



Fundusze Europejskie
Inteligentny Rozwój

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Appendix 5 – Template of Contract with the Supplier

Contract
DRAFT

This Contract was concluded on 2019 by and between:

Brenntag Polska Sp. z o. o. with its registered office in Kędzierzyn-Koźle at ul. J. Bema 21, 47-224 Kędzierzyn-Koźle, Poland, entered in the Register of Entrepreneurs of the National Court Register kept by the District Court in Opole, 8th Commercial Division of the National Court Register, under the number 0000003388, share capital PLN 24,540,000, holder of the following VAT number (NIP) 749-15-15-495, BDO 000000914, represented by:

1.
2.

hereinafter referred to as the "**Recipient**";

and

..... entered in the register of entrepreneurs kept by the Court, ... Commercial Division of the National Court Register under the following number, National Official Business Register number (Regon), VAT number (NIP), share capital PLN

represented by:

1.
2.

hereinafter referred to as the "**Supplier**";

selected by way of a tender procedure carried out under the request for proposal regarding "*Supplies of raw materials for chemical irrigation for the purposes of R&D works*" divided into 11 parts:

- Part 1: Supply of raw material: Isopropyl alcohol as a component of nanoemulsion**
- Part 2: Supply of raw material: Propylene glycol as a component of nanoemulsion**
- Part 3: n/a**
- Part 4: Supply of material as a component of nanoemulsion: Limonene**
- Part 5: Supply of raw material: 1-Butoxypropan-2-ol as a component of nanoemulsion**
- Part 6: Supply of raw material: C9-C11 alcohols, ethoxylated with 6 moles of ethylene oxides as a component of nanoemulsion**
- Part 7: n/a**
- Part 8: n/a**



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Part 9: Supply of anaerobic biocide for chemical irrigation / 3,3'-methylenebis[5-methyloxazolidine]

Part 10: Supply of chemical tracer for chemical irrigation / disodium 2-(3-oxo-6-oxidoxanthen-9-yl)benzoate

Part 11: Supply of aqueous solution of ammonium bisulfite / oxygen neutraliser

with the following wording:

§ 1

Subject of the Contract

1. The Supplier undertakes to sell and deliver chemical raw material(s) to the Recipient:
 - a) (...) hereinafter referred to as the Subject of the Contract or Chemical Raw Materials, as specified in the tender attached as Appendix 1 hereto.
2. The sale and transfer of ownership of Chemical Raw Materials shall take place at the moment of their release to the Recipient.
3. The Recipient reserves the right to unilaterally reduce the volume of the purchase of Chemical Raw Materials by a maximum of 50% or to resign from the purchase in the case of events that the Recipient could not have foreseen. The reduction of the purchase volume shall relate to the total value of the Contract referred to in § 2 section 3. Exercising this right by the Recipient does not mean improper performance of the Contract, nor can it be the basis for any claims by the Supplier.
4. The Recipient reserves the right to increase the demand for Chemical Raw Materials to 30% of the total value of the Contract specified in § 2 section 3 according to the unit price specified in § 2 section 2, on the basis of an annex signed by the Parties.
5. The Recipient shall be able to exercise the right referred to in paragraph 4 in cases where:
 - a) a change of the Supplier cannot be made for economic or technical reasons, in particular concerning the interchangeability or interoperability of equipment, services or installations ordered under the basic contract; and
 - b) a change of the Supplier would result in significant inconvenience or a significant increase in costs for the Recipient; and
 - c) the value of each subsequent change does not exceed 50% of the order value indicated initially in the Contract.

§ 2

Payment terms and method

1. The Recipient undertakes to pay the Supplier the amount due for the actually purchased, released and collected Chemical Raw Materials.
2. The basis for calculating the amount due shall be the unit price per kg of Chemical Raw Materials, i.e.:
 - a) PLN – net per kg
 - b)
 - (...)

The price includes all possible fees, costs and burdens related to the performance of the Subject of the Contract, including in particular those related to the transport of the Chemical Raw Materials to the Recipient.



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3. The value of the Contract should not exceed PLN net (say:)
within the term hereof. VAT shall be charged in accordance with the regulations in force on the
day on which the tax obligation arises.
4. In conjunction with paragraph 1 section 4 hereof, the Recipient reserves the right to change the
total value of the Contract on the basis of an annex signed by the Parties.
5. The acceptance report or proof of delivery, signed by both Parties without reservations, shall
constitute the basis for issuing a VAT invoice by the Supplier.
6. The Recipient shall pay the price for the delivered Chemical Raw Materials to the Supplier
within 30 days from the date of delivery of a properly issued VAT invoice. Payment shall be
made via wire transfer to the following bank account number
7. The Supplier hereby declares that it is a VAT taxpayer and holder of the following VAT number
(NIP):
8. The Supplier is obliged to include on every VAT invoice a specific order number and Contract
number, which will be assigned by the Recipient after the Contract has been signed by both
Parties.
9. The Recipient agrees to receive invoices in electronic form to the following e-mail address:
efaktura@brenntag.pl The Supplier shall send e-invoices, correction e-invoices, duplicates of
e-invoices, accounting e-notes (hereinafter referred to as e-documents) only in the form of PDF
files from the following e-mail address: The Recipient undertakes to send
confirmations of correction e-invoice receipt to the following e-mail address:
10. Invoices shall be issued to: **Brenntag Polska Sp. z o.o. (...)**

