

General conditions and terms for sales and delivery
Ed. Date: May 2013

§ 1 General provisions - Scope of application

- (1) Unless otherwise expressly agreed in writing, these General Terms and Conditions for Sales and Delivery (these “**GT&C**”) shall exclusively govern and automatically apply to any and all contracts of sale (“**Contract of Sale**”) for the supply of goods and services, whether or not ancillary to a sale of goods (hereafter referred collectively as “**Deliverables**”) by us to all our customers (“**Customer**”). For the removal of any doubt, any specific terms and conditions of the Customer shall not apply unless we have expressly accepted them or any part thereof in writing.

WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ANY TERMS AND CONDITIONS THAT MAY BE SET FORTH IN A CONTRACT OF SALE OR OTHER DOCUMENT ISSUED BY OR FOR THE CUSTOMER THAT ARE INCONSISTENT WITH OR IN ADDITION TO THESE GT&C SHALL NOT BE BINDING UPON US UNLESS SPECIFICALLY ACCEPTED BY US IN WRITING, AND THEY SHALL OTHERWISE BE DEEMED TO HAVE BEEN EXPRESSLY REJECTED IN CONFORMITY WITH ANY APPLICABLE LAW, INCLUDING BUT NOT LIMITED TO SECTION 2-207 OF THE UNIFORM COMMERCIAL CODE.

- (2) The only binding agreements between us and a Customer shall be these GT&C, and a Contract of Sale entered into as contemplated by Section 2(1). No verbal agreement shall be binding.

§ 2 Offers – Conclusion of contract - Documents

- (1) A Contract of Sale shall only be formed and binding if (i) we and the Customer execute a document explicitly providing that it is a binding sale agreement, or (ii) we unconditionally confirm in writing an order from a Customer, or (iii) we make an offer to sell goods or services that is accepted by the Customer, provided that no such offer shall be deemed to have been made unless we expressly stipulates in the writing that it is intended to be binding if accepted.
- (2) Unless expressly defined to be binding, all quantities expressed in terms of either weight or dimensions in a binding Contract of Sale are approximations of the actual figures. For the removal of any doubt, any pictures, drawings, weights and sizes that are part of our documents represent only approximate values of actual figures. We reserve title and property rights to all pictures, drawings, calculations, models, cost estimates and other documents; these documents may not be made available to third parties without our prior written consent. These documents shall be returned to us immediately upon request and free of charge for any reason whatsoever.

§ 3 Prices – Terms of payment

- (1) Unless stipulated otherwise in a Contract of Sale, our prices shall be in U.S. dollars and, without limiting the terms of Section 6 below, the delivery terms shall be EXW our delivering site (Incoterm 2010). Unless otherwise stipulated, the purchase price shall not include packaging, value added taxes, customs, duties (including, but not limited to import duties), levies, sales and use taxes and all other similar charges and taxes levied or imposed with respect to the sell and delivery of the

- (2) Any discount must be expressly confirmed by us in writing. Prices quoted in a currency other than United States Dollars are based on the official exchange rate on the date of the quote. Prices will be invoiced on the basis of the currency exchange rate in effect on the date of confirmation of any Contract of Sale.
- (3) Unless otherwise agreed to in writing by us, invoices issued by us for the purchase price (net – i.e. without any deductions or offsets) are due and payable by Customer within thirty (30) days of the date of invoice. Customer shall make payments by check or wire transfer to the account indicated on the invoice without a cash discount or offset and shall indemnify us for any collection costs incurred as a result of the Customer's failure to make timely payments including reasonable legal fees. Payments shall be considered completed only to the extent we can freely dispose of them at our bank. Banking charges incurred in the process of completing the payment under the invoice shall be paid by the Customers.
- (4) If the Customer fails to make payment on or before the date required pursuant to an invoice, in addition to any other right or remedy available to us by law, the Customer shall pay interest to us at the rate of one percent (1 %) per month as of due date, or such lesser amount as may be capped by applicable law.
- (5) Due to the volatility of purchase prices in our industry we reserve the right to adjust our prices from time to time. Such changes shall not be applicable to any existing binding Contract of Sale that has not been performed yet, unless it is a result of an increase in the price of the raw materials used for the relevant Supply covered by such contract, which is beyond our control, and at least two (2) months shall have elapsed between the date of the Contract of Sale and the price increase of the raw materials.
- (6) The parties acknowledge that the price agreed upon in a Contract of Sale is based on the quantities specified by the Customer as its estimated (serial-) requirements. If the quantities actually ordered by the Customer decrease by over fifteen percent (15%) below this estimated (serial-) requirement as measured during by a period of at least six (6) consecutive months, we shall be entitled to adjust the prices payable under the contract a reasonably proportionate manner. This provision also applies to the supply of spare parts after end of serial production.
- (7) Notwithstanding anything to the contrary in these GT&C, the Customer can assert setoff rights only if it has a binding non-appealable judicial order or if such claims are not disputed by us.

