

General Terms of Sale Ecobat Resources Germany GmbH

1. General – Area of Application

- a) Seller's Terms of Sale apply exclusively, Seller does not recognize Terms of the Buyer which contradict or deviate from Seller's Terms of Sale unless Seller has expressly agreed in writing to their validity. Seller's Terms of Sale also apply when Seller, in awareness of terms of the ordering party which contradict or deviate from Seller's own Terms of Sale, makes delivery to the ordering party without any reservations.
- b) All agreements which are made between Seller and the ordering party for the purpose of performance of this Contract must be recorded in writing.
- c) Seller's Terms of Sale also apply to all future transactions from current business relations with the ordering party.
- d) These terms and conditions of sale shall only apply vis á vis merchants.

2. Quotation

Unless otherwise agreed or stipulated in the confirmation of order, Seller's quotation is without obligation. Orders placed by the Buyer become binding upon Seller only if it has confirmed them in writing or performed them.

3. Prices

- a) Unless otherwise stipulated in the confirmation of order, Seller's prices apply "ex works", excluding packaging. c) Seller's prices do not include the statutory rate of value added tax (VAT). It is shown separately on the invoice at the statutory rate on the date of issuing the invoice. The deduction of discount requires special written agreement.
- d) In case the Parties assume that the respective transaction is VAT-free and the fiscal or tax authorities assert that it is not, the price will increase in the amount of the VAT. Seller reserves the right to retroactively demand the VAT of Buyer with the issuing of a new invoice with displayed VAT.
- e) In case of export delivery, Buyer shall provide Seller with all relevant certificates in accordance with the German UStDV (Turnover Tax Implementing Regulation) / Austrian UStRL (Turnover Tax Directive). In case the certificates are not sent to Seller in due time, Seller reserves the right to issue a new invoice including VAT, which will replace an older invoice excluding VAT. The invoice including VAT shall in this case be the only valid and decisive one between the Parties. "In due time" shall for these purposes mean that the necessary certificates arrive within 80 days from the time of dispatch.
- f) In case of intra-Community deliveries into another EU member state than Germany, Buyer is obliged to issue an entry certificate / confirmation of arrival according to the requirements of the respectively valid version of Austrian VO 401/1996 / sec. 17a German UStDV and shall, unless mutually agreed otherwise, use a specimen of confirmation of arrival provided by Seller. The Buyer acknowledges that in case the confirmation had not been timely issued (at the latest on 7th day after receipt of the goods, or in case the Buyer executes the transport, by the end of the movement in the other EU member state), the invoice (without VAT) will be replaced by a new invoice (including VAT) which will be valid and decisive between the Buyer and Seller.

4. Terms of Payment

- a) Unless otherwise stipulated in the confirmation of order, the purchase price net (without deduction) is due for payment within 12 days of invoice date. If the ordering party is in default with payment, Seller is entitled to claim default interest at the rate of 9 percentage points p.a. above the relevant discount rate of the European Central Bank, and also compensation for any exchange rate losses. If Seller is able to verify higher damages caused by default, Seller is entitled to make a claim for the same.
- b) The Buyer may only set off counter-claims which are undisputed, res judicata or which Seller has recognized. Furthermore, it is only authorized to exercise a right of retention to the extent that its counter-claim is based on the same contractual relationship.
- c) Cheques, bills of exchange and L/C's (Letter of Credits) are accepted only with a view to performance and after agreement with Seller. Discounting

charges, bill charges and L/C's charges are at the Buyer's expense. Bills, cheques or L/C's are credited upon receipt of the equivalent value of these documents and with the value date fixed on the date on which Seller is able to dispose of the equivalent value. In export business, costs associated with payment are at the Buyer's expense insofar as they are incurred outside the Federal Republic of Germany.

- d) When Seller is obliged to perform in advance, or if after the conclusion of the contract Seller becomes aware of circumstances regarding the Buyer that may endanger Seller's claim for payment, Seller is entitled, besides Seller's claims from the reservation of title according to clause 8, to prohibit the further sale and further processing of the goods and to demand the return or transfer of constructive possession of the goods to Seller on the Buyer's account, as well as to withdraw the authorisation to collect the receivables under clause 8 f). In these cases, Buyer hereby authorises Seller to enter his property and collect the delivered goods. This recollection will not constitute a rescission from contract unless expressly stated otherwise.
- e) In case Buyer has not paid the full amount of an invoice 60 work days after invoice date, the following shall apply:
 - i. Seller shall be entitled to request immediate payment of any other invoices issued regarding this contract.
 - ii. Seller shall be entitled to suspend delivery and/or performance in whole or in part
 - iii. Seller is entitled to withdraw from the contract after having set a time limit for payment to Buyer.
- f) Seller shall be entitled to terminate the contract in the event the financial situation of the Buyer deteriorates considerably or threatens to deteriorate considerably and thus Buyer might not be able to fulfill payment obligations towards Seller.
- g) Buyer is solely responsible for ensuring that payment is made to Seller's correct bank account. Buyer accepts responsibility for misdirected funds. This does not apply if (1) Buyer acted without culpability or (2) if Seller acted culpably. For payment diversion fraud avoidance purposes, Seller will never initiate bank account payment method changes via telephone or updated bank information on invoices. In the event Seller needs to change its payee bank account information or payment method, then Seller will send Buyer a specific bank account change notification letter via post or email from a known email account. Upon receipt of such letter and prior to changing bank account information or payment method, Buyer must contact Seller's representative, via valid/established contact channels, to positively confirm and validate the account change request. If Buyer does not comply with these terms, it acts in negligence.

