

GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

AVK Syntec Co., Ltd.
(effective 1 January 2019)

1. Applicability

These general terms and conditions of sale and delivery (“**Conditions**”) govern the current and future supply and delivery of products and services (“**Products**”) by AVK Syntec Co., Ltd. (“**Supplier**”) and purchased by the purchaser (“**Purchaser**”), unless otherwise agreed in writing. The applicability of any general and special terms and conditions of Purchaser is excluded.

2. Quotations and orders

Supplier’s quotations of Products and pricing is subject to change.

Contracts for delivery are accepted upon (i) written quotation by Supplier accepted by Purchaser in accordance with the terms of the quotation and subsequently confirmed by Supplier in writing (ii) written confirmation by Supplier of Purchaser’s order (each a “**Binding Order**”). Modification of a Binding Order shall be in writing.

3. Prices

All prices quoted by Supplier are valid for 30 days only. The price of the Products shall be Supplier quoted price or, where no price has been quoted (or the quoted price is no longer valid), the price listed in Supplier’s published pricelist current at the date of acceptance. All prices are quoted by Supplier on ex works basis (EXW – INCOTERMS 2010) unless otherwise agreed in writing. The costs of packaging will be charged to Purchaser in addition to the price of the Products. The prices are exclusive of any import duties, VAT, levies, taxes and other charges which may be imposed on the Products. Any typographical, clerical or other error or omission in any quotation, pricelist, acceptance offer or other document or information issued by Supplier may be corrected by Supplier without any liability on the part of Supplier.

Supplier reserves the right by giving notice to Purchaser at any time prior to dispatch to increase the price of the Products to reflect any substantial increase in the cost to Supplier which is due to factors beyond the control of Supplier (including, but not limited to, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in cost of labour, materials or other cost of manufacture or transportation) that gives Supplier a disadvantage compared to the circumstances prevailing at the date of the acceptance of the Binding Order. Any such increase of price will reflect the actual increased cost level as evidenced by Supplier’s records. If the increase of price is beyond 20 %, Purchaser shall be entitled to cancel the relevant Binding Order immediately and until such time Products have been dispatched.

4. Terms of payment

Supplier shall be entitled to invoice Purchaser for the price of the Products on, or at any time after, the scheduled delivery of the Products. The time of payment of the price of the Products is of the essence. Purchaser shall pay the invoice of the Products within 30 days of the date of Supplier’s invoice. If Purchaser fails to make full payment on the due date then, without prejudice to any other right or remedy available to Supplier, Supplier shall be entitled to (i) charge Purchaser interest on the amount unpaid, at a rate of, at present, 1,00 % per commenced month (interest will be added monthly) and (ii) charge a fee of EUR 20 per payment reminder.

On the request of Supplier, if the Binding Order exceeds EUR one hundred thousand (100,000) Purchaser shall, (i) at its expense, provide an unconditional, irrevocable, unlimited and absolute payment guarantee from an internationally recognized bank on Supplier’s first demand, or (ii) at its expense provide a letter of credit.

In case of any payment default by Purchaser, Supplier is entitled to postpone delivery and to store any undelivered Products at Purchaser’s expense by use of a freight forwarding agency or by utilizing Supplier’s storage facilities until payment of due invoices.

5. Delivery

Delivery shall take place EX WORKS (INCOTERMS 2010). Prior to dispatch, Purchaser shall give Supplier information regarding its VAT number. Upon receipt of the Products, Purchaser shall issue to Supplier a notice acknowledging the receipt of Products and return required export statements. Supplier is entitled to make partial deliveries. If Purchaser fails to take delivery, Supplier is entitled to store any undelivered Products at Purchaser’s expense, i.e. by use of a freight forwarding agency or by utilizing Supplier’s storage facilities. In case of late delivery attributable to Supplier, Purchaser may seek liquidated damages for delay equal to

zero point five (0,5%) percent of the price of the invoiced value of the delayed Products per commenced week of delay up to a maximum of five (5,0%) percent of the invoiced value of the delayed Products. If Supplier has not delivered the Products within 20 weeks from delivery date, Purchaser is entitled to terminate the Binding Order without further liability for Supplier. Termination and liquidated damages as set out in this clause 5 are the only remedies available to Purchaser in case of delay in delivery or non-delivery.