§ 4 Delivery time, reservation of self-supply, partial delivery

- (1) The period for measuring delivery time shall, unless there is a firm delivery date, start to run upon our confirmation of a Contract of Sale or other time at which the Contract of Sale becomes effective but not before the clarification of all technical questions and details of the execution, and receipt of the agreed-upon advance payment. The term for delivery shall be deemed to have been complied with, if, by the deadline, the Deliverables are made available to the Customer at the agreed upon place of delivery.
- (2) Adherence to our supply commitment presumes the punctual and orderly fulfillment of the

- (3) We shall use reasonable efforts to deliver the Deliverables to the Customer by the agreed upon date. However, our obligation to make timely delivery is conditioned among other things on the timely supply of raw material and semi-finished products by our suppliers and sub-contractors. Therefore, except in cases where the delay was caused by our willful misconduct or gross negligence, we shall not be liable to Customer for delays in delivery, or any damage to Deliverables while in transit, irrespective of whether we or the Customer designated the mode of transportation.
- (4) In the event of default of delivery due to willful misconduct or gross negligence, our liability shall be limited to half percent (0.5%) for each full week of delay, and to a maximum of five percent (5%) of the net order value solely of the part of the Contract of Sale which was subject to a delay. Claims for damages instead of performance under § 9 shall not be affected thereby.
- (5) If shipping of the Deliverables (or any part thereof) is delayed due to circumstances beyond our reasonable control, we shall be entitled to charge for the costs incurred in connection with the storage of such Deliverables at our delivery site, at a rate of half percent (0.5%) per month of the invoice amount of the stored delivery.
- (6) Partial deliveries will be accepted to the extent they do not impair the reasonable expectations of the Customer with respect to the intended purpose of the shipment.

§ 5 Force majeure

- (1) We shall not be liable to Customer or any other person for any failure or delay in the performance of any obligation in connection with a Contract of Sale and/or these GT&C due to unforeseen or unavoidable events beyond our reasonable control, including, but not limited to, acts of God, fire, storm, flood, earthquake, explosion, accident, transportation embargoes or delays, breakdown in machinery or equipment, acts of an enemy, wars, riots and public disorder, sabotage, strikes, lockouts, labor disputes, labor shortages, work slowdown, stoppages or delays, shortages or failures or delays of energy, materials, supplies or equipment, and acts or regulations or priorities of the federal, state or local governments. The foregoing shall also apply if such circumstances occur in connection with our suppliers or sub-contractors or during an existing delay in performance.
- (2) When the event operating to excuse performance by either party shall cease, performance shall resume until all contractually required Deliverables have been completed. Notwithstanding the foregoing, if the delay in performance pursuant to § 5 (1), is not merely temporary, both parties shall be entitled to terminate the Contract of Sale without incurring any liability of any kind by providing the other party with a twenty (20) days prior notice, provided however that the relevant event operating to excuse performance was not yet ceased upon the expiration of such twenty (20) days period.

