

General Conditions of Sale and Delivery

1. General

1.1 The following General Conditions of Sale and Delivery ("Conditions of Sale") apply to all deliveries by Momentive Performance Materials GmbH ("Seller") to "Buyer". Conflicting or deviating conditions or restrictions by Buyer are not accepted, unless expressly approved by Seller in written form, for each particular case.

1.2 These Conditions of Sale only apply in commerce with respect to enterprises. They also apply to any future business with Buyer resulting from current business relations, even if Seller and Buyer have not explicitly agreed again upon the Conditions of Sale.

1.3 Any amendments and supplements hereto require the written form. This applies also to any amendments to this written form clause.

2. Offers, Orders

2.1 Seller's offers are non-binding unless they are designated explicitly by Seller as binding.

2.2 Buyer's orders shall become binding only upon Seller's binding written order confirmation (also invoice or delivery note).

2.3 After receipt of an order confirmation, the order can only be cancelled by Buyer in full or in part with the prior written consent of Seller. In case Buyer cancels a confirmed order without Seller's consent, Seller shall be entitled to either request acceptance of the products and payment of the invoice including late payment fees according to Section 4.2 of these Conditions of Sale or request compensation in the amount of the value of the products.

3. Invoicing

3.1 Unless the order confirmation or the contract provides otherwise, Seller's prices are to be understood CIP – place of agreed delivery (Incoterms 2020).

3.2 In case that the parties agree to FCA Seller's site (Incoterms 2020), in deviation from Section 3.1, Buyer undertakes, within four (4) weeks after taking over the products, to return a copy of the international delivery document (CMR or B/L) plus a copy of the Seller's export invoice, originally stamped with the company stamp, signature and date, which prove the actual receipt of the products. In export cases to countries outside of the European Union, the Buyer is further obliged to use and clear for export the customs documents issued by the Seller. If the Buyer does not follow above-described obligations, the Seller shall be entitled to re-issue a new invoice with local VAT.

3.3 Prices are only to be considered as fixed and firm prices provided that they have been explicitly agreed in writing.

3.4 In case of a contractual relationship about the recurring delivery of products, and in case of other contracts for the performance of a continuing obligation, Seller reserves the right to modify its prices upon sending a fifteen (15) days prior written notice to Buyer, if changes in costs have occurred after the conclusion of the contract which are outside of the Seller's reasonable control, for instance due to an increase in taxes, duties, other levies, costs of purchasing and testing, freight, increase in materials and production costs, suppliers' prices, wages etc.. Such price modifications take effect both in Buyer's favor and at Buyer's expense.

3.5 If, in accordance with the above paragraphs, the agreed price changes by more than 10%, both parties are

entitled to withdraw or to terminate such contract with effect to the date when the increased price becomes effective.

3.6 All prices are quoted exclusive of the statutory turnover tax applicable from time to time. A cash discount is only permitted if it has been expressly agreed beforehand.

4. Payment

4.1 Unless the parties agreed otherwise, the payments are to be made within thirty (30) days from the later of either the date of invoice or the date of delivery of the products and processed by direct wire transfers to Seller's nominated bank account. Payments are considered effected as soon as the amount has been received by Seller on Seller's accounts.

4.2 In the event of Buyer's late payment or default of payment, Seller shall be entitled to charge interest for default at 1 % of the invoice amount for each 30 days pro rata from the due date until full payment is received. Seller also reserves the right to charge a reasonable administration fee for processing the interest claim, to withdraw from or to terminate any contract with Buyer in line with the applicable statutory regulations.

4.3 If the opening of insolvency proceedings of Buyer is requested or if Seller becomes aware of circumstances pointing to a substantial deterioration in Buyer's financial situation, Seller may, at its discretion, request the provision of securities within an appropriate period of time or payment concurrently with delivery. If Buyer fails to comply with this request, Seller shall be entitled, subject to further statutory rights, to withdraw or to terminate.

4.4 Down-payments and advance payments have to be made inclusive of turnover tax.

4.5 Seller reserves the right to apply payments to the longest outstanding invoice items plus related interest for default and costs in the following sequence: costs, interest, principal claim.

4.6 Buyer shall only be entitled to counterbalancing if its counterclaims have been legally established, are undisputed or have been recognized by Seller. The right of retention by Buyer is only admissible if these same conditions are fulfilled and if, in addition, its counterclaim is based on the same contract.

