

**1. General**

- 1.1 Any quotation or tender made by Corvaglia Closures Eschlikon AG ("Corvaglia") for any of its products ("Products") and any corresponding contract or agreement ("Contract") with a customer or any other party ("Customer") shall be governed only by these General Terms and Conditions of Sale ("Conditions") to the entire exclusion of all other terms or conditions unless otherwise agreed in writing by Corvaglia.
- 1.2 A purchase order for Products from the Customer ("Order") shall constitute an offer from the Customer to purchase the Products subject to these Conditions. Orders shall not be binding on Corvaglia until Corvaglia accepts such Orders and notifies the Buyer in writing of such acceptance. Corvaglia will only accept an Order when a written acknowledgement is issued or (if earlier) the Products are delivered to the Customer.
- 1.3 Any variation to these Conditions shall have no effect unless expressly agreed in writing by Corvaglia. If any variation, suspension or any instruction of the Customer in respect to a Contract increases or reduces the cost or time to Corvaglia of performing the Contract, then the price and programme shall be adjusted accordingly. The time for despatch or delivery shall automatically be adjusted in accordance with any variation.

**2. Specification**

The Customer is responsible for satisfying itself as to the suitability of the Products for any bottles or other applications. Under no circumstances shall Corvaglia be bound by any statement with respect to the scope of supply, performance, or characteristics of the Products unless expressly incorporated in the Contract, although nothing in these Conditions shall be construed as attempting to limit either party's liability for fraud or fraudulent misrepresentation. Descriptions and illustrations contained in Corvaglia's catalogues, price lists and other advertisement material are intended merely to present a general description of the Products described therein and none of these shall form part of a Contract unless specified therein. Corvaglia reserves the right to make any changes in the specification of the Products which are required to conform with any applicable legislation and which do not materially affect the quality of the Products.

**3. Prices and Payment**

- 3.1 Prices quoted by Corvaglia or otherwise accepted by Corvaglia for its Products shall be valid for thirty (30) days. Upon expiration of such thirty (30) days period, Corvaglia shall be entitled to increase such prices by a percentage equivalent to a percentage rise in the cost of materials for the Products based on the Ethylene Index published by the Independent Chemical Information Services (ICIS).
- 3.2 All payments shall be made in the currency specified in the Order and transferred into the designated account of Corvaglia. All sums due shall be payable within thirty (30) days of the date of Corvaglia's invoice and time for payment shall be of the essence. No deduction whether by way of set-off, counterclaim or otherwise, shall be made by the Customer except for claims of the Customer which are not disputed by Corvaglia or which have been finally confirmed by a court of law.
- 3.3 If any amount due and payable to Corvaglia is overdue for reasons for which Corvaglia is not responsible, Corvaglia may, without prejudice to any other right it may have and at its own option, either suspend deliveries or terminate the Contract and in addition charge the Customer interest on amounts overdue at an annual rate of eight (8) percent during the period that any such amount is overdue.
- 3.4 Where payment is to be secured by a letter of credit, then except as otherwise agreed in writing, such letter of credit shall: (i) be an irrevocable letter of credit; (ii) provide for partial deliveries; (iii) be advised through and confirmed by a bank acceptable to Corvaglia within thirty (30) days of formation of the Contract; (iv) conform to the latest edition of the International Chamber of Commerce's Uniform Custom and Practice for Documentary Credits (UCP 500); and (v) be valid for at least sixty days beyond the latest despatch or delivery date stated in the Contract.

**4. Delivery**

Unless otherwise agreed in writing by Corvaglia, if no destination is specified in the Contract, delivery shall be made FCA Incoterms 2020 at Corvaglia's place of business. Corvaglia may deliver the Products in a number of installments. If Corvaglia delivers a quantity of Products of up to five (5) percent more or less than the quantity ordered the Customer shall not be entitled to object to or reject the Products by reason of the surplus or shortfall and shall pay for such Products at the pro rata price. Unless expressly agreed to the contrary in writing, dates cited for delivery shall be approximate only, and time for delivery shall not be of the essence. If no delivery dates are specified, delivery shall be made within a reasonable time.