§ 3

Deadlines and place of collection

1. The performance of the Subject of the Contract specified in §1 hereof shall take place from the
date of concluding the Contract until
2. The Subject hereof shall be performed in the form of a single delivery on working days from
Monday to Friday from 7:00 a.m. to 4:00 p.m. pursuant to Incoterms 2010 (Brenntag Polska
Sp. z o.o. warehouse) after prior agreement with the Supplier of a specific Warehouse in
Poland or EXWORK after agreement with the Supplier of the terms and conditions of collection.
3. The single delivery shall be performed within up to 10 working days from the date of sending
the order. The provisions concerning the procedure of placing orders set out in section 4 shall
apply *mutatis mutandis*.
4. In justified cases, upon prior agreement, the Parties shall allow the performance of the Subject
hereof in the form of partial deliveries. The size of individual Chemical Raw Material batches,
packaging method as well as the delivery date shall be specified in detail by the Recipient in a
separate written order for each batch, sent to the Supplier at least 5 working days before the
planned delivery date. To keep the written form, it is sufficient to send the order by e-mail to the
e-mail address indicated by the Supplier. Sending the order by e-mail, in accordance with this
section, shall be tantamount to correct delivery.
5. The Supplier is obliged to send to the Recipient an e-mail confirmation of order acceptance for
processing, not later than within 2 working days from the date of receipt of the order. Failure by
the Supplier to send confirmation of order acceptance within the time limit specified in this
section shall be tantamount to confirmation by the Supplier of order acceptance for processing.
6. The persons authorised to communicate, in particular with regard to the preceding paragraph,
shall be:



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- a) on behalf of the Recipient: Katarzyna Kaczmarek, phone: +48 797 990 052,
e-mail: katarzyna.kaczmarek@brenntag.pl
- b) on behalf of the Supplier: phone:, e-mail:
- The Supplier shall be obliged to complete all formalities concerning the sale of the Chemical Raw Materials as well as to bear all costs related to the performance of the Contract, including in particular all fees, taxes and customs duties, costs of loading, unloading, transport insurance. In no event shall the Recipient be obliged to pay or refund any amount to the Supplier, subject to payment of the amount due in accordance with the provisions of the Contract.
7. The Parties hereby establish the following terms and conditions of acceptance:
- a) The Chemical Raw Material shall be delivered at the expense and responsibility of the Supplier by means of a vehicle enabling its unloading. The Supplier shall be responsible for unloading. Until the unloading is completed, responsibility for damage, destruction of the Chemical Raw Material or other damage lies with the Supplier, regardless of whether the transport was carried out by the Supplier or by another carrier.
- b) The Supplier shall enclose to each batch of Chemical Raw Materials released a manufacturer's quality certificate, a safety data sheet, which the Supplier undertakes to update on an ongoing basis in the event of any changes. The above documents shall be prepared in accordance with all applicable regulations, in particular in accordance with the Act of 25 February 2011 on Chemical Substances and their Mixtures (Journal of Laws of 2018 item 143) and the applicable implementing provisions.

§ 4 **Acceptance**

1. The Recipient shall perform acceptance of the Chemical Raw Materials on the basis of an acceptance report or proof of delivery, drawn up at the place of collection.
2. The persons authorised to draw up the acceptance report or proof of delivery are:
on behalf of the Recipient - active persons (actually collecting the Chemical Raw Materials) at the place of collection; on behalf of the Supplier - persons actually releasing the Chemical Raw Materials.
3. The Recipient shall commence the procedure of Chemical Raw Material acceptance after unloading and after the Supplier has presented all required documents confirming the correctness of transport and quality of the Chemical Raw Materials, in particular those indicated in § 3 section 7(b). In case of incomplete delivery of the Chemical Raw Materials, i.e. non-conformity with the order placed or absence of required documents, the Recipient has the right to refuse to accept a given batch of the Chemical Raw Materials. In this case the Recipient shall provide the Supplier with the acceptance report with reservations and shall set a deadline for the elimination of all non-conformities.

