

**GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY
OF IFG INDUSTRIAL FOAMS B.V.**

08/01/2010

Article 1 – Definitions

In these general terms and conditions of sale and delivery, the following terms will have the following meanings:

- **"Seller"**: IFG Industrial Foams B.V., having its registered office and principal place of business in (5422 VH) Gemert at the address of Dommel 43, registered in the trade register of the Chamber of Commerce under number 16072845;
- **"Buyer"**: the contracting party of IFG Industrial Foams B.V.

Article 2 – General

- 2.1 Unless expressly agreed otherwise in writing, these general terms and conditions of sale and delivery, hereinafter referred to as **"General Terms and Conditions"**, apply to all offers, tenders and agreements that involve the Seller delivering goods and/or providing services of any kind to the Buyer, even if these goods and/or services are not specifically described in these General Terms and Conditions
- 2.2 The Buyer accepting and keeping a tender or confirmation of instruction in which these General Terms and Conditions are referred to, will be considered the Buyer's agreement to the applicability of the General Terms and Conditions.
- 2.3 These General Terms and Conditions also apply to other agreements, including follow-up agreements and supplementary agreements to which the Seller and the Buyer or their legal successor(s) are a party.
- 2.4 Any General Terms and Conditions that are observed by the Buyer will only be applicable if these General Terms and Conditions have been expressly accepted by the Seller.
- 2.5 Mention of or reference by the Buyer to its own purchase conditions (or other general terms and conditions) will not be accepted by the Seller, and will not make these conditions apply to the agreement in hand.
- 2.6 If one or more provisions of these General Terms and Conditions is/are void or is set aside, then the other provisions of these General Terms and Conditions will remain fully in effect.
- 2.7 Stipulations that deviate from these General Terms and Conditions will only be binding if these have been agreed upon in writing.

Article 3 – Prices

- 3.1 The prices stated by the Seller are exclusive of transport costs, turnover tax, other government charges and other costs such as storage costs, unless expressly agreed otherwise.
- 3.2 The Seller will not be obligated to observe an agreement that states a price that is clearly a printer's error or writing error.
- 3.3 If, after the date of formation of the agreement, one or more external cost prices increase, such as supplier prices, exchange rates, the price of (raw) materials, freight charges,

wages and/or social charges, import duties, government charges or other expenses, then the Seller will be authorised to increase the agreed price accordingly, even if such an increase is caused by foreseeable circumstances.

- 3.4 The Seller will notify the Buyer of its intention to increase the price in writing, stating the extent of the price increase and the date as of which the increase will apply.
- 3.5 If the price increase amounts to more than 15%, then the Buyer will be authorised to terminate the agreement in writing within 7 days of the notification referred to in the preceding paragraph or to cancel the instruction before the date as of which the price increase or rate increase will apply, as stated in the Seller's notification. However, the Buyer will be obliged to perform the agreement if the Buyer subsequently informs the Seller of its intention to deliver against the old prices.
- 3.6 If the Buyer is a natural person, not acting within the framework of the exercise of his profession or business, all price increases within three months of the formation of this agreement are permitted. In such case, the Buyer will be authorised to terminate the agreement in writing.

Article 4 – Offers, tenders and cancellation

- 4.1 All offers, tenders, price lists, delivery times etc. of the Seller are – unless otherwise indicated – free of obligation and can be revoked by the Seller – free of obligation – at all times, even after the offer/tender has already been accepted by the Buyer. Such a revocation by the Seller after acceptance by the Buyer will have to be immediate.
- 4.2 Agreements will not be binding until the Seller has confirmed them in writing. Additions and/or amendments to the General Terms and Conditions or other changes to or amendment of the agreement will be binding after the Seller has confirmed them in writing.
- 4.3 Acceptance by the Seller that differs from the tender will be considered a rejection of the original tender and a new tender that will not bind the Seller, unless the Seller expressly accepts it. This will also apply if the acceptance only differs from the tender on minor points.
- 4.4 Statements and specifications in offers and tenders will refer to, among others, the size and weight, and are only estimates.
- 4.5 Insofar as the Seller delivers a performance or makes preparations to that end, on the apparent supposition that an agreement will be formed or has been formed, the Seller will do so at its own risk.
- 4.6 The Seller is authorised to engage third parties in performing that which has been agreed upon with the Buyer.
- 4.7 Cancellation by the Buyer is only possible if the Seller agrees to that. In addition to owing the Seller 20% of the purchase price, the Buyer will in such cases be obliged to purchase the goods that have already been ordered, against payment of a pro rata purchase price. The Buyer is liable towards third parties for the consequences of the cancellation and indemnifies the Seller in this regard against all third-party claims. Amounts that have already been paid by the Buyer will not be refunded.

