

# General Terms and Conditions of Sale of Armacell Benelux S.C.S.

## Section 1 General Provisions: Scope

(1) These General Terms and Conditions of Sale (GTC) shall apply to all our business relations with our customers (“Purchasers”). The GTC shall only apply if the Purchaser is an entrepreneur, a legal person under public law or a special fund under public law.

(2) The GTC shall in particular apply to contracts on the sale and/or delivery of movables (“goods”) independent of whether we produce the goods ourselves or purchase them from suppliers. Unless otherwise agreed the GTC shall apply as a framework agreement to similar future contracts without a need to refer to them in each individual case. The GTC shall apply as amended at the date of the Purchaser’s order.

(3) Our GTC shall apply exclusively. Any deviating, conflicting or supplementary General Terms and Conditions by the Purchaser shall only be incorporated into the contract if and in as far as we have explicitly approved their validity. This requirement of approval shall apply in any case, even if, for example, we effect delivery to the Purchaser without reservation being aware of his GTC.

(4) Any individual agreements made with the Purchaser in individual cases (including collateral agreements, supplements and amendments) shall in any case prevail over these GTC. Unless any evidence to the contrary is provided, a written contract or our written confirmation shall be authoritative for the contents of such agreements.

(5) Any legally relevant statements and notifications to be given to us by the Purchaser after the conclusion of the contract (e.g. setting of deadlines, notices of defect, declaration of rescission or reduction) shall only be effective in writing.

(6) Any references to the application of legal provisions are only made for clarification purposes. Even without such a clarification the legal provisions shall apply unless they are directly amended or explicitly excluded in these GTC.

## Section 2 Conclusion of contract

(1) Our offers are non-binding and without engagement. This shall also apply if we have provided the Purchaser with catalogs, technical documentation (e.g. computations, calculations), other product descriptions or documents - also in electronic form.

(2) The Purchaser’s order of the goods shall be deemed a binding offer of contract. Unless otherwise stipulated in the order, we shall be entitled to accept this offer of contract within 2 (two) weeks after we have received it.

(3) The acceptance may be declared in writing (e.g. by order confirmation) or by delivery of the goods to the Purchaser.

## Section 3 Term of delivery and default in delivery

(1) The term of delivery shall be agreed individually or shall be stated by us in the order confirmation.

(2) Should we not be able to keep binding terms of delivery for reasons beyond our control (non-availability of the work or service), we shall inform the Purchaser immediately and at the same time

state the new expected time of delivery. Should the goods or service not be available either within the new time of delivery, we shall be entitled to rescind the contract completely or in part; we shall refund any payment already made by the Purchaser without delay. In particular, the untimely delivery to us by our supplier shall be deemed a case of non-availability of the goods or service within this meaning, if we have concluded a congruent covering transaction, it is neither our nor our supplier's fault and we are not obliged to procure the goods in the individual case.

(3) The occurrence of our default in delivery shall be subject to the legal provisions.

(4) The Purchaser's rights pursuant to Section 9 of these GTC and our legal rights, in particular in case of the exclusion of the obligation to perform (e.g. due to the impossibility or unreasonableness of the performance and/ or supplementary performance), shall remain unaffected.

#### **Section 4 Delivery, passing of risk, acceptance, default in acceptance**

(1) The goods shall be delivered ex-stock, which shall also be the place of performance for delivery and any possible supplementary performance. Upon the Purchaser's demand and at his cost the goods shall be dispatched to a different place of destination (sale by delivery to a place other than the place of performance). Unless agreed otherwise, we shall be entitled to determine the mode of dispatch (in particular carrier, dispatch route, packaging) ourselves.

(2) The risk of accidental loss and accidental deterioration of the goods shall pass to the Purchaser at the latest upon their delivery. In case of sale by delivery to a place other than the place of performance, the risk of accidental loss and accidental deterioration of the goods as well as the risk of delay shall however already pass upon the delivery of the goods to the forwarder, carrier or other persons or institutions commissioned with carrying out the dispatch.