4.7 Buyer agrees to the settlement of his claims and liabilities vis-à-vis Seller and Seller's affiliated companies. Claims and liabilities of Buyer's affiliated companies can be settled accordingly.

5. Delivery

5.1 Seller shall always make an effort to effect delivery as quickly as possible. There are no firm delivery dates, unless the parties have expressly agreed on fixed delivery dates.

5.2 If, in deviation from Section 5.1, a firm delivery date has been agreed between the Parties and cannot be met, Seller shall promptly notify Buyer and Buyer shall have to set a new reasonable delivery date. If this new date has elapsed without delivery in full, Buyer shall not be obligated to take the volumes that have not been delivered by this date. A withdrawal from the entire contract shall only be permitted if Buyer can prove that, after a review of the overall supply situation, it has no legitimate interest in the contract. Claims for damages are subject to the scope and limits set out in Section 10 of these Conditions of Sale.

5.3 Seller makes it a proviso to be itself supplied in a correct and timely manner.

5.4 Unless agreed otherwise between the parties, the date of delivery shall be the date on which the products are handed over to the (first) carrier.

5.5 Reasonable partial performance and deliveries by Seller are permitted on a reasonable scale.

5.6 For the provision of Seller's packaging material, including the provision of tank cars and containers, special conditions are to be agreed between the parties.

6. Acts of God; Contractual Obstacles

6.1 Acts of God of any kind, unforeseeable equipment failures, transport breakdowns or shipping problems, fire damage, inundations, unforeseeable shortages in manpower, energy, raw materials and supplies, strikes, lockouts, cyber-attacks, IT infrastructure outages, pandemic, official decrees or other obstacles that are beyond the control of the party obligated to render performance, which reduce, delay, prevent or render unreasonable the manufacture, shipment, taking delivery or the consumption, release the parties from the obligation to make or take delivery, respectively, for the duration of such interruptions. If, as a consequence of such an interruption, making and/or taking delivery is delayed by more than six (6) weeks, either party shall be entitled to withdraw or to terminate the respective contract.

6.2 Acts of God by Seller's suppliers shall be considered as acts of God by Seller. If Seller's supply sources are stopped either for a given period of time or for good, Seller shall not be obligated to cover requirements by alternative external sourcing. In such an event, Seller shall be entitled to distribute the products available by taking into account its in-house requirements as first priority.

6.3 The Parties agree that the above provisions regarding Acts of God shall not serve as an excuse or reason to default on any existing payment obligations of a Party.

7. Dispatch

7.1 Seller reserves the right to choose the route and mode of dispatch. Additional costs caused by Buyer's special wishes with regard to shipping shall be borne by Buyer. The same applies for increases in freight charges, additional rerouting costs, if any, storage costs etc. occurring after the contract date, unless otherwise agreed.

7.2 The risk of the products perishing, being lost or damaged shall pass to Buyer with their dispatch by Seller to the (first) carrier.

8. Retention of Title

8.1 Seller retains title and ownership of the products delivered until all payments due from the business relationship with Buyer have been received.

8.2 If Buyer is in breach of contract, in particular in the event of a default in payment, Seller shall be entitled to take back the products delivered and to utilize them. If Seller takes back the products, this does not constitute a withdrawal from the contract unless Seller has expressly stated so prior in writing.

8.3 Buyer is obligated to handle the retained products with care and, without limitation, to take out at its own expense an insurance reinstatement policy on said products covering fire, water and burglary. Buyer shall implement any maintenance and inspection work at the place where the

retained products are stored in due time and at its own expense.

8.4 Buyer shall be obligated to promptly inform Seller in writing of any attachments or other infringements on the retained products by third parties. Buyer shall be liable to Seller for any expenses, including legal fees and court costs, relative to an action that might be required for the enforcement of Seller's rights.

8.5 Buyer shall be entitled to resell the retained products within the ordinary course of business, but Buyer already now assigns to Seller any receivables in the measure of the final invoice amount (including VAT) accruing to Buyer from its customers or third parties from the resale, independent of whether the products were sold prior to or following processing. Buyer shall have the authority to collect such receivables even after the assignment thereof.

8.6 Buyer and Seller agree that Seller acquires a pledge on the receivables in the measure of the final amount (including VAT) "of its receivables" which accrue to Buyer from the resale to its customers or third parties in accordance with Section 8.5 of these Conditions of Sale and likewise independent of whether the product delivered was resold prior to or following processing. Seller shall not be entitled to notify the pledging to the customers or third parties unless Buyer fails to meet its obligations concerning payments from the proceeds, defaults on its payments, an application is filed for the opening of an insolvency proceeding against him, or if payments are stopped.

