

# **TEREZ Performance Polymers Sp. z o.o.**

## **Terms & Conditions of Purchase**

### **I. Controlling Provisions**

1. No terms and conditions other than Purchaser's Terms and Conditions of Purchase as contained herein shall apply unless expressly approved in writing by Purchaser. These Terms and Conditions of Purchase shall also apply in the event Purchaser accepts delivery from Seller although aware of the existence of terms and conditions other than or different from Purchaser's Terms and Conditions of Purchase.
2. These Terms and Conditions of Purchase shall represent the entire agreement between Purchaser and Seller.
3. These Terms and Conditions of Purchase shall apply only to transactions with business men pursuant to Section 14 German Civil Code, legal entities and public institutions.
4. These Terms and Conditions of Purchase shall apply to all present and future commercial relations with Seller.

### **II. Purchase Orders - Acceptance**

1. Purchaser's orders are binding only if all conditions are completely accepted by Seller, including these Terms and Conditions of Purchase, which are an integral part thereof.
2. Offers, quotations, etc., from Sellers shall entail no expense for Purchaser. This also applies for all expenses incurred prior to the conclusion of this agreement, which expenses shall be borne by Seller.
3. In the event Purchaser's order is not accepted in writing within eight working days of receipt by Seller, Purchaser may at its sole option cancel the order.
4. Unless specified otherwise in these Terms and Conditions of Purchase or in Purchaser's order, the INCOTERMS shall apply in the version in effect as of the date of this agreement.
5. All rights to illustrations, drawings calculations and other documents shall remain the property of Purchaser. Such illustrations, drawings calculations and other documents may not be made available to third parties without Purchaser's express consent. They are exclusively intended for purposes of production on the basis of Purchaser's order, and Seller shall automatically return them to Purchaser upon completion of the order without being requested to do so by Purchaser. Purchaser's illustrations, drawings calculations and other documents shall be kept strictly confidential, and the conditions of Section XI.4 below shall apply.

### **III. Prices - Terms of Payment**

1. The price set forth in the purchase order shall be binding. Unless specified otherwise in writing, the price is agreed free shipment to delivery address (“frei Haus”), including packing. Packing materials may be returned only upon special agreement. Unless specified otherwise in writing, Seller may not invoice Purchaser for additional charges for shipment, storage, freight, insurance, customs duties or fees.
2. The price shall not include value added tax in the legally prescribed amount.
3. Purchaser can only process invoices if they include Purchaser’s order number as indicated in Purchaser’s orders. Seller shall be liable for the results of failure to comply with this condition unless Seller can prove that it is not responsible for non-compliance.
4. Unless specified otherwise in writing, Purchaser will pay the purchase price less a cash discount of 3% within 14 days of delivery or the net purchase price within 30 days of delivery. Payment shall be considered to have been made when due and payable if the date of the instrument of payment lies within the allowed payment period.
5. Purchaser may offset and withhold payments as prescribed by law.

### **IV. Delivery - Delivery Dates**

1. Seller shall bear complete responsibility for the procurement of materials and services required to make delivery to Purchaser independently even if Seller is not in any in default (complete assumption of risk of procurement).
2. Delivery must be made within the period specified in the purchase order.
  - 2.1. Arrival at the delivery address supplied by Purchaser shall provide the basis for determining timeliness of delivery.
  - 2.2. Seller shall inform Purchaser in writing without delay in the event of circumstances that occur or are detected and are such as to the make it obvious to Seller that it will not be possible meet the required delivery date.
  - 2.3. In the event of delayed delivery, Purchaser may avail itself of all legal remedies without exception.

### **V. Force Majeure**

In the event of acts of God, including, for example, natural catastrophes, disturbances, governmental measures, transport interruptions, strikes, lockouts and business interruption in Purchaser’s company or that of Seller or the latter’s suppliers, Purchaser may delay execution of the agreement accordingly. In the event these circumstances last more than three months, Purchaser may cancel the agreement. No such delay shall entitle Seller to any claims whatsoever against Purchaser. Seller shall promptly refund any corresponding payment received from Purchaser.

## **VI. Bearing of the Risk – Documents**

1. Unless specified otherwise in writing, shipment shall be made “free to delivery address” (“frei Haus”).
2. Seller shall indicate Purchaser’s purchase order number on all shipping documents and bills of lading. In the event of failure to do so, Purchaser can accept no responsibility for delays in processing.

## **VII. Guarantees and Warranties**

Seller guaranties and warranties:

1. That the goods provided under this purchase order conform with all specifications furnished by Purchaser in the purchase order. The products shall be delivered with all necessary documentation, including but not limited to in -plant testing certificate (“Werksprüfzeugnis”) and safety specifications sheet (“Sicherheitsdatenblatt”). Any changes may be made only with the prior consent of Purchaser.
2. That the goods conform with national and European environmental legislation.
3. That the goods correspond to the most recent state of the art in terms of materials and technology and comply further with relevant legal regulations and legislation as well as with the regulations and guidelines of governmental authorities, workman’s compensation bodies and professional associations.

## **VIII. Inspection – Defects**

1. Purchaser will inspect the goods within a reasonable period of time for the purpose of detecting any defects or shortages. Notification shall be considered to have been made in due time if made within eight days of delivery of the goods or, in the case of hidden defects, within eight days of discovery of the defect.
2. Purchaser may avail itself of all legal remedies without exception in the event of a defect. In any case, Purchaser may require that Seller, at Purchaser’s option, repair the defective good or replace such defective goods with new goods. Purchaser expressly reserves the right to claim damages, including damages in lieu of performance. Seller shall in any case be liable, even if Seller is not in any in default, for goods and services procured by Seller as well as for Seller’s own goods and services.
3. Purchaser may take measures to eliminate the defect at Seller’s expense if delay would be dangerous or in the event of unusual urgency.
4. The warranty period shall extend for 36 from the date of the transfer of risk.
5. Warranty periods shall be extended upon receipt of notification of defects in writing from Purchaser.