§ 6 Passage of risk

The risk of loss for the Deliverables shall pass to the Customer according to EXW our delivering site (Incoterms 2010), regardless of whether, as an exception, we have accepted further services such as bearing shipping costs and/or delivery. The title shall pass to the Customer only upon receipt by us of

§ 7 Packaging

We will take back all packaging of our products at the respective delivering site during normal working hours, and the Customer shall bear the cost of dropping the packaging materials at that site. The packaging must be returned clean, free of residues and sorted by type of material. In case of repeated deliveries and after prior agreement with the Customer, the return of transport packaging might also be carried out with a subsequent delivery, e.g., in exchange for other, equivalent transport packaging.

§ 8 Liability for defects

- (1) Warranty. We warrant that all goods to be supplied in connection with the Contract of Sale shall conform to the descriptions contained herein and on the documentation included within the Contract of Sale, and that we will convey good title to any such goods, free from any security interest, or other lien or encumbrance held by any other party.

EXCEPT FOR SUCH WARRANTY WE DISCLAIM ANY AND ALL OTHER EXPRESS WARRANTIES AND ALL IMPLIED WARRANTIES WITH RESPECT TO THE DELIVERABLES INCLUDING ANY WARRANTY OF MERCHANTABILITY, QUALITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTY OF NON-INFRINGEMENT.

- (2) Upon delivery, the Customer shall immediately inspect the Deliverables for conformity and defects. Customer shall give us a written notice regarding any non-conforming or defected goods immediately but in no event more than five (5) business days after receipt of the Deliverables, and in the event of hidden defects no more than five (5) business days after discovery. For the removal of any doubt, in the event that the aforementioned periods have expired all claims and rights arising from the liability for defected or non-conforming goods hereunder shall expire.
- (3) For justified claims, our sole obligation shall be to provide a warranty by either rectification or substitution of the defected goods, as elected by us at our sole and absolute discretion. Notwithstanding the foregoing, if the rectification or substitute delivery is unsuccessful or delayed in an unjustified manner, the Customer may, after providing reasonable extension of the delivery period, demand in writing a reduction of the purchase price or withdraw from the Contract of Sale.
- (4) We shall not bear any costs resulting from re-performance, if the purchased goods have been placed or stored in a location other than the business location of the Customer after delivery of the Deliverables has been completed.

- (5) **EXCEPT AS EXPRESSLY WARRANTED IN THE CONTRACT OF SALE CONFIRMATION OR THESE GT&C, WE MAKE NO WARRANTY THAT THE PRODUCTS COMPLY WITH APPLICABLE LAW, REGULATIONS OR SPECIFICATIONS IN ANY JURISDICTION IN WHICH THE PRODUCTS MAY BE SOLD OR MARKETING. ANY GOVERNMENTAL OR OTHER APPROVALS NECESSARY IN CONNECTION WITH THE RESALE, MARKETING, DISTRIBUTION OR USE OF THE DELIVERABLES SHALL BE THE SOLE RESPONSIBILITY OF THE CUSTOMER UNLESS OTHERWISE AGREED IN**

Deliverables were produced according to the Customer's specifications, drawings, models etc. and we did not know or did not have to know that the production of these goods violates any third-party rights.

- (6) Unless otherwise agreed by us in writing and without derogating from any other exception stipulated herein, No claim in connection with defects in delivery pursuant to this Article shall be of any force and effect if initiated after the lapse of twelve (12) months from the passage of risks. The foregoing limitation shall not apply to any claim for damage or liability caused by our intentional misconduct or by our gross negligence.

§ 9 General Limitation of Liability

IT IS AGREED AND ACKNOWLEDGED THAT THE PROVISIONS OF THESE GT&C ALLOCATE THE RISKS BETWEEN US AND THE CUSTOMER, THAT OUR PRICING REFLECTS THIS ALLOCATION OF RISK, AND BUT FOR THIS ALLOCATION AND LIMITATION OF LIABILITY, WE WOULD NOT HAVE ENTERED INTO AN AGREEMENT WITH THE CUSTOMER.