Article 5 – Delivery, delivery term and partial deliveries

- 5.1 Delivery will not be carriage paid.
- 5.2 The goods ordered will be delivered in the wholesale packages that the Seller has in stock.
- 5.3 The goods ordered will be sent in a manner to be determined by the Seller, but at the expense and risk of the Buyer. The Buyer is to take out adequate Insurance against the aforementioned risks.
- 5.4 There will be one single delivery to the address provided by the Buyer, even if the Buyer intends to have the ordered goods distributed to several addresses.
- 5.5 The Buyer guarantees the good accessibility of the destination/unloading bay and will be responsible for the unloading/discharging.
- 5.6 If it has been agreed upon that the Seller will carry out or see to the transport, then the delivery will be effected as soon as the goods leave the means of transport used by the Seller.
- 5.7 If the Seller stores the goods for the Buyer, then the delivery will be effected at the time of storage.
- 5.8 The delivery term starts on the date of the order confirmation or the date of acceptance of the tender, unless the order confirmation or tender states otherwise. If the Buyer has to make information and/or materials available to the Seller in order for the Seller to be able to make a delivery, then the delivery term will not start until the Seller has received all the information and/or all the materials.
- 5.9 The Seller is allowed to deliver the sold goods in sub-deliveries. If the goods are delivered in sub-deliveries, then the Seller will be authorised to invoice for each sub-delivery separately.
- 5.10 All the delivery terms stated by the Seller are estimates and must never be considered strict deadlines, unless expressly agreed otherwise. Under no circumstances will the Buyer be entitled to compensation if the delivery term is exceeded and it will not authorise the Buyer to terminate the agreement and/or otherwise suspend performance of its obligations under the agreement.
- 5.11 If, through no fault of the Seller, the deliveries or the activities cannot take place normally or uninterrupted, then the Seller will be authorised to charge the Buyer the resulting additional costs, which includes call-out charges.
- 5.12 If the Buyer does not purchase the goods (within the agreed term) after the Seller has made the goods available to the Buyer, or if it turns out to be impossible to deliver the goods to the Buyer due to a cause that is within the control of the Buyer, then the Seller will have the right to store the goods at the expense and risk of the Buyer, according to the rates for storage used by the Seller. If the Buyer has still not purchased the goods within one month of the Seller informing the Buyer of the fact that it has stored the goods, then the Seller will be authorised to terminate the agreement – in full or in part – with immediate effect, without prior or further notice of default being required, without judicial intervention and without being obliged to pay damages, costs and interest, and to offer

the goods to third parties. In the event of storage (and sale to third parties) the Buyer will continue to be obliged to pay for the goods (in addition to the storage costs).

- 5.13 If it has been agreed that the Seller will store goods for the Buyer, then the Buyer will be obliged to purchase and pay for the stored goods within the agreed storage term. Invoices will always be sent at the time of (sub)delivery to the Buyer. If the Buyer has not purchased all the goods within the agreed storage term, then the Seller will have the right to offer the goods to third parties, without prejudice to the Buyer's obligation to pay the remaining amount.
- 5.14 All expenses incurred by the Seller at the request of the Buyer are to be borne by the Buyer, unless agreed otherwise in writing.

Article 6 – Transfer of risk

- 6.1 The risk of the goods transfers to the Buyer at the time of delivery, even if the Buyer does not cooperate in the delivery.
- 6.2 If the Seller has stored goods for the Buyer, then the Seller will hold these goods at the expense and risk of the Buyer.
- 6.3 If the goods stored for the benefit of the Buyer are destroyed in a fire and/or as a result of other (unforeseen) circumstances, then the storage costs will be charged until the time of destruction.

