

## General Conditions of Sale and Delivery of TWD Fibres GmbH

These General Conditions of Sale and Delivery exclusively apply to all of our offers, orders and deliveries. Deviations or additional conditions and arrangements will only apply after they have been confirmed by us in writing. We herewith explicitly object to any of the buyer's purchasing conditions; orders will only be considered binding after they have been confirmed in writing by the seller. In addition to these provisions, the regulations of the German Yarn Contract, a copy of which we will be pleased to provide on request, also apply.

### Section 1 Delivery conditions and default in acceptance

- a) As soon as the commodity leaves the seller's warehouse or, if there is a default in the acceptance, after it has been made available to the buyer and is ready for dispatch, all risks including the shipping risk will pass over to the buyer.
- b) Force majeure (e.g. fire or flooding) and other obstructions for which the buyer is not responsible (e.g. supply shortage of raw materials, industrial action), will release us from our delivery obligation during the time of the disturbance and its effects. If the arranged delivery term is exceeded by more than two months, both parties are entitled to withdraw from the unfulfilled part of the contract. In the event of raw material shortages or force majeure, the seller reserves the right to unilaterally adjust his prices as required.
- c) Unless otherwise arranged, the commodity will be shipped uninsured. Fixed-date purchases must be explicitly arranged and reduced to writing.
- d) The recycling packaging material remains our property. It must be returned to us according to the packaging instructions within 3 months freight prepaid as otherwise it will be implied that the buyer wishes to purchase the material and it will be charged at cost.
- e) Should the buyer fail to accept the commodity, after setting a deadline the seller reserves the right to cancel the quantities which have not been accepted on time.

### Section 2 Payment

- a) The applicable payment period is contained on the invoices under terms of payment insofar as this conforms to the valid terms of payment or has been explicitly arranged as a deviation thereof. If nothing else has been explicitly arranged, the prices are understood to be for the kilogram weight unit. Increases in tariffs and freight charges for received start material will be borne by the buyer.
- b) For calculations, the weight established by the seller shall be binding. Any deviating arrangements must be explicitly agreed to.
- c) In the event that the debtor should protest a bill, or if a cheque is not honoured, or should the debtor default on a due payment for longer than 1 week, or in the event that the debtor is unable to pay, then all claims from the business contact shall immediately become due. If the payment has become due or if the buyer has defaulted following a reminder notice, then he will be liable to pay 5% interest from the due date or from the begin of his default in payment with the interest equalling 8% above the respective base interest rate respectively. Further claims shall remain unaffected. Should the buyer fail to pay within a reasonable period as set in a reminder despite the fact that the claim has matured and that he has been sent a reminder notice by the seller, then the seller is entitled to withdraw from the contract notwithstanding any other claims without having to set another term. With partial and successive deliveries, the seller is also entitled to alternatively demand prepayments for the pending deliveries or sufficient security should the buyer have defaulted on previous deliveries.
- d) Counterbalancing claims are only permissible with claims which are undisputed or which are legally enforceable. The buyer is insofar entitled to exercise a right of retention as his counterclaim rests on the same contractual relationship or the counterclaim has been recognised or is legally enforceable or ready for a decision. We reserve the right on a case-to-case basis to accept acceptances or bills. They will only be accepted on account of payment and will only become valid as payment after they have been redeemed.

