

1. GENERAL

- 1.1 Unless otherwise agreed in writing, all sales and deliveries by Wacker Chemie Italia S.r.l. or any companies in which Wacker Chemie Italia S.r.l. holds the majority of equity rights or any companies which hold the majority of equity rights in Wacker Chemie Italia S.r.l. (hereinafter "**Wacker**") of its goods to any of its customers (hereinafter "**Buyer**") shall be exclusively governed by the following General Terms and Conditions of Sale and Delivery ("**GTC**") and Wacker's acceptance of any purchase order is subject to the unconditional acceptance by the Buyer of these GTC, where the issuance of any purchase order by the Buyer shall be interpreted as unconditional acceptance of these GTC and waiver to any other or further term of condition. Other provisions, which deviate from, contradict or supplement these GTC, in particular deviating, contradicting or supplementing provisions of the Buyer General Terms and Conditions shall not apply, even if Wacker has not explicitly rejected such conditions. These GTC shall apply exclusively also in the event that Wacker delivers products and/or provides services unreservedly while being aware that deviating, contradicting and/or supplementing terms and conditions exist.
- 1.2 Individual agreements in written form between Wacker and the Buyer shall take priority. Amendments and supplements to, or the cancellation thereof require the written form to be effective. The same applies to the repeal of the requirement of written form.

2. OFFERS, PURCHASE ORDERS

- 2.1 Offers made by Wacker shall always be deemed non-binding unless they are expressly marked as binding.
- 2.2 Purchase orders of the Buyer made through the standard purchase order form made available by Wacker and specifying at least the nature and technical specifications of the ordered goods, the amount of each ordered good and the delivery terms, shall become binding for Wacker and entail that a "Contract" is entered into only upon receipt by the Buyer of Wacker's written acceptance or the delivery of goods. Wacker may accept purchase orders from the Buyer, at its own discretion, within one (1) week from receipt thereof. The Contract includes these GTC, the Buyer's purchase order and Wacker's written confirmation of acceptance of the purchase order, except that when a current account relationship is established and/or a framework supply agreement is entered into, the Contract shall include any relevant Buyer's purchase order under this relationships.

3. DELIVERY, ACCEPTANCE

- 3.1 Unless otherwise agreed, deliveries shall be FCA (Incoterms 2020[®]).
- 3.2 Delivery terms and delivery dates specified by Wacker shall be non-binding, unless binding terms and dates were expressly agreed upon individual cases. In case of non-binding delivery terms or dates, Wacker shall be in default only if a reasonable time for delivery (at least four weeks after the expiry of the non-binding delivery term or non-binding delivery date) set in writing by the Buyer lapses unsuccessfully.
- 3.3 If Wacker is unable to meet binding delivery dates for reasons for which Wacker is not responsible (non-availability of performance), Wacker shall, without delay, inform the Buyer of this and of the expected new delivery date. The performance shall be deemed unavailable without Wacker being responsible therefor specifically in the following events:
- (i) if the own suppliers of Wacker fail to make timely delivery to Wacker, through no fault on the part of Wacker or that of its own supplier; or
 - (ii) if the delivery delay is based on the circumstance that the Buyer has failed to meet its own obligations, or is at fault in any other way for such delay (without prejudice to art. 1460 of the ICC);
 - (iii) in case of the retaining of goods by Wacker in accordance with Section 7 of these GTC.
 - (iv) as well as in all cases of force majeure in accordance with Section 11 of these GTC.
- 3.4 Where the non-availability of performance is only partial, Wacker shall be required to make partial deliveries provided that the acceptance of such partial deliveries is reasonable for the Buyer and, in particular, if the delivery of the remaining goods ordered is possible and no significant additional expenditure or additional cost arise for Wacker as a result thereof (unless Wacker agrees to bear such cost). Each partial delivery may be invoiced separately.
- 3.5 The Buyer shall be in default of acceptance, if it fails to accept the goods on the bindingly agreed delivery date. In case of non-binding delivery terms or dates Wacker may notify the Buyer when the goods are ready for collection by the Buyer within a specified time period (at least four (4) weeks). The Buyer shall be in default of acceptance, if it fails to collect the goods within that time period.
- 3.6 If the Buyer is in default of acceptance, fails to cooperate or if our delivery is delayed for other reasons of the Buyer for which the Buyer is responsible, Wacker shall be entitled to claim compensation for the resulting damage including additional expenses (e.g. storage costs). For this purpose, we shall charge pursuant to art. 1382 of the ICC a lump-sum liquidated damages of 0.1% of the amount invoiced for the stored goods per calendar day, starting with the delivery deadline or - in the absence of a delivery deadline - with the notification that the goods are ready for collection/acceptance. However, the Buyer shall be charged a maximum of 1% per calendar month and 10% in case of final non-acceptance. The Buyer's right to provide evidence that damages incurred are lower, remains unaffected. Without prejudice of any other right or remedy provided by law, Wacker reserves the right to submit evidence of greater damages.

