

### I. General

1. The deliveries from L. Brüggemann GmbH & Co. KG (hereinafter "Seller") are subject solely to the following general terms and conditions of sale and delivery (hereinafter "General Terms and Conditions"). Terms and conditions used by the Buyer shall not apply. They shall not become a component of the agreement even if the Seller makes delivery to the Buyer in the knowledge that there are terms and conditions of the Buyer which contradict or depart from these General Terms and Conditions without expressly objecting to them.
2. Departures from and additions to these General Terms and Conditions are only valid with our express written confirmation; such changes shall apply only to the respective transaction for which they were made.

### II. Offer, Conclusion of Contracts

1. The Seller's offers are non-binding.
2. A contract only comes into force if the Seller sends written confirmation within 14 days after receipt of the order or call-off request or delivers the order within this period.
3. The Seller shall retain all title and copyright in illustrations, drawings, calculations and other offer documents. Before passing such information on to third parties the customer shall obtain express written consent from the Seller.
4. If the Seller provides the Buyer with advice this is on the basis of best knowledge. This shall not constitute a consultation agreement. Data and information with respect to the suitability and application of the product are non-binding and do not release the Buyer from its own obligation to inspect and carry out tests with regard to the suitability of the product delivered for the procedures and purposes intended by it.

### III. Prices

1. All prices are ex works plus packaging costs and VAT at the applicable statutory rate, unless otherwise agreed in writing.

2. The Seller reserves the right to amend the prices accordingly if, once the contract has been concluded, costs increase or decrease, in particular owing to the conclusion of tariff agreements, changes in the price of the material and energy used or changes to transport costs, provided delivery is not to be made within two months of conclusion of the contract. The customer shall be provided with evidence of such increases in costs on request.

### IV. Terms of Payment

1. Unless otherwise agreed in writing, net payment of invoices is due immediately upon receipt and performance.
2. Any discounts or rebates granted only apply to the respective order for which they were agreed in writing, unless otherwise agreed in writing.
3. In principle payments shall be made by bank transfer. Any transfer costs shall be borne by the Buyer. Payment by bill of exchange may only be made after obtaining prior written consent of the Seller; in any event acceptance of the bill of exchange is only on account of performance.
4. The Buyer is automatically in default of payment 10 days after the due date and receipt of the invoice, unless it is not responsible for non-payment. In the event of default of payment the Seller is entitled to demand interest at a rate of 9 %-points above the respective base interest rate. We reserve the right to make further claims over and above this. If payment by instalments has been agreed and if the Buyer defaults on payment of an instalment the residual debt from the contractual relationship shall be due for payment immediately.
5. Even if there are complaints on the grounds of defects the Buyer is only entitled to offset and to retention if the counterclaims are undisputed or declared final and absolute by a competent court.
6. If the financial circumstances of the Buyer deteriorates after conclusion of the contract or if a deterioration only becomes noticeable once the contract has been concluded so that the payment claim

of the Buyer is at jeopardy the Seller may, subject to any further claims, revoke payment targets granted and make further deliveries dependent on advanced payment or the grant of other securities. The same shall apply in the event of default in payment.

#### **V. Delivery Dates and Deadlines**

1. Delivery dates and deadlines are only binding if the Seller has confirmed them expressly in writing.
2. Observance of the delivery dates and deadlines is subject to the Buyer having fulfilled all obligations incumbent upon it.
3. Observance of the delivery periods and dates is also subject to the Seller having being supplied in a correct and timely manner. Should it become apparent that delay is likely the Seller shall notify the Buyer as soon as possible.
4. The delivery time shall be deemed to have been met if, by expiry of this date, the product has left our premises or if the Seller has notified the Buyer that the merchandise is ready for dispatch.
5. If the Buyer is in default of acceptance the Seller is entitled to store the product at expense and risk of the customer. A fixed rate of EUR 11.50 per container and day shall be levied, unless the Buyer proves that the actual costs are less. The Seller reserves the right to assert further claims over and above this.

#### **VI. Delay in delivery**

1. The Seller is liable in accordance with statutory provisions, provided the contract is based on a transaction where delivery is by a fixed date and time. In this connection if the Seller has not acted with intent, liability is restricted to foreseeable damage typical of this type of contract.
2. Under statutory provisions the Seller is also liable if the Buyer is able to justify that, as a result of a delay in delivery for which the Seller is responsible, it has no further interest in fulfilment of the contract. However, in this event if the Seller has not acted with intent, liability is restricted to

foreseeable damage typical of this type of contract.

3. In the event of a delay in delivery the Buyer can demand not only delivery but also reimbursement of any loss incurred by the delay. However, provided the Seller has not acted with intent of gross negligence, this claim is restricted to 0.5% of the delivery value of the delivery concerned per week of delay and to a maximum of 5% of the value of the delivery concerned. The right of the Buyer, to rescind the agreement and/or to compensation once a reasonable subsequent deadline has expired owing to the nonfulfilment in accordance with provision XII. shall remain unaffected.

