

销售和交付的一般条件 (“销售条件”)

1. 适用范围: 我方的货物和服务的交付仅受本销售条件以及所适用的成文法律的约束。与此不一致的条款, 包括买方的任何通用条件仅在我方以书面文件确认后方才具有约束力。我方交付货物、履行服务或接受付款不构成我方对本销售条件以及所适用成文法律不一致的条款的确认。

2. 报价、合同: 我方做出的报价待确认后方才生效。合同的正式成立仅以我方书面确认订单或履行订单为准。

3. 形式:

3.1 为本销售条件之目的, (a) “书面”指以文本形式(包括电子邮件、传真、电脑生成的信件及电报), 及 (b) “书面文件”指手签文件。对本销售条件(包括本 3.1 条)的任何修改或补充, 对合同的任何终止或协议解除必须以书面文件作出。

3.2 其他声明和通知必须以书面形式作出。**4. 价格:** 除非另有书面约定, 我方的价格是指出厂价并且不包括包装费用。

增值税应由买方按照在发票签发日期有效的法定税率额外支付。

5. 付款、抵销: **5.1** 除非另有书面约定, 买方应最迟在货物交付或服务履行后五(5)日内向

我方付款。

5.2 买方的抵销请求只有在该请求不存在争议或得到有管辖权法院的最终决定支持后方可实施。

6. 履行地点、运输、风险: **6.1** 除以书面文件形式另有约定外, 交付地或履行地应为我方的生产或储存

地。除第 6.2 款另有规定外, 货物的风险自交付时从我方转移给买方。**6.2** 除以书面文件另有约定外, 若约定货物运输的, 则我方应运输货物但风

险由买方承担。此外, 我方应决定运输的方式、路线和承运人。

7. 部分交付和履行: 我方应被允许在合理的范围内的部分交付和履行。**8. 交付时间、延误:**

8.1 若我方未遵守约定的交货或履行时间或未及时履行其他合同义务, 买方应另行书面同意给予我方一个合理长的额外交付或履行期限, 上述期限应至少为三(3)周。

8.2 若交付或履行在上述额外交付或履行期限届满时仍未发生, 买方可以有权解除合同或要求我方继续交付/履行。买方应依照我方的要求在合理时间内书面通知我方其是否打算因延误而解除合同和/或坚持要求予以交付/履行。如果买方坚持要求予以交付/履行, 买方应书面同意给予我方另一个合理的交付/履行期限。

9. 运输保险: 除以书面文件形式另有约定外, 我方被授权代表买方投保适当的运输保险(费用由买方承担), 投保金额至少相当于货物的发票金额。

10. 所有权保留: **10.1** 出售的货物应保留为我方的财产直至我方因买方的业务关系而产生的所

有请求得到满足。

10.2 若货物已被买方加工, 我方的所有权保留应延伸至新产品。若货物已被买方与其他方的货物一起加工、结合或混合, 我方要求按照代表我方货物的发票金额与其他被加工、结合或混合的货物的总金额的比例, 对新产品按照比例确定的部分享有共有所有权。

10.3 若我方货物与买方或任何第三方的货物结合或混合, 买方在此将其与新 产品有关的权利转让给我方。若买方将我方货物与第三方的货物结合或混合而获得款项, 买方在此将其从第三方获得款项的权利转让给我方。

10.4 在日常经营过程中, 买方可以转售我方保留所有权的任何货物, 或对新 产品进行销售。若在上述销售/转售中买方未提前收到或在货物或新产品交付时未收到全部采购价格的, 买方应按照本销售条件中所有权保留条款的相同规定与其客户约定权利保留安排。买方在此将源自于上述销售/转售的所有请求权以及源自于上述所有权保留安排的权利一并转让给我方。经我方要求, 买方应通知其客户存在以上权利转让并向我方提供为执行我方权利所必需的信息和文件。尽管有以上规定, 只有当买方完全履行对我方所负的责任时, 买方才有权就上述销售/转售收取货款。

10.5 一旦授予我方的担保权益超过我方主张的金额, 我方应根据买方的要求解除我方认为合适的担保权益。我方行使所有权保留权只有经我方事先书面同意时方可额外被视为对合同的解除。