§ 5 **Guarantee**

1. The Supplier shall provide a quality guarantee for the delivered Chemical Raw Material for a period of 12 months counting from the date of acceptance by the Recipient. The Supplier assures that during the aforementioned period the Chemical Raw Material will be free from any defects and will be fully compliant with the parameters specified in the documents attached to the delivery of the given Chemical Raw Material.
2. If during the term of this Contract or the guarantee period it turns out that the Chemical Raw Material does not meet the quality requirements, the Supplier shall replace it within 7 working days from the date of request with the Raw Material that meets the parameters. If the replacement requires or causes additional costs, these shall be borne by the Supplier.



3. In the case of replacement of defective Chemical Raw Material, the guarantee period for the replaced Raw Material runs anew from the moment of delivery of the Raw Material free from defects.
4. The Parties agree on the following method of submitting complaints:
 - via electronic mail to the following email address:@.....
5. The Recipient shall make the disputed Raw Material available for joint sampling in the presence of representatives of the Recipient and the Supplier. The sample shall be divided into three parts. In the event of any disagreement between the Parties, the third part (the arbitration sample) shall be sent to an independent laboratory chosen with the agreement of both Parties. The result of the examination by the arbitration laboratory shall be binding on the Parties. The costs of the examination shall be borne by the Party whose results of the qualitative testing are challenged.
6. The provisions of sections 1 - 5 of this paragraph shall be applied accordingly to the execution of the Recipient's rights under warranty.

§ 6 Penalties

1. The Recipient may demand from the Supplier payment of a contractual penalty in the following cases:
 - a) in the event that the Supplier delivers a Chemical Raw Material which does not meet the requirements specified in the Contract, including qualitative requirements, in the amount of 3% of the net value of the Chemical Raw Material delivered;
 - b) withdrawing from the Contract by the Recipient for reasons concerning the Supplier in the amount of 15% of the net value of the Contract indicated in § 2 section 3;
 - c) failure to meet the deadline for delivery of the Raw Material set forth in § 3 section 3 and section 4 of the Contract in the amount of 0.5% of the net value of the Raw Material indicated in § 2 section 2 - for each day of delay, without a separate notice;
 - d) failure to meet the deadline for removal of defects in the amount of 1% of the net value of the Chemical Raw Material indicated in § 2 section 2 - for each day of delay, without a separate notice;
 - e) in case of violation by the Supplier of the obligation referred to in § 8 of the Contract, the Supplier shall pay the Recipient a contractual penalty amounting to 10% of the net value of the Contract, referred to in § 2 section 3 of the Contract, for each case of violation.
2. The Recipient reserves the right to withdraw from the Contract:
 - a) in case of delay in the delivery of Chemical Raw Material exceeding 20 days. The right of withdrawal may be exercised by the Recipient within 30 days from the moment the Party becomes aware of the circumstances constituting the basis for withdrawal from the Contract.
 - b) in case of non-performance of the guarantee obligation specified in § 5 section 2 exceeding the period of 20 days. The right of withdrawal may be exercised by the Recipient within 30 days from the moment the Party becomes aware of the circumstances constituting the basis for withdrawal from the Contract.
3. Withdrawal from the Contract must be made in writing under pain of nullity, should contain a justification and is effective as of the date of delivery to the other Party.
4. The Supplier may charge a contractual penalty to the Recipient in case of withdrawal from the Contract due to fault solely attributable to the Recipient in the amount of 10% of the gross value of the uncollected Chemical Raw Material, specified in § 2 section 2.
5. The Parties may seek compensation on general terms in the event that the contractual penalties do not cover damage resulting from non-performance or improper performance of the Contract.



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6. The Supplier shall bear full liability for damages towards the Recipient for non-performance or improper performance of the Contract, including also for actions and negligence of third parties by means of which it fulfils the obligations arising herefrom.

§ 7

Withdrawing from the Contract

1. The Recipient may withdraw from the Contract for reasons attributable to the Supplier in any case of breach by the Supplier of the provisions hereof.
2. The Recipient shall also have the right to withdraw from the Contract in the following cases:
 - a) when a petition to initiate bankruptcy proceedings is filed or when restructuring proceedings are initiated against the Supplier;
 - b) in the event of seizure of a part of the Supplier's assets important for the performance of the Contract by third parties pursuant to a decision of a competent authority.
3. A declaration of withdrawal from the Contract should be submitted in writing, under pain of nullity.
4. The declaration of withdrawal from the Contract in accordance with this paragraph may be made by the Recipient within 2 months from the date of learning about the basis for withdrawal, however, not later than by the expiry of the period of guarantee and warranty for the Subject hereof.