#### **VII. Force Majeure**

*Force majeure*, industrial action, unrest, embargoes, official measures and other external events which have no operational connection, are unforeseeable, unavoidable despite the extremely sensible application of due care to be expected shall release the contractual partners from their performance obligations for the period of the disturbance and the scope of their implications. In particular, impediments and delays arising from the due and proper compliance with public obligations in connection with the European Chemicals Regulation REACH shall also be considered to be force majeure. As far as can be reasonably expected, the parties shall provide whatever information is necessary without undue delay and adjust their obligations to the changed circumstances in good faith. If an event of force majeure lasts for more than eight weeks each party to the contract is entitled to rescind the agreement.

#### **VIII. Passage of Risk, Part Delivery, Packaging**

1. Unless agreed otherwise in writing, the risk shall be transferred on handover of the merchandise at the works of the Seller or when delay in acceptance occurs. If part deliveries are made this shall also apply to the respective part delivery. If, in individual cases, diverging trade clauses are agreed these shall be interpreted in accordance with INCOTERMS in the version which prevails on conclusion of the contract.

2. Part deliveries are permissible to the extent that acceptance of part deliveries can be reasonably expected of the Buyer.
3. Packaging can be returned the works of the Seller from which delivery has been made during normal business hours. Packaging shall be returned clean, free of foreign matter and contamination from other products and separated according to type of packaging. If the aforementioned duties are not fulfilled the Seller is entitled to invoice the Buyer with any extra costs for cleaning and separation which may arise. Contaminated packaging shall not be accepted unless the product is responsible for the contamination.

#### IX. Reservation of Title

1. The Seller reserves title in all products which it has supplied until full payment has been received. In the event of a current account, retention of title shall serve as security for the balance due to us.
2. The Buyer shall treat the product supplied with due care; in particular it shall insure it sufficiently against fire, water and theft at reinstatement value at its own cost.
3. In the event of seizure or any other measure taken by third parties, the Seller shall notify us in writing without delay so that the Seller can initiate legal proceedings pursuant to § 771 of the German Code of Civil Procedure in order to prevent execution of any court order. If the third party is unable to reimburse the costs incurred by the Seller in court and out of court of a claim pursuant to § 771 of the German Code of Civil Procedure, the Buyer is liable for the loss incurred hereby.
4. Processing or alteration of the product by the Buyer shall always be carried out on behalf of the Seller. If the product is processed using other items which do not belong to the Seller, the Seller shall acquire co-ownership of the new item in the ratio of the value of the product delivered to the other processed items at the time of processing.
5. If the product is combined or irreversibly mixed using other items which do not belong to the Seller, the Seller shall acquire co-ownership of the new item in the ratio of the value of the product

delivered to the other combined or mixed items at the time of combining or mixing. If the combining or mixing process takes place in such a way that the Buyer's item must be regarded as the principal item the parties shall be deemed to have agreed that the Buyer shall transfer co-title to the Seller *pro rata*.

6. Should the Buyer sell the product delivered – whether processed, combined, mixed or not – in due course of business, it hereby assigns any claims arising from selling the product with all ancillary rights vis-à-vis its customer to the Seller. The Buyer shall retain title in the product until its customers have fully paid the purchase price.
7. For good reason at the Seller's request the Buyer shall notify third-party purchasers of the assignment and provide the Seller with any information and documents which it needs to assert its rights.
8. Should the realisable value of the security of the Seller exceed the debt claim to be secured by more than 10 % the Seller shall release security – at the discretion of the Seller – at the request of the Buyer.

#### X. Defects in Material

1. The Buyer shall inspect the merchandise immediately after receipt provided this is possible in the usual course of business and shall inform the Seller in writing of any obvious defects without delay at the latest however within seven days after delivery. The Buyer shall notify the Seller in writing of any defects, which cannot be recognised in the context of its due course of business, without undue delay at the latest within seven days after discovery of the defect. Otherwise the delivery shall be deemed to have been accepted unless defects were fraudulently concealed by the Seller.
2. If delivery is incomplete or if there is obvious external transport damage the Buyer shall notify the transport company of this on receipt of the merchandise. Obvious external transport damage shall be notified to the transport company in written form (e.g. via fax, letter or e-mail) within seven days after delivery. The Seller shall definitely be informed of this notification.

3. Unless otherwise agreed, the contractually owed quality of the product shall be set out exclusively in the product specifications of the Seller prevailing on delivery. Properties of samples are only binding in as far as they have specifically been agreed as a quality of the product. Such agreement shall be in written form. Information as to quality and product life and other information shall only be considered to be guarantees if they have been agreed and specified as such. Such guarantee must be confirmed in writing by our management.
4. If a faulty product is delivered and due and proper complaint is made in accordance with X.1. The Buyer must first give the Purchaser the opportunity to make subsequent delivery. The Buyer is entitled to rescind the contract or to reduce the purchase price if the subsequent delivery is unsuccessful, the customer cannot be expected to accept it, is refused or is not executed within a reasonable deadline set by the Buyer. In the event of minor defects the contract may not be rescinded.
5. Claims as to defects shall not exist if the defect results from inappropriate or unsuitable use or storage, inappropriate or unsuitable transport, faulty or negligent handling or a change based on environmental conditions difficult for the particular nature of the product.
6. The Buyer may only claim for damages in accordance with mandatory statutory provisions and the following provision in XII.
7. All claims for defects with the exception of any claims in accordance with XII. shall become statute-barred after expiry of 12 months after the delivery.