11. 不可抗力: 不可抗力的情况应免除我方交付和履行的义务。就此, 不可抗力包括但不限于我方遭受自然灾害、火灾、爆炸、能源或原材料供应不足、劳资 纠纷、政府法令、交通瘫痪或我方营运瘫痪。此外, 如果我方供应商或关联方遭受上述任何不可抗力的影响, 我方应同样被免除交付和履行义务。“关联方”一词系指直接或间接, 由我方控制、控制我方、或与我方一起受共同控制的任何实体(无论在何地注册成立)。“控制”系指拥有某实体百分之五十(50%)或以上有表决权的股份, 或拥有委派某实体大多数董事的权力, 或拥有指导某实体管理或政策的能力或导致对该实体的管理或政策的指导的能力。

12. 产品信息: 除非另有书面约定, 我方货物的合同约定特性应排他地按照我方最新的产品规格确定。任何关于性能、持久性和其他数据的信息仅在我方以书面文件同意和表示的情况下方才视为我方的保证。有关货物、设备、工厂、应用、工艺及工艺说明的书面和口头信息系基于在应用工程方面的研究和经验而作出。我方提供的上述信息就我方所知是准确的, 但我方有权对其进行修改和进一步改进, 且上述信息不应具有约束性。上述规定不应免除买方检验我方货物用于买方拟议目的的适用性的义务。除非以书面文件形式另有同意或者成文法律另有强制性要求, 我方不向买方保证我方货物不会侵犯任何第三方的知识产权。

13. 投诉: 所有投诉, 尤其是关于瑕疵主张及交货短缺的投诉, 必须毫不延误地书面提交给我方, 最迟不晚于货物交付后十

(10)日内, 或者对于潜在的瑕疵, 应不迟于该瑕疵被发现之日或通过合理检查应当被发现之日起的五(5)日内。若买方没有在上述期限内或没有按照约定的方式将投诉告知我方, 则在在不合规的通知中提到的我方货物或服务应视为已按合同约定交付或履行。若买方明知存在瑕疵且接受我方的货物或服务, 则只有当买方在交付之时书面表示保留权利的情况下方有权就该瑕疵主张权利。

14. 买方就瑕疵的权利:

14.1 如果合同约定的我方货物和服务的特性仅存在非实质性的损害, 买方无权就我方货物或服务的瑕疵获得补偿。若对交付的货物或服务正当地提出瑕疵主张请求, 我方保留依我方自行决定调换或修理货物或服务的权利。我方应总是被给予合理的时间以进行该等调换或者修理。若我方的修理或调换无法弥补瑕疵的, 买方应有权要求相应调整购买价格或解除合同。

14.2 此外, 买方可依据成文法律要求获得损害赔偿金并要求补偿为修理或调换而实际发生且必要的实际费用支出。补偿的实际费用支出不包括因将货物运输至最初约定的交付地点之外的其他地点所增加的费用。为避免疑义, 本销售条件第15条的规定应适用于本第14.2条项下的赔偿金以及补偿请求。

14.3 只有当买方与其客户就瑕疵达成的协议未超越成文法律规定的权利, 买方才可以按照成文法律的规定向我方提出索赔。

15. 责任:

15.1 不论法律基础如何, 也不论是否违反合同义务和/或源于侵权行为, 只有当(i)我方、我方法定代表、我方职员或我方为履行义务而雇佣的人员存在故意不当行为或重大过失, 或者(ii)我方违反合同义务妨碍了构成合同的主旨并且买方依赖于或有权依赖于该义务(实质义务)的履行, 我方、我方的法定代表人、职员和我方为履行我方义务而雇佣的人员方才应向买方承担损害赔偿以及费用补偿的责任。若在违反实质义务中仅存在轻度过失, 我方的损害赔偿赔偿责任应仅限于按本合同属性可预见的典型损害金额, 最高不超过十万(100,000)欧元或等值货币或如果所涉货物或服务的发票价值超过十万(100,000)欧元或等值货币, 则最高不超过该价值的两倍。

15.2 上述损害赔偿除外责任或责任限制不适用于对生命、身体或健康的损害的责任, 或其他法定强制性责任。

16. 诉讼时效: 有关产品瑕疵、保证、损害或费用补偿索赔以及双方之间其他争议的诉讼时效应排他地适用中华人民共和国法律法规的强制性规定。

17. 遵守成文法规、出口及海关法规、赔偿、解除: 17.1 除非另行以书面文件约定, 买方应有责任遵守货物进口、运输、储存、

使用、配送和出口方面的法定和监管要求。

特别是(但不限于)买方不得为下述目的或在下述情形下使用、销售或以其它方式处置任何货物: 开发或生产生物、化学或核武器; 非法生产毒品; 违反禁运; 违反任何法定的登记或通知要求; 或未获得相关法律法规要求的所有相关许可。对于任何因买方违反其上述义务所导致的或与之相关的任何索赔、违约金、成本、费用支出、责任、损失、权力主张或诉讼, 买方应赔偿我方并令