However, Wacker shall be entitled to find alternative ways to dispose of the goods, if two attempts to deliver the goods to the Buyer are unsuccessful.

- 3.7 In case of a supply bottleneck such that the whole quantity of ordered goods is not available for delivery, Wacker may allocate the goods in a manner and amount that Wacker, in its sole discretion and good faith, deems fair and reasonable, without the obligation to obtain "cover", or similar products, from other sources. In an event of a supply bottleneck, Wacker shall have the right to satisfy its own requirements and the requirements of its parent, subsidiary and affiliate companies first. Wacker shall endeavour to, but has no obligation to, provide notice of any such shortages by issuing a notice of allocation, which may include allotment of the goods and/or caps.
- 3.8 Any claims the Buyer may have based on a delayed delivery for which Wacker is responsible shall be governed by the statutory provisions of the applicable law where the Parties agree that terms of delivery are not essential. However, the pre-requisite for claims of the Buyer shall be, in all cases, that the Buyer sends pursuant to art. 1454 of the ICC a written reminder request concerning the delivery that has yet to be made, whereby it grants the Seller a reasonable period of grace of at least 15 working days within which to perform.

4. PRICES, PRICE ADJUSTMENT

- 4.1 Unless otherwise agreed, the price list valid at the time of the Buyer's order shall apply. Prices are excluding packaging and shipping (if applicable) as well as any present or future taxes, duties or other charges (including, without limitation, sales, use and value-added taxes, as well as any costs associated with special requests for handling of the goods, such as reconditioning of the goods or express delivery) which shall be calculated separately and shall be paid by the Buyer.
- 4.2 Wacker reserves the right to implement price adjustments, if, following the conclusion of the contract until delivery, costs change on account of the following factors which Wacker is not responsible for and which were not foreseeable with reasonable certainty provided that any such price adjustments shall be limited to that amount as necessary to reflect such costs changes and it shall not entail an increase of the price exceeding 50%: wage settlements, changes in raw material prices, other suppliers' price changes or currency fluctuations. Wacker shall disclose the reasons for such price adjustments upon the customer's request. However, if there is an increase of the price that is greater than 50%, Wacker shall communicate such increase to the Buyer, which will have the option to cancel the purchase order by sending a registered letter with return receipt no later than ten days from the communication of the new price. In this case, the Buyer shall have no right to claim any damages or other compensation of any kind. Failure to comply with the procedure specified in this section will be considered as acceptance of the increased price.

5. PAYMENT, DEFAULT OF PAYMENT

- 5.1 Unless otherwise agreed, invoices shall be paid, upon receipt thereof, within 14 days of delivery of the goods without deduction or set-off. Payments can be made via bank transfer into one of the accounts previously indicated by Wacker. Unless otherwise agreed, payments shall be made in Euro. Place of fulfillment shall be the registered office of Wacker.
- 5.2 As payment term is of essence for Wacker, if the Buyer exceeds the payment term for more than one (1) payment, the Buyer shall be in serious default without further reminder and Wacker will be entitled to terminate the Contract pursuant to art. 1456 of the ICC by sending a written notice of termination without prejudice to any other right and remedy under these GTC and applicable law. The timeliness of payment shall be determined by the date on which the entire invoiced amount is irrevocably credited on the account indicated.
- 5.3 In case of delayed payment, Wacker shall be entitled to claim default interest in the greater amount of 8 percentage points above the base interest rate (i.e., TEGM as determined by the ministerial decree) or the maximum amount permitted by law, calculated on any and all unpaid amounts on a daily basis until the effective day of payment. Moreover, Wacker shall be entitled to (i) assert any damages caused by the default that extend beyond those set out above, (ii) agree payment deadlines for future deliveries and services on a new basis, (iii) demand securities for future deliveries, (iv) refuse future performance until the Buyer has ceased being in default. Unless a fixed payment date has been agreed, Wacker moreover shall be entitled to maturity interest in the amount of five percent (5%) of the amount due. The right to claim further damages shall remain unaffected.
- 5.4 If the Buyer is in default with at least two payments arising from the business relationship with Wacker, all of its effective payment obligations from all business relationships with Wacker shall become due immediately.