5. Delivery and Transport

- a) Agreed delivery times and dates are binding only after express written confirmation by Seller. The agreement does not constitute a fixed-date purchase. Delivery times begin with the date of Seller's written confirmation of the order, but not until all delivery details are arranged and all conditions to be met by Buyer are fulfilled. The defence of non-performance of the contract is reserved. In case of default of delivery, the grace period to be granted by Buyer is minimum 14 days. As delivery date applies either the day the goods are ready for dispatch, or the day of dispatch. Unless otherwise stipulated in the confirmation of order, the delivery will be effected ex works.
- b) Seller is entitled to make part deliveries, as long as they are not completely of no use for the Buyer according to the nature of the contract. If delivery is made by instalments, any default by the Seller regarding any delivery shall not be deemed to constitute a breach of the entire contract but only in respect to the delivery concerned.
- c) Unless otherwise expressly agreed, all goods travel at the Buyer's risk regardless of who pays the freight costs. Seller chooses route and mode of shipment. Incoterms 2010 apply to the interpretation of the usual commercial clauses.
- d) Unless a standard dimensional tolerance applies to the goods, delivery of goods within five percent above or below the weight or quantity agreed between the parties shall be accepted by Buyer.

- e) Seller's weight shall govern.
- f) In cases of default of acceptance by Buyer, or if Buyer culpably breaches his obligations to cooperation, it is obliged to compensate Seller's losses including additional expenses. Further claims are reserved. In these cases, the danger of an accidental perishing or deterioration of the sold good is transferred to Buyer with beginning of his default of acceptance.
- g) In case of default of delivery which is caused by Seller's responsibility Seller is liable, provided that the Buyer is entitled exceptionally to claim that its interest in fulfilment of contract is omitted. Furthermore, Seller is liable according to the provisions of applicable law, providing the default of delivery is caused by intentional or grossly negligent breach of contract on Seller's part or by Seller's employees, representatives and agents. The same applies in case of breach of fundamental contract obligations. Fundamental is an obligation whose performance is formative for the contract and on whose performance the Buyer may trust. To the extent the breach of contract is unintentionally Seller's liability for damages shall be limited to the typically predictable damage.
- h) In case of default of delivery Seller's liability for verifiable damages caused by default is limited to the amount of maximum 10 per cent of delivery value.
- i) Seller places contract goods at the Buyer's disposal on Seller's ground. Therewith, Seller's contractual obligations of delivery are fulfilled. In relation to the Buyer, Seller does not have any obligation associated with the loading of purchased goods.
- j) When purchased goods are picked up, Seller is entitled to place them on the collector's vehicle, which Seller will do on the crew's instructions. The safe and reliable loading of the goods in accordance with the current status of techniques for cargo securing is effectuated by the collector who will employ only respectively trained crew members. The collector makes available the necessary items for secured loading, alternatively the items assisting secured loading (tension belts, cotters, meadows against sliding, etc.) in an appropriate size and number. Seller does not inspect measures taken for secure loading by the collector or the collector's auxiliary persons. Seller is not liable for damages which derive from insufficiently secured loading.
- k) In case Buyer expressly requests another means of delivery than ex works, Buyer shall be solely responsible to ensure safe and reliable loading, whether performed by itself or a freight carrier. In case Buyer is delayed with collecting its goods, Seller is entitled to conclude a freight contract in the name of and for account of Buyer.

6. Force Majeure

War, business disruptions of all kinds, traffic breakdown, orders or measures of any kind on the part of any governmental, Acts of Gods, strike or lock out, unforeseen production stop, machinery breakdown, lack of raw material, freight capacity, energy or workforce which shall diminish or make unacceptable the production or the consignment shall relieve Seller for the time and in the amplitude of the disruption from the obligation to deliver. Should the delay of delivery last longer than four weeks due to the disruption, following notification and discussion Seller has the right to withdraw from the contract.

7. Warranty/Liability

- a) Authoritative for the quality and design of the goods are Seller's samples that Buyer upon demand is provided with. Any reference to technical norms and contents are merely descriptive and do not constitute any warranty for the goods. Seller's technical advice on applications is not binding, also with reference to any protected rights of third parties.
- b) Notifications of evident defects are taken into consideration only if they are received within 5 days of delivery of the goods in writing in conformity with the duties of examination and notification of a diligent merchant. Hidden defects can only be considered if they are notified immediately after discovery and within one year after delivery.
- c) Only in the event of verifiably defective delivered goods Seller performs, at Seller's choice, replacement delivery or rectification of defect. The Buyer may only claim rescission or a reduction in price if replacement delivery is not made within reasonable period of minimum 14 days or the latter is again defective. The Buyer bears its and Seller's additional expenditures caused by rectification or remediation of defect, provided

that the Buyer has placed or built in the goods after delivery. This does not apply if the movement is in accordance with the intended purpose.

