

GENERAL TERMS AND CONDITIONS OF SALE

1. PURPOSE AND SCOPE

- 1.1. These General Terms and Conditions of Sale are intended to define and to regulate terms, methods and conditions that will govern the individual supplies of the products and all current and future contracts concerning the sale and/or supply of products between Upco and the customer. These GCS also aim to regulate and facilitate the handling of any complaints.
- 1.2. The customer acknowledges and declares that these General Conditions are an essential and integral element of each Purchase Order and contract and is required to know and comply with them.
- 1.3. The General Conditions are understood to be known and tacitly accepted by the customer with the placing of the Purchase Order or, in any case, with the collection of the products.
- 1.4. These General Conditions are the only conditions under which Upco GmbH, as well as other companies belonging to the same group unless agreed otherwise, are willing and prepared to negotiate the issue of orders or the conclusion of sales contracts and / or supply. Any other general conditions, and in particular the customer's conditions of purchase, will not be binding on Upco, nor will they exempt the customer from the application of these GCS. In any case, these GCS shall prevail on any general terms and conditions used by the customer. These terms and conditions of sale shall also govern all future transactions between the parties.

2. DEFINITIONS

"Confidentiality Agreement" shall mean the confidentiality agreement concluded between the Parties to protect Confidential Information, in addition to what is already provided in the General Conditions.

"customer" shall mean the natural or legal person who issues the Purchase Order and accepts these General Conditions. These terms and conditions of sale shall only apply vis à vis entrepreneurs, governmental entities, or special governmental estates within the meaning of sec. 310 para. 1 BGB (German Civil Code).

"General Conditions" shall mean these general terms and conditions of sale (GCS).

"Order Confirmation" shall mean the written confirmation from Upco issued as an acceptance of the customer's Purchase Order and of all the conditions applicable therein. The contract between the Parties is deemed in full effect and binding on Upco only after Upco has supplied an Order Confirmation of the customer's Purchase Order.

"contract (s)" shall mean the overall agreement between the Parties, resulting from the customer's Purchase Order accepted by Upco via an issuance of the Order Confirmation, with any annex, integrated with these GCS and with any Confidentiality Agreement between the Parties.

"Force Majeure": indicates an unforeseeable and / or exceptional event and / or circumstance, beyond the control of the Parties, which renders the execution of the contract impossible or excessively burdensome, in whole or in part. A force majeure may include (but is not limited to): the directives of a public authority (both Italian and foreign), strike, boycott, lock down, fire, war (declared or not), riot, revolution, requisition, embargo, energy black-out, delay in the delivery of components or raw materials, explosion, natural disaster, fire, earthquake, flooding, epidemic and pandemic, other unpredictable impediments of equal gravity independent of the will of the Parties.

"Confidential Information" shall mean any information, transmitted verbally, in writing, or through any other physical and / or virtual medium, as well as any sample of the product, materials and prototypes, including data, test results, analysis, evaluations, studies, knowledge, concepts, documents, images, projects, designs, methods, formulas, processes, systems, inventions (patentable or not), know-how, software, IT applications, commercial strategies, commercial relations of any kind, objectives, distribution channels, customer and supplier lists, discounts and special tariffs, as well as any other information (technical, financial, commercial or administrative) communicated by Upco to the customer, even if not expressly defined by Upco as confidential.

"Processing" shall mean all the procedures related to the processing of the products.

"Know-How" means all the technical and technological knowledge, the necessary instructions, the technical and qualitative requirements concerning the products, Technology and Processing owned by Upco, irrespective of the existence of intellectual property rights registered by Upco in relation to it.

"Purchase Order" shall mean each request that the customer sends or transmits to Upco for the purchase and / or supply of one or more products, communicated in writing by email, by the customer to Upco. It includes (though, this is not an exhaustive list) the following information: customer references, Product code, Product designation, quantity, price and/or reference to the applicable and agreed price lists with Upco, payment methods and times, delivery date and place, delivery terms and conditions.

"Parties" refers to Upco and / or the customer.

"Product (s)" shall mean the goods covered by the contract, indicated in the Purchase Order and confirmed in the Order Confirmation.

"Technology" means the technological solution related to the products and / or Processing owned by Upco, irrespective of the existence of intellectual property rights registered by Upco in relation to its technology.

3. PURCHASE ORDERS AND ORDER CONFIRMATION

- 3.1. Insofar as the order constitutes an offer within the meaning of § 145 BGB, Purchase Order shall be deemed binding if Upco confirms it in writing (sent by post, e-mail or fax) through an Order Confirmation issued by Upco's customer Service.
- 3.2. The customer has the right to revoke, annul or cancel, in whole or in part, a Purchase Order, within 7 (seven) days from the Order Confirmation. This right is waived if:
 - (a) Upco receives the cancellation notice less than 2 (two) months from the agreed delivery date;
 - (b) the Product is already in production or is already finished;
 - (c) the Product is not a standard Upco product.