6. TITLE RETENTION

- 6.1 Wacker shall retain legal ownership of the goods delivered, pursuant to art. 1523 of the ICC, until the receipt of all relevant payments due under the Contract for the sale of the goods delivered (including, without limitation, the purchase price, any additional related costs, VAT, customs fees, interests for late payment and any other additional fees and charges). If an open account relationship exists, Wacker shall retain legal ownership of the goods delivered until the receipt of all payments from the approved balances ("**Title of Retention**"). Without prejudice to the legal ownership of Wacker of the goods, the Buyer shall, however, be authorized to process the goods and/or conditional upon acquisition of the legal ownership sell (the processed) goods in its ordinary course of business.
- 6.2 The processing by you until acquisition of full legal ownership shall be free of charge for our benefit as manufacturer in the sense of art. 940 of the ICC. If Wacker should, for whatever reason, loses its rights under the retention of title, then it is hereby agreed between Wacker and the Buyer that Wacker shall acquire title upon processing of the

- goods free of charge and the Buyer shall remain custodian of the goods which shall be free of charge.
- 6.3 The Buyer hereby assigns to Wacker all claims arising from the resale of the goods delivered under retention of title. Wacker hereby accepts such assignment.
- 6.4 If the Buyer acts in breach of the Contract, in particular in case of delayed payment, without prejudice to any further right or claim (including termination of the Contract) Wacker shall be entitled to take back the goods delivered subject to Title Retention ("**Reserved Goods**"). For clarity, in case of delayed payments, Wacker shall not be required to send a warning to comply and/or set a new term to receive payment. Buyer hereby grants Wacker, or a third party that may be designated and authorized by Wacker, access to the Buyer's business premises and warehouses during usual business hours solely to take back the Reserved Goods. Wacker or the designated third party shall be granted access to the Reserved Goods and the Buyer shall provide sufficient support in removing the Reserved Goods. Further claims of Wacker shall remain unaffected.
- Once the Reserved Goods have been taken back, Wacker shall be entitled to adequate utilization of the same, provided Wacker has informed the Buyer beforehand of its intention with reasonable prior notice. The utilization proceeds shall be set off against any Buyer's liabilities reduced by reasonable utilization costs.
- 6.5 Buyer shall not sell, pledge or transfer the title of ownership for the purposes of obtaining or providing collateral or other security without having obtained prior approval by Wacker. In the event that the Reserved Goods are seized or confiscated by a third party, the Buyer shall refer to Wacker's title to the Reserved Goods and notify Wacker immediately.
- 6.6 The Buyer shall undertake to handle the Reserved Goods carefully and with professionally due care, and shall procure for adequate insurance based on the replacement value against damage caused by fire, water, storm/hail, burglary, sprinkler leakage and natural hazards.
- 7. DETERIORATION OF FINANCIAL SITUATION**
- 7.1 If, after having entered into a Contract with the Buyer, it becomes clear that the Buyer may likely be unable to fulfill its contractual duties due to its financial status (particularly if, even considering the overall business relationship, payments are discontinued, seizure or forced execution measures have been taken, cheques and bills are protested and direct debits are returned, involving third parties as well), Wacker shall be entitled pursuant to art. 1461 of the ICC to retain deliveries until prepayment of the purchase price is effected or an adequate security for the benefit of Wacker has been provided. The same shall apply if objective reasonable doubts exist concerning the Buyer's creditworthiness or its ability to pay in lieu of existing delayed payments by Buyer.
- 7.2 Furthermore, in the cases listed under section 7.1, Wacker shall be entitled to retain deliveries until all of the Buyer's outstanding debt under the Contract have been paid in full or an adequate security for the benefit of Wacker has been provided.
- 7.3 If a current account relationship exists within the context of the business relationship, Wacker shall be, in the cases listed under section 7.1, entitled to retain deliveries until all payments under the approved balances have been received or an adequate security for the benefit of Wacker has been provided.
- 7.4 If the Buyer does not provide the advance payment or the security in accordance with section 7.1 within two weeks after a written notice by Wacker that deliveries are retained in accordance with section 7.3, Wacker shall be entitled to immediately terminate the respective individual Contract or, if the contract comprises the performance of a continuing obligation (e.g. a framework supply agreement), even terminate such Contract without notice pursuant to art. 1456 of the ICC.
- 8. QUALITY OF GOODS, INFORMATION AND USE, GUARANTEES**
- 8.1 Wacker solely warrants that the specifications of the goods delivered will be, at delivery, within the upper and lower limits of those specifications and/or technical data fields set forth in the technical data sheets available for each good and as shown in the Certificate of Analysis and/or Inspection Certificate, as applicable. The Buyer shall be solely responsible for verifying that the goods are suitable for the desired purposes. Wacker's personnel may advise and/or provide information on the use and/or application of goods; however, any such information is provided solely for informational purposes and must be assessed and vetted by Buyer. Wacker is a raw material supplier only, and as such, does not offer consulting or professional services.
- 8.2 Information provided by Wacker in writing, verbally or in any other form with regard to suitability, including application, processing or another use, as well as technical support offered are rendered to the best of Wacker's knowledge; however, all of the above shall be deemed non-binding information only. The information shall not release the Buyer from verifying on its own behalf the suitability of goods delivered by Wacker for the intended purposes. Application, processing and any other use of the goods are beyond Wacker's control and shall therefore be the Buyer's responsibility.