6. Cancellation and return

A Binding Order can only be cancelled by written agreement between Supplier and Purchaser. Supplier is entitled to debit Purchaser with all costs Supplier may incur as a result of Purchaser cancelling an order. Returns cannot be accepted more than 6 months after delivery.

Purchaser cannot expect to be credited more than 70% of the purchase price debited. All returns must show original invoice number and date of delivery and be in good sellable condition.

Return of special Products, Products which have been specially manufactured for Purchaser or standard Products which have been changed to meet Purchaser’s specifications, is not accepted

7. Packaging

Packaging is not returnable. Packaging which was debited separately may be returned no later than 3 months after the time of delivery but only upon written agreement.

8. Defects

Purchaser shall be solely responsible for satisfying itself that the Products are suitable and/or fit for the particular purpose for which they are ordered.

Products shall be deemed defective only when Purchaser evidences that Products are not in conformity with the Binding Order. Defective Product is in any case understood not to include any non-conformity caused by

- (i) the use of a Products for an application for which it has not been designed or which has not been recommended by Supplier;
- (ii) any change by Purchaser of the chemical composition of the medium or treatment of the medium for which the Products is used;
- (iii) installation not in accordance with Supplier installation instructions (if any) and accepted codes of good practice;
- (iv) lack of or faulty maintenance; and
- (v) normal wear and tear.

Purchaser shall carry out a reasonable inspection of the Products within 5 working days following receipt of Products, ascertaining that no transport damage has occurred and notify Supplier in case of transport damage.

All other defects shall, to the extent possible, be notified to Supplier within 15 working days from discovery, by defining the defect and declaring which claims are asserted (the “**Notification Period**”). In any event, Purchaser will lose its right to rely on lack of conformity of the Products if Purchaser does not give Supplier notice thereof at the latest within a period of (i) two (2) year from the date of installation or (ii) three (3) years (collectively the “**Cut-Off Date**”) from the date on which the Products were delivered (whichever occurs first). Purchaser may, at Purchasers discretion, demand Supplier to repair or replace the non-conforming Products. Supplier will cover direct costs for access and restoration, transport of a defect free product to the site of installation, dismantling and reinstallation at the site of installation of the defect Products. In case of repair or replacement by Supplier, the Cut-Off Date period runs from the time the Products were first actually delivered, and not from the time of repair or replacement. No other remedies shall be available to Purchaser in case of lack of conformity of the Products.

9. Extended retention of title

Notwithstanding delivery and the passing of risk in the Products, or any other provision of these Conditions, the ownership to the Products shall

not pass to Purchaser until Supplier has received in cash or cleared funds payment in full of any amount due. Until such time as the ownership of the Products passes to Purchaser, the Buyer shall hold the Products as Supplier's fiduciary agent and bailee, and shall keep the Products separate from those of Purchaser and third parties and properly stored, protected and insured and identified as Supplier's property. Until that time Purchaser shall be entitled to re-sell or use the Products in the ordinary course of its business, but shall account to Supplier for the proceeds of sale or otherwise the Products, whether tangible or intangible, including insurance proceeds, and shall keep all such proceeds separate from any monies or property of Purchaser and third parties and, in the case of tangible proceeds, properly stored, protected and insured.

Until such time as the ownership to the Products passes to Purchaser (and provided the Products are still in existence and have not been re-sold), Supplier shall be entitled at any time to require the Buyer to deliver the Products to Supplier and, if Purchaser fails to do so, forthwith to enter upon any premises of Purchaser or any third party where the Products are stored and re-possess the Products.

If delivery of Products takes place in Germany or Austria the following also applies:

Processing and adaptation of the Products which are subject to retention of title shall always occur for Supplier as owners, however without any obligation for Supplier. If the Products processed in this manner are combined by the Purchaser with other works, services or goods, Supplier shall have a right of joint ownership to the new object in the ratio of the invoice value of the Products, which are subject to retention of title to the value of the other goods and the processing value.

