

## **General Terms and Conditions of Epoxy Technology Europe GmbH**

### **1. Scope**

- 1.1 These General Terms and Conditions shall only apply if the customer is a company within the meaning of Section 14 BGB (German Civil Code), a legal entity under public law or a special fund under public law.
- 1.2 The following provisions apply exclusively to all deliveries and services of Epoxy Technology Europe GmbH ("ETEG"). These terms and conditions shall also apply to all future transactions with the customer.
- 1.3 We do not recognize any terms and conditions of the customer that are contrary to or deviate from or supplement our General Terms and Conditions of Supply unless we have expressly agreed to their validity in writing. This requirement of consent shall also apply if we carry out the delivery of the ordered goods without reservation even if we are aware of deviating or conflicting terms and conditions of the customer. Our sales personnel shall not be entitled to make verbal agreements by which these terms and conditions are amended or supplemented.

### **2. Offer, conclusion of the contract**

- 2.1 All offers are non-binding and subject to change. A contract is only concluded when the customer's order is confirmed by ETEG in writing or in text form. The customer is bound to its order for 14 calendar days. The delivery of the ordered goods is also considered as acceptance of the order.
- 2.2 Technical changes to the products by the manufacturer are reserved if reasonably acceptable.
- 2.3 The customer alone is solely responsible for the intended use of the ordered items in accordance with applicable legal regulations and all safety and use instructions relating to the products. The customer shall independently examine and confirm the suitability of the goods for the intended purpose and use.

### **3. Prices and terms of payment**

- 3.1 Unless stated otherwise, all prices are quoted in euros and are net from our company's registered office plus applicable VAT.
- 3.2 Shipping costs, in particular for packaging, transport and transport insurance as well as statutory VAT shall be borne by the customer. No discounts (*Skonto*) or other price reduction shall be granted unless expressly agreed in writing.
- 3.3 The place of performance for payments is the registered office of ETEG.
- 3.4 Invoices are due for payment within 14 days from the date of invoice without deduction or discount. In case of default of payment, the customer owes default interest in the amount of 9 percentage points above the respective base interest rate (*Basiszinssatz*). The right to assert additional damages for default remains unaffected.
- 3.5 When accepting orders, ETEG is entitled to make acceptance and delivery conditional upon a down payment, advance payment or security deposit without giving reasons. Before full payment of amounts due, including interest and any costs, we are not obligated to further deliveries or services even from orders already confirmed.
- 3.6 If the customer is in arrears with payments due or if circumstances become known to us which make the customer's creditworthiness appear doubtful, we may declare all outstanding claims due immediately, even if they have been deferred or security has been provided for them. In this case, we shall be entitled, without prejudice to further rights, to make outstanding deliveries subject to

advance payment, to demand securities or to withdraw from contracts after a reasonable period of grace, or to demand damages.

- 3.7 We are entitled to terminate the contract without notice if an application has been filed to open insolvency proceedings against the customer's assets.

#### **4. Retention of title**

- 4.1 In the case of purchase contracts, the goods remain the property of ETEG until full payment has been made. The retention of title expires only with full payment. As long as the retention of title exists, the customer is not entitled to pledge the goods or to assign them to third parties as security. In the event of seizure of the purchased goods by third parties or if an application for the opening of insolvency proceedings is filed, the customer shall notify ETEG immediately and reimburse ETEG for all costs of any intervention.

- 4.2 In case of default of payment, ETEG is entitled to demand the return of the goods, to take them back and to commercialize them. The proceeds of the sale are to be set off against the customer's liabilities after deduction of the reasonable costs of the sale. The taking back of the goods does not constitute a withdrawal from the contract. However, ETEG is free to withdraw from the contract by express written declaration.

- 4.3 The customer is authorized to resell our reserved goods in the ordinary course of business. The customer hereby assigns to us in advance all claims against third parties arising therefrom in the amount of the respective invoice value (including VAT) of our claim and irrespective of whether the purchased item has been resold with or without further processing. Notwithstanding this assignment, the customer shall remain entitled to collect the receivables. Our authority to collect the claim ourselves shall remain unaffected. However, we undertake not to collect the claim as long as the customer meets its payment obligations to us on time, does not default on payment and, in particular, no application for the opening of composition or insolvency proceedings has been filed or payments have not been suspended. However, if this is the case, the customer shall immediately notify us of the assigned claims and their debtors, provide all information required for collection, hand over the relevant documents and notify the debtors (third parties) of the assignment. Processing and transformation of our goods by the customer shall take place exclusively for us. In the event of processing and combination with other goods not belonging to us, we shall be entitled to co-ownership of the new item in the ratio of the invoice value of our reserved goods to the purchase price of the other processed goods at the time of processing.