- 8.3 Guarantees relating to features of the goods, particularly guarantees of quality, shall be binding on Wacker only to the extent that (i) they are included in an offer or order confirmation, (ii) they are referred to expressly as "guarantee" or "guarantee of quality", (iii) Wacker's duties under such guarantee are expressly stated, and (iv) they are executed in writing.
- 8.4 Notwithstanding the foregoing paragraph 8.3 and unless a defect was fraudulently concealed by Wacker, Wacker expressly rejects any warranty or obligation related to quality assurance or specific quality guarantees, including any contained in Buyer's documents, such as supplier manuals and other "onboarding" or qualification documents, unless signed by two (2) authorized Wacker signatories.
- 9. WARRANTY RIGHTS**
- 9.1 Buyer shall do all that is necessary or desirable to preserve nonconforming goods for inspection and testing, to avoid incurring damage for any nonconforming goods, to cooperate with Wacker in implementing the remedies under this Contract, and to protect nonconforming goods until Wacker has agreed to the disposition or care of the nonconforming goods. Upon delivery of the goods, the Buyer shall, insofar as this is feasible in the ordinary course of business, immediately inspect the goods and, if a defect becomes apparent, notify Wacker without delay within 8 days from delivery. If the Buyer fails to inspect the goods and/or to notify Wacker in accordance with this provision, the goods shall be deemed to have been accepted, unless the defect was not recognizable during the inspection. If such a defect is discovered later, the notification must be made without delay within 8 days from discovery; otherwise the goods shall be deemed to have been approved also in view of this defect.
- 9.2 Notification of defects shall be made in writing and specify the defect. Defective goods shall be made available to Wacker for inspection on demand.
- 9.3 In case of a defect, unless the Buyer in good faith terminates the Contract, Wacker shall, at its sole discretion, either remove the defect giving rise to the warranty rights or replace non-conforming goods with goods that meet the specifications at Buyer's original point of delivery.
- 9.4 Without prejudice to the foregoing, if the first time of the rectification of defects according to section 9.3 fails, the Buyer shall be entitled to terminate the Contract. The statutory rights of the Buyer to terminate the Contract according to the statutory provisions or to claim damages, subject to the limitations set out in section 10, remain unaffected. Further claims for defects, regardless of the type of claim, are excluded to the maximum extent legally possible.
- 9.5 The Buyer shall bear any reasonable cost incurred from an unjustified enforcement of warranty rights (e.g. product was not defective); the same shall apply, if Wacker erroneously grants warranty rights without being obliged to do so.
- 9.6 The warranty period shall be one year from delivery. However, this limitation shall not apply, if (i) a defect was fraudulently concealed or (ii) if a guarantee for the quality of goods was provided (in which case the guarantee provision or limitation period as set out in the guarantee shall apply) or (iii) in case of manufacturer's liability for damages caused by defects of its product pursuant to Legislative Decree no. 206/2005 (Consumer Code).
- 9.7 Buyer shall do all that is necessary and reasonable to preserve defective goods for inspection and testing, to avoid incurring damage for any defective goods, and to protect defective goods until Wacker has agreed to the disposition or care of the nonconforming goods.
- 10. LIABILITY**
- 10.1 Unless so required by any mandatory provision of law, Wacker shall be liable to the Buyer for damages in accordance with the statutory requirements. However, Wacker shall only be liable for actions of intent (*dolo*) or gross negligence.
- 10.2 Unless so required by any mandatory provision of law, Wacker shall be obligated solely to compensate the typical, foreseeable damage, and only direct damage. Wacker shall, in particular, not be obliged to compensate any indirect damages and/or damages of a non-pecuniary nature, such as, for example, consequential damages caused by defects, loss of profit, loss of business opportunities, or loss of or damages to the Buyer's goodwill or brand, claims by third parties, and administrative fines or monetary penalties.
- 10.3 The above limitation of liability shall also apply for the benefit of Wacker's management, agents, executives, employees or representatives.
- 11. FORCE MAJEURE**
- In the event of Wacker being unable to fulfill its contractual duties as a result of force majeure (e.g. mobilization, war, terrorism, insurgence, natural catastrophes, fire, the delivery being prohibited under export control or sanctions laws where Wacker is not responsible for the prohibition) or due to other unforeseeable circumstances for which Wacker bears no responsibility (e.g. strikes or lawful lockouts, operation or transport interruptions, difficulties with the procurement of raw material, inadequate delivery from suppliers) ("**Force Majeure Event**"), the affected Party shall be released from its respective contractual duty for the duration of the Force Majeure Event. The Party suffering a Force Majeure Event shall notify the other Party without un-due delay of the start and expected end of such Force Majeure Event. If the Force Majeure Event lasts six months or longer, each Party shall be entitled to terminate the Contract related to the affected purchase order.
- 12. ADHERENCE TO REGULATIONS AND EXPORT**
- 12.1 The Buyer shall adhere to all legal regulations and official requirements as well as to all applicable laws and particularly to the export regulations and laws of the country in which the Buyer is conducting business. The Buyer shall obtain all required authorizations and licenses in due time as well as all other permissions, which are required as per such applicable laws for the use and export of goods.
- 12.2 Without prejudice to any other right or remedy provided by applicable law, Wacker shall be entitled to retain delivery to the Buyer if, without Wacker's fault or responsibility, the Buyer violates such applicable laws or if not all of the required permissions have been obtained.

