrangements are only to be valid when the Purchasers agree to these in writing.

仅当采购方以书面形式表示同意时，任何其他协议、修改或附属安排方可有效。

## **2. Offers, Orders, Documents of the Purchaser 采购方报价、订单和文件**

2.1 The supplier is to keep precisely to the enquiry of the Purchasers when making a tender or offer, and to refer expressly to any to divergences. Orders and alterations to orders are to be given in writing.

在投标或报价时，供应商应对采购方的询问作出准确回应，并明确提及任何分歧之处。订单和订单修改应以书面形式作出。

2.2 Should the supplier make a tender or an offer and cost estimates, such are to be free of charge for the Purchasers and represent no obligation for the Purchasers. Cost estimates will only be remunerated by written agreement.

如果供应商进行投标或报价并作出成本估算，供应商不得就此向采购方收取费用，且采购方不承担任何责任。成本估算仅以书面约定的形式进行补偿。

2.3 Orders and alterations to orders are to be given in writing. The supplier is to verify an order with immediate effect for any recognisable errors, ambiguities; incompleteness as well as unsuitability of the specifications selected by the Purchasers for the intended use, and inform the Purchasers with immediate effect of any necessary alterations or clarification of the order. The supplier is to refer expressly in all its tenders or offers, to any divergences from an enquiry or tender invitation of the Purchasers.

订单和订单修改应以书面形式作出。供应商应立即审核订单中任何可辨认的错误、分歧，以及采购方所选规格与预期用途不完备、不适合之处，并立即将订单中任何必要的修改或说明告知采购方。供应商应在其所有投标或报价中明确提及与采购方的询问或招标邀请任何有分歧之处。

2.4 All orders and alterations to orders are to be confirmed by the supplier in writing. The order numbers of the Purchasers are to be included in all correspondence, on invoices and consignment notes (way notices-/ instructions pasted on railway trucks, waybills, bills of lading, delivery notes, express-good stubs, postal parcel registration slips, etc.) The same is also to apply for the date of an order and, when available for the position number. In addition, an indication of the offload station is to be included upon request. Should any diversion in delivery arise through failure to observe the foregoing, for which the supplier is responsible, then the supplier is to indemnify the Purchaser for the resultant charges arising (demurrage, marshalling-yard charges, etc.).

所有的订单和订单修改应由供应商以书面形式确认。采购方的订单编号应包含在所有的通信、账单和托运单中（粘贴于铁路货车上的通知/指示、运货单、提货单、交货单、特快货物存根、

邮寄包裹登记单等)。订单日期和位置编号(可获得时)同样适用上述规定。另外,如有要求,卸货站的指示应包含在上述文件内。如因未能遵守前述规定导致交货发生任何转移,且该情形可归责于供应商,供应商应赔偿采购方产生的必然费用(逾期费、编组站费用等)。

2.5 Purchaser reserves rights of title and copyrights to all and any figures, drawings, computations, samples, data sheets and other documents which are basis of the purchase order. Such documents shall be used solely for the delivery in accordance with the purchase order. Upon final execution of the purchase order, these documents shall be returned to Purchaser without prior request to such effect. Without Purchaser's express written approval, any such document and any information contained therein shall not be disclosed or made available to any third party unless information contained therein have or become publicly known. This obligation remains valid after the termination of the contract.

采购方对所有及任何数字、图表、计算、样品、数据表和其他作为采购订单基础的文件保留所有权和著作权。该等文件应仅用于根据采购订单进行的交付。在采购订单的最终执行阶段,该等文件应返还给采购方且采购方无需对此作出事前要求。未经采购方明确的书面批准,任何该等文件及其中所包含的任何信息不得披露或提供给任何第三方,除非其中所包含的信息已为公众知晓。该义务在合同终止后仍然有效。

2.6 Irregardless of any other rights-/ entitlements, the Purchasers can withdraw from a contract, or give notice to terminate the contractual relationship with immediate effect, in cases of ongoing repeated perpetration of the foregoing requirements, or on the occurrence of material grounds within an ongoing repeated perpetration, or when insolvency proceedings are opened upon the assets of the supplier, or when the supplier fails to address essential duties and the supplier has not yet completed a contract or not entirely fulfilled the same.