### **XI. Legal Defects**

1. In as far as rights of third parties prevent the contractual use of the product the Buyer shall inform the Seller without undue delay of the assertion of such rights of third parties and shall give the Seller all powers of attorney and grant all authorities required to defend the product against the rights of third parties asserted at its own costs.
2. In as far as the rights of third parties prevent the contractual use of the product

the Seller shall, at its discretion, introduce appropriate measures to eliminate the rights of third parties or the assertion thereof, procure the right of use from the third party at its cost or alter or replace the merchandise in such a manner that it no longer infringes the rights of third parties if and in so far as the compliance of the product with the contract is not impaired.

3. The Buyer is entitled to rescind the contract or to reduce the purchase price if the subsequent fulfilment in accordance with XI.2 cannot be expected of the customer, is refused by the Seller or is not executed by the Seller within a reasonable deadline set by the customer. In the event of minor disruption to the contractual use of the product the contract may not be rescinded.
4. A claim for compensation in accordance with statutory regulations and the regulations set out in XII. can only be made if the Seller new or should have known of the contradictory third party rights.
5. The Buyer cannot make the aforementioned claims if infringement of the rights of third parties is based on the Buyer's specifications and the Seller had no knowledge of the contradictory rights of third parties or such lack of knowledge was not due to gross negligence.
6. All claims, with exception of any claims in accordance with XII., shall become statute-barred after expiry of 12 months after delivery.

### **XII. Liability**

1. The Seller shall be liable for intent and gross negligence and intent and gross negligence on the part of its legal representatives and vicarious agents. If the Seller, its legal representative or vicarious agents has not acted with intent, liability is restricted to foreseeable damage typical of this type of contract.
2. The Seller shall also be liable in the event of negligent injury to life, body and health caused by the Seller, its legal representative or vicarious agents and in the event of wilful failure to disclose a defect or assumption of a guarantee. In the latter case the extent of liability depends on the guarantee declaration.

3. The Seller is also liable if the Seller, its legal representatives or vicarious agents negligently breach(es) duties which are material for fulfilling the contract and on which the Buyer relies and is entitled to rely on being fulfilled. If the Seller, its legal representative or vicarious agents has (have) not acted with intent, liability is restricted to foreseeable damage typical for this type of contract.
4. The Seller shall also be liable in instances of mandatory statutory liability, for example pursuant to the German Product Liability Act.
5. Otherwise liability is excluded irrespective of the legal grounds.
6. The Buyer shall notify and consult the Seller comprehensively and without undue delay if it intends to seek legal recourse in accordance with the aforementioned provisions. The Buyer shall provide us with an opportunity to investigate the loss.

### **XIII. Property Rights of the Seller**

1. The Buyer may not offer or supply replacement products instead of the products of the Seller, making reference to this product, or make the connection with the word "replacement" or make a comparison with the specifications of replacement products in price lists and similar business documents and product specifications of the Seller, irrespective of whether or not they are protected.
2. On conclusion of the contract the Seller shall not be granted a utilisation right in the product name, in particular in the trade marks of the Seller. When using products of the Seller for production purposes or further processing, the Buyer is not entitled to use a product names of the Seller, in particular its trade marks, on such merchandise or on their packaging or in the associated printed matter and advertising material without prior written

consent of the Seller, in particular on a list of components.

### **XIV. Final Provisions**

1. Amendments and additions to this agreement shall be in writing to be valid. This shall also apply to any amendment to the written form requirement.
2. This agreement shall be subject to the laws of the Federal Republic of Germany and shall exclude the application of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
3. Unless otherwise expressly agreed, the place of performance for payment shall be the Seller's registered place of business.
4. The registered place of business of the Seller shall be the exclusive place of jurisdiction for all disputes arising from or in connection with this agreement and its validity. However, the Seller is also entitled to file action at the place of business of the customer.
5. If a contractual partner ceases to make payments or if an application for insolvency proceedings on its assets is filed the other contractual partner is entitled to rescind the part of the agreement which has not been fulfilled.
6. If a provision in these General Terms and Conditions and any further agreements concluded should be or become invalid, this shall not affect the validity of the remaining provisions in the agreement. The contractual partners are obliged to replace the invalid provision with a provision which reflects as closely as possible the economic purpose of the respective provision. The above shall apply in case of an omission.
7. In order to execute the agreement the Seller shall collect personal data and save them for processing exclusively for the execution of this agreement.