IN NO EVENT SHALL WE BE LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOSS OF PROFITS, REVENUE, GOODWILL OR USE, INCURRED BY CUSTOMER OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT, TORT, STRICT LIABILITY, OR IMPOSED BY STATUTE OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

OUR LIABILITY FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THESE GT&C SHALL IN NO EVENT EXCEED THE PURCHASE PRICE UNDER THE APPLICABLE CONTRACT OF SALE.

IN STATES AND JURISDICTIONS THAT LIMIT THE SCOPE OF, OR PRECLUDE LIMITATIONS OR EXCLUSION OF REMEDIES OR DAMAGES, OR OF LIABILITY, SUCH AS LIABILITY FOR GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, OR DO NOT ALLOW IMPLIED WARRANTIES TO BE EXCLUDED, THE LIMITATION OR EXCLUSION OF WARRANTIES, REMEDIES, DAMAGES OR LIABILITY SET FORTH ABOVE ARE INTENDED TO APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

§ 10 Reservation of ownership

- (1) We reserve title to delivered Deliverables until all receivables due from the Customer under the applicable Contract of Sale have been fully paid. With regard to Customers with whom we have a credit arrangement, the Deliverables to which we reserved title shall be the security for the outstanding balance on account.
- (2) The Customer undertakes to treat the Deliverables that serve as collateral with due care and to store and maintain them in a customary and commercially reasonable manner. Customer shall, at its own expense, maintain full insurance against loss and damages for their reinstatement value. Upon

is transferred to the Customer.

- (3) If Deliverables serving as collateral are mixed or combined with other goods by the Customer or being converted into other products, we shall acquire co-ownership in the new goods in such percentage corresponding to the relation between the value of our products to the other products used by the are Customer at the time when our goods becoming parts of or being converted into such other products. The derivative products are collateral pursuant to these G T & C .
- (4) The Customer shall be entitled to sell the collateral only in the proper course of business. The Customer hereby assigns to us its right, title and interest in and to the full amount of all receivables that accrue to it from the sale or use of the collateral, as against third parties, including all proceeds thereof.
- (5) The Customer is not entitled to pledge or transfer as security any Deliverables being subject to retention of title without our prior written approval. The Customer shall inform us immediately in writing about attachments, pledges, seizures or other confiscations of the goods by third parties. Costs incurred in connection with the defense of any action affecting the reserved goods shall be on the account of the customer if they cannot be collected from third parties.
- (6) The Customer shall be entitled to collect receivables assigned to us, as long as it meets its payment obligations to us when due, from collected proceeds. If the Customer fails to meet its payment obligations, we may revoke the resale and/or processing authorization and demand that the Customer discloses the assigned receivables and the respective debtor to us, provides all the details required to enable the receivables to be collected, delivers the pertaining documents and informs the debtors of the assignment. In case of a default in payment, we shall be entitled to take back the reserved goods and the customer is obliged to deliver it. In order to obtain delivery of the goods, the Customer shall acquiesce entrance to its premises. The return of reserved Deliverables shall not constitute a withdrawal from the contract. If we withdraw from the contract, we shall be entitled to dispose of the items at our discretion.
- (7) If the value of securities exceeds our total receivables by more than ten percent (10%) we shall, upon request of the Customer, release securities to the excess amounts at our discretion.

§ 11 Place of performance – Court venue - Governing law

- (1) These GT&C and any Contract of Sale or any matter related thereto shall be construed and enforced under the laws of the State of Georgia, including the Uniform Commercial Code (“UCC”). The Convention on the International Sales of Goods shall not apply.
- (2) In connection with any disputes arising from these GT&C or any Contract of sale, the parties hereby consent to the exclusive jurisdiction and the convenience of the courts of the State of Georgia, and agree to accept service of process by mail, and hereby waive any jurisdictional or venue defenses otherwise available to them. However, notwithstanding the foregoing we shall also be entitled to bring any action against the Customer at its place of jurisdiction as determined by the general law.