

## **GENERAL TERMS AND CONDITIONS FOR THE SALE OF CAVICEL'S PRODUCTS – GTC0119**

(hereinafter referred to as "Terms and Conditions")

### **1. General**

- 1.1 All the Contracts for the sale of Cavicel's Products are regulated by the following Terms and Conditions, which are an integral and essential part of all Cavicel's offers for the supply and the sale of Cavicel's Products, Order Confirmation, Agreed Order and Contract (as hereinafter defined). These documents are to be intended in these Terms and Conditions:
- a) "Agreed Order(s)": any Purchase Order accepted in writing by an authorized Cavicel's representative;
  - b) "Buyer": any Cavicel's Product purchaser indicated on the signature page of these Terms and Conditions or on the Contract;
  - c) "Cavicel" : is to be intended as "Cavicel S.p.A.", having its registered office in Via Caduti del Lavoro 18/A, 20096 Pioltello, Milan (Italy), and registered at the Chamber of Commerce of Milan, with the following enrolment number and tax code: IT02752510152;
  - d) "Products" or "Cavicel's Products": this voice enclose all the products, including cables for special applications, produced and sold by Cavicel S.p.A., by its subsidiaries or authorized sales representative;
  - e) "Contract": any agreement for the supply and the sale of Products, undersigned from the Parties through an Agreed Order, an Order Confirmation or any other written agreement;
  - f) "Order Confirmation": any written Confirmation Order issued by an authorized Cavicel's representative;
  - g) "Parties": term referring to Cavicel S.p.A and the Buyer;
  - h) "Purchase Order(s)": any written Purchase Order, issued by the Buyer and transmitted to Cavicel.
- 1.2 These Terms and Conditions shall apply to: (i) all offers and proposals of Cavicel's Products supply or sale issued by Cavicel or any of its subsidiaries; (ii) all Purchase Orders and Agreed Orders; and (iii) any other document, agreement, Contract for the sale and the delivery of Cavicel's Products, entered into between the Parties in writing and signed by a Cavicel's authorized representative.
- 1.3 Unless otherwise agreed in writing by an authorized representatives of the Parties, any Contract, together with these Terms and Conditions, constitute the entire agreement between the Parties, relating to the sale of the relevant Cavicel's Products, and it supersedes all the previous oral and written understandings, agreements, negotiations, representations, warranties and communications regarding the subject matter hereof.
- 1.4 These Terms and Conditions prevail over any Buyer's general terms and purchase conditions regardless whether or when the Buyer has submitted its Purchase Order and terms. The fulfillment of a Purchase Order by Cavicel, does not constitute acceptance of any of the Buyer's terms and conditions and it does not modify or amend these Terms and Conditions. In case of a discrepancy between the provisions of the Contract and these Terms and Conditions, the provisions of the Contract shall prevail.

### **2. Cavicel's Offers - Acceptance of Purchase Orders**

- 2.1 All Cavicel's offers for the supply or the sale of Cavicel's Products are to be intended and construed only as invitations for the buyer to purchase the relevant Cavicel's Products and they shall not be binding on Cavicel. Only written offers are to be consider valid, in particular till the expiration date indicated on the offer. If not specified, Cavicel's offers remain valid for 30 days.
- 2.2 All Purchase Orders must be transmitted to Cavicel in writing and must contain all the necessary information in order to allow the correct identification of the ordered Cavicel's Products. Any Purchase Order transmitted by the Buyer, directly or through a Cavicel's agent, may be considered binding as an Agreed Order, only if accepted by Cavicel and signed by its authorized representative.

### **3. Delivery of the Cavicel Products**

- 3.1 Any stipulated trade agreement shall be considered in accordance with the ICC INCOTERMS 2010. Except as otherwise agreed in writing by the Parties, all the Product deliveries shall be made "Ex Works" (EXW), in particular at Cavicel's plant, located in Pioltello (Milan). Any risk of loss or damage of Cavicel's products is transferred to the Buyer and to the company responsible for the Product carriage or shipment.

3.2 The delivery organized by Cavicel is possible only if it is confirmed by Cavicel, in writing, in the Purchase Order. Once received Cavicel's notification, the Buyer is requested to promptly collect, directly or through a carrier, the purchased Products at Cavicel's plant, on the date specified on the notice stating that the Products are ready to be collected. The delivery term indicated on the Contract, even though carefully considered by Cavicel, is not binding on Cavicel and it may be subsequently confirmed or modified, according to Cavicel's own production necessities. Any delivery delay does not entitle the Buyer to refuse the delivery of Cavicel's Products, or to ask for refunds or any kind of discounts.