13. **OFFSETTING AND RIGHT OF RETENTION**

The Buyer shall not be entitled to either offset or exercise its right of retention on account of counterclaims which are contested or not yet stated as legally binding. Furthermore, the Buyer shall not be entitled to exercise its right of retention to the extent that the counterclaims are not based on the same contractual relationship.

14. **ASSIGNMENTS**

The Buyer shall not be entitled to assign any of its rights and duties resulting from an agreement between Wacker and the Buyer and/or in conjunction with deliveries either in part or in full without obtaining prior written approval by Wacker. Wacker shall be entitled to, and the Buyer already assign its rights and duties arising out of the supply of goods to companies which directly or indirectly control Wacker or are controlled by Wacker by holding the majority of equity rights in Wacker.

15. **APPLICABLE LAW, PLACE OF JURISDICTION, MISCELLANEOUS**

- 15.1 All legal relationships between Wacker and the Buyer shall be subject to Italian law under the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).
- 15.2 Unless otherwise agreed between the Parties, exclusive jurisdiction and legal venue for all disputes resulting from or in connection with a delivery shall be Milan. Wacker shall be entitled to institute proceedings against the Buyer at Buyer's place of business.
- 15.3 Should individual provisions of these GTC be or become null and void, the validity of the remaining provisions shall remain unaffected.

The following sections will be specifically executed for the purposes of articles 1341 and 1342 of the ICC:

Sections 3.2, 3.3, 3.4, 3.5, 3.6, 3.7, 3.8 (Delivery, Acceptance); Section 4.2 (Prices, Price Adjustment); Sections 5.1, 5.3, 5.4 (Payment, Default of Payment); Sections 6.1, 6.2, 6.3, 6.4, 6.5, 6.6 (Title Retention); Sections 7.1, 7.2, 7.3, 7.4 (Deterioration of Financial Situation); Sections 8.1, 8.2, 8.3, 8.4 (Quality of Goods, Information and Use, Guarantees); Sections 9.1, 9.3, 9.4, 9.5, 9.6 (Warranty Rights); Sections 10.1, 10.2, 10.3 (Liability); Section 13 (Offsetting and Right of Retention), Section 14 (Assignments).

Milano, January 1st, 2023