

GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY
Hueck Folien Gesellschaft m.b.H.

1. Scope of Application

- 1.1 Any and all current - and future - offers, supplies and services as well as any and all other legal transactions with the business partner shall exclusively be subject to these General Conditions of Sale and Delivery (hereinafter referred to as "**Conditions of Sale/Delivery**").
- 1.2 Any deviation from these Conditions of Sale/Delivery or terms of contract of the business partner will not be accepted by Hueck Folien Gesellschaft m.b.H. (hereinafter referred to as "**Hueck**") and shall only be applicable subject to the explicit written confirmation by Hueck, even if Hueck does not again specifically object thereto from case to case.

2. Formation of Contract

- 2.1 Offers by Hueck are without engagement. All orders and agreements shall be legally binding only if confirmed by Hueck in writing.
- 2.2 Information on possible ways to process and employ the products, technical advice and all other information on the suitability and use, weight, measurements, forms, colors, performance and look, even if given in public statements, shall not be binding, unless they were declared in writing to be part of the contract.

3. Prices and Terms of Payment

- 3.1 Prices are quoted ex works ("EXW" according to the INCOTERMS 2000), exclusive of turnover tax, cost of wrapping/packaging and shipping, loading, surcharges due to changes in prices (clause 3.2 below) and exchange rate fluctuations.
- 3.2 Hueck is entitled to reasonably increase the prices if after submission of the offer there are changes in the prices of raw materials or additives, wages, salaries, charges, taxes, other duties or similar features relevant to the price.
- 3.3 Hueck reserves the right to correspondingly adjust the price if the purchase order differs from the overall offer.
- 3.4 If no turnover tax is to be charged in case of deliveries to a business partner in a Member State of the European Union, the business partner shall promptly furnish Hueck, without a special request being required, with all the documentary evidence which Hueck requires under the applicable statutory provisions, including without limitation those on turnover tax, in order to establish the tax exemption of the supplies vis-à-vis the financial authorities. This shall apply, in particular, to proof of the transport of the merchandise to another Member State of the European Union, the VAT number, or (if applicable) the personal tax exemption of the business partner.
- 3.5 The prices and the terms and conditions of delivery and payment shall be as set out in the contract as well as in the order confirmation.
- 3.6 Prices shall apply only to the place specified in the order confirmation, and Hueck is not obligated to deliver to any other place. Deliveries to other places shall be subject to the corresponding extra costs, but in any case to a handling charge of 1% of the net value of the goods supplied.
- 3.7 Calculation of prices and any other assessment of the merchandise shall always be made on the basis of the measuring unit (weight, number of units, length, width, etc.) determined at Hueck's works.
- 3.8 Freight notes shall be paid to Hueck at the payment date specified in the invoice or, in the absence of such a payment date, within eight days as from the invoice date; other invoices, including invoices for part deliveries, shall be paid within 30 days of the invoice date. In either case, payment shall be made in the agreed currency, without any charges or deduction, by payment in cash or wire transfer. If the invoice is made out by the carrier, the invoiced amounts shall be paid to the carrier, again subject to the aforementioned payment dates and periods. Any mode of payment differing from the above must be specifically agreed upon in writing, it being understood that bills of exchange or checks will be accepted, but credit to the debt will be made only after actual receipt of the funds. Any costs and expenses of whatever kind related to the payment shall be borne by the business partner.
- 3.9 Payments by the business partner shall always be credited to the oldest amount due from the business partner and to any ancillary claims pertaining thereto.
- 3.10 Payments will be deemed made on the day when Hueck can dispose thereof.
- 3.11 The business partner shall have no right of retention or any other right to refuse performance. The business partner may set off any amounts due to it against claims of Hueck only if the claims of the business partner have not been challenged or have been awarded finally and absolutely.
- 3.12 In the event of default in payment as well as in case of doubts as to the solvency of the business partner, Hueck is entitled to declare any and all amounts outstanding under the current or any other transaction due and payable and to charge default interest on such sums in the amount of 1.25% per month plus VAT as from the respective due date. Furthermore, Hueck is entitled to request advance payment or security prior to performance or to rescind the contract, in full or in part, and to claim damages and/or suspend performance of the contract. Besides, Hueck may deny the resale, further use or processing of the supplied merchandise and request the return of the merchandise at the cost of the business partner. In addition, the business partner shall reimburse Hueck for any dunning and collection charges (including the costs of any collection agency and/or any attorney-at-law) that may have been incurred in collecting the costs.
- 3.13 Notwithstanding any other rights due to Hueck in case of late acceptance of the merchandise by the business partner, Hueck is entitled to store the products or ship the products at the risk of the business partner. Any extra costs arising therefrom (for transport, storage, etc.) shall be borne by the business partner. Minor defects shall not entitle the business partner to refuse acceptance of the products, irrespective of any rights under warranty due to the business partner.