- 4.4 If the value of the securities exceeds our claims by more than 10%, we shall release securities of our choice accordingly at the customer's request.

#### **5. Terms of delivery, transfer of risk**

- 5.1 Unless otherwise agreed, our goods and services are provided 'ex works' (EXW) from our distribution warehouse (Incoterms 2020). In the case of drop shipments (*Streckengeschäft*), this is the plant or warehouse of our supplier.

- 5.2 The place of performance is our registered office.

- 5.3 Unless otherwise agreed, the shipment of goods is at the expense and risk of the customer. If no mode of shipment is expressly agreed, ETEG reserves the right to choose the respective mode of shipment and means and route of transport. Packaging, shipping and freight will be invoiced separately. ETEG is entitled, but not obliged, to seek insurance coverage for the shipped goods against transport risks at the customer's expense. This has no influence on the transfer of risk.

- 5.4 The risk shall pass to the customer at the latest upon notification of readiness for collection or handover of the goods to the carrier or other transporter. If the goods are shipped or otherwise

taken abroad at the customer's request, the risk shall pass at the latest at the moment of export from Germany if the risk has not already passed to the customer earlier. The risk of accidental loss or accidental deterioration of the purchased goods shall also pass to the customer if the customer is in default of acceptance or otherwise violates its obligations to cooperate.

- 5.5 Goods shall be collected by the customer at the delivery time confirmed by us. If the goods are not collected at that time, we have the right, at the risk and for the account of the customer, to send the goods to the customer or to further store the goods. The customer is responsible for the additional freight and storage costs.
- 5.6 Delivery dates or periods shall only be binding if they have been separately and expressly agreed in writing. If not expressly confirmed by us in writing, these delivery dates shall not constitute a firm deal within the meaning of Section 323 para. 2 no. 2 BGB (German Civil Code) or Section 376 HGB (German Commercial Code). The notification of expected delivery dates is not a binding promise of delivery times. If a delivery deadline has been agreed, this shall be subject to the proviso that the customer fulfils its obligations to cooperate in a timely and proper manner, in particular that it provides all necessary information and documents without delay. If a down payment is required, the delivery period shall not commence until the down payment has been received. Compliance with the delivery period is also subject to correct and timely delivery to ETEG. The delivery period shall be deemed to have been complied with if the contractual goods have left ETEG before its expiry or if the customer has been notified that the goods are ready for collection or dispatch. The occurrence of our delay in delivery shall be determined in accordance with the statutory provisions. It requires in any case a reminder by the customer.
- 5.7 ETEG is entitled to make partial deliveries unless unreasonable for the customer.

## **6. Warranty**

- 6.1 The statutory provisions shall apply to the customer's rights in the event of material defects and defects of title (including wrong delivery and short delivery), unless otherwise stipulated below. Claims for defects of the customer require in particular that the customer has fulfilled its obligations to inspect and give notice of defects pursuant to Section 377 HGB (German Commercial Code).
- 6.2 The warranty period is twelve months from the transfer of risk. The limitation period in the case of a delivery recourse according to Sections 478, 479 BGB (German Civil Code) remains unaffected. This shall not apply if the defective goods have been further processed by the customer or another third party, e.g. by installation in another product. Furthermore, the limitation of claims under the Product Liability Act (ProdHaftG) shall remain unaffected. The limitation period for claims for damages shall be calculated in accordance with section 7.9.
- 6.3 The customer shall inspect the goods for defects immediately upon receipt. If a defect is discovered during this inspection or at a later point in time, the customer must notify ETEG of this in text form without delay (at the latest, however, within five working days). The notification must describe the detected defect as precisely as possible. If the customer fails to notify ETEG, the goods shall be deemed to have been approved with regard to recognizable defects, unless ETEG has deliberately concealed the defects. The notification is also necessary if other than the agreed goods or a short quantity is delivered by ETEG. A notice of defects is excluded at the latest after the expiry of the best-before date; the goods are deemed approved to that extent.
- 6.4 In the event of a notice of defects, we shall have the right to immediately inspect the goods complained about. We have the right to commission an independent third party with the inspection. If ETEG disputes the defectiveness of the goods, the customer shall bear the burden of proof for the existence of a defect already at the time of transfer of risk. This also applies in particular if non-professional interventions or changes are made to the purchased goods or if unsuitable tools are used.

- 6.5 If there is a defect in the purchased item for which ETEG is responsible, ETEG is entitled to choose between rectification of the defect or replacement delivery. The choice is made at its reasonable discretion and taking into account the legitimate interests of both parties.
- 6.6 If ETEG is not willing or able to remedy the defect/replacement delivery or if this is delayed beyond a reasonable period of time for reasons for which ETEG is responsible or if the remedy of the defect/replacement delivery fails in any other way, the customer shall be entitled, at its option, to withdraw from the contract or to demand a corresponding reduction of the purchase price. The expenses necessary for the purpose of subsequent performance shall be borne by the customer insofar as they are increased by the fact that the deliveries are taken to a place other than the place of performance, unless the transfer is in accordance with their intended use.