3.3 Cavicel reserves the right to deliver the purchased Products (even if related to a single Agreed Order) in more than one shipment and with a quantitative difference of +/-5% (tolerance), due to technical reasons. Such tolerance is hereby accepted by the Buyer, except if otherwise indicated in the relevant Agreed Order.

#### **4. Prices – Payment terms**

4.1 Prices and payment terms of Cavicel's Products are indicated in each offer and confirmed in the relevant Agreed Order.

4.2 Unless expressly indicated, the price reported on the Agreed Order is net and it does not include taxes, levies, charges, tariffs and duties that may occur during the sale, the shipment and the delivery of the Products. Any additional amount on the net price, shall be paid by the Buyer.

4.3 If expressly agreed by the Parties, the price on the Agreed Purchase Order can be updated in accordance with the copper price, in line with the London Metal Exchange (LME).

4.4 Cavicel's invoices are payable at Cavicel's head office. The change of any type of draft or negotiable instrument, even if authorized by Cavicel, does not prejudice payment terms towards Cavicel's head office.

4.5 The Buyer shall pay to Cavicel all the invoiced amount due to Cavicel, according to the agreed payment term indicated on the relevant Cavicel's Agreed Order. All the invoices will be considered accepted by the Buyer unless Cavicel does not receive a written objection within five (5) working days after receiving the invoice.

4.6 Overdue invoices are subject to interests, calculated in accordance with the Italian Legislative Decree No. 231 of October 9th 2002, and the 2011/7/EU European Directive, and subsequent amendments.

4.7 In addition to all the other rights and remedies available under these Terms and Conditions or provided by the applicable law, any lack of payment or delay, shall entitle Cavicel the right to suspend any delivery of Cavicel's Products, including deliveries related to other Contracts in course of completion.

4.8 Cavicel's Products are invoiced according to the quantity indicated on the relevant delivery note.

#### **5. Products Warranty**

5.1 Cavicel's Products conformity of the relevant Agreed Order, is to be determined according to the Products state and the quality at the time of the risk transfer.

5.2 Cavicel's Products are twelve (12) months guaranteed from the delivery date. Cavicel assures the Buyer that its Products are free from any material and workmanship defect, in accordance with the technical specifications set forth in the relevant Contract. However the Buyer is asked to comply fully with all the storage directions, conservation, maintenance, installation, use and testing of the Products.

5.3 Except for the warranty defined in this clause, Cavicel makes no warranty whatsoever (whether expressed or implied by law) with respect to the Products, including (a) any merchantability warranty; (b) any kind of warranty for a particular scope; (c) any title warranty; or (d) any warranty against the intellectual violation of the property right of third party.

5.4 The Buyer shall provide Cavicel with a written notice of any Product defect within and no later than 8 (eight) days as soon as the defects become apparent. When Cavicel's Products are not in line with the provided technical specifications, Cavicel shall, at its expense, replace the whole quantity of the returned Product, supplying the Buyer with a corresponding quantity of the purchased Product, meeting the technical specifications provided by the Buyer. However the Buyer shall not be entitled to claim any damages and/or indemnities and/or compensation, even at a later date.

5.5 Cavicel shall not be liable for a breach of the warranty set forth in this clause should: (i) the defect arises as a consequence of the Buyer's failure in following Cavicel's oral or written instructions as to the storage, installation, commissioning, use, testing or maintenance of Cavicel's Products; or (ii) Buyer alters or repairs the defective Products without the prior written consent of Cavicel.

5.6 According to the maximum extent permitted by the law, under no circumstances, Cavicel shall be liable for any lost, special, incidental, indirect, consequential damage derived from the Products, or liable for any breach of the Contract or of these Terms and Conditions (whether from the breach of contract, the breach of warranty, negligence, strict liability, or any other form of action), irrespective of the possibility that such damages have been disclosed in advance by the Buyer or that they have been reasonably foreseen by Buyer.

5.7 According to the maximum extent permitted by applicable law, under no circumstances Cavicel's aggravated responsibility derived from or related to the Product, shall exceed the total amount paid to Cavicel, for the relevant Cavicel's Product sold in the relevant Contract area.

## **6. Export control and international economic sanctions**

6.1 The Buyer acknowledges and agrees that any Product delivered by Cavicel is subject to compliance with all applicable export control and sanctions laws and regulations ("Export Control Laws"). Under the Export Control Laws, any goods supplied by Cavicel may not be, directly or indirectly, transferred to any entity or person with whom it is prohibited to entertain a commercial relationship under U.S. or EU legislation or pursuant to an order by any competent authority ("Designated Party" and, collectively, "Designated Parties") or for restricted end uses.