### Section 3 Retention of ownership

- a) The commodity remains our property until payment has been made in full including principal claims and subsidiary claims arising from the business contact in the future.
- b) The buyer commits himself to taking the conditional commodity for us in the customary safe storage. The buyer is responsible for insuring the commodity at our benefit and at his cost against loss and lost usefulness as well as against fire, theft, transport damage, water and other risks.
- c) Any handling or processing of the conditional commodity by the buyer or a third party commissioned by him shall be performed for us. We will be considered the manufacturer as provided for in Section 950 of the German Civil Code BGB, and we will therefore acquire the ownership rights to the intermediate and finished products. The buyers or the respective owners are only the custodians of the commodity for us. With his acceptance of the commodity, the buyer is responsible for assuring that despite its repeated transferral we will remain the owners of the commodity. Through his handling and processing of the commodity, the buyer is not liable for meeting obligations and claims for damages. The handled and processed commodity will serve to secure our claims, in any case this will apply to the value (the price charged to the buyer) of the conditional commodity. Should the conditional commodity be processed along with commodity which does not belong to us, we will then reserve the right of a joint ownership in the new commodity in proportion to the value of the conditional commodity to the other commodities at the time of the processing. The new commodity shall be considered a conditional commodity in the sense of these conditions and shall be subject to the same provision. In the event that the conditional commodity is mixed or blended with other commodities, our ownership shall remain according to Sections 947 and 948 of the German Civil Code BGB, i.e. this will become part of a joint ownership; otherwise the above provisions regarding the handling and processing will apply analogously. Should we lose our ownership by force of law according to Section 947, Para. 2 of the German Civil Code BGB through the connection with additional movable property, then the buyer shall assign us the sole ownership of the new property insofar as the ownership has been transferred to him. The buyer shall hold the new property in safe custody for us free of charge.
- d) The buyer may resell the conditional commodity in the course of his usual business. Any attachment of property or other restrictions are to be immediately reported to us. Any expenses remaining despite our success in a legal dispute according to Section 771 of the Code of Civil Procedure ZPO shall be borne by the buyer.
- e) Should the buyer resell the conditional commodity irrespective of its condition, then he shall already now assign us all claims arising against his buyers from the resale including all subsidiary rights until he has completely fulfilled all of his commitments towards us. The assigned claims shall serve to secure all our claims arising from the business contact with the buyer, yet no less than the amount of the value of the respectively sold conditional commodity. Should the buyer sell this together with other commodities which do not belong to us irrespective of their condition, then the assignment of the purchase price claim to us shall be considered as having been arranged only for the amount of the value of the conditional commodity which together with other commodities constitutes a subject matter of this purchase agreement or which is a part of the object sold.
- f) Despite the above arranged assignment, the buyer is authorised to collect the

claims from the resale of the commodity. Our collection authority remains unaffected by the collection authority of the buyer. We will however not collect the claims ourselves as long as the buyer properly meets his payment obligations. The buyer is responsible for providing us with the names of the debtors of the assigned claims; he shall grant us the right to report the assignment to them. In addition, the buyer is also responsible for providing us with all the information we may require to assert the rights and also, if necessary, to surrender to us the documents required for this purpose.

- g) The securities which we are entitled to will not be recorded insofar as the estimated value of our securities exceeds the nominal value of the claims being secured by 50%; the question as to which securities shall be released shall be left to our discretion.

### Section 4 Complaints, rehibitory defects and defects of title

We will accept defects in delivery as follows, however only if the inspection and complaint procedures as provided for in Section 377 of the German Commercial Code HGB have been correctly followed (any complaints are to be filed in writing):