我方免受损害。

17.2 如果在交付/履行时我方的货物和服务的出口被要求获得法律法规或监管机构规定的批准, 但经我方请求未获得出口批准, 我方应有权解除合同。买方不因我方延迟取得主管政府机关的批准而享有主张损害赔偿的权利。

17.3 如果在交付时适用某项贸易禁令或者需要进行产品登记但是在交付/履行时未申请登记或者登记未被批准, 我方亦有权解除合同。

17.4 如果购买的货物因优惠原产地而可以享受关税优惠, 我方将尽力(但无义务)按照相关适用法律法规的规定提供有效的原产地证书。

18. 司法管辖地: 因本销售条款引起的或与之相关的任何争议, 应仅根据我们的注册地址所在的西班牙法律和司法管辖区, 并因此根据欧盟法律和法规进行(并且在英国脱欧的情况下)成功)。如果我们针对购买者提起法律诉讼, 我们还可以选择在我们自行决定的司法管辖区或购买者或我们的注册地址所在的司法管辖区提起法律诉讼。

19. 适用法律: 合同和与买方的法律关系应受西班牙王国法律的管辖, 联合国国际货物销售合同公约不适用

20. 贸易条款: 若双方根据国际贸易术语(INCOTERMS)约定了任何贸易条款, 则应适用2010国际贸易术语(INCOTERMS 2010)并按其解释。

21. 可分割性: 若本销售条件的全部或部分被认定为无效, 则其余条款的效力应不受影响。

如果对本文档和/或本文档的解释有歧义, 以英文本为准。

General Conditions of Sale and Delivery ("Conditions of Sale")

1. Scope of Application: Our delivery of goods and services are subject to these Conditions of Sale and additionally the applicable statutory law only. Terms that vary therefrom, including any general conditions of purchaser, shall only be considered binding if they have been confirmed by us in written form. Our delivery of goods, performance of services or acceptance of payments does not constitute acceptance on our part of terms that vary from these Conditions of Sale and the applicable statutory law.

2. Offers, Contracts: Our offers are made subject to confirmation. A contract is only formed when we give order confirmation in writing or when orders are fulfilled by us.

3. Form:

3.1 For the purposes of these Conditions of Sale, (a) "in writing" means in text form (including email, facsimile, computer-generated letters and telegrams), and (b) "written form" means a hand-signed document. Any amendment or supplement to these Conditions of Sale including this Section 3.1, and any termination or mutually agreed cancellation of a contract shall be made in written form.

3.2 Other statements and notices shall be made in writing.

4. Prices: Unless otherwise agreed in writing, our prices are quoted ex works and do not include the packaging costs. Value added tax shall be payable additionally by purchaser at the statutory rate in effect on the invoice date.

5. Payment, Set-off: 5.1 Unless agreed otherwise in writing, payment to us by purchaser shall be effected latest five (5) days after the delivery or the performance of services.

5.2 Set-off by purchaser is permitted only for claims that are undisputed or have been upheld by final decision of a court of competent jurisdiction.

6. Place of Performance, Shipment, Risk:

6.1 Unless otherwise agreed in written form, the place of delivery or performance shall be our place of production or storage. Except the provision under Section 6.2, the risk of the goods shall be transferred from us to purchaser upon delivery.

6.2 If shipment has been agreed to be included, we shall ship the goods at purchaser's risk unless otherwise agreed in written form. Furthermore, we shall determine the manner of shipment, shipment route and carrier.

7. Partial Delivery and Performance: Partial delivery and performance by us shall to a reasonable extent be permitted.

8. Delivery Schedules, Delay:

8.1 If we fail to comply with the agreed schedules of delivery or performance or other contractual obligations on time,

purchaser shall grant us in writing an additional delivery or performance period of reasonable length, such period to be at least three (3) weeks.