If the request for cancellation is received by Upco 7 (seven) days after the Order Confirmation and/or the cases referred to in points a), b) and c) come into effect, the customer's request cannot be accepted and the customer will be required to pay the entire price of sale as agreed.

4. DELIVERIES

- 4.1. Delivery is conditioned upon timely and proper performance of all duties of the purchaser. Defences based on non-performance of the contract are reserved.
- 4.2. Upco will do its best to deliver the products within the timeframe agreed with the customer. In any case, all delivery dates indicated in the Order Confirmation are merely non-binding estimates of delivery time and are not essential. Upco will never be held liable in case of delays in delivery time.
- 4.3. If the purchaser demands shipment of the goods the risk of loss or damage to the goods passes to the purchaser upon dispatch, in accordance with the terms and conditions of delivery agreed between the Parties. In case of complaint related to loss or damage during transportation, the customer is required to promptly register the complaints on the shipping documents. Upco's liability for damages of any kind resulting from early, delayed or non-delivery, in whole or in part, is excluded.
- 4.4. In case of default in acceptance or other breach of duties to cooperate by the purchaser we are entitled to claim any resulting damage including but not limited to additional expenses, if any. Further damages are reserved. In this case, the risk of loss or damage to the goods passes to the purchaser at the time of such default or breach of duty to cooperate.

5. PRICES AND METHOD OF PAYMENT

- 5.1. For the supply and/or purchase of products, the customer is required to pay the price of sale specified in the Order Confirmation, within the terms and in the manner specified therein. Payment terms are essential. Prices are ex works, exclusive of the respective statutory VAT if not otherwise confirmed by Upco in writing (send by post, e-mail or fax).
- 5.2. Upco has the right to change prices of its products at any time without any notice to the customer. Upco is not required to provide an explanation for the changed circumstances. However, the price of the products ordered by the customer shall be invoiced based on the price indicated in the Order Confirmation.
- 5.3. The customer is obliged to make any payment in full even in case of objection and/or dispute on the Product or between the Parties, without any right to suspend and/or defer payments and/or raise exceptions of default.
- 5.4. The purchase price is due and payable net within 30 (thirty) days from the date of the invoice. From the due date default interest in the amount of 8% above the respective base interest rate p. a. shall accrue. We reserve all rights to claim further damages for delay. Moreover Upco bears the right to suspend and/or cancel the supply and delivery of products at any stage of the shipping; and/or to terminate the contract due for the deed and fault of the customer, without prejudice to Upco's right to request and obtain compensation from the customer for all damages suffered.

6. TRANSFER OF OWNERSHIP

The transfer of ownership of the products shall take place at the time of delivery of the finished Product, according to the agreed delivery terms (Incoterms).

7. GUARANTEES, QUALITY REQUIREMENTS AND TECHNICAL CHARACTERISTICS OF THE PRODUCTS

- 7.1. The customer recognizes that it considers that the products are suitable for the application it is intended to make. In case the products are unsuitable for the specific use that the customer had envisioned, the customer is still obliged to pay the agreed price of sale.
- 7.2. Upco only guarantees the conformity of the products with the Technical Specifications provided to the customer, which declares to well-known them. Upco guarantees that the products comply with related certifications.
- 7.3. Once an agreement has been reached, Upco shall provide advice and technical assistance as requested by the customer. Any advice or assistance request to Upco shall be provided under the guarantees agreed in these GCS.

8. RESPONSIBILITIES OF THE CUSTOMER UPON RECEIPT OF PRODUCTS - HANDLING OF COMPLAINTS

- 8.1. Upon receipt of the products, the customer is responsible for inspecting the products for tampering, theft, damage, any defect, lack of quality or discrepancy, even if attributable to transport. If such events are verified, the customer is required to promptly follow the instructions for registering complaints provided on the shipping documents.
- 8.2. Any complaint or report of defect must be communicated, under penalty of forfeiture and limitation, to Upco in writing by registered letter along with a return receipt and in any case within the Product's shelf-life period. The complaint must contain, under penalty of inadmissibility, the serial number of the Product deemed flawed or non-compliant, description and evidence of the problem encountered, and the Purchase Order number. If the customer does not provide the requested information and evidence, or does not comply with the deadlines, the claim/complaint cannot be accepted. Precondition for any warranty claim of the purchaser is the purchaser's full compliance with all requirements regarding inspection and objection established by sec. 377 HGB (German Commercial Code). Warranty claims shall be time-barred after 12 months of the passage of risk. In case of non-conformity of the goods the purchaser is entitled to alternative performance in the form of subsequent improvement or delivery of conforming goods.
- 8.3. In any case, Upco does not accept any return of products not previously authorized in writing.
- 8.4. The customer acknowledges and accepts that the conditions provided in this article, in the following article 9 and in general in the GCS, constitute the only remedies available. These remedies absorb and replace any other further remedies or legal or contractual warranties for defect or lack of quality and exclude any other possible liability of Upco, or any other explicit or implicit guarantee in relation to the products. Upco denies the validity of any other warranties of merchantability and/or fitness for specific use.

