

**I. Sphere of Application of International Terms & Conditions of Sale**

1. These International Terms & Conditions of Sale apply to all business conducted with Customers of our company who maintain their principal place of business outside Germany. Our General Terms & Conditions, which are available upon request, apply to business conducted with Customers located in Germany. The choice of Terms & Conditions of Sale will depend upon the location of the entity that orders the goods in its own name.
2. These International Terms & Conditions of Sale will apply to the present contract and all subsequent contracts in which the preponderant part of our obligations consists in the supply of goods. Any further obligations entered into by us will not affect the validity of these International Terms & Conditions of Sale.
3. We will not accept any terms and conditions of the Customer that conflict with or differ from these Terms & Conditions of Sale even if we do not expressly object to such terms and conditions or accept performance from or render performance to the Customer despite the existence of such terms and conditions. Regardless of the content of these International Conditions of Sale, we will also not be bound by any terms and conditions of the Customer that do not comply with applicable legislation.
4. These International Terms & Conditions of Sale will not apply if the Customer acquires the goods for personal use or for by his or her family or in his or her household and was or should have been aware of the intended use at the time of placement of the order.

**II. Placement of Orders**

1. The Customer must notify us accordingly in writing prior to placement of an order if the contemplated intensity of use of the goods will exceed our recommendations, if the goods will not be used exclusively for the purposes for which they would ordinarily be used or if they will be used under unusual conditions that entail special risks to health, safety or the environment.
2. The Customer must submit orders in writing. In the event of any discrepancy between the Customer's order and our recommendations or quotation, the Customer must make any such discrepancy especially obvious when placing an order.
3. All orders, including but not limited to orders accepted by our employees, will become effective only if acceptance is confirmed by us in writing. Neither actual delivery of goods ordered nor any other acts or omissions on our part will constitute execution of an agreement. We reserve the right to issue notification of acceptance of orders received from the Customer up to 14 calendar days from the time of receipt of the order. Orders may not be cancelled prior to expiration of that period.
4. Written confirmation of orders will be considered to have been received by the Customer on a timely basis if received within 14 calendar days of the date of issuance. The Customer must notify us without delay if written confirmation of acceptance is received after that 14-day period.
5. Our written notification of acceptance of the Customer's order will be determinative for the purposes of definition of the scope of the entire content of the order and form a contract between the Parties even if it otherwise, except as regards purchase price and quantity, deviates from the instructions of the Customer, in particular as regards exclusive application of these International Terms & Conditions of Sale. Special wishes of the Customer and any representations or warranties made by us in respect of the goods or performance of the order must be explicitly confirmed in writing by us. Regardless of the nature and scope of deviations, a contract will not come into

being only if the Customer notifies us of such deviations in writing within a week after receipt of confirmation of acceptance of the order.

6. Our employees, sales representatives or other agents are not authorized to waive written confirmation of acceptance of any order by us or make any promises or give any warranties that deviate from such written confirmation of acceptance. Any change in an order that has been accepted must also be confirmed in writing by us.

### III. Obligations of the UYAR Group

1. Subject to the proviso of exemption from liability pursuant to Section VII below, we will undertake to deliver the goods specified in our written notification of acceptance of the Customer's order. We are under no obligation to perform any services that are not specified in the written confirmation of the order or these International Terms & Conditions of Sale. We can assume no obligation in connection with the sale or marketing of the goods outside Germany.
2. Our obligations arising from the contract entered into with the Customer exist exclusively towards the Customer. Third parties, including but not limited to customers of the Customer, may not require that we make delivery to them or bring any other claims of a contractual nature against us. The Customer will also remain responsible for acceptance of goods if the Customer assigns its rights to a third party. The Customer agrees to hold us harmless from any claims brought against us by third parties in connection with any agreements entered into with third parties by the Customer. This will also include in particular indemnification for any expenses incurred by us.
3. We agree to deliver products of average kind and quality that meet usual commercial tolerances as regards type, quantity, quality and packaging. We reserve the right to make partial delivery and invoice partial shipments separately.
4. In the event the description of the goods is insufficiently precise, we will make assumptions as regards the specifications on the basis of the discernible and legitimate interests of the Customer. We will be under no obligation to request further specifications from the Customer or assist in the definition of such specifications. We will be under no obligation to notify the Customer of specifications chosen or give the Customer an opportunity provide other specifications.
5. We will make the goods available for collection by the Customer at our principal place of business in Halle in Westphalia, Germany, (hereinafter referred to as: Halle) at the agreed time of delivery. We will be under no obligation to identify or mark the goods or notify the Customer of their availability. We will be under no obligation to organize shipment of or insure the goods. Delivery will without exception take place ex works Halle, Germany (Incoterms 2010).
6. Compliance with delivery dates or times will presuppose that the Customer has provided all documents, permits, approvals or licenses on a timely basis, obtained letters of credit and made payments on account as agreed and fulfilled all other obligations incumbent upon the Customer in a timely manner. Delivery periods will otherwise commence as of the date of our written notification of acceptance of the order. We reserve the right to make delivery prior to the agreed time of delivery.
7. Without prejudice to any further rights we may have under the law, we may fulfill our contractual obligations after the agreed time if the Customer is notified accordingly and informed of the duration of the delay. In the event any such situation should arise, we may make several attempts to fulfill our contractual obligations. The Customer may refuse to accept such attempts with appropriate notice if it would be unreasonable to expect the Customer to tolerate such further attempts. Such notice must be received from the Customer prior to commencement of attempts to fulfill our contractual obligations.