如果不断重复违反前述要求,或在某次重复违反行为中发生实质性事由,或针对供应商资产启动破产程序,或供应商未能履行重要义务且供应商尚未完成合同或未完全履行合同,不论存在任何其他权利或资格,采购方可退出合同,或发出通知终止合同关系且立即生效。

### **3. Delay in Delivery, Penalty, Documents 迟延交货、罚金、文件**

3.1 The delivery time stated in the purchase order is binding.

采购订单中规定的交货时间具有约束力。

3.2 The period of delivery will be counted from P/O date.

交货时间将从采购订单的日期起算。

3.3 The delivery of data sheets and instructions of use as agreed shall be a part of the supply and a prerequisite for its punctuality and completeness.

按照约定交付数据表和使用说明，应当属于供应的一部分，是其准时性和完整性的前提。

3.4 Once the supplier recognises, that it is unable to execute its contractual duties on deliveries of goods or services rendered – independent of the reasons for a delay – in whole or in part within the agreed delivery time periods, it is to notify the Purchasers with immediate effect in writing as to the causes and the anticipated duration of the delay involved. The Purchasers are however to be entitled to assert all rights against the supplier resulting from a culpable failure to notify such delays. An unconditional acceptance of a late (partial) delivery of goods or (partial) service rendered is to represent no waiver by the Purchasers of their rights regarding a late (partial) delivery of goods or late (partial) rendering of services.

一旦供应商确认其在约定交付时限内全部或部分不能履行交付所供货物或服务的合同义务，不论迟延的理由如何，供应商应立即将迟延事由和预计持续时间以书面形式通知采购方。如果供应商未能告知上述迟延且应受谴责的，采购方有权向供应商主张所有权利。无条件接受迟延（或部分迟延）交付的货物或提供的服务，并不代表采购方放弃其对迟延（或部分迟延）交付的货物或提供的服务享有的权利。

3.5 In cases of culpable delays in the delivery of goods, the Purchasers are to be entitled to assert a contractual penalty of 0.5% of an order for each week of delay. An assertion of indemnity for any further loss or damage is reserved by the Purchasers. Any contractual penalties payable by the supplier can however to be offset by the Purchasers against the invoiced value.

如果供应商迟延交货且应受谴责，每延迟一周，采购方有权按照订单的 0.5% 主张合同罚金。采购方保留主张赔偿任何日后损失或损害的权利。供应商应付的任何合同罚金可由采购方从账单金额中抵销。

3.6 When applicable, certificates of origin, supplier's declarations according to Council Regulation (EC) 1207/2001 and other confirmations of origin as may be applicable shall be procured and provided by Supplier with all necessary information and shall be duly furnished to Purchaser.

在适用的情况下，供应商应获得并提供原产地证书、根据理事会条例（欧共体）1207/2001 作

出的供应商声明（如适用）以及其他可能适用的原产地确认，附带所有必要的信息，并及时提供供给采购方。

3.7 Partial deliveries already effected will not be deemed independent transactions.

已受影响的部分交付将不被视为独立交易。

#### **4. Packing, Shipment 包装、运输**

4.1 The consignment of goods, unless otherwise agreed is to be pursuant to the DDP (Incoterms 2010) and delivered to the postal address specified for consignment.

除非另行约定，货物的托运应适用 DDP 术语（2010 年国际贸易术语解释通则），并交付至托运指定的联系地址。

4.2 The packing of supplies of goods to be delivered is to be undertaken so as to avoid loss or damage during transportation. The supplier is to be liable for all loss or damage resulting from insufficient packing. Upon the demand of the Purchasers, the supplier is, to collect all resultant outer packaging, transportation- and sales packaging at the place of delivery, or to have these collected by third parties. When a special charge agreed for packing materials, then the cost of such are to be specifically shown separately in tenders, offerings and invoices.