8.2 If delivery or performance does not take place by the end of the additional delivery or performance period, purchaser shall be entitled to rescind the contract or request us to continue the delivery/performance. Purchaser shall, upon our request, notify us in writing within a reasonable time period, whether purchaser intends, as a result of the delay, to rescind the contract and/or insist on the delivery/performance by us. If Purchaser insists on delivery/performance, purchaser shall grant us in writing a further reasonable period for delivery /performance.

9. Transport Insurance: Unless otherwise agreed in written form, we are authorized to obtain appropriate transport insurance on behalf and at the expense of purchaser in an amount at least equal to the invoiced value of the goods.

10. Retention of Title: 10.1 The goods sold shall remain our property until all our claims against purchaser arising from our business relationship with purchaser have been satisfied.

10.2 If the goods have been processed by purchaser, our retention of title shall extend to the new products. If the goods have been processed, combined or mixed by purchaser with goods of others, we acquire joint title pro rata to that part of the new products representing the invoiced value of our goods in relation to the total value of the other goods which have been processed, combined or mixed.

10.3 In the event our goods are combined or mixed with goods of purchaser or of any third party, purchaser hereby assigns to us its rights with regard to the new products. If purchaser combines or mixes our goods with goods of a third party for payment, purchaser hereby assigns to us its right to payment from such third party.

10.4 Purchaser may, in the ordinary course of its business, resell any goods that are subject to our retention of title or sell the new products. If, upon such sale/resale, purchaser does not receive the full purchase price in advance or upon delivery of such goods or new products, purchaser shall agree with its customer a retention of title arrangement on the same terms as set out herein. Purchaser hereby assigns to us all its claims arising from such sale/resale and its rights arising from the said retention of title arrangement. Upon our request, purchaser shall inform its customer of such assignment of rights and provide us with the information and documents necessary to enforce our rights. Notwithstanding the foregoing, purchaser shall only be entitled to collect payments from claims arising from such sale/resale if purchaser has satisfied its liabilities to us.

10.5 In the event that the security interests granted to us exceed the value of our claims, we shall, upon request of purchaser, release such security interests, as we deem appropriate. The exercise of our right of retention of title may only be regarded additionally as a rescission with our prior consent made in writing.

11. Force Majeure: Conditions of force majeure shall release

us from our delivery and performance obligations. In this respect, the force majeure shall include but not limited to the act of gods, fire, explosion, shortage of energy or raw material supplies, industrial disputes, governmental decrees, breakdown of transport or of our operations. Furthermore, we shall be released from our delivery and performance obligations if our sub-suppliers or affiliates are affected by any of the above force majeure. The term "affiliate" here shall mean any entity, wherever incorporated, which is, directly or indirectly controlled by, controls or is under common control with us; the term "control" here means being the ability to exercise more than fifty percent (50%) of the voting stock of an entity, or to appoint a majority of the board of directors of an entity, or to direct or cause the direction of the management or policy of an entity.

12. Product Information: Unless otherwise agreed in writing, the contractual characteristics of our goods shall be exclusively based on our product specifications in their current version. Any information about properties, durability and other data shall be deemed to be guarantees only if they are agreed and indicated by us as such in written form. Written and verbal information about goods, equipment, plant, applications, processes and process instructions is based on research and experience in the field of applied engineering. We provide such information, which is accurate to the best of our knowledge; subject to our right to modify and further develop it and such information shall not be binding. The aforesaid shall not release purchaser of its obligation to verify the suitability of our goods for the use intended by purchaser. Unless otherwise agreed in written form or mandatorily required by statutory law, we do not warrant to purchaser that our goods will not infringe the intellectual property rights of any third party.

13. Complaints: All claims, particularly those relating to defects and delivery shortfalls, must be submitted to us in writing without delay, but not later than ten (10) days from the delivery of goods or, in the case of latent defects, within five (5) days from the date such defect(s) is discovered or should have been discovered through reasonable investigation. If purchaser does not notify us of claims within such time period or in the agreed form, our goods or services referred to in such non-compliant notice shall be deemed to be delivered or performed in accordance with the contract. If purchaser, knowing of defects, accepts our goods or services, purchaser shall only be entitled to raise a claim for such defects if purchaser has reserved such rights in writing at the time of delivery.