8.7 Processing or reconstruction by Buyer of the product delivered invariably occurs for the benefit of the Seller. If the product delivered is processed with other products not belonging to Seller, the latter acquires co-ownership of the new product in proportion of the value of the item delivered to the other processed product at the time of processing. As for the new product created as a processing result the same applies as to the product delivered subject to retention of title.

8.8 In order to secure Seller's claims, Buyer also assigns to Seller any claims accruing to Buyer from a third party through the union of a movable with an immovable.

8.9 Seller undertakes, at the request of Buyer, to release the securities to which Seller is entitled also to the extent that the value of the securities exceeds the secured receivables by more than 10%, the selection of securities for release shall be at Seller's discretion.

9. Warranties

9.1 Seller warrants solely that the products comply with Seller's specifications at the time of delivery. Any further explicit or implicit warranties, including but not limited to merchantability of the products, suitability or usage for specific purposes or applications of Buyer, are explicitly excluded.

9.2 A prerequisite for any warranty claims is that Buyer - also in the case of contracts for work and the performance of work - examines the products and immediately duly complains about any defects. The term "defect" (*Mangel*) is defined as a non-compliance with Seller's specifications. Visible defects must be reported within five (5) working days from delivery date, hidden defects must be reported within five (5) working days upon discovery of such defects. Complaints have to be made in writing and by clearly specifying the defect. Defects that are not reported during these timeframes are deemed to be accepted by Buyer.

9.3 Barring an express written agreement to the contrary, any data as to weight, dimensions and technical

specifications in drawings, leaflets, illustrations and other documents shall be noncommittal and in particular not constitute any warranty or guarantee (*Garantie/Zusicherung*) for specific characteristics. Seller retains the right to amend and/or correct such data at any time for the future. Buyer shall be obliged to check in advance of conclusion of a contract with Seller whether such data is still valid.

9.4 In the event of a defect in a product that is attributable to the Seller, it is at Seller's discretion, in consultation with the Buyer, to either remedy such defect or to make a substitute delivery. The remediation of defects outside Seller's factory or warehouse can only be requested, if this is technically feasible and if Buyer cannot reasonably be expected to return (at Seller's expense) the defective product or performance. Buyer has to use the least expensive method of shipment.

9.5 If defects are remedied abroad, Buyer shall have to reimburse Seller for any additional costs incurred relative thereto.

9.6 If Seller is not prepared or unable to arrange for subsequent fulfillment and, without limitation, if there is an undue delay beyond an appropriate period of time for reasons within the control of Seller, or if such subsequent fulfillment fails in some other way, Buyer may, at its discretion, either withdraw from the contract or demand a reduction in price.

9.7 Unless otherwise provided for in Section 10 of these Conditions of Sale, any further claims on the part of Buyer - for whatever legal reasons - are excluded.

9.8 Unless otherwise agreed, a warranty period of one year, calculated from the transfer of risk, shall be applicable. This period of time is a limitation period and applies to all claims unless otherwise provided by mandatory laws.

10. Liability; Limitations

10.1 Irrespective of the cause of action, Seller is only liable for damages caused by Seller, its employees, subcontractors or agents due to willful misconduct, gross negligence or due to simple negligence insofar as the violation of an essential contractual obligations (*Kardinalpflicht*) is concerned. If Seller is held liable for simple negligence, Seller's liability is limited to the typical damages that were reasonably foreseeable at the time of the conclusion of the contract.

10.2 Essential contractual obligations are obligations, the breach of which would jeopardize the purpose of the contract since the Buyer would be deprived from such rights he is entitled to according to the contract.

10.3 Seller is not liable for any further losses or damages including but not limited to any indirect or consequential loss or damage, whether foreseen, foreseeable, known or otherwise.

10.4 Seller's liability for any damages caused by breach of a specific guarantee (*Garantie/ Zusicherung*), for damages to be compensated under the Product Liability Act or any other mandatory liability and for damages due to loss of life or personal/bodily injury remain unaffected.

10.5 For the avoidance of doubt, Seller provides specific guarantees exclusively in dedicated documents, which need to be signed by the general management of Seller in order to be valid. If other documents refer to a „guarantee“, these references seek to describe the quality only and may not be interpreted as a specific guarantee (*Garantie/Zusicherung*) in the meaning of the law.