对于即将交付的货物应进行包装以避免运输中的损失和损害。供应商应承担因不充分包装导致的所有损失和损害。基于采购方的要求，供应商应在交付场地收集所有产生的外包装、运输和销售包装，或要求第三方收集。如对包装材料约定了特殊费用，该费用应单独在投标、报价和账单中明确列出。

4.3 The supplier is to package-, label-/ designate and consign -hazardous goods' products in accordance with the relevant requisite national and international regulations or statutory requirements. Such labelling-/ designation is to be indicated in all order confirmations and consignment notes. Upon written confirmation by both parties, the supplier is to comply with all duties imposed upon the supplier (within the meaning of Directive (EC) No.: 1907/2006 (hereinafter referred to as 'REACH')), as per the REACH requirements with regard to a delivery of goods. In particular, the supplier is to provide a security data sheet pursuant to Art. 31 of the REACH Regulations for all the situations prescribed in Art. 31, Sections 1 to 3 of the REACH Regulations, in the national language of the recipient country.

供应商应根据相关的必要国内和国际规定或法定要求对危险货物产品进行包装、标注/标明和托运。上述标注/标明应显示在所有订单确认和托运单中。在双方书面确认的情况下，根据 REACH 法规中关于货物交付的要求，供应商应遵守施加于其的所有义务（在指令（欧共体）编号 1907/2006（以下称“REACH”）所指的含义之内）。特别说明的是，在 REACH 法规第 1-3 章第 31 条规定的所有情形下，供应商应根据 REACH 法规第 31 条，使用接收地的国家语言，提供一份安全数据表。

4.4 Supplier will be liable to Purchaser for the due and proper labelling/marketing of all consignments requiring so. Such labelling/marketing shall also be repeated in order confirmations and all shipping documents.

供应商将就所有托运货物中有所要求的的标注/标记的适当性和合理性向采购方承担责任。该标注/标记亦应在订单确认和所有运输文件中重复载明。

4.5 The supplier is to send the Purchasers a detailed notice of consignment for each delivery upon the date of consignment, separate from the goods and invoice. All deliveries of goods are to be accompanied by a delivery note and a packaging list. In cases of consignment by water, the name of the shipper and the name of the vessel are to be indicated in the consignment note and on the invoice. The precise order number of the Purchasers is to be shown entirely on all consignment documentation and delivery notes. Invoices are not acceptable as delivery notes.

供应商应于托运之日向采购方发送每次交付的托运物的详细通知，并独立于货物和账单。所有交付的货物应附有交货单和包装清单。如果以水运进行托运，托运人的名称和船舶的名称应显示在托运单和账单上。采购方精确的订单编号应完整显示在所有的托运文件和交货单中。账单不能被作为交货单予以接受。

## **5. Acceptance, Passing of Risk 接受、风险转移**

5.1 The supplier is to bear the risk of loss or damage to goods consigned until the actual handover at the place of delivery. When a delivery is in combination with erection, installation and service, then the passing of the perils is to be upon the completion of erection, installation and service and handover on site.

在交货地实际移交前，供应商应承担托运货物损失和损害的风险。如果货物交付同时带有架设、安装和服务，则风险应于现场架设、安装、服务并移交完成后发生转移。

5.2 Unless otherwise agreed, the Purchaser need only accept goods delivered on working days. Subject to any divergent agreements, acceptance can be declared by the Purchasers up to six weeks after delivery date. The passing of the perils are not to occur until the Purchasers declare to the supplier the successful acceptance of the goods. The use by the Purchasers of the goods delivered or the payment of invoiced amounts are not to mean the acceptance of the goods instead of a declaration of acceptance.

除非另行约定，采购方仅需在工作日接受货物。根据任何有分歧的约定，采购方可迟于交付日后的六周声明接受货物。直至采购方向供应商声明成功接受货物后方可发生风险转移。采购方使用交付的货物或支付账单金额，而没有声明其接受货物，则并不意味着采购方已接受货物。

## **6. Warranty, Indemnities 保证、赔偿**

6.1 The statutory requirements governing the Purchasers for good inwards checks are restricted to the following: volume, type, externally recognisable deficiencies such as transportation loss or damage and any other sundry recognisable deficiencies, and these are to be investigated upon receipt, but not to be notified to the supplier before the expiry of 5 working days (Mondays to Fridays) after receipt and/or discovery. In regard to the services: erection and installation, the foregoing stipulations are to be analogous.