- d) More extensive claims of the ordering party – regardless of their basis in law – are excluded, in particular owing to neglect contractual obligation or tortious liability for material damages. Seller's liability under peremptory norms, e.g. German Product Liability Act, in case of wilful misconduct or gross negligence or in case of a culpable breach of fundamental contract obligations shall remain unaffected. Fundamental is an obligation whose performance is formative for the contract and on whose performance the Buyer may trust. To the extent the breach of contract is unintentional or not grossly negligent, Seller's liability for damages shall be limited to the typically predictable damage, but not exceeding the worth of the respectively delivered goods.
- e) Seller's liability for culpable damage to life, body or health shall remain unaffected.
- f) To the extent that Seller's liability is excluded or limited, this also applies in respect of the personal liability of Seller's employees (permanent and temporary).
- g) The limitation period of any claims for damages or defective goods is one year after delivery of the goods, as long as no compulsory law provides otherwise. Seller's liability for culpable damage to life, body or health as well Seller's liability for malicious intent or gross negligence and in the case of fraudulent concealment of defects shall remain unaffected.

8. Retention of Title

- a) The goods delivered remain Seller's property until payment is made full of all claims against the Buyer arising from this contract. If Buyer breaches his obligations under the contract, Seller is entitled, after expiry of a grace period to be granted by Seller if mandatory by law, to rescission of contract and recollection of goods. After recollection, Seller is entitled to otherwise realise the goods; the profit from this realisation will be deducted from the amounts payable by Buyer, minus the costs for the realisation.
- b) The processing of the goods delivered shall be free of charge for Seller's benefit as manufacturer. The Buyer shall not acquire title to the fully or partly processed goods. In the event of goods delivered in which Seller has retained title shall be processed or inseparably assembled with goods that are third party property, than Seller shall acquire co-ownership in the new processed goods. The proportion of title shall follow from the proportion of the invoice value of the goods delivered by Seller under retention of title and the invoice value of the other goods at the time of the processing.
- c) In the event of the reserved-title goods being linked to or mixed with other goods, Seller acquires co-ownership of the new goods according to the relation of the invoice value of the reserved-title goods to the value of the other items at the time of the mixing. If the reserved-title goods are linked to or mixed with a main item of the Buyer or a third party, the Buyer herewith assigns to Seller his rights to the new item. The Buyer shall remain custodian of the goods on behalf of Seller which shall be free of charge.
- d) The Buyer is entitled to sell the goods in Seller's ownership in the ordinary course of business provided that he duly fulfils his obligations under the contract. However, this does not apply if an agreement prohibiting assignment has been made between the Buyer and his purchaser in respect of the claim is not possible on other grounds. Exceptional disposals such as pledges, transfer of ownership as security, etc. to third parties are permitted.
- e) If the Buyer sells the reserved-title goods, in no matter what condition, then it already now assigns to Seller its receivables from the resale with all ancillary rights required to protect Seller's claims. In the event that the reserved-title goods are sold by the Buyer together with other goods not belonging to Seller, regardless of whether this is without further processing, after further processing, linking up or mixing, the assignment of the receivable selling price applies only the sum of the value of the reserved-title goods.
- f) Notwithstanding Seller's right to claim direct purchasing as long as the Buyer duly meets his obligations under contract, the Buyer is authorized to collect the receivables arising from the resale. Seller will not collect its claims against the third party as long as the Buyer duly fulfils his obligations arising from the collected receivables, does not come into default of payment, or insolvency procedures are taken against him. However, in these events upon Seller's demand the Buyer must inform

Seller of the debtors of the receivables assigned, to provide Seller with all necessary information, to hand out all relevant documents and advise the debtors of the assignment.

- g) The Buyer must notify Seller without delay of any pledge, damage or disappearance of the reserved-title goods as well as of any pledge or any other impairment of Seller's rights. He has to oppose against all third-party access to the reserved-title goods and to hand out all necessary documents for Seller's intervention against the third party. Intervention costs are at the Buyer's expense.
- h) If the value of the security given to Seller exceeds the amount of Seller's receivables overall by more than 20%, Seller will, if demanded by the Buyer, at Seller's own discretion transfer ownership or release the assignment to this extent.

9. Miscellaneous

- a) Place of performance for delivery and payment and court of jurisdiction is exclusively Seller's company's registered office. All contracts between Seller and Buyer, including these General Terms of Sale, shall be constructed under, governed by and interpreted in accordance with the substantive law of the country at Seller's company's registered office, as applied between domestic merchants. The United Nations Convention on the International Sale of Goods (CISG) shall be excluded.
- b) In the event that one or more provisions of the Terms of Sale are or will be deemed to be invalid or unenforceable, the validity and enforceability of the other clauses and provisions of the Terms of Sale shall not be affected thereby.