14. Rights of Purchaser in Case of Defects:

14.1 Purchaser shall have no right to remedies for a defect in our goods or services if the contractually agreed characteristics of the goods and services are only unsubstantial impaired. In the event of justified and rightfully raised defect claims of the delivered goods or services, we reserve the right, solely at our discretion, to either replace or repair the goods or services. We shall always be granted reasonable time to provide such replacement or repair. If our repair or replacement fails to remedy the defects, purchaser shall be entitled to either adjust the purchase price respectively or rescind.

14.2 Furthermore, purchaser may claim pursuant to statutory

law damages and refund of its actual out-of-pocket expenses necessary for the purpose of repair or replacement. Refund shall be precluded should such expenses be increased because the goods were later transported to a place other than the delivery place originally agreed. For the avoidance of doubt, Section 15 shall apply to claims for damages and refund under this Section 14.2.

14.3 Claims by purchaser against us pursuant to statutory law can only be made to the extent purchaser has not agreed with its customers on provisions exceeding the statutory rights in cases of defects.

15. Liability:

15.1 We, our legal representatives, employees, and persons employed to perform our obligations shall only be liable for damages and claims for expenses of purchaser, irrespective of the legal basis therefor, whether based on breach of obligations deriving from the contract and/or tort, (i) in the event of intentional misconduct or gross negligence on our part, the part of our legal representatives, employees or persons employed to perform our obligations, or (ii) if the breach of our contractual obligations violates the essence of the contract and purchaser relies, and is entitled to rely, on the fulfilment of such obligations (essential obligations). In the event of slight negligence in breach of essential obligations, our liability for damages shall be limited to the foreseeable damage typical for a contract of this nature up to €100,000 or equivalent value in other currency or twice the invoiced value of the goods or services in question if this value exceeds €100,000 or equivalent value in other currency.

15.2 The aforementioned exclusion or limitation of liability shall not apply in cases of damage to life, body or health or in other cases of mandatory liability.

16. Time Limits: The time limits to raise claims regarding defects, guarantees, damages or expenses compensation and other disputes between the parties shall exclusively refer to the mandatory stipulations of the law and regulations of the People's Republic of China.

17. Compliance with Statutory Regulations, Export and Customs Regulations, Indemnification, Rescission:

17.1 Unless otherwise agreed in written form, purchaser shall be responsible for compliance with statutory and regulatory requirements for the import, transport, storage, use, distribution, and export of the goods. In particular, but not limited to, the purchaser shall not use, sell or otherwise dispose of any of the goods for the development or production of biological, chemical or nuclear weapons; for the unlawful manufacture of drugs; in violation of embargoes; in violation of any legal registration or notification requirement; or without having obtained all relevant approvals required under applicable laws and regulations. The purchaser shall indemnify us against, and hold us harmless from, any claims, damages, costs, expenses, liabilities, loss, claims or proceedings whatsoever arising out of, or in connection with, any breach by purchaser of its obligations set forth above.

17.2 Where a statutory or regulatory approval requirement

applies to the export of our goods/services at the time of delivery/performance and such export approval is not granted upon request, we shall be entitled to rescind. Delays in obtaining such approvals by responsible authorities will not result in the right of purchaser to claim for damages.

17.3 We are also entitled to rescind in the event a trade prohibition applies at the time of delivery or in the event a product registration obligation applies and registration at the time of delivery/performance has not been applied for or granted.

17.4 If the purchased goods are subject to customs preferences due to their preferential origin, we shall try (without obligation) to provide valid Certificate of Origin according to applicable laws and regulations.

18. Place of Jurisdiction: Any disputes arising out of or in connection with these Conditions of Sales shall be exclusively under the Laws and Jurisdiction of Spain and therefore the EU Laws and Regulation, where our registered address is located (and in the event of Brexit success). If we institute legal proceedings against purchaser, we shall also have the option to institute legal proceedings at the jurisdiction chose at our discretion or where the registered address of purchaser or ours is located.

19. Applicable Law: The contract and the legal relationship with purchaser shall be governed by the Laws of the Kingdom of Spain, and the UN Convention on Contracts for the International Sale of Goods shall not apply.

20. Trade Terms: If any trade terms have been agreed pursuant to the International Commercial Terms (INCOTERMS), they shall be interpreted and apply in accordance with INCOTERMS 2010.

21. Severability: Should any of these Conditions of Sale be deemed wholly or partly invalid, this shall have no effect on the validity of the remaining terms.

In case of any interpretation discrepancy for and/or regarding this document, English version will prevail.