**5. Transfer of Title and Risk**

Legal title to and beneficial ownership in any consignment of the Products shall pass to the Customer upon receipt by Corvaglia of all sums due in respect of the Products. All risks of loss or damage to the Products shall nevertheless pass to the Customer on delivery and the Customer shall maintain the Products in satisfactory condition and keep them adequately insured on Corvaglia's behalf for their full price and on request provide evidence of such insurance. Until the passing of title in the Products to the Customer, the Customer shall hold the Products as bailee for Corvaglia and clearly identify them as belonging to Corvaglia. If the Customer is in default of payment or otherwise violates the Contract, and provided that Corvaglia has executed its right of rescission of a Contract, Corvaglia may at any time until the passing of title in the Products to the Customer require the return of the Products delivered under such Contract. If this requirement is not complied within a period of eight (8) days Corvaglia may (without prejudice to its other rights and remedies) repossess the Products.

**6. Warranty**

- 6.1 The Seller warrants that the Products supplied shall, under proper use, be free from defects in design, material and workmanship and conform to the specification in the Contract for a period of twelve (12) months from delivery. "Proper use" means storage, installation, commissioning operation and maintenance in accordance with Corvaglia's specifications and good industry practice.
- 6.2 Corvaglia's obligation under this warranty shall be limited to making good by repair or replacement at Corvaglia's option any defect in the Products which appears before the expiration of the period of twelve (12) months after delivery or, at the Corvaglia's option, reimbursing the price received for the Products. Where Corvaglia opts to repair the Products the Buyer shall return the Products to be repaired to Corvaglia's premises at its own cost. Corvaglia's obligation is subject to: (i) Corvaglia being given notice by the Customer of the defect within seven (7) days of the date of delivery, or when the defect was not apparent on reasonable inspection, within a reasonable time after the discovery of the defect; and (ii) Corvaglia being given a reasonable opportunity after receiving notice of the defect to examine the Products.
- 6.3 Corvaglia's obligation shall not extend to failure caused by wear and tear, misuse, neglect, or repairs or modifications to the Products which have been made without Corvaglia's approval, or result from; designs and specifications provided by the Customer, instructions given by the Customer, and more generally by defects for which the Customer is to blame or which are caused by activities performed by the Customer without Corvaglia's written consent.