10.6 This Section 10 of these Conditions of Sale applies accordingly to damages in connection with warranties and delayed delivery.

11. Time Limits

Any rights of Buyer to claim for warranty, damages or expenses shall expire one (1) year after the commencement of the time limit, as stipulated in Section 9.8, unless otherwise agreed between the Parties in written form. The above time limits shall not apply, if Seller has caused any damages intentionally or in relation to any damage to life, body, health, mandatory liability or based on the German Product Liability Act or any other mandatory liability.

12. Technical Advice, Use, and Processing

Seller's advice in matters of application engineering rendered verbally, in writing or by means of tests shall occur to the best of its knowledge and is related to the ordinary use of the product only. Unless otherwise agreed upon in writing, such advice is to be regarded as noncommittal, also with regard to any industrial property rights of third parties and does not release the Buyer from examining the products delivered by Seller as to their suitability for the intended processes and purposes. Application, use and processing of the products are beyond the control of the Seller and are therefore within the exclusive responsibility of Buyer.

13. Trademarks; Industrial Property Rights

13.1 It is inadmissible to offer substitutes for Seller's products by making reference to such products or altering such products, or in price lists and similar business papers to mention Seller's product names, whether protected or not; in connection with the word "substitute" or to compare such names with designations of substitute products.

13.2 It is also inadmissible, when using Seller's products in manufacturing or processing, to use Seller's product names, in particular its trademark, on such products or the packaging or in the pertinent printed matter and promotional material, in particular by way of specification of components, without Seller's prior consent. The delivery of materials under a trademark does not imply the consent to use this trademark for the products manufactured therefrom.

13.3 Seller reserves its right of ownership and copyright with respect to any illustrations, drawings, calculations and other documents; these papers must not be made accessible to third parties; the transfer thereof to third parties requires the express written approval of Seller.

13.4 Seller does not warrant that the product is unencumbered with industrial property rights outside the Federal Republic of Germany, unless otherwise agreed upon in writing.

14. Adherence to Statutory and Environmental Regulations

14.1 Buyer hereby confirms that it is aware of its obligations under the REACH regulation and agrees to fulfill these obligations. These obligations may include in particular, but are not limited to, Buyer's obligation to comply with all requirements applicable to downstream users as specified in Title IV and V of the REACH regulation. Buyer acknowledges that it has sole responsibility to provide Seller with any new information on dangerous properties of substances, preparations or articles of Product ("Substances") and in case of an identified use, to provide Seller with any other information that might call into question the appropriateness of the risk management measures identified in Seller's safety data sheets.

Seller hereby confirms that it is aware of its own obligations under the REACH regulation and also agrees to fulfill these.

In addition to its other rights and remedies hereunder and under applicable laws, in the event that Buyer fails to comply with its obligations under the REACH regulation, Seller, upon its sole discretion, may terminate this Agreement forthwith by giving written notice to Buyer, and/or withdraw from any individual purchase orders which have been placed but have not yet been delivered by Seller and cease supplying Buyer with Products immediately upon Seller's notification of Buyer's non-compliance.

14.2 Seller will provide to Buyer Safety Data Sheets. Buyer shall be obliged to make them accessible to all persons who need this information according to legal requirements. Buyer shall be obliged to take adequate measures to prevent risks described in these Safety Data Sheets. Buyer shall be further obligated to dispose any waste or residues resulting from the use of the products delivered in accordance with the applicable law and regulations. Buyer shall also be obligated to dispose any packaging material in accordance with the applicable law and regulations.

15. Medical Applications

Buyer understands that the products are for industrial use only and are not intended for use in any medical application involving permanent implantation in the human body, or any such implantation lasting longer than 29 days. Buyer agrees not to use any product for any such application, or for any other application into which, to Buyer's knowledge, Seller has previously declined to sell products.

16. Assignment

Buyer shall obtain the written consent of the Seller prior to and as a condition of the assignment, transfer, encumber or novation of any right, benefit and/or obligation (including rights to receivables). Seller is entitled to assign, transfer, encumber or novate its rights and receivables in whole or in part without obtaining written consent of the Buyer.

17. Compliance with laws; Export control

17.1 Seller's obligations are conditioned upon Buyer's compliance with all applicable laws and regulations, including, amongst others, applicable trade control laws.