4. Delivery

- 4.1 Hueck is authorized to make part or advance deliveries and charge them separately.
- 4.2 Any delay in a part shipment does not entitle the business partner to infer any rights regarding the other part shipments. If delivery on call has been agreed upon, the products will be deemed to have been called one year after the order date, at the latest, and Hueck is entitled to charge the remaining order as well as any storage costs until the date when the products are picked up.
- 4.3 The delivery dates and periods mentioned by Hueck are without engagement.
- 4.4 Any permits, licenses and approvals of or by the public authorities or third parties that may be required for the execution of an order shall be procured by the business partner, who shall inform Hueck thereof and, if applicable, indemnify and hold Hueck harmless from and against any loss, damage, or claim sustained or raised in this respect. Hueck is not obligated to begin work before such permits, licenses and approvals have been granted in a legally effective manner.

- 4.5 The delivery period which shall only be regarded as an approximate date shall begin at the latest of the dates mentioned below:

- Date of order confirmation;
- Date of satisfaction of all technical, commercial and other conditions incumbent on the business partner (for example, full clarification of all details, provision of all printing documents, agreement to the working patterns or models, etc.);
- Date when Hueck receives a down-payment or security to be provided prior to delivery of the products;
- Date when all permits and approvals to be procured from third parties by the business partner are available.

- 4.6 Deliveries will be made ex works ("EXW" according to the INCOTERMS 2000).

- 4.7 In case of pick-up of the products, the delivery date shall be the agreed date when the products are made available in Hueck's works; otherwise the delivery date shall be the date when the products leave Hueck's works.

- 4.8 Events of force majeure (war, riot, intervention and bans by public authorities, fire, etc.) or any other hindrances in the execution of a purchase order, such as interruption of operations at Hueck's or at sub-suppliers' works, delays in supplies from sub-suppliers, lack or shortage of labor, energy or raw materials, strikes and traffic disruptions, which cannot be removed by Hueck or cannot be removed in an economically reasonable way, shall release Hueck from its delivery obligation, with such release being in force to the extent and for the duration of the effects of the event of force majeure, and in such a case Hueck is entitled to rescind the contract in full or in part. The business partner does not have any corresponding claims for compensation out of any such event.

- 4.9 In case of late delivery by Hueck for any other reason, the business partner may rescind the contract by giving Hueck written notice of termination, after having granted, also in written form, a grace period of six weeks. The grace period shall begin to run on the date of receipt of the notice of termination by Hueck. Any kind of claims over and above the right of rescission on the part of the business partner shall be excluded to the extent this is legally permissible. If in case of an overall contract, the specified delivery dates are not complied with only with regard to a part delivery, the preceding agreement shall apply on the condition that rescission of the contract shall be permissible with regard to only a part delivery.

- 4.10 For production reasons, Hueck has the right to exceed/fall short of the order quantity by 10%; in case of orders for less than 5000 m², the tolerance shall be raised to up to 20%. This shall also apply to the individual part deliveries. At the same time, the business partner agrees to production-caused scrap in length of 5% per roll of the production material and work process of Hueck.

5. Packaging, Shipment and Insurance

- 5.1 Packaging shall be at the discretion of Hueck. The packaging material will not be taken back. If the business partner requests any packaging different therefrom, such packaging will be provided against reimbursement of the respective costs.
- 5.2 The mode of shipment, shipper and shipping route will be determined by Hueck to the exclusion of any liability on its part. Any particular loading and shipping instructions given by the business partner, in particular in connection with carriage by specially secured transports, will be complied with at the risk and cost of the business partner.
- 5.3 Shipment with delivery to the premises of the business partner shall not include unloading or subsequent removal to a designated location on the premises of the business partner.
- 5.4 Freight charges, special costs in connection with carriage by specially secured transports, and the costs of insurance, if any, of the consignment taken out at the request of the business partner shall be borne by the business partner.