§ 8

Contract amendments

1. The Parties agree that an amendment of the date or scope of performance of the Contract is possible in the following situations:
 - a) in the case of occurrence of circumstances that are beyond the Supplier's control, upon its justified request, provided that such an amendment results from the circumstances that the Supplier could not have anticipated at the stage of submitting the tender and are not caused by the Supplier;
 - b) in the case of occurrence of circumstances dependent on the Recipient affecting negatively the deadline for completion of the Subject of the Contract;
 - c) Recipient's delay with reference to performing the final acceptance procedure;
 - d) the necessity to introduce changes in the Subject of the Contract as a result of circumstances which the Recipient could not have objectively anticipated at the time of concluding the Contract by the time necessary to introduce such changes.
2. The Recipient introduces the possibility of amending the Contract with regard to changing the persons responsible for communication and supervision over the performance of the Subject hereof.
3. The Recipient introduces the possibility of amending the Contract with regard to the occurrence of obvious typos and calculating errors in the content of the Contract.
4. The Recipient introduces the possibility of amending the Contract with regard to changing the remuneration only in the case of changing the applicable VAT rate - if the change in the VAT rate causes an increase in the costs of performing the Contract on the part of the Supplier, the Recipient allows for the possibility of increasing the remuneration by the amount equal to the difference in the amount of tax paid by the Supplier.
5. The Recipient also reserves the right to amend the Contract in the event of:
 - a) changes in the binding provisions of law, affecting the Subject and conditions of the Contract and a change in the legal or actual situation of the Recipient and/or the Supplier resulting in the inability to perform the Subject of the Contract;
 - b) occurrence of extraordinary "force majeure" circumstances resulting in the inability to perform the Subject of the Contract or threatening with a gross loss, which the Parties did



not anticipate when concluding the Contract - force majeure shall be understood as extraordinary events and circumstances, unpredictable, independent of the will of any of the Parties hereto;

- c) occurrence of extraordinary circumstances not being "force majeure", threatening with a gross loss, which were not anticipated by the Parties at the time of concluding the Contract;
- d) in case of receiving a decision from the Managing Authority or Intermediate Body of the implemented project containing changes in the scope of tasks, deadlines for implementation or determining additional provisions, which it will be obliged to make.

§ 9 Confidentiality

The Supplier undertakes, both during the term of the Contract and for a period of 3 years after its expiry, not to disclose to other persons (third parties) information constituting business secrets within the meaning of the Act on Combating Unfair Competition (Act of 16 April 1993 - consolidated text of 9 February 2018, Journal of Laws of 2018 item 419) and any other information received from the Recipient in oral form, in writing or in a material form and recorded on any storage medium, including originals and photocopies, copies, faxes, notes, receipts and other documents indicated as confidential and related to the Recipient's activity, its business partners, business plans and other information, unless it is necessary due to pending proceedings before common courts or other state authorities at the express order of those courts or state authorities.

§ 10 Notifications

1. All notifications under this Contract shall be made in writing unless otherwise indicated in the specific provisions hereof.
The said notifications shall be sent to the following addresses:
a) for the Recipient:
Brenntag Polska Sp. z o.o.
ul. J. Bema 21
24-477 Kędzierzyn-Koźle, Poland

b) for the Supplier:
.....
.....
.....
2. Such notifications shall be deemed to have been duly made on the date of personal delivery or on the date of acknowledgement of receipt in the case of notification by registered letter with acknowledgement of receipt.

§ 11 Final provisions

1. The Parties undertake to inform each other, immediately and in writing, about any changes in the address, legal form or name (company wording) that occur during the term of the Contract; such changes do not constitute grounds for withdrawal from the Contract. In the event of failure to comply with this obligation, any correspondence sent to the address indicated in the Contract as above shall be deemed to have been effectively delivered.



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2. The Parties undertake to inform the other Party immediately each time of any changes in the subject matter, transformations, mergers, changes in the legal form and other circumstances that may be significant for the correct performance of the obligations hereunder.
3. Any and all amendments hereto must have a written form under pain of nullity.
4. To the matters not regulated by this Contract, the provisions of the Civil Code and other provisions and standards applicable in Poland shall apply.
5. If a dispute arises between the Parties in connection with the performance of the Contract, the Parties shall submit the dispute to the Polish common court of law competent for the seat of the Recipient.
6. The Contract has been executed in two counterparts, one for each Party.
7. This Contract shall enter into force upon signature.
9. Without prior written consent of the Recipient, the Supplier may not transfer to a third party all or part of its rights (including in particular accounts receivable) and obligations arising from the Contract.
10. In the event of performance of this Contract by several economic operators, in particular within a consortium, these economic operators shall be jointly and severally liable for the sound performance of the whole of this Contract.
11. The persons authorised to represent the Parties in the implementation of this Contract shall be:
 - a) on behalf of the Recipient –
 - b) on behalf of the Supplier –

SUPPLIER:

RECIPIENT:

Appendices:

1. Supplier's tender