

## Terms and Conditions of Sale

**1.Scope of Validity:** Our current and future deliveries and services are subject exclusively to these Terms and Conditions of Sale. Terms that vary (a) from these Terms and Conditions of Sale, including any general conditions of Purchaser, or (b) those specified by law, will be considered binding only if they have been confirmed by us in writing. Our delivery of goods, performance of services, or acceptance of payments does not constitute a recognition on our part of conditions that vary from these general Terms and Conditions.

**2.Quotations, Contracts:** Our offers are made subject to confirmation. A contract is formed only when we issue written order confirmation or when orders are fulfilled by us.

### 3.Written Form:

**3.1.** Amendments or supplements to a contract or the cancellation thereof or of these Terms and Conditions of Sale, including this clause, Sec. 3.1, must be made in writing and agreed by both parties. **3.2.** Any statement and notifications issued by Purchaser after conclusion of the contract are effective only if they are made in writing. **4.Prices:** Unless otherwise agreed, our prices are quoted ex works and do not include the cost of packaging. Value-added tax as well as any import duties will be payable separately in the statutory amount in effect on the invoice date.

### 5.Payment, Set-Off:

**5.1.** Unless agreed otherwise, payment to us by Purchaser has to be effected 5 days after delivery of the goods or performance of the services. **5.2.** Set-off by Purchaser is permitted only with claims that are undisputed or have been upheld by final decision of a court of competent jurisdiction.

### 6.Place of Performance, Shipment:

**6.1.** The Place of performance of delivery or service will be our place of supply or storage. **6.2.** If shipment of the goods has been agreed upon, we shall ship the goods at Purchaser's risk. Furthermore, we shall specify the manner of shipment, shipment route and carrier.

**7.Partial Shipment and Performance:** To the extent possible, shipment or performance will be carried out as one consignment. Partial delivery or performance shall be possible.

**8.Delivery Schedules; Delay:** If we fail to comply with agreed-to delivery or performance schedules or other contractual obligations, Purchaser will establish an additional delivery period of reasonable length. Such additional delivery period shall be at least three 2 weeks.

**9.Transport Insurance:** We are authorized to cover appropriate transport insurance on behalf and at the expense of the Purchaser in an amount at least equal to the invoiced value of the goods.

### 10.Retention of Title:

**10.1.** All goods delivered by us will remain our property until payment has been received in full for all our receivables at the time of delivery. Purchaser shall handle the property with care and insure it, at his own expense and at the value when it was new, against fire and damage from water or theft. **10.2.** If Purchaser's behavior leads to a breach of contract, especially if he fails to make payment, we reserve the right to withdraw from the contract in accordance with applicable law. Reclaiming a good subject to proprietary rights implies a withdrawal from the contract. All costs for returning a good to us will be borne by Purchaser. After the good subject to proprietary rights has been returned to us, we will be allowed to use it; any revenues generated by the good will be accredited to Purchaser-less any appropriate costs arising from reusing the good. **10.3.** Purchaser shall refer to our proprietary rights and immediately notify us in writing of any seizures or other interventions by a third party so that we will be able to enforce our property rights against the latter. Together with the third party, Purchaser will be held liable as a codebitor for legal and non-legal expenses arising from a lawsuit. **10.4.** As long as Purchaser is not in delay of payment, Purchaser will be able to process or sell the goods subject to proprietary rights within the framework of a properly managed business operation subject to the following conditions; not withstanding the provisions of section 950 of the German Civil Code, processing, as far as we are concerned, will be effected under the proviso that we acquire joint ownership of the processed product, our entitlement being based on the ratio of the purchase price of the goods subject to proprietary rights to the selling price of the processed product. **10.5.** The purchaser herewith assigns to us, as a security, all future claims against third parties arising from the resale of the goods subject to proprietary rights in full and those arising from the sale of the processed products to a partial sum corresponding to our joint ownership share. We may ask Purchaser to let us know about the assigned claims and their debtors, to give all details necessary for collection, to submit the associated documents, and to notify the debtors (customers) about the assignment. We will at all times be authorized to tell the Purchaser's customers about the assignment. We will, however, not retract our claim as long as Purchaser keeps with his payment obligations from the collected revenues or does not become delinquent in payment, and especially if no petition for bankruptcy or conciliation has been filed or payment has been stopped. **10.6.** We will release the collateral we are entitled to upon the request of Purchaser insofar as the realizable value of our collateral does not merely temporarily exceed by more than 10% the claims to be secured. We will choose the collateral to be released.

### 11.Delivery Problems:

**11.1.** We will not be liable to perform any duty or obligation that we may have under this contract to the extent that such failure has resulted from fire, flood, storm and lightning, explosion, government regulatory action, operating problems including total or partial breakdown of manufacturing equipment or facilities, problems or restrictions experienced by our subcontractors or any other case outside the our reasonable control. **11.2.** We will inform Purchaser of an event pursuant to Sec. 11.1 above within ten (10) days and of its expected duration and effect upon our obligations under this contract. If such event continues for an uninterrupted period of thirty (30) days, the parties shall, at request of either party, meet and agree upon appropriate equitable action to safeguard the respective interests of the parties.