6. Passing of the Risk

- 6.1 The place of delivery shall be the works of Hueck. The right of use and the risk of accidental loss and destruction or deterioration shall pass to the business partner upon provision of the products at Hueck's works or, if carriage has been agreed upon, no later than the date when the goods leave the works, irrespective of the payment conditions agreed upon for the delivery (delivered free CIF, FOB transactions).
- 6.2 The provisions on the place of performance and the passing of the risk shall not be affected by any separate agreements on quality assurance.

7. Storage

- 7.1 Any raw materials, semi-finished or finished products, other objects and documents that may be given to Hueck shall be stored at Hueck's exclusively at the risk of the business partner. For the record it is stated that Hueck has purchased and maintains storage insurance covering the raw materials, semi-finished or finished products handed over against damage caused by natural forces. At the same time, Hueck will take efforts to comply to the greatest extent possible with any specific storage conditions specified by the business partner.
- 7.2 Hueck cannot be held liable for any damage to or loss of the stored goods unless Hueck has caused the damage or loss by gross negligence or the damage is covered by insurance and the insurer provides indemnity under the insurance against damage caused by natural forces. In the latter case, Hueck's liability shall be limited to the sum insured. Unless otherwise agreed upon, clause 10.2 of these Conditions of Sale/Delivery shall apply.

8. Retention of Title

- 8.1 Until full satisfaction of the obligations of the business partner (payment of the order sum plus incidental costs, interest, taxes and duties, out-of-pocket expenses, etc.), all the products supplied shall remain the property of Hueck. In current account transactions, the retained title will be considered security for the remaining balance due to Hueck.
- 8.2 The business partner may alienate, use or process the products in the course of its ordinary conduct of business. Any other use or disposition of the products, including without limitation, pledging or transferring the products by way of security, shall not be permitted.
- 8.3 If the business partner resells the products that are subject to retention of title to another purchaser, the business partner shall assign - and herewith assigns - to Hueck any and all claims in the amount of the invoiced value of the said products. Hueck accepts such assignment.
- 8.4 If the products are re-sold against cash, the business partner shall keep and safeguard the sales proceeds separately and promptly transfer such part of the proceeds to Hueck that corresponds to the outstanding invoiced amount.
- 8.5 If the business partner wishes to resell the products that are subject to retention of title while at the same time granting a deferral of the purchase price, the business partner may do so only if - concurrently with the resale - it notifies the purchaser of the assignment by way of security and records the assignment in its books and accounts. Furthermore, the business partner shall inform the purchaser by a written note on its corresponding invoices that the