- a) Insofar as the purchased item is defective, we reserve the right to either remedy the defect or to supply a faultless item (subsequent fulfilment). This is subject to the defect not being inconsiderable. We are entitled to refuse to remedy the defect for as long as the buyer fails to fulfil his payment obligation towards us to the extent which would correspond to the faultless part of the performance.
- b) In the event that the subsequent fulfilment mentioned in paragraph 1 shall be impossible or prove to be a failure, the buyer can then at his discretion either reduce the purchase price accordingly or withdraw from the contract as provided for by legal regulations; this especially applies in the event of a culpable delay or refusal of a subsequent fulfilment as well as when this should end in failure a second time. Further claims of the buyer regardless of the legal basis (especially claims arising from a violation of principal and subsidiary contractual obligations, compensation of expenditure with the exception of the costs contained in Section 439 II of the German Civil Code BGB, tortuous acts as well as other delictual liabilities) are according to Section 5 excluded or limited. The same applies to claims from faults at the time of the conclusion of the contract.
- c) No warranties will be granted for damages in the following cases: Unsuitable or incorrect use, the usual wear and tear, faulty or careless handling, excessive use, unsuitable operating media, chemical, electrochemical or electrical influences (insofar we are not responsible for these), incorrect alterations or alterations which have been carried out by the buyer or a third party without our prior approval. With regard to sales by sample, we do not accept liability for any result according to the sample; the use of the sample in the production process is undertaken at the buyer's risk. Commercial, reasonable and technically unavoidable deviations in quality or colour are not to be faulted. We also accept no liability for the evenness of the colour quality of the commodity. Because of the uneven quality of the raw material, the seller reserves the right of deviations in the raw shades insofar as these do not impair the quality of the commodity produced by the buyer from the delivered commodity to a considerable extent. With regard to moisture and preparation layer, the parties agree to abide by Chapter IV of the BISFA regulations 1995 (international agreed methods for testing polyamide filament yarns and international agreed methods for testing polyester filament yarns) which we will be pleased to provide at any time upon request.
- d) Claims lodged by the buyer for defects will expire through the limitation of time a year after the delivery of the purchased items insofar as we are not made liable for damages through intent, gross negligence or any injury to life, body or health. A reduction of the purchase price or a withdrawal from the contract is excluded insofar as the right of a subsequent fulfilment has expired through the limitation of time. In the event of Sentence 3, the buyer can however refuse payment of the purchase price insofar as he would have been entitled to do so through the withdrawal or a reduction of the purchase price. In the event that a withdrawal has been excluded and a following refusal to pay, we are entitled to withdraw from the contract. A reversal of the burden of proof is not intended.
- e) Assurances and guarantees will only be considered as being effective if they have been made explicitly and in writing by us. Public statements made by us, especially in advertising or in the commodity designation, do not constitute a description of the commodity or a guarantee of the same.

### Section 5 Right to withdraw from the contract, liability

- a) The legal right of the buyer to withdraw from the contract shall neither be excluded nor restricted. Equally, legal and contractual rights and claims which we are entitled to shall be neither excluded nor limited.
- b) Our advice is given to the best of our knowledge and based on our experience. All statements and information given by us regarding the suitability and use of our commodities are however noncommittal, and they do not release the buyer from carrying out his own research and tests. The buyer is responsible for observing legal and official regulations in the use of our commodities.
- c) Additional claims of the buyer regardless of the legal basis (especially claims from the infringement of principal and subsidiary contractual claims or consulting responsibilities because of rehibitory defects and defects of title, compensation of expenditure, tortuous acts and other delictual liabilities) are excluded; this especially applies to claims for damages which lie outside the purchased items and for claims for the replacement of lost profits as well as claims which are not due to defects of the purchased item. We are liable for damages according to legal regulations insofar as we or our assistants or legal representatives have violated our responsibilities with intent or gross negligence; furthermore, legal regulations also apply should we have culpably violated an essential contractual obligation (cardinal obligation). Insofar as we are not burdened with intent or gross negligence, our remaining liability for damages is limited to damages which are typically foreseeable by the contract – however only to the simple value of the respective shipment. We are also legally liable for damages when we are blamed for injuries to life, body or health. The same applies when we take over a guarantee and when we assure a feature and an associated defect should cause us to become liable for damages. Our liability for damages according to the product liability law remains unaffected. Equally any liability for damages according to the principles of the recourse against the contractor according to Section 478 and the following of the German Civil Code BGB remains unaffected. The aforementioned applies equally in the event of compensation for expenses. A reversal of the burden of proof is not intended.
- d) The same (exclusion, limitation and exceptions thereof) also applies for claims to faults during the conclusion of the contract.

### Section 6 Place of performance and jurisdiction and partial invalidity

- a) The place of fulfilment for all performances is the place where the buyer has his branch office. The place of jurisdiction for all claims arising from the contractual relationship is Deggendorf. The seller is however entitled to also assert his claims at the general place of jurisdiction of the buyer.
- b) German law also applies for deliveries to other countries with the explicit exclusion of the UN-Purchasing Law (CISG).
- c) Should any individual provision of these sales conditions be ineffective, then this shall have no effect on the remaining provisions.

(Issued in February 2007)