8. We will be under no obligation to pay any fees incurred outside Halle, Germany, to comply with any systems of weights and measures, identification or labeling regulations or registration or certification requirements in effect outside Halle, Germany, or to take back packing materials to comply with any laws or regulations governing waste disposal.
9. Without prejudice to any further rights we may have under the law, we reserve the right to suspend performance of our obligations under this contract if we should have reasonable grounds to expect that the Customer will fail to perform any or all of its obligations under the contract. We may exercise our right to suspend performance in particular if the Customer should fail to meet its payment obligations towards us or any third party in full or fail to make payment to us or any third party in a timely manner or if the limit set by a credit insurer has been exceeded or will be exceeded with the pending order. Instead of suspension of performance, we may at our sole discretion also make future shipments that have already been confirmed contingent on the issuance of a letter of credit or payment in advance. We will be under no obligation to continue to fulfill our obligations in the event security provided by the Customer to avert suspension of performance by us is inadequate or could be contested under applicable law.

#### **IV. Price, Payment and Acceptance of Goods**

1. Without prejudice to any further obligations to secure payment, the Customer agrees to pay the agreed purchase price in full through the financial institution designated by us in the currency specified in our notification of confirmation of acceptance of the order without deduction of any fees or charges. We reserve the right to take into account any increases in costs occurring in the meantime and adjust prices accordingly in the event delivery is not made within four months after acceptance of the order. In the case of invoices based on list prices, we will include the relevant price list with the shipment. The contract will also enter into force and effect in the event no price has been agreed; we will in any such case then apply our usual prices in effect as of the agreed time of delivery. Our employees, sales representatives or other agents are not authorized to accept payment on our behalf.
2. Payment will be due as of the date specified in the written confirmation of acceptance of the order or, alternatively, upon receipt of the invoice. Payment will become due as of that date regardless of whether or not the Customer has already received the goods and/or documents and/or had an opportunity to inspect the goods and/or documents. Terms of payment will become void and all outstanding amounts due immediately in the case of initiation of insolvency proceedings in respect of the assets of the Customer, if the Customer should fail to meet its obligations towards us without good reason, if the Customer should provide misleading information in respect of its creditworthiness or if the amount guaranteed by a credit insurer is reduced for reasons beyond our control.
3. The Customer warrants that all conditions have been fulfilled for delivery without application of value-added tax as seen from the German perspective. Insofar as we have not received proof of tax-free export delivery or must pay value-added tax due to the nature of delivery or circumstances that can be attributed to the Customer, the Customer will hold us completely harmless without prejudice to any further claims we may have. The obligations contained in this hold harmless clause are undertaken by the Customer unconditionally and without reservation, including but not limited to waiver of any right to plead limitation, and also include reimbursement of costs and expenses incurred by us.
4. We reserve the right to credit payments received towards amounts due by the Customer by virtue of our own or rights or rights assigned to us as of the time of receipt of such payments at our sole discretion.
5. The Customer waives any legal rights to set off its claims against our claims unless such counter-

claims are denominated in the same currency, are held by the Customer in its own right and are either legally enforceable or due and undisputed or have been acknowledged by us in writing.

6. The Customer waives any legal rights to withhold or contest payment or assert counterclaims unless we are in serious breach of our obligations under the same contract and have failed to remedy such breach despite being requested to do so in writing and have not offered appropriate security.
7. The Customer agrees to accept the goods at the agreed time of delivery in Halle, Germany, and not postpone acceptance. The Customer may refuse to accept delivery only after exercising its rights to cancel the contract pursuant to the provisions contained in Section VI.1.