- purchaser's payment obligation for the goods that are subject to retention of title can only be satisfied if payment in the amount of the invoiced value of the said goods is made to Hueck.
- 8.6 If the goods that are subject to retention of title are used for the performance of a contract for work or services, this shall trigger the same consequences as a resale.
- 8.7 The business partner is obligated to give Hueck all the necessary information, such as the name and data of third parties involved, and provide all documents required to enforce the claims of Hueck as owner of the goods that are subject to retention of title. In case of any infringement by third parties upon the rights of Hueck as owner of the retained goods, the business partner shall advise Hueck thereof without delay and shall bear any and all costs of measures taken to undo the access of the third parties to the retained goods supplied insofar as such costs cannot be recovered from the infringing third party.
- 8.8 If the Hueck products are treated, processed, mixed or combined with any materials of third parties, Hueck shall become the co-owner of the products resulting therefrom, in proportion to the *pro-rata* value added. The business partner shall keep and maintain the resulting products for Hueck free of charge. The business partner herewith assigns to Hueck on a *pro-rata* basis any amounts due to the business partner from the sale of such products.
- 9. Warranty**
- 9.1 Hueck exclusively warrants that the sold products meet the agreed specifications at the date of the passing of the risk. Hueck does not assume any liability for any properties or characteristics not covered in the written specifications, or for any particular results achieved in treating or processing the products nor does Hueck warrant that the products are fit for any particular purpose. Deviations in quality, form, color, quantity or weight which are usual in the line of business and which are either minor or cannot be avoided for technical reasons are not deemed a defect/non-conformity and no claims can be raised on the basis thereof.
- 9.2 The risk that the products are fit for the purpose intended by it shall solely rest with the business partner. Any printing or execution documents that Hueck may furnish to the business partner shall be checked by the latter for their suitability for the purposes intended by it and the business partner shall confirm the suitability to Hueck in writing. Hueck does not assume any liability for any faults or defects overlooked by the business partner in such checks. Any corrections desired by the business partner shall be marked by it clearly. Furthermore, the business partner shall bear any and all risks resulting from the handling or the use of the products, irrespective of whether the products are used on a stand-alone basis or in connection with other products.
- 9.3 If Hueck makes a product on the basis of construction or design information, drawings, plans, models or similar devices of the business partner, Hueck can only be held liable for execution according to the stipulations and specifications. Hueck does not give any warranty for the sale of used objects.
- 9.4 Warranty claims can only be raised if the business partner inspects the products within a reasonable period, but no later than 14 work days from receipt thereof, and notifies Hueck of any defects (including defects resulting from transport) within the said period in writing, describing the defect in detail and, if required, submitting suitable documents and/or representative samples. In case of defects that cannot be discovered even during careful inspection of the products upon receipt thereof, the notice period shall end 14 work days after the defect would have been recognizable, but in any case after the expiration of six months as from the date of the passing of the risk.
- 9.5 Warranty claims shall become statute-barred after six months, unless mandatory statutory provisions provide for longer periods.
- 9.6 If notice of defect/non-conformity is not given properly, all claims under warranty, damage claims or any other claims based on the non-conformity of the products shall be excluded.
- 9.7 No notice of defect/non-conformity can be given for trial shipments or deliveries of samples.