(3) Should, exceptionally, any claims be made against us arising from transport damages or losses the Purchaser may only assert these if, before payment of the freight, he has duly initiated the entry of a damage and/or loss note on the freight documents and freight invoices and the drawing up of a record and if he notified us or the transport companies of such damages or losses within a preclusive period of 5 (five) days after receipt of the goods at the place of destination and the goods including the packaging are kept for us for inspection. If the goods have not been received a notification within a preclusive period of 5 (five) days after receipt of the advice of readiness for dispatch is required.

(4) If the Purchaser is in default of acceptance, fails to provide assistance or if delivery is delayed for other reasons attributable to the Purchaser, we shall be entitled to demand compensation for damages arising therefrom, including any additional expenses (e.g. warehousing costs). In this case we charge a lump-sum compensation fee for each working day of late delivery to the amount of 0.1 % of the order total, however not exceeding 5% of the order total, as a contractual penalty.

Proof of higher damages and our legal claims (in particular reimbursement of additional expenses, adequate compensation, termination) shall remain unaffected; however the lump sum shall be set off against further monetary claims. The Purchaser shall be free to prove that we have incurred no loss or a loss much lower than the lump sum above.

#### **Section 5 Prices and payment terms**

(1) Unless otherwise agreed in individual cases, our current prices valid at the time of the conclusion of the contract shall be ex-stock, plus statutory value added tax.

(2) In case of sale by delivery to a place other than the place of performance (Section 4, para. 1) the Purchaser shall bear the transport costs ex-stock and the costs for transport insurance if desired by him.

(3) The purchase price is due and payable within 8 (eight) days from the date of the invoice and delivery, placing the goods at disposal or acceptance of the goods. However, we shall be entitled at any time, also within a current business relationship, to perform a delivery as a whole or in part only against advance payment. We shall declare such a reservation at the latest in the order confirmation.

(4) Once the above payment term expires, the Purchaser shall be in default. During the default interest shall be charged on the purchase price at the currently valid statutory default interest rate. We reserve the right to assert further claims for damages caused by default.

(5) The Purchaser only has a right to claim a set-off or right of retention in as far as his claim has been declared by final judgment or is certain and due. In case of defects in delivery the Purchaser's counterclaims with regard to this delivery (in particular pursuant to Section 8, para. 6, sentence 2 of these GTC) shall remain unaffected.

(6) If the Purchaser is allowed into the procedure regarding the continuity of its activities ("WCO"), we are allowed to end the contract in the event the Purchaser defaults its obligations under the contract.

## **Section 6    Reservation of Title**

(1) We reserve the title to the goods sold until the full payment of any current and future receivables arising from the purchase contract and a current business relationship (secured receivables).

(2) The goods under reservation of title may neither be pledged nor assigned by any way of security to third parties until the secured receivables are fully paid. The Purchaser shall notify us immediately in writing if a petition for the opening of insolvency proceedings has been filed or if any third party carries out attachment (e.g. seizure) of goods belonging to us.

(3) In case of the Purchaser's conduct in breach of contract, in particular non-payment of the purchase price due, we shall be entitled to withdraw from the contract pursuant to the statutory provisions and to demand the return of the goods due to the reservation of title and the withdrawal. If the Purchaser does not pay the purchase price due, we may only enforce these rights if we have specified a reasonable period for payment to the Purchaser without success or if such a specification of a payment period is not required pursuant to the statutory provisions.

(4) The Purchaser shall be entitled until revoked pursuant to subsection (c) below to sell and/or process the goods under reservation of title in the ordinary course of business. In this case the following provision shall additionally apply.

(a) The reservation of title shall cover any products created through the processing, mixing or combination of our goods at their full value.

(b) As security, the Purchaser shall already now assign any claims arising from the resale of the goods or of the product against third parties in total or to the amount of our co-ownership share, if applicable, pursuant to the above paragraph (invoice total including VAT). We herewith accept the assignment. The Purchaser's duties pursuant to paragraph 2 above shall also apply in view of the assign claims.