#### **V. Conformity of Goods and Third-Party Rights**

1. Without prejudice to any waiver or limitation of our responsibility under the law, the goods will be considered to lack conformity if the Customer can provide proof to the effect that the packaging, quantity, quality or nature of the goods deviates significantly from the specifications set forth in the written notification of acceptance of the order or are not fit for the purposes for which such are used in Halle, Germany, due to failure to comply with the agreed specifications. In the event of any lack of conformity of the goods with any provisions of law or regulations applicable in Halle, German, the goods will nevertheless not be considered to lack conformity if general use of the goods is not prohibited by provisions of law or regulations in effect in the jurisdiction of the registered place of business of the Customer.
2. Unless stipulated otherwise in our written confirmation of acceptance of the order, we make no warranty that the goods are fit for any purposes other than those for which goods of the same description would ordinarily be used in Halle, Germany, fulfill any further expectations of the Customer or comply with legal requirements outside Halle, Germany.
3. In the event the Customer should attempt to eliminate any lack of conformity or have any such lack of conformity eliminated by a third party without our consent, we will be released from our warranty obligations.
4. The Customer will inspect the goods for completeness and compliance with the provisions of law at the time of delivery and thoroughly examine each individual shipment to determine the presence of any obvious or typical lack of conformity.
5. Without prejudice to any other legal rights we may have, rights or claims of third parties based on industrial property or other intellectual property will constitute a defect of title only if such rights have been registered and published in Germany. Notwithstanding any provisions of law or regulations in effect in Germany, title to the goods will not be considered defective if the goods can be legally used within the jurisdiction of the principal place of business of the Customer.
6. The Customer must notify us in writing without delay of any lack of conformity as required by law. Our employees, sales representatives or other agents are not authorized to accept notices or extend warranties on our behalf.
7. The Customer may seek remedy as provided in these International Terms & Conditions of Sale after giving proper notification pursuant to this subsection 6. The Customer may bring no further claims of a non-contractual nature. In the event we should satisfy any claim brought by the Customer in connection with such remedies, this will not entail extension of any guarantee or warranty. The Customer's remedies in the case of a defect of title will become time-barred under the same conditions that apply in the case of remedies for defects in materials and workmanship. In the case of failure to make proper notification, the Customer may rely upon remedies only insofar as we have intentionally concealed defects in materials, workmanship or title. Our acknowledgement of any

defects in materials and workmanship or defects of title will serve only to clarify the situation, but will not, however, constitute any waiver of the duty to make proper notification.

8. Insofar as the Customer is entitled to legal remedies in the case of delivery of defective goods and/or goods encumbered by the rights of others under the provisions of these International Terms & Conditions of Sale, the Customer may require replacement or remedy of any lack of conformity by us or a reduction in the price of the goods pursuant to the provisions of the United Nations Convention on Contracts for the International Sale of Goods. The Customer may bring no further claims. Notwithstanding the remedies available to the Customer, we reserve the right to remedy any lack of conformity pursuant to Section III.7 or provide replacement or issue a credit in an appropriate amount in lieu of any remedy to which the Customer might otherwise be entitled.

## **VI. Declaration of Avoidance**

1. The Customer may declare the contract avoided if the legal conditions for declaration of avoidance have been fulfilled, the Customer has notified us in writing of its intention to declare the contract avoided and we fail to perform our obligations within the additional period of time fixed for such purpose by the Customer and communicated to us in writing. In the event the Customer claims replacement, remedy of lack of conformity or performance, the Customer will fix a reasonable period of time for performance before declaring the contract avoided. The Customer may declare the contract avoided and inform us accordingly in writing within a reasonable period of time.
2. Without prejudice to any other legal rights we may have, we may declare the contract, or any part thereof, avoided if the Customer refuses to accept these International Terms & Conditions of Sale, if the Customer fails to receive our written confirmation of acceptance of the order within 14 calendar days of its date of issuance, if insolvency proceedings are initiated in respect of the assets of the Customer, if the Customer fails to perform any of its material obligations towards us or any third parties for a reason attributable to the Customer, if the Customer should provide misleading information on its creditworthiness or if the amount guaranteed by a credit insurer is reduced for reasons beyond our control, if, through no fault of our own, our suppliers fail to make delivery as agreed or fail to make delivery on time or if we cannot be expected to perform our obligations with reasonable effort and expense for other reasons.