Article 7 – Retention of title

- 7.1 The Seller retains the right of ownership of all the goods it delivers until the price of all the goods that the Seller has delivered or is yet to deliver to the Buyer has been paid in full, as well as the price of any other activities performed or yet to be performed within the framework of the delivery of goods by the Seller, and all that which the Seller can claim from the Buyer due to the Buyer's failure to perform the agreement that the Seller and the Buyer have entered into, which includes collection charges, interest and fines.
- 7.2 The Buyer is not allowed to sell goods that the Seller has delivered subject to retention of title to third parties, to transfer the ownership and/or make them available to third parties in another way, and/or to encumber them, except insofar as this is customary in the normal conduct of business of the Buyer, or the Seller has expressly agreed to it in writing.
- 7.3 If and insofar as the Seller has not received payment on a payable claim, or if there is reasonable fear that the Buyer will not be able to meet its obligations towards the Seller, then the Seller is authorised to repossess goods it has delivered subject to retention of title, without notice of default or judicial intervention being required. If the situation arises, then the Buyer hereby irrevocably authorises the Seller to do this, and to that end, the Buyer will be obliged to allow the Seller access to all rooms used by its business, all this without prejudice to the Seller's right to claim compensation from the Buyer.
- 7.4 The Buyer will also have the right referred to in the preceding article in the event that the Buyer suspends payment, is declared bankrupt, is granted a moratorium or the Buyer's assets or company are/is liquidated.

- 7.5 Insofar as the Buyer has not met its obligations under this agreement with the Seller, the Seller will at all times be authorised to require a bank guarantee or a guarantee that can be considered equal to that as security for the payment of the amounts owed, or that which the Buyer will come to owe after delivery. At such time, the Buyer will be obliged to provide this guarantee immediately. As long as the Buyer has not provided this guarantee, the Seller can suspend delivery and/or terminate the current agreement without judicial intervention being required, without prejudice to the Seller's right to demand performance and/or compensation. The Seller will determine the amount of the security to be provided.
- 7.6 In addition, the Buyer, under retention of title, will be obliged to insure the goods that the Seller has delivered against damages due to fire, explosion, water and theft and to keep them insured, and to allow the Seller to inspect the policy of this insurance at the Seller's request. In addition, the Buyer is obliged to mark the goods delivered under retention of title as the property of the Seller, i.e. keep them separate from goods to which the retention of title of the Seller does not pertain. If the Seller wishes to take other measures to protect its title with regard to the goods, then the Buyer will be obliged to lend its co-operation, unless these measures would unreasonably impede the ordinary course of business of the Buyer.

Article 8 – Defaults

- 8.1 After the goods have been received or the activities have been carried out, the Buyer is obliged to carry out an inspection thereof. The purpose of this inspection is to check whether the goods delivered or the activities carried out are in accordance with the agreement, i.e.:
- a. whether the agreed upon goods have been delivered;
 - b. whether the goods delivered meet the quality requirements that may be set for normal use and/or for commercial purposes;
 - c. whether the goods delivered, as far as quantity is concerned, are as agreed.
- 8.2 Slight differences with regard to the stated sizes, weights, numbers, colours, etc will not be considered a failure on the part of the user.
- 8.3 The copy of the consignment note that has been signed in acknowledgement of receipt, without remarks, will constitute conclusive proof of shipment of the numbers stated on the consignment note, as well as the good external condition of the goods.
- 8.4 The copy of the consignment note, receipt or other form of confirmation of receipt that has been signed by the Buyer will constitute conclusive proof that the goods referred to therein were received by the Buyer complete and in good external condition, unless a note has been made on the aforementioned document.
- 8.5 If they concern visible faults, imperfections or defects, any complaints regarding goods delivered by the Seller or activities that have been carried out must be communicated to the Seller within 24 hours of delivery of the goods or the activities being carried out. Such notifications, including oral ones, must immediately be confirmed to the Seller in writing

(by fax, letter or bailiff's notification). Other complaints must be made within 8 days of receipt by the Buyer, by registered letter to the Seller.

- 8.6 If complaints are not communicated to the Seller within the relevant terms in accordance with the preceding paragraph, then the goods will be considered to have been received in a good state, or the activities to be carried out will be considered to have been carried out correctly.
- 8.7 The goods delivered to which the complaint pertains must at all times be available for inspection by the Seller. The Buyer must give the Seller the opportunity to inspect the goods.
- 8.8 In the event of a complaint, the goods may only be (further) processed following written permission from the Seller. An established defect in part of a delivered batch will not give the Buyer the right to refuse the entire batch.
- 8.9 The Seller will not accept return shipments with regard to which there has been no consultation in advance and to which the Seller has not agreed to in writing.
- 8.10 In case of return shipments, the Buyer will be authorised to charge administration costs, freight charges and any other costs, unless agreed otherwise in writing.