(c) Besides us, the Purchaser shall remain entitled to collect the claim. We undertake not to collect the claim as long as the Purchaser fulfils his payment obligation towards us, he is not unable to pay and we do not claim the reservation of title by exercising a right pursuant to paragraph 3 above. However, if this is the case, we may demand that the Purchaser disclose the assigned claims and their debtors to us, provide any information required for collection, deliver the related documents and inform the debtors (third parties) of the assignment. Further, we shall be entitled in this case to revoke the Purchaser's entitlement to resell and process the goods under reservation of title.

(d) Upon the Purchaser's request we shall release securities of our own choice if their realizable value exceeds our receivables by more than 10 %.

(5) If the reservation of title or the assignment is not effective according to the law applying in the area where the goods are located the security corresponding to the reservation of title or the assignment in this area shall be deemed agreed. If the Purchaser's participation is required he shall be obliged upon our request to take any reasonable measures at his expense which are required to constitute and maintain such rights.

## **Section 7 Cancellation by Purchaser**

If the Purchaser cancels an order without reason we shall be entitled, notwithstanding other and further rights, to demand 15 % of the order amount as compensation, irrespective of our right to claim higher damages.

## **Section 8 Purchaser's claims based on defects**

(1) The legal provisions shall apply to the Purchaser's rights in case of material defects and defects in title (including wrong and short delivery), unless otherwise agreed hereinafter.

(2) Our liability for defects is in particular based on the agreement made on the quality of the goods. The product descriptions designated as such and provided to the Purchaser before placing his order or included in the contract in the same way as these GTC, shall be deemed the agreement on the quality of the goods.

(3) If the quality has not been agreed upon, the legal provisions shall be applied to assess whether there is a defect or not.

(4) The Purchaser's claims based on visible defects require that he has fulfilled the legal requirements of immediately examining the goods upon receipt and giving notice of a visible defect. If during the examination or later a defect becomes obvious, we must be notified immediately in writing stating the exact details of the defect. The notification shall be deemed as immediate if it is sent within one week of delivery; the timely dispatch of the notification shall be deemed sufficient to comply with the time limit. Independent of this duty of examination and notification, the Purchaser must notify us in writing of obvious defects (including wrong and short delivery) within one week of delivery; the timely dispatch of the notification shall also be deemed sufficient to comply with the time limit. If the Purchaser fails to give proper and timely notification of a defect, we shall not be liable for the defects we have not been notified of.

(5) If delivered goods have a defect, we shall first be allowed to choose whether we provide supplementary performance by rectifying the defect (rectification of defects) or deliver new.

(6) We shall be entitled to make the owed supplementary performance dependent on whether the Purchaser has paid the purchase price due. However, the Purchaser shall be entitled to withhold part of the purchase price in adequate relation to the defect.

(7) The Purchaser shall grant us the necessary time and opportunity to carry out the supplementary performance owed, in particular he shall hand the rejected goods over to us for examination purposes. In the case of delivery of substitute goods, the Purchaser shall return the defective object in accordance with the legal provisions. The supplementary performance does neither include the disassembly of the defective object nor its reassembly if we were originally not obliged to assemble it.

(8) The expenses for the purposes of examination and supplementary performance, in particular

transport, road, work and material costs (not: disassembly and assembly cost) shall be borne by us if there is an actual defect. Otherwise, we may demand from the Purchaser to reimburse the costs incurred for an unjustified request for rectification of a defect (in particular examination and transport costs) unless the lack of defect could not be recognized by the Purchaser.

(9) If the supplementary performance has failed or an adequate time limit for the supplementary performance to be set by the Purchaser has expired without success or is not required to be set pursuant to the legal provisions, the Purchaser may revoke the purchase contract or reduce the purchase price. However, he shall not have a right of revocation in the case of a minor defect.

(10) Also in the case of defects, the Purchaser may only assert claims for damages or for reimbursement of futile expenses pursuant to Section 9 below and any further claims are excluded.

## **Section 9 Other liability**

(1) Unless otherwise stipulated in these GTC including the following provisions, we shall be liable in the case of a violation of contractual and non-contractual duties pursuant to the statutory provisions.