采购方对货物进行内部检查所适用的法定要求限于以下：体积、类型、外部可辨认缺陷如运输损失和损害及任何其他各类可辨认缺陷，这些将基于收到的货物进行调查，但在收到和/或发现后 5 个工作日期满前无需通知供应商。关于服务：架设、安装，前述规定类比适用。

6.2 Subject to any other sundry statutory requirements, deliveries of goods are to comply with the following features: the contractually agreed characteristics, the legislation governing- products and -ecological environment conservation, the relevant pertinent safety regulations, the latest state-of-the-art of science and technologies, in particular the technical standards and guidelines, the performance- and consumption –figures indicated by the supplier, the latest regulations of the authorities, the currently valid accident- and labour –protection regulations and the highest excellence in accordance with type and quality.

根据任何其他各类法定要求，货物的交付应遵守以下特征：合同约定的特性、产品和生态环境保护的管辖法律、相关适当的安全规定、最新的先进科学技术，特别是技术标准和指导、供应商标示的性能和消耗数值、权威部门的最新规定、当前有效的事故和劳动保护规定，以及根据类型和质量所具有的最高品质标准。

6.3 In case that the delivered product is produced according to a specification given by Purchaser, in particular according to given technical parameters, chemical qualities and mixtures, Supplier shall be obliged to examine the products for their accurateness and suitability for the intended purpose of use. Supplier is obliged to inform Purchaser in writing if the delivered product is not suitable for the intended purpose of use.

如果交付的产品是根据采购方提供的说明进行生产，特别是根据给定的技术参数、化学品质和混合物，供应商有义务检查产品对预期使用目的的准确性和适用性。如果交付的产品不适合预期使用目的，供应商有义务以书面形式通知采购方。

6.4 If Purchaser and Supplier operate within a current and on-going business relation, Supplier shall, if reasonable, be obliged to inform Purchaser of modifications of the specification, the manufacturing, the suggested application and the packing of the delivered product in such a timely manner that Purchaser will be enabled to examine the modifications appropriately, e. g. by inspection at Supplier's plant. Furthermore, Supplier shall be obliged to inform Purchaser of modifications in the data sheets to be submitted by Supplier at the latest upon the receipt of the delivery.

如果采购方和供应商仍在当前持续的业务关系中运营，且如果合理的话，供应商有义务将已交付产品的规格修改、制造、建议的应用程序和包装及时告知采购方，以使采购方能够适当地检查修改之处，例如在供应商的工厂进行检查。另外，供应商应至迟于采购方接收交付物时将供应商所需提交的数据表中所作的修改告知采购方。

6.5 When a delivery of goods is deficient, the Purchasers are entitled to avail themselves unrestrictedly of statutory deficiency rights. The Purchasers are entitled to select: the rectification of a deficiency or new supply and/or new manufacture. The supplier is to bear the cost of subsequent fulfilment to include the charges incurred for supplying-/ delivering the goods to a location other than that originally agreed. In this regard, the supplier is to keep to the operational requirements of the Purchasers when fulfilling subsequent rectifications-/ replacements. Should any rectification-/ replacement be in arrears and not within the agreed time period for compliance, abortive or should the compliance time period be dispensable, then the Purchasers can assert further claims under the relative statutory requirements for deficiencies.

如果货物的交付存在缺陷，采购方有权不受限制地利用针对缺陷享有的法定权利。采购方有权选择：修正缺陷或要求新的供应品和/或新的制造品。供应商应承担后期履行的费用，包括将货物供应/交付至非原约定地点所产生的费用。就此，供应商在履行后期修正/替换义务时应遵



守采购方的操作要求。如果任何修正/替换迟延履行，且未遵守约定的时限以致失败，或者约定的时限已无必要，采购方可根据相关法定要求就该缺陷主张进一步的索赔。