6.2 Buyer represents and warrants not to sell the Products to any Designated Party or to clients that are owned or controlled by, or acting for or on behalf of, directly or indirectly, one or more Designated Parties.

6.3 Buyer shall be fully liable to Cavicel for any consequence arising from the violation of any applicable export control regulations, including, but not limited, the unlawful diversion of the use of the Products and/or to the use of the Products resulting in making economic resources available to any Designated Parties. The Buyer undertakes to transfer this provision on its sub-buyer.

6.4 Without prejudice any applicable contractual rule on "Force Majeure", in the event that Cavicel's fulfillment of obligation is prevented or made unreasonably difficult or commercially uneconomic by the occurrence of one of the following events (each an "Excusing Event"):

- a. any change of the Italian Republic and/or the European Union law, including, but not limited, the adoption of any kind of restrictive measures;
- b. any amendment, extension, revision, or interpretation change by any court, tribunal or regulatory authority with competent jurisdiction, of any existing law at the time of execution of the relevant agreement;
- c. failure to obtain any authorization, permit or license for the sale, supply, transfer or export of the Products by any competent authority and/or failure to obtain the prior authorization of transfers of funds as provided for in the regulations of the European Union, as in force from time to time, by any competent authority;
- d. any other event, whether or not similar to the ones specified above, outside the control of the Party against whom the claim would be otherwise made;

then Cavicel and the Buyer shall consult and agree on the necessary arrangement in order to ensure the regular implementation of the transaction. The fulfillment of the Parties' respective obligations shall be suspended during the consultation period. In case after the consultation it appears that the transaction cannot be further implemented as it has become invalid or unlawful under any applicable law, the parties shall make in good faith the necessary arrangements for mitigating any possible prejudice. In case the transaction will not be unlawful or invalid, and the performance of either one of the parties becomes impossible or uneconomic, the implementation of the transaction shall be suspended until the Excusing Event terminates and the parties shall strive to minimize the prejudice determined to each of them by such suspension.

## **7. Termination**

Without prejudice to any other resolution under applicable law, should the Buyer materially breach any terms under a Contract or these Terms and Conditions, Cavicel shall be entitled to terminate the Contract by sending the Buyer a written notice of the breach and an express request for remedy thereof within 15 (fifteen) days from the receipt of the same notice. Should the Buyer fail to remedy the breach within said term, the Contract shall be terminated by operation of law.

## **8. Materials supplied by the Buyer**

Any material received by Cavicel from the Buyer shall remain exclusively property of the Buyer. Accordingly, Cavicel assumes no responsibility on such materials, which shall be used by Cavicel for the production of the final Cavicel's Product at the sole risk of the Buyer, including for any damages claimed by third parties.

**9. Force Majeure**

Cavicel shall not be liable or responsible to the Buyer for any failure or delay in the delivery of Cavicel's Products and/or in performing any other obligation required, when the failure or the delay is caused by acts or circumstances beyond the reasonable control of Cavicel including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, strikes or other labor disputes (whether or not relating to either Party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, provided that if the event in question continues for a continuous period of 3 (three) months, the Buyer shall be entitled to cancel the relevant Agreed Order.

**10. Applicable law - Exclusive Jurisdiction**

- 10.1 All Contracts and these Terms and Conditions are governed and construed in accordance with the Italian law.
- 10.2 The Parties expressly agree to exclude the application of the United Nations Convention for the International Sale of Goods (CISG, 1980) to any Contract, these Terms and Conditions or the sale Cavicel's Products in accordance with their terms.
- 10.3 Any dispute arising from or connected with these Terms and Conditions shall be referred to the exclusive jurisdiction of the Court of Milan, Italy.

**For and on behalf of Buyer:**

\_\_\_\_\_  
Name:  
Title:  
Date of signature:

Pursuant to and in accordance with articles 1341 and 1342 of the Italian Civil Code, the Buyer hereby confirms to have carefully read, to have completely understood and to specifically accept the following provisions of these Terms and Conditions : paragraphs 1.2, 1.4, 3.2, 3.3, 4.3, 4.5, 4.7, 5.1, 5.2, 5.3, 5.4, 5.5, 5.6, 5.7, 8, 10.1, 10.2 and 10.3.

**For and on behalf of Buyer:**

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