9. LIMITS AND EXCLUSION FROM LIABILITY

- 9.1. In any case, even if the non-conformity or defect reported by the customer is ascertained by Upco and/or by order of the competent court, Upco's liability shall be limited to the replacement of the products, with the exclusion of any other right on the part of the customer, including the right to claim termination of the contract or compensation for damages.

- 9.2. Upco's liability for indirect, special, consequential, loss of profit or lost profit, loss of business, damage to property or public image, customer or third-party claims is expressly excluded.
- 9.3. Upco will not be liable in any way towards the customer and /or third parties:
 - (a) in the event of use, application, storage, conservation and/or care of the products that is negligent and/or non-compliant with the Technical Specifications provided, or as a result of any treatment that is not specifically authorized in writing by Upco;
 - (b) if the products have been dismantled, modified or repaired by third parties;
 - (c) in the case of alteration and/or modification to the Product and/or its specifications;
 - (d) in case of use of the Product beyond its expiration date (shelf-life);
 - (e) in case of use of the Product for purposes other than those for which the Product was intended;
 - (f) in the event of damage caused by Force Majeure or unforeseeable circumstances or damage suffered during shipping and transportation.
- 9.4. In any case, Upco's guarantee cannot be invoked by the customer in relation to those defects that do not give rise to substantial limitations in the use of the products.
- 9.5. Our liability for culpable damage to life, body or health as well as our liability under the Product Liability Act shall remain unaffected.
- 9.6. In any case Upco will not be responsible for any other type of defect, lack of quality or non-conformity separate and additional to what is agreed in these General Conditions.

10. CUSTOMER DECLARATIONS AND RESPONSIBILITIES

- 10.1. The customer declares and acknowledges that the subject of the contract is the purchase and sale of products as described in the Technical Specifications documents. The final result of the customer's production process does not depend exclusively on the products, but also on the operations and conditions of storage and use of the products which are beyond Upco's direct control.
- 10.2. The customer assumes all responsibility vis-à-vis Upco and/or third parties and will relieve Upco from any claim arising out of or occasioned by the storage and/or use of the products not in compliance with what is agreed upon in these GCS.

11. PROHIBITION OF TRANSFER OF CLAIMS AND CONTRACT

- 11.1. The customer is not authorized to transfer any eventual claims or credit, if any, arising from the contract, and will be liable toward Upco for any breach.
- 11.2. The customer is prohibited from transferring, in whole or in part, the contract to third parties without prior written permission of Upco.

12. INTELLECTUAL PROPERTY

- 12.1. The term "Intellectual Property Rights" refers to any right relating to Technology, products, Processing, Know-How, Confidential Information, as well as any notes and/or laboratory work, patentable and non-patentable invention, patents, database rights, computer programs, design rights, trademarks, domain names, copyrights and associated information, and any other rights concerning any industrial or intellectual property related to Upco, its products or processes, whether or not registered, including all rights to claim such rights.
- 12.2. Without prejudice to the fact that the intellectual property rights pre-existing prior to the contract remain the property of the party holding them, Upco holds and shall retain ownership of the Intellectual Property Rights (referred to in the previous paragraph), the rights of ownership, the Confidential Information, the Know-How, the designs, drawings, technical specifications and any other proprietary information that it communicates to the customer in the execution or for the purpose of the contract. All Intellectual Property Rights, in any way consequent, deriving and/or connected to the execution of the contract, including any improvement, increase in quality, modification or development of the Technology, the Processing or the products, are the exclusive property of Upco. The customer shall also abstain from any act, including the filing of patents for inventions or models, which may involve disclosure of the Confidential Information and/or Know-How.
- 12.3. Upco shall in no way be liable for damages of any kind deriving from alleged or actual infringements of Intellectual Property Rights or other rights protected by law that may arise or be caused or attributed, directly or indirectly, to the execution of the contract with the customer. customer shall indemnify and hold Upco harmless from such damages and claims.
- 12.4. The contract and/or its execution does not provide for or imply, in any way, the transfer or licensing of Intellectual Property Rights of Upco to customer.