## **VII. Damages**

1. The Customer may claim damages under the contract and/or on the basis of contractual negotiations only under the following conditions:
  - a) The Customer must first seek other remedies and may claim damages only for any residual loss.
  - b) We will not be liable for the actions of suppliers or subcontractors or for any loss or damage to which the Customer has contributed. We will also not be liable for disruptions due to natural disasters or political occurrences, governmental measures, labour disputes, sabotage, accidents, terrorist acts or other circumstances beyond our reasonable control. Our liability will otherwise be limited to intentional or grossly negligent breach of existing contractual obligations towards the Customer on the part of our directors, officers or employees.
  - c) In the case of any liability on our part, we will indemnify the Customer within the limits pursuant to subparagraph d) et seq. insofar as the loss proven by the Customer could not have been avoided by the Customer and the occurrence and amount of the loss resulting from a breach of our obligations could have been foreseen by us at the time of execution of the contract. The Customer must notify us in writing of any special risks or possible atypical or unusually high losses prior to execution of the contract. The Customer must also take action to contain losses as soon as any lack of conformity of the goods is recognized or recognizable.

- d) We will not be liable for loss of profit or immaterial losses.
- e) Damages for delayed delivery or failure to make delivery will be limited to 0.5% for each week of delay or any fraction thereof, not to exceed a maximum of 5% of the purchase price of the respective shipment.

Liability for claims due to other causes will be limited to an amount equal to twice that of the price of the respective shipment.

The subsections above will not apply in the case of willful misconduct or gross negligence on the part of our directors, officers or managerial employees.

- f) Our liability for any loss or damage attributable to any breach of contractual obligations on our part will be limited to that provided for under these International Terms & Conditions of Sale. The Customer may not maintain concurrent causes of action, including in particular causes of a non-contractual nature. In addition, the Customer may not hold our employees, representatives and/or agents personally liable for any breach of our obligations.
- g) In the case of claims that have not become time-barred, any legal action by the Customer to claim damages must be taken within a period of six months. This period will commence upon rejection of the claim for damages by us.

2. Without prejudice to further claims under the law or this contract, the Customer will be liable for damages as specified below:

- a) If we fail to receive payment when due, the Customer will reimburse us for the usual costs of judicial and non-judicial enforcement incurred in Germany and abroad and pay interest at the rate for unsecured short-term loans denominated in the agreed currency prevailing in Halle, Germany, but not less than 9 percentage points above the base interest rate of the ECB.
- b) In the event of any significant delay in delivery for reasons attributable to the Customer or failure of the Customer to take delivery, we reserve the right to claim damages in the amount of a flat 9% of the value of the respective shipment.

#### **VIII. Miscellaneous**

- 1. We will retain ownership of all goods after delivery until all outstanding amounts due by the Customer are paid in full.
- 2. We retain all rights of ownership, copyright and other industrial rights and intellectual property as well as rights arising from know-how in illustrations, drawings, calculations and other documents and software made available by us in physical or electronic form.
- 3. Without prejudice to any further rights we may have, the Customer will hold us harmless from all claims of third parties brought against us under legislation governing product liability or similar legislation insofar as such liability arises from circumstances – such as, for example, the presentation of the product – that are determined by the Customer or other third parties without our explicit written consent. This hold harmless clause covers in particular reimbursement of costs and expenses incurred by us and is given unconditionally and without reservation by the Customer, who also waives in particular compliance with any control or recall requirements and the right to plead limitation.
- 4. All communication, statements, notices, etc., may be made only in the German or English languages. Communication by facsimile or e-mail will satisfy the written form requirement.

#### **IX. Limitation Periods**

1. Claims of the Customer arising from defects will become time-barred one year after delivery. This will apply equally to defects in materials and workmanship as well as to defects of title.

The limitation period pursuant to Section VII.1 of these Terms & Conditions of Sale will remain unaffected.

2. Limitation will otherwise be governed by the provisions of German substantive law (German Civil Code).

#### **X. General Contractual Bases**

1. Halle, Germany, is the place of performance for all obligations arising from the contract. This provision will also apply if we assume the cost of payment transactions, perform services for the Customer elsewhere or payment is due upon delivery of the goods or documents or a transaction is reversed. We may also bring action against the Customer to enforce payment before the jurisdictional courts of the Customer's place of business.
2. Transactions with the Customer will be governed by the English-language version of the U.N. Convention on Contracts for the International Sale of Goods (CISG) of 11 April 1980 and customary practice in Halle, Germany. The Convention will apply to all contracts or agreements covered by these International Terms & Conditions of Sale beyond its sphere of application and regardless of any contractual provisos. In the case of the use of commercial terms, the Incoterms 2010 of the International Chamber of Commerce will apply, taking into account the understandings contained in these International Terms & Conditions of Sale.
3. The Parties consent to the jurisdiction of the courts of Halle, Germany.
4. In the event any provision of these International Terms & Conditions of Sale should be or become invalid, in its entirety or in part, the remaining provisions will remain valid. The Parties to the contract will then replace the invalid provision by a valid provision that most closely approximates the economic intent and purpose of any such invalid provision.