The claims against third parties from the resale of the Products are hereby assigned to Supplier by way of security in advance by Purchaser in full or in the amount of Supplier's respective co-ownership share. Supplier accepts the assignment. Purchaser remains authorized to collect payment in addition to Supplier. Supplier agrees not to collect the claims as long as Purchaser complies with its payment obligations towards Supplier, does not default on payment, no application for opening of an insolvency proceeding has been filed and there is no deficiency in Purchaser's performance capacity. In any of these events, Supplier can request that Purchaser discloses to Supplier the assigned claims and the debtors thereof, provides all information necessary for the collection, provides the relevant documentation and gives notice of the assignment to the debtors (third parties).

10. Liability

Notwithstanding anything to the contrary in these Conditions, for any and all claims, losses, costs and damages whether such are based on indemnification, contract negligence, breach of contract, breach of warranty, statutory rules or otherwise and to the fullest extent permitted by applicable law the liability of Supplier shall be limited to:

- (i) in respect of property damage the yearly limit is EUR 5 million (5.000.000); and
- (ii) in respect of any other liability the total aggregate liability of Supplier shall be limited to the amount of the purchase price of the Products payable under the relevant Binding Order with addition of any liquidated damages for delay, and reasonable costs for access and restoration, transport of a defect free product to the site of installation, dismantling and reinstallation at the site of installation of the defect Product to a maximum of EUR five million a year (5.000.000).

In no event shall Supplier be liable to Purchaser or to any third party for loss of profits, loss of revenue, loss of business opportunity, loss of time or for any indirect, incidental, special, consequential, punitive or exemplary damages arising out of or related to delivery of any Products.

The limitation of liability set out above in this clause 10 does not apply:

- (i) in the event of claims for compensation as a result of death or bodily injury;
- (ii) in the event of liability according to mandatory law;
- (iii) in the event of wilful intent or gross negligence on the part of the Supplier; and
- (iv) for reasonable costs in the event of an infringement of intellectual property rights related to Supplier's performance; except infringement or violation arising from or based upon

Supplier's compliance with particular requirements of Purchaser that differ from Supplier's standard specifications for Products.

11. Force Majeure

Supplier shall not be liable for any delay or failure of performance due to strikes, lockouts, fires, floods, act of governmental authority, epidemics, terrorism, political instability within the country in which Supplier is operating, acts of God or other causes beyond Supplier's reasonable control provided that Supplier shall have given notice to Purchaser of any such cause for delay or anticipated delay promptly following its commencement and shall have used its commercially best efforts to perform as expeditiously as possible. If the delay or failure in performance lasts more than 30 days, Purchaser shall have the right to, without liability to Supplier, immediately terminate the Binding Order(s) in respect of such part of the Products as cannot in consequence of the force majeure event be used as intended by Purchaser.

12. No waiver

Any waiver by either party of a breach of any provision of these Conditions shall not be considered as a waiver of any subsequent breach or any other provision of these Conditions.

13. Severance

If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the reminder of the provision in question shall not be affected thereby.

14. Default of Purchaser

If Purchaser commits any breach of its obligations towards Supplier, Supplier is then entitled to (without prejudice to any other rights of Supplier) forthwith (i) suspend further performance by Supplier or (ii) terminate the Binding Order(s) affected.

15. Venue and jurisdiction

These Conditions shall be governed by the laws of the Netherlands, with exclusion of any choice of law rules. The applicability of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is explicitly included for international sales. Any dispute or claim arising out of or in connection with these Conditions shall be referred to and resolved by arbitration, however Supplier may at its own discretion sue Purchaser at any place of jurisdiction through ordinary court.

Arbitration shall be conducted in accordance with the rules of The Danish Institute of Arbitration or the arrondissement Leeuwarden/Netherlands in force at the time when such proceedings are commenced. The place of arbitration shall be in the capital in the state of the Supplier. English shall be the language used during any such proceedings unless otherwise agreed between the parties. In addition to the aforesaid, either party is entitled to seek injunctive relief by a competent court as may be necessary to restrain any breach or threatened breach of these Conditions by the other party.

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