- 9.8 If a product has been proved to be defective/non-conforming, and if notice of defect/non-conformity has been given in due time, such products shall - at Hueck's option - be replaced or repaired, in either case free of charge, or the corresponding invoice value shall be credited to the business partner's account. This shall not apply to products which due to the quality of the materials used or after their use are subject to early consumption or wear and tear, nor in case of damage resulting from loss in value from normal use, errors in the purchase order, improper handling or storage, excessive use, exposure to temperatures, influence of the weather or of moisture/humidity, chemical or electrochemical influence, of whatever kind, transport, or defects that are the result of materials furnished or instructions given by the business partner or third parties. No warranty is given by Hueck for products that have been treated or processed. The business partner shall have the right to rescission of contract or a reduction in price only if Hueck does not replace, repair or improve the products in any way. Any further warranty claims are excluded.
- 9.9 Any incidental costs that may arise in connection with the remedying of defects shall be borne by the business partner. If work under warranty is performed on the business partner's business premises, the business partner shall make the necessary auxiliary personnel and materials as well as the required tools available to Hueck free of charge.
- 9.10 Any product returns shall be subject to the explicit written approval of Hueck and shall be carried out at the risk and cost of the business partner.
- 9.11 It is stated in connection with all warranty and damage claims that the existence of the defect at the time of delivery must without any exception be proved by the business partner; the statutory presumptions of sections 924 and 933a of the Austrian "*Allgemeines Bürgerliches Gesetzbuch (ABGB)*" (General Civil Code) are expressly excluded.
- 9.12 If a claim under warranty arises in the relationship between the business partner and any of its customers, no recourse can be had to Hueck as predecessor in title after the expiration of the warranty period (sec. 933 b of the General Civil Code). *Vis-à-vis* its customers, the business partner shall also exclude the right of recourse pursuant to sec. 933 b of the General Civil Code, provided that such customers are not considered consumers.
- 9.13 Hueck shall be liable for defects and consequential harm/damage caused by a defect only if such defect or consequential harm/damage was caused intentionally or by gross negligence. Gross negligence or intent must be proved by the business partner. No liability shall be assumed by Hueck for slight negligence (except in case of personal injury) nor does Hueck provide indemnification for consequential loss, financial damage, lost profit, savings not made, loss of interest, or damage or loss resulting from any claims of third parties raised against Hueck's business partner. In terms of amount, Hueck's indemnification obligation *vis-à-vis* all damaged parties together for each and every event causing damage shall be limited to the order amount. If the total damage exceeds such maximum limit, the individual damaged party's claim to compensation shall be reduced on a *pro-rata* basis. Such limitation of liability in terms of amount shall not apply solely if and to the extent that the specific damage is covered by insurance and the insurer provides indemnity under the relevant policy or policies. In such case, Hueck's liability shall be limited to the amount of the sum insured. To the extent that Hueck's liability is excluded or limited, such exclusion or limitation of liability shall also apply to the personal liability of Hueck's employees, representatives, agents and so-called "*Erfüllungsgehilfen*" (persons employed by Hueck in performance of its obligations, as defined in sec. 1313 a of the General Civil Code).
- 10. Product Liability, Indemnification Obligation**
- 10.1 The business partner undertakes to observe and comply with any and all warnings, storage conditions, instructions for use, product specifications and other product declarations, etc. (hereinafter referred to as "**Warnings and Instructions**") of Hueck. In particular, the business partner acknowledges that Hueck's materials must be stored at temperatures ranging between 15 °C and 25 °C (59 F to 77 F) and at a relative humidity ranging between 50% and 60% and must under no circumstances be deposited close to heating units, steam lines, moist walls or the like. The materials must be protected against exposure to direct sun. Rolls and pre-cut formats must be left in their original packaging until used. In case of proper storage, the materials have a useful life of six months at the most as from the production date. The business partner shall advise its customers in writing of all such Warnings and Instructions, in