Article 9 – Liability

- 9.1 Unless in the event of intent or gross negligence on the part of the Seller, the Seller will under no circumstances be liable for direct loss suffered by the Buyer or a third party, nor will the Seller be liable for loss of any kind connected with the transport of the goods. If a court should rule that the Seller cannot rely upon the restriction of liability referred to in the first sentence of this article, then the liability of the Seller will at all times be limited to the amount of the insurance payment to be paid out by the Seller's insurer, or the amount of the net agreed commission sum or a proportionate part thereof.
- 9.2 If the Seller has obtained the goods that it has sold from a third party, then the liability of the Seller towards the Buyer will at all times be limited to the warranty obligations that the Seller's supplier has towards the Seller.
- 9.3 Under no circumstances will the Seller be liable for indirect loss, which must in any case be understood to include financial loss as a result of direct loss and pure financial loss, such as trading loss, loss of profits, missed savings, loss due to business interruption or loss resulting from third-party claims against the Buyer.
- 9.4 All liability of the Seller towards the Buyer will lapse if the Buyer makes changes to the goods delivered, or has third parties make changes to the goods.
- 9.5 In addition, all liability of the Seller towards the Buyer will lapse, and the Buyer will indemnify the Seller against third-party claims, in the event that (1) the loss occurred as a result of incompetent use by the Buyer of the goods delivered and/or use by the Buyer of the goods delivered that is not in accordance with the Seller's instructions, and/or as a result of the Buyer not keeping/storing the goods delivered properly, (2) the loss occurred as a result of the Buyer not acting in accordance with the instructions and/or advice given by the Seller or (3) the loss occurred as a result of mistakes or inaccuracies in the

information, materials, data carriers etc that the Seller was provided with or prescribed by or on behalf of the Buyer.

- 9.6 The Buyer indemnifies the Seller against all third-party claims in connection with the use and/or storage of the goods delivered by the Seller that third parties should enforce against the Seller.
- 9.7 The Seller guarantees the usual, normal quality and reliability of the goods delivered; the actual lifespan of the goods delivered can never be guaranteed.
- 9.8 All claims against the Seller will expire after 6 months of the start of the day following the day on which the claim became due. If the Buyer is a natural person, not acting within the framework of the exercise of his profession or business, then the aforementioned term will be 1 year.

Article 10 – Packaging

- 10.1 Packaging delivered by the Seller that is subject to a deposit will be taken back against payment of the deposit, provided that the packaging is undamaged and complete and can be reused as packaging for the same type of goods.
- 10.2 When returning packaging with the Seller's own means of transport, the packaging must be ready and sorted for transport.
- 10.3 Packaging that has not been delivered by the Seller will only be taken back if the Seller has the relevant packaging in its own assortment.

Article 11 – Force majeure

- 11.1 Failure of the Seller to meet any obligation will not be considered an attributable failure if this is the result of the will or the influence of a circumstance that does not depend on the Seller – even if this could already have been foreseen at the time of formation of the agreement – which is of such a nature that performance of the agreement cannot reasonably be expected of the Seller, or the Seller cannot reasonably be expected to perform the agreement in full.
- 11.2 The circumstances referred to in the preceding article include, among others: non-delivery, incomplete delivery or delayed delivery by a supplier of the Seller, (risk of) war, full or partial mobilisation, import and export bans, measures taken by Dutch and/or foreign government bodies that make the performance of the agreement more difficult and/or more expensive than could have been foreseen at the time of formation of the agreement, frost, strikes and/or factory sit-ins, epidemics, traffic interruptions, loss or damage suffered during transport, fire, theft, electricity failures, defects in machines, all both inside the company of the Seller and with third parties from whom the Seller obtains the required materials, goods and or raw materials, in full or in part, and in addition, all causes that originate against the will and/or through no fault of the Seller.

Article 12 – Suspension and termination

- 12.1 In the event that the performance of the agreement is prevented as a result of force majeure, the Seller will be authorised to suspend the performance of the agreement or

terminate the agreement in full or in part, without the Seller being liable to pay compensation.