**12. Product Information:** Notwithstanding anything to the contrary in this clause, any information about properties, durability and other data will represent guarantees only if they are expressly agreed and indicated as such in writing by us. Unless otherwise agreed by the parties, the contractual characteristics of the products will be based exclusively on the applicable product specifications published by us. Written and verbal information about our products, equipment, plant, and processes is based on research and our experience in the field of applied engineering. We provide this information, which is accurate to the best of our knowledge, and reserve the right to make modifications and upgrades to it, but assume no liability in respect of it other than as agreed in the terms of an individual contract. The aforesaid will not relieve Purchaser of its obligation to verify the suitability of our products and processes (or any applications and processes of third parties) for the use or application intended by Purchaser. This will also apply to the protection of third party intellectual property rights as well as applications and processes.

**13. Complaints:** Purchaser must examine the delivered goods and performed services with respect to a lack of conformity with the contract. All Purchaser complaints, particularly those regarding the quality or quantity of the goods, must be submitted to us in writing without delay, but not later than ten 5 days from delivery of the goods or in the case of latent defects within ten 5 days from the date such defect(s) is discovered or should have been discovered through the exercise of reasonable investigation. If Purchaser does not advise us of

complaints or notices of defects in accordance with such deadlines or in the agreed form, our deliveries and services are deemed to be without defect with respect to the complaint or notice being not timely or not according to the agreed form. If Purchaser knowing of defects accepts our deliveries or services, Purchaser will only be entitled to rights deriving from such defects if Purchaser has expressly reserved such rights in writing. In the event of complaints or notices of defects which have not been made in accordance with this clause, Purchaser may only be entitled to rights deriving from such defects if we have fraudulently concealed the lack of conformity with the contract. Art. 44 CISG shall not be applicable.

**14. Rights of Purchaser in Case of Defects:**

**14.1.** Purchaser cannot derive rights from a defect in our goods and services if only negligible impairment of the value or the usage of our goods and services exists. In the event of justified claims arising from the quality of the delivered goods or services, we reserve the right, to replace the goods. For this, we always are to be given the opportunity within reasonable time. If our repair or replacement fails to remedy the defects, Purchaser will be entitled to withdraw from the contract. **14.2.** Purchaser is only entitled to claims for damages or rebourse claims pursuant to Sec. 15 below.

**15. Limitation of Liability:**

**15.1.** We, our legal representatives, employees, and persons employed in performing our obligations can only be held liable for damages and recourse claims of Purchaser, irrespective of the legal basis therefore, based on (i) breaches of obligations deriving from the contract (ii) tortious acts (iii) intentional misconduct or gross negligence on our part, the part of our legal representatives, employees or persons employed in performing our obligations, or (iv) if the breach of our contractual obligations violates the essence of the contract (essential obligations). In the case of slightly negligent breaches of essential obligations, our liability for damages will be limited to the foreseeable damage typical for a contract of this nature. **15.2.** The aforementioned limitation of liability or of damages will apply to all our liability under these Terms and Conditions of Sale but will not apply in cases of damage to life, body or health or damage to private property under the product liability law (ProdHaftG).

**16. Statute of Limitations:** Purchaser's claims for warranty, damages or regress entitlements will expire one year from the commencement of the statute of limitation stipulated by law, unless defect claims refer to a product that was used appropriately in construction and has caused the building to be defective. In such case, the statute of limitation will be four (4) years. The above statutes of limitations will not apply if we have acted intentionally or if the ProdHaftG or other statutory requirements mandate our liability in the event of damage to life, body or health of others or causing damage to private property.

**17. Compliance with Statutory Regulations, Rescission:**

**17.1.** Unless otherwise agreed in writing with Purchaser in individual cases, Purchaser will be responsible for compliance with statutory and regulatory requirements for the import, transport, storage, and use of the products.

**17.2.** Inasmuch as the statutory or regulatory approval requirements applies to the export of our delivery / service at the time of delivery / performance and such export approval is not granted upon request, we will be entitled to rescind the contract.

**18. INCOTERMS:** If clauses have been agreed pursuant to International Commercial Terms (INCOTERMS), their application and interpretation shall be governed by the INCOTERMS 2010.

**19. Place of Jurisdiction:** If Purchaser is a merchant, the place of jurisdiction will be our commercial domicile. If we institute legal proceedings against Purchaser, we have the option to also institute legal proceedings at the Purchaser's place of jurisdiction.

**20. Applicable Law:** The contract and the legal relationship with the Purchaser will be governed by German Law including the United Nations Convention on Contracts for the International Sale of Goods (CISG), excluding conflict of laws principles.