- their complete version as amended from time to time, and shall impose them on the customers. If the business partner omits such an imposition of the Warnings and Instructions, the business partner undertakes to indemnify and hold Hueck harmless from and against any loss, damage, or claim sustained or raised in this respect and to reimburse Hueck for any costs resulting from a liability arising to Hueck in this connection.
- 10.2 Hueck shall be liable for damage only if such damage was caused intentionally or by gross negligence. Gross negligence or intent must be proved by the business partner. No liability shall be assumed by Hueck for slight negligence (except in case of personal injury) nor does Hueck provide indemnification for consequential loss, financial damage, lost profit, savings not made, loss of interest, or damage or loss resulting from any claims of third parties raised against Hueck's business partner. In terms of amount, Hueck's indemnification obligation *vis-à-vis* all damaged parties together for each and every event causing damage shall be limited to the order amount. If the total damage exceeds such maximum limit, the individual damaged party's claim to compensation shall be reduced on a *pro-rata* basis. Such limitation of liability in terms of amount shall not apply solely if and to the extent that the specific damage is covered by insurance and the insurer provides indemnity under the relevant policy or policies. In such case, Hueck's liability shall be limited to the amount of the sum insured. To the extent that Hueck's liability is excluded or limited, such exclusion or limitation of liability shall also apply to the personal liability of Hueck's employees, representatives, agents and so-called "*Erfüllungsgehilfen*" (persons employed by Hueck in performance of its obligations, as defined in sec. 1313 a of the General Civil Code). If penalties have been agreed upon, any exceeding claims based on the same legal grounds shall in any case be excluded.
- 11. Property Rights, Secrecy, Tools**
- 11.1 Samples, models, drawings, plans, patterns, information and other documents (hereinafter referred to as "**Devices**") which are mutually exchanged between Hueck and the business partner for the purpose of signing and, if applicable, implementing the contract shall remain the property of the party furnishing the Devices. No right to use the Devices over and above the use provided for in the contract is granted. The business partner may reproduce such Devices only for its own personal use. The business partner may not make the Devices available to any third party in whatever form or use or exploit them in any other form (in particular, for registering industrial or intellectual property rights, patents, etc.), except with the express written approval of Hueck. There shall be no right of retention regarding such Devices. To the extent that the business partner makes such Devices available to Hueck, the business partner represents that the use thereof does not infringe upon domestic or foreign rights (copyrights, rights under patents, trademarks or designs, etc.) of third parties. Hueck does not have any obligation to verify such representation and the business partner shall indemnify and hold Hueck harmless from and against any loss, damage, or claim sustained or raised in this respect.
- 11.2 Clause 11.1 shall apply *mutatis mutandis* to any knowledge, data and information mutually exchanged between Hueck and the business partner for the purpose of signing and implementing the contract.
- 11.3 Hueck's trademarks, brands or logos may be used by the business partner only with the express written approval of Hueck.
- 11.4 Tools or templates (printing rollers, embossing tools, etc.) made or procured by Hueck for the performance of the contract shall remain the property of Hueck even if part of the costs thereof is charged to the business partner. Hueck may solely use such tools or templates according to the contractual conditions, and may dispose them within one year after complete performance of the contract.
- 11.5 Tools or templates made available to Hueck by the business partner shall be returned by Hueck no later than one year after complete performance of the contract.
- 12. Transfer of Rights and Obligations**
- 12.1 The business partner is not entitled to transfer rights and obligations under the contract with Hueck to a third party, except with the prior written approval of Hueck.
- 12.2 Hueck has the right to rely on third parties for performing its contractual duties or to assign the rights and obligations under the contract, be it in full or in part, to third parties. The business partner herewith agrees to such transfer of rights, and will be notified thereof.
- 12.3 In particular, Hueck has the right to employ Hueck Folien Vertrieb & Service GmbH, with its registered office in 92712 Pirk, Germany, as authorized agent and broker. The law governing, and the place of jurisdiction for, the entire legal relationship (including all contracts and issues of power of attorney) between Hueck, the aforementioned third party and the business partner shall be those set forth in clauses 14.2 and 14.3 hereof.
- 13. Miscellaneous**
- 13.1 Written notices will be deemed received by the business partner if sent to the address most recently designated by the business partner.
- 13.2 If the products are used and/or resold, the business partner is obligated to observe any and all statutory provisions/any and all stipulations and orders imposed by the public authorities.
- 13.3 Country-specific legal requirements at the place of the business partner which Hueck has to meet for its supplies and services have to be communicated to Hueck at latest when the order is placed.
- 13.4 If any provision of the contract or of these Conditions of Sale/Delivery is invalid, the effect of the remaining provisions shall not be affected thereby. The invalid provision shall be replaced by a valid provision which comes as close as possible to the intended objective and purpose.
- 13.5 Unless explicitly agreed upon otherwise, the interpretation of the trade terms used shall be governed by the INCOTERMS, as amended from time to time, of the International Chamber of Commerce in Paris.
- 13.6 Any oral side agreement to, modification of or amendment to the respective contract shall only be valid if confirmed in writing. Any waiver of these Conditions of Sale/Delivery and of the formal requirements stipulated in these Conditions of Sale/Delivery shall likewise only be valid if explicitly agreed in writing.
- 13.7 In the event of any discrepancies or contradictions between a German and a foreign-language version of these Conditions of Sale/Delivery, only the normative contents of the German version shall apply. Likewise, only the German version shall be used for interpreting the legal relationship between the contracting parties. The same shall apply in the event of any discrepancies between a foreign-language version and a German version of a contract.
- 14. Place of Performance, Place of Jurisdiction, Applicable Law**
- 14.1 The place of performance for the supplies and services shall be Baumgartenberg, Austria, even if delivery is made at a different place according to agreement.
- 14.2 These Conditions of Sale/Delivery and the legal relationship between the business partner and Hueck shall be governed by Austrian substantive law, except for the provisions of the "*Österreichisches Internationales Privatrechtsgesetz*" or "*IPRG*" (Conflict-of-laws Act) referring the matter to a foreign jurisdiction or other conflict-of-laws rules if the business partner has its place of business in Austria or in a country that is not a member of the United Nations Convention of April 11, 1980 on Contracts for the International Sale of Goods (CISG). If the business partner has its place of business in a Member State of the CISG, the latter shall apply subject to the modifications made in these Conditions of Sale/Delivery. Where the CISG is silent in such case, it is again Austrian substantive law that shall apply.
- 14.3 Any and all disputes arising under or in connection with the business relationship shall be finally settled under the Rules of Arbitration and Conciliation of the Austrian Federal Economic Chamber in Vienna ("*Vienna Rules*") by three arbitrators appointed in accordance with the said Rules. The place of arbitration shall be Vienna. The language used in the arbitration proceedings shall be German.
- Irrespective of the above clauses, Hueck is entitled to enforce its claims - at its option - before the court having jurisdiction at the registered office of Hueck.