- 6.4 The above warranty is in place of and excludes to the fullest extent permitted by law all other warranties and conditions, whether oral, written, statutory, express or implied. Corvaglia's liability and the Customer's remedies in respect of defects in the Products and any damage to the Products resulting therefrom are solely and exclusively as stated herein.
- 7. Intellectual Property Rights**  
No title to any of Corvaglia's industrial or intellectual property or to industrial or intellectual property in the Products supplied is transferred to the Customer under these Conditions or the Contract (where intellectual property includes but is not limited to patents, design rights, copyrights, trademarks, database rights, know how and proprietary information). No designs, drawings or goods supplied by Corvaglia shall be reproduced, disclosed, copied or reverse engineered without the Corvaglia's prior written permission. The Customer will not without the consent of Corvaglia remove, cover, obscure or in any way alter any distinctive mark forming part of or impressed on or affixed to the Products received by the Customer and any of the Products which will have been so covered, obscured or altered without such consent shall not be sold.
- 8. Limitation of Liability**
- 8.1 Subject to clause 8.3, Corvaglia shall not in any circumstances be liable for any loss of use, production, profit, business, contracts, revenues or anticipated savings, any increase in operating costs, any product recall or corrective action costs or any other financial or economic loss or any indirect or consequential loss or damage whatsoever whether suffered by the Customer or by any third party.
- 8.2 The exclusions and limitations of liability contained in these Conditions shall apply to all claims of any kind whether in contract, tort or otherwise on the part of Corvaglia, its employees, agents, sub-contractors or suppliers.
- 8.3 No limitation or exclusion contained in these Conditions shall apply in cases of fraud or fraudulent misrepresentation, death or personal injury caused by the negligence of Corvaglia, or in other cases where the limitation or exclusion would be illegal under statutory laws.
- 8.4 Except as provided under clause 8.3, notwithstanding anything else in these Conditions, in a Contract, or otherwise, the total aggregate liability of Corvaglia to the Customer for all claims of any kind for any loss or damage resulting from its performances or lack of performance under these Conditions or any Contracts in any one calendar year will not in any event exceed an amount equal to hundred (100) percent of the value of the Order giving rise to liability of Products associated with any such loss or damage or, absence such Order, fifty (50) percent of the value of Products delivered in the calendar year, in which the loss or damage occurred.
- 9. Confidentiality**  
Neither party will not divulge or communicate to any person without prior written consent of the other party any confidential information including but not limited to information relating to patents, trademarks, registered/ unregistered rights, design rights, copyright formulations, engineering drawings, specifications, data, know-how, inventions, models, sample components, formulae, and manufacturing methods disclosed to it ("Confidential Information") and shall not use the Confidential Information for any purpose other than the manufacture and purchase of the Products under these Conditions. The obligation of confidentiality will continue to apply at all times during the continuance of any Contract incorporating these Conditions and for a period of five (5) years after the expiration or termination of the Contract but will cease to apply to information which is at the date of the disclosure public knowledge through no fault of the receiving party or is disclosed subject to a legal or regulatory requirement. Each disclosing party shall have the right, immediately upon expiration or earlier termination of a Contract (for any reason whatsoever), to request the other receiving party to return all Confidential Information in its possession.
- 10. Termination**  
A party may immediately terminate a Contract hereunder by giving written notice to the other party, if the other party: (i) commits a material breach of the Contract which is not capable of remedy, (ii) commits a continuing breach of the Contract or of these Conditions and fails to remedy it within fifteen (15) days of a written notice requiring the breach to be remedied; (iii) is dissolved, becomes insolvent, is over indebted, fails or is unable to or admits in writing its inability to pay its debts, institutes or has instituted against it proceedings seeking a judgment of insolvency or bankruptcy, has a resolution passed for its winding up or liquidation, seeks or becomes the subject of the appointment of an administrator, receiver or similar official in respect of its assets; or (iv) ceases or threatens to cease to carry on business. Neither party shall give any notice of termination other than either expressly provided herein. Upon termination or expiration of a Contract, neither party shall be entitled to any amount for any cause arising directly or indirectly from such termination or expiration from the other party, provided that within fifteen (15) days of the issue by either party of a notice of termination the Customer shall pay to Corvaglia the outstanding balance of the Contract value of the Products which have been delivered at the date of the notice. Termination or expiration of the Contract shall be without prejudice to: (i) any party's obligations contained herein which survive the termination or expiration of the Contract; and (ii) any prior rights which either party has accrued prior to the termination or expiration of the Contract.
- 11. Miscellaneous**
- 11.1 Each right or remedy of a party hereunder is without prejudice to any other right or remedy of the party.
- 11.2 If any provision herein is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, or unenforceable it shall, to the extent of such illegality, invalidity, voidness, voidability, or unenforceability, be deemed severable and the remaining provisions herein and the remainder of such provision shall continue in full force and effect.
- 11.3 Failure or delay by a party in enforcing or partially enforcing any provision of these Conditions and/or any Contract hereunder shall not be construed as a waiver of any of its rights under these Conditions and/or such Contract.
- 11.4 Any assignment of a Contract or part thereof shall not be permitted unless the other party consents in writing to such assignment (such consent not to be unreasonably withheld or delayed).
- 11.5 Notices must be in writing and delivered by hand, registered mail, or courier to the other party's general manager at its registered office or trading address.
- 11.6 These Conditions as well as any Contract hereunder shall be governed by and construed in accordance with the laws of Switzerland without regard to its conflict of laws provisions. The United Nations 'Convention on Contracts for the International Sale of Goods' signed in Vienna in 1980 shall not apply to this Contract. The parties submit to the exclusive jurisdiction of the courts of Zurich, Switzerland. The parties agree that no condition of, or benefit conferred hereunder will be enforceable by any third party.