17.2 Seller is subject to application of United States, EU and national export control laws. In this capacity Seller is prohibited from directly or indirectly exporting and/or selling products, or allowing third parties to directly or indirectly sell and/or export products, into certain embargoed countries and to certain restricted or denied customers under the export control laws of the United States, the EU and/or the UN. Prohibited transactions include any transaction in which Products are shipped to or through the embargoed countries or which involve the restricted or denied customers. Penalties for violation of these laws are severe.

17.3 Buyer shall not directly or indirectly, sell or export the products purchased from Seller to any of these embargoed, restricted or denied persons, entities or countries, nor sell or otherwise transfer any such product to any customer under circumstances where it has knowledge or reason to believe that the product will be sold or exported to any such embargoed, restricted or denied person, entity or country. Buyer further certifies that to the best of its knowledge, the product sold and delivered by Seller will not in any way be used for purposes that are prohibited under national and international regulations, including without limitation, the manufacture of weapons or materials used in the weapons industry. Buyer is obliged to obtain up-to-date information about the status and requirements of export control regulation, which is applicable to any of its purchases of products from Seller and to always act in compliance with such requirements.

18. Confidentiality

Each Party shall consider all business with the respective other Party as secret and shall therefore maintain confidentiality to any communication or order exchanged between the Parties, unless such information is evidence to be already lawfully available in the public domain. Any data supplied by one of the Parties, drawings etc. prepared by it or by the respective other Party based on such data, may only be used for purposes other than the performance of the contract between the Parties with the prior written consent of the disclosing Party. All drawings, standards, regulations, methods of analysis, recipes and other documentation provided by one Party to the other Party shall remain the disclosing Party's property and must not be used by the respective other Party for other purposes, copied or made available to third parties.

19. Data Privacy

19.1 Each Party shall be obliged to,

- keep personal data obtained from the respective other Party or obtained from a data subject directly during the performance of this Agreement, strictly confidential and to not disclose such personal data to any third party without having first received express written approval from the disclosing Party or the data subject;
- inform the data subject, when collecting personal data, about any intended use of such data and to obtain his/her written approval before using them;
- use personal data obtained from the other Party for the sole purpose of performing this Agreement and to only copy such personal data if necessary for the purpose of this Agreement;
- implement technical and organizational measures to ensure the security and confidentiality of personal data;
- inform the disclosing Party on each incident that could possibly harm the security and confidentiality of personal data;
- ensure that employees, consultants or representatives who have access to personal data are bound to the terms of this Agreement regarding the use of personal data.

19.2 If personal data are submitted to a country outside of the European Union for which a positive decision of the European Commission is not given regarding an adequate national personal data protection, then the respective Party must immediately inform the other Party on such missing data protection and shall take all measures to ensure that such data is protected in the same manner as within the European Union.

19.3 In case that the data subject did not approve the further processing of his/her personal data, the respective Party shall be obliged to immediately discontinue any further use of the personal data after termination of this Agreement. In any such case, each Party shall return personal data to the respective disclosing Party and, if requested, delete the data.

19.4 Compliance with the data protection obligations is an essential contractual obligation and any continuous breach of this obligation, despite of warning notices, gives reason for terminating the Agreement.

20. Place of Performance

Place of performance for the delivery shall be the respective production plant of Seller. Place of performance for payments shall be Cologne.

21. Applicable law; Dispute Resolution

21.1 German Law applies; the application of its rules on international private laws (*Internationales Privatrecht*) and

the UN Convention on the International Sale of Goods (CISG) is expressly excluded.

21.2 The courts of Cologne, Germany, shall have jurisdiction for any dispute arising out of or in connection to these Terms and Conditions or any therewith related agreement between the Parties. Either party shall, moreover, be entitled to assert claims at the respective other party's general place of jurisdiction.

21.3 Seller retains the right to refer any dispute arising out of or in connection to these Terms and Conditions or any therewith related agreement between the Parties to arbitration for final settlement without recourse to the ordinary courts of law according to the Arbitration Rules and the Supplementary Rules for Expedited Proceedings of the German Institution of Arbitration e.V. (DIS). The place of arbitration is Cologne, Germany. The language of the arbitral proceedings is English.

22. Severability

Should individual provisions hereof become invalid, in whole or in part or should a contractual gap become apparent, the validity of the remaining provisions or parts thereof shall remain unaffected. The parties shall have to replace an invalid provision or shall have to fill the gap with another provision corresponding as much as possible to the economic intent of the invalid provision.

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