(2) We shall be liable for damages – irrespective of the legal reason – based on an intentional fault. In the case of negligence, we shall only be liable subject to a reduced degree of liability pursuant to the statutory provisions (e.g. for care exercised in our own affairs / good housefather criterion (“Bonus Pater Familias”):

a) for damage resulting from death, bodily injury or injury to health and

b) damage arising from the violation of a material contractual obligation (obligation whose fulfilment is essential for the proper performance of the contract and on whose compliance the contractual partner regularly relies and may rely); in this case, however, our liability shall be limited to the foreseeable damages typical for the contract. In any event, we are not liable for any consequential or indirect damages.

(3) The limitations of liability arising from paragraph (2) above shall also apply to the violation of obligations by and/ or in favor of persons for whose fault we are responsible pursuant to the statutory provisions, legal representatives and vicarious agents. They shall not apply if we have fraudulently concealed a defect or have given a warranty for the quality of the goods.

(4) The Purchaser may only revoke or terminate the contract due to a violation of an obligation which is not a defect if we are responsible for the violation of the obligation. The Purchaser will first give written notice of the termination condition to us and we will have 15 days after receipt of written notice to correct or remedy the violation. If the condition is not corrected or remedied within such period, then the Purchaser may immediately terminate the contract by sending us a formal written notice of termination.

(5) The above limitations of liability shall apply correspondingly if the Purchaser asserts a claim for the reimbursement of futile expenses instead of a claim for damages.

## **Section 10 Statutory limitation**

The claims for hidden defects shall become statute-barred 6 (six) months after delivery.

## **Section 11 Sanctions, Anti-Corruption and Anti-Money Laundering**

(1) General. The Purchaser warrants and represents that all its operations are and at all times have been conducted in compliance with all applicable laws and regulations, in particular all sanctions, anti-

bribery, anti-money laundering and counter terrorism financing laws applicable in its countries of establishment and/or operation.

The Purchaser agrees and undertakes to notify us without undue delay should it breach or discover any breaches of Section 11.

We will be entitled to cancel the Purchaser's order immediately at any time in the event of an actual or suspected breach of Section 11.

The Purchaser shall hold us harmless against any losses, costs, fines, or payments which we may suffer or incur as a result of any breach by the Purchaser of Section 11.

(2) Sanctions. The Purchaser warrants and represents that neither it nor any of its directors, representatives, officers, agents, direct or indirect shareholders, beneficial owners, parent companies, subsidiaries, or affiliates:

a) are the target of sanctions administered by authorities in the US or the EU;

b) are located or operate from territories which are the target of trade sanctions (including, but not limited to, Cuba, Belarus, Iran, North Korea, Russia, Syria, and the Territory of Crimea);

c) shall act in any manner that circumvents applicable sanctions laws and regulations, nor engage in any activities that may result in us and/or any of our affiliates being held accountable or liable for breaches of any trade, economic or financial sanctions laws and regulations.

(3) Anti-Bribery and Anti-Corruption. We have zero tolerance for bribery and corruption in any form and require the Purchaser to comply with our Anti-Corruption Policy, as published from time to time on Armacell website: [https://www.armacell.com/sites/armacell.com/files/page/files/2022-10/Armacell\\_L%26C\\_Anti-Corruption%20policy\\_06-22\\_0.pdf](https://www.armacell.com/sites/armacell.com/files/page/files/2022-10/Armacell_L%26C_Anti-Corruption%20policy_06-22_0.pdf), or equivalent principles and applicable anti-bribery and anti-corruption laws and regulations in its business activities, including the UK Bribery Act.

## **Section 12 Choice of law and place of jurisdiction**

(1) These GTC and the contractual relationship between us and the Purchaser shall be governed by the Belgian law to the exclusion of international uniform law, in particular the UN Sales Convention (The United Nations Convention on Contracts for the International Sale of Goods).

(2) The place of jurisdiction for any disputes arising directly or indirectly from the contractual relationship shall be Brussels. However, we shall be entitled to bring an action at the place of performance of the duty to deliver pursuant to these GTC or an individual agreement taking priority or at the Purchaser's general place of jurisdiction. Legal provisions taking priority, in particular with regard to exclusive jurisdiction, shall remain unaffected.