- 12.2 In the event that the Buyer does not, does not properly or does not promptly meet any of its obligations under the agreement between the Buyer and the Seller, or if there is good reason to fear that the Buyer is not or will not be able to meet its contractual obligations towards the Seller, or if the Buyer is put under administration, placed under guardianship, declared bankrupt, applies for a moratorium, or loses the power of disposition of or legal competency with regard to its capital or parts thereof, or in the event of liquidation of partial transfer of the Buyer's business, which includes the transfer of a part of its claims, as well as in the event that an attachment is made against the Buyer and such attachment is not immediately lifted, the Seller will be authorised to suspend performance of the agreement or to terminate the agreement in full or in part, without notice of default being required, without the Seller being liable to pay any compensation and without prejudice to the Seller's other rights.
- 12.3 The Buyer waives all its rights to termination.

Article 13 – Payment

- 13.1 Unless agreed otherwise, a payment term of 30 days from the invoice date will apply. Payment will be in cash.
- 13.2 In derogation of the conditions of the preceding paragraph, the Seller will at all times be authorised to require payment in advance if the Seller is of the opinion that the Buyer will not be able to meet its payment obligations under any agreement with the Seller, will not be able to meet these payment obligations on time and/or will not be able to meet these in full. The Seller will determine the amount of the advance payment.
- 13.3 Complaints regarding an invoice sent by the Seller must be submitted by the Buyer – in writing – within 14 days of the invoice date, failing which all claims of the Seller in this regard will lapse. Under no circumstances can the (full) payment obligation of the Buyer be suspended further to complaints from the Buyer regarding an invoice.
- 13.4 In the event of complaints as referred to in Article 8, or in the event that delivery as referred to in Article 5 cannot take place, the Buyer's payment obligation will not be suspended.
- 13.5 If the Buyer fails to pay within the agreed term, then the Buyer will be in default by operation of law, without a notice of default being required. In that case, the Buyer will owe a prompt payment surcharge of 2% of the purchase price and an interest of 2% per month, to be calculated cumulatively on the principal sum. The interest on the payable amount will be calculated from the invoice date until the time of payment of the full amount.
- 13.6 If the Buyer fails to perform or is in default of performing its obligations, then all reasonable costs incurred to obtain an out-of-court settlement will be borne by the Buyer. These extrajudicial collection costs amount to 2 points of the court-approved scale of costs applied by the court in the first instance, to a maximum of 15% of the principal sum. However, if the Seller has incurred reasonable expenses in collecting its claim that

exceed the aforementioned fixed rate, then all these expenses are to be borne by the Buyer.

- 13.7 A payment will first go to reduce the collection costs, then to reduce the interest owed and then to reduce the principal sum. In the event that the Buyer fails to pay more than one invoice, then a payment will – with due observance of the conditions of the preceding sentence – first go to reduce the oldest invoice, then to reduce the second oldest invoice, etc., even if the Buyer states that the payment pertains to a later invoice.
- 13.8 The Buyer is not allowed to set off any amount it owes the Seller against amounts that the Seller owes or should owe the Buyer.

Article 14 – Samples, models and examples

- 14.1 In the event that the Seller has shown or provided a model, sample or example, this will be alleged to have been shown or provided only as an indication: No rights can be derived from this, unless the parties have expressly agreed otherwise. The properties of the goods to be delivered may differ from those of the sample, model or example, unless it was expressly stated that the goods would be in accordance with the sample, model or example that was shown or provided.

Article 15 – Applicable law and disputes

- 15.1 All tenders, offers and/or agreements are exclusively subject to Dutch law. The applicability of the Uniform Sales Acts 1964 (*Eenvormige Koopwetten 1964*) and the Vienna Sales Convention (*Weens Koopverdrag*) is expressly excluded.
- 15.2 All disputes arising from tenders submitted or offers made by the Seller and/or agreements with the Seller are to only be submitted for arbitration to a competent court in the district in which the Seller has its actual place of business, unless it has been expressly agreed in writing that the dispute is to be submitted for arbitration to another body.
- 15.3 If the Buyer is a natural person, not acting within the framework of the exercise of his profession or business, then the Buyer can indicate that he chooses to submit the dispute for arbitration by the legally competent court within 1 month of being informed by the Seller that the case will be submitted to a court.



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