13. CONFIDENTIALITY

- 13.1. The customer shall commit to treat the Confidential Information and / or any other information or results resulting, deriving, connected and/or inherent to Upco, its products and its relations with Upco, as strictly confidential.
- 13.2. The customer shall also commit to take all measures to ensure and protect the confidentiality of the Confidential Information towards third parties.
- 13.3. In any case, should Upco deem it necessary, Upco shall have the customer sign a Confidentiality Agreement.

14. EXPRESS TERMINATION CLAUSE

- 14.1. Upco reserves the right to terminate by law and with immediate effect, through communication by registered letter in which it declares that it intends to avail itself of this clause, each individual contract and these General Conditions, in the event that:
 - (a) the customer is subject to any of the insolvency proceedings provided by the applicable laws in force or it is presumed, on the basis of unequivocal evidence, that it is about to be subject to such proceedings;
 - (b) the production and supply of the products has become impossible by order of the judicial and/or administrative authorities for reasons not attributable to Upco;
 - (c) it has become impossible for Upco to procure the raw materials for reasons not attributable to Upco.
- 14.2. In any case, Upco's right to claim compensation for damages remains unaffected.

15. UPKO WITHDRAWAL

- 15.1. Upco may, at its absolute discretion and without any need to provide any justification to the customer, by simple written notice, withdraw from all or part of the contract and these General Conditions or request the total or partial suspension of the supply, at any time.
- 15.2. In any case, Upco shall be entitled to the payment of the products delivered until the effective date of the withdrawal notice and shall commit itself to complete the supplies already in progress until the effective date of the withdrawal, on the understanding that all the products delivered until that date shall be regularly paid for.

16. CONSEQUENCES OF THE TERMINATION OF THE CONTRACT

- 16.1. In any event of dissolution or termination of the contract,
 - (a) Upco may cancel any Purchase Orders already issued and confirmed but still outstanding;
 - (b) the customer shall make all payments still due;
 - (c) Upco shall carry out the deliveries due.

17. FORCE MAJEURE

- 17.1. Upco shall be entitled to suspend the performance of its contractual obligations in the event of Force Majeure.
- 17.2. If Upco intends to make use of this article, it shall give written notice to the customer within 10 (ten) days of the occurrence of the Force Majeure event. Upco's obligations shall be deemed to be suspended for the entire duration of such Force Majeure event.
- 17.3. Should the Force Majeure event permanently prevent Upco's performance, in whole or in part, of one or more contracts, the customer shall be entitled to a reduction in its purchase obligations limited to the quantity of products for which supply has become permanently impossible but shall not be entitled to terminate the contract(s) in relation to the parts and/or quantities that can be performed.
- 17.4. In any case, Upco shall not be considered in default for any delay in the fulfilment of the contract if the delay is due to a case of Force Majeure or to acts and/or omissions of the customer (such as, by way of example, the lack of essential information for the proper supply of the products). In this case, Upco shall therefore not be required to pay any damages.
- 17.5. All damages suffered by the customer deriving directly or indirectly from Force Majeure events shall be borne by the same customer, who shall not be entitled to claim any compensation and/or indemnity from Upco.
- 17.6. Should the events of Force Majeure persist, or should they be expected to persist for a period of more than 30 (thirty) days, the Parties, in good faith and fairness, will meet to establish the criteria to be observed for the continuation or termination of the contract.

18. APPLICABLE LAW AND COMPETENT COURT

- 18.1. This contract shall be governed by the laws of the Federal Republic of Germany (excluding the UN Convention on contracts for the International Sale of Goods). Place of performance and exclusive place of jurisdiction for all disputes arising out of or in connection with this contract shall be Heroldstatt, Germany.
- 18.2. The customer shall not be entitled to suspend, even partially, the performance of its own obligations in case of legal disputes.

19. PRIVACY

All the activities referred to in the contract or in the General Conditions will be carried out by Upco and the customer in full compliance with current legislation on the protection of personal data and, in particular, with EU Regulation no. 2016/679.

20. MISCELLANEOUS

- 20.1. Unless otherwise specified in the contract or in these General Conditions, all required communications in respect of the contract or in the General Conditions will be made in writing and will be considered valid if delivered personally against receipt or sent by recorded delivery letter with return receipt or certified electronic mail.
- 20.2. For contractual and judicial purposes and disputes, the customer's legal domicile shall be deemed to be its registered office.
- 20.3. Upco's toleration, if any, of the customer's behavior in breach of the agreements of these GCS and/or of the contract, shall not constitute a waiver of Upco's right to demand the timely observance of the agreements and to assert its rights relating to such agreements.
- 20.4. The invalidity and/or ineffectiveness, even partial, of an article of these GCS shall not result in the invalidity and/or ineffectiveness of the clause that is valid and effective, which shall therefore remain valid and effective as far as possible according to law.