## 7. Liability

- 7.1 The liability of ETEG for damages, regardless of the legal reason, in particular due to impossibility, delay, defective or incorrect delivery, breach of contract, breach of obligations during contract negotiations and tort, is limited in accordance with the following provisions of this clause.
- 7.2 We are liable for damages in accordance with the statutory provisions in the event of intent or gross negligence (*grobe Fahrlässigkeit*) on our part, including intent and gross negligence on the part of our representatives and vicarious agents. Furthermore, we shall also be liable in the event of simple negligence (*einfache Fahrlässigkeit*) if we culpably breach a material contractual obligation. These include obligations which are a necessary prerequisite of the proper execution of the contract and on which our customers regularly rely and rightly may rely.
- 7.3 Insofar as ETEG provides technical information or acts in an advisory capacity and this information or advice is not part of the scope of services owed by ETEG and expressly agreed in the contract, we shall only be liable in the event of gross negligence and intent.
- 7.4 Except in the case of intent, our liability is limited to the foreseeable, typically occurring damage. Indirect damage and consequential damage shall only be covered if and to the extent such damage is foreseeable and typically to be expected based on the intended use of this type of goods.
- 7.5 In the event of a delay in delivery for which we are responsible, we shall be liable up to a maximum total amount of 5 % of the delivery value affected by the delay. This limitation shall not apply if and to the extent the customer's claims are based on intent or gross negligence on our part, including intent and gross negligence on the part of our vicarious agents.
- 7.6 Unless expressly agreed otherwise with the customer, our total liability shall be limited to three times the order value, but not more than Euro 250,000.00, except in the case of intent.
- 7.7 The limitation of our liability according to this clause 77also apply insofar as the customer demands the reimbursement of useless expenses instead of damages in lieu of performance.
- 7.8 To the extent we are not liable pursuant to the above rules, claims for damages by the customer - regardless of the legal nature of the asserted claim - are excluded. This applies in particular to claims for damages arising from tort, from *culpa in contrahendo* or from other breaches of duty. However, liability for culpable injury to life, limb or health shall remain unaffected by the limitations of liability in this clause; the same shall apply to mandatory liability under the Product Liability Act (ProdHaftG) and in case of guarantees (Sections 443, 444 BGB (German Civil Code)).
- 7.9 Except in the case of intent or fraudulent intent (*Arglist*), in the case of injury to life, body or health, in the case of claims under the Product Liability Act (ProdHaftG) or if other mandatory statutory provisions require a longer period, all claims for damages by the customer shall become

statute-barred after one year from the statutory commencement of the limitation period. Clause 6.2 remains unaffected.

- 7.10 To the extent our liability is excluded or limited in accordance with the provisions of this clause 7, this shall also apply to the liability of our affiliated companies as well as the bodies, representatives, employees and other vicarious agents of ETEG and its affiliated companies.

## **8. Force majeure**

In cases of force majeure, in particular war, terrorism, natural disasters, fire, flood, accidents, disturbances of public order, orders by public authorities, strike, lockout, riots, pandemics, epidemics, machine damage not due to improper maintenance, untimely or improper delivery by our suppliers, disruptions in the supply of energy and raw materials, unusual traffic and road conditions and other operational disruptions for which we are not responsible, we shall be entitled to postpone delivery for the duration of the impediment or, if an end to the impediment is not foreseeable, to withdraw from the contract in whole or in part without further obligations or compensation for damages.

## **9. Set-off, rights of retention, assignment**

- 9.1 The customer may only offset counterclaims that are undisputed, acknowledged or confirmed by binding legal judgment. This also applies to the exercise of a right of retention.

- 9.2 The customer is not entitled to transfer or assign any rights and claims to third parties.

## **10. Compliance and export control**

- 10.1 The customer shall comply with all applicable legal regulations when using, processing and reselling ETEG's goods. In particular, the customer is obligated to examine and comply with all U.S., European, German and other applicable export control and sanctions regulations.

- 10.2 The customer shall, at its own expense, submit all necessary notifications and applications and obtain all necessary approvals before exporting any products or technical information received from ETEG.

## **11. Jurisdiction**

The exclusive place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship is Augsburg, Germany. In addition, ETEG is also entitled to take legal action at the customer's place of business.

## **12. Applicable law**

The substantive law of the Federal Republic of Germany shall apply under exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG) and the conflict of law rules of private international law.