

General Sales and Delivery Terms – Marabu Trading GmbH

1. General

Marabu Trading GmbH (“Supplier”) shall sell and supply the Goods to the Customer subject to these terms and conditions (“Conditions”), which shall govern the contract for the sale of the Goods provided by the Supplier hereunder to the exclusion of any other terms and conditions. No variation to these Conditions shall be binding unless agreed in writing by an authorised representative of the Supplier. Conditions shall include any special terms and conditions agreed in writing by the Supplier and the Buyer; any special terms shall prevail.

2. Offers and Agreements

Offers shall not be binding, when not specifically agreed upon. All drawings, designs, specifications and other information provided by the Supplier are confidential and intellectual property rights in respect of them remain vested in the Supplier and shall not pass to the Buyer.

3. Orders and Specification

No Order submitted by the buyer is accepted by the Supplier unless confirmed in writing by the Supplier’s authorised representative. The quantity, quality and description of and any specification for the Goods are those set out in the Supplier’s quotation or the Buyer’s Order (to the extent accepted by the Supplier).

4. Price of Goods

The price of the Goods shall be the price specified in the Supplier’s order acknowledgement on basis of EXW, Incoterms 2000. Prices exclude value added tax and other taxes and duties as well as any charges for transport, packaging and insurance. The Supplier may vary the price at any time before delivery to reflect any change in the cost beyond the control of the Supplier (e.g. foreign exchange, costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods requested by the Buyer.

5. Terms of Payment

If no terms are specified in the Order acknowledgement, the Buyer shall pay the invoice (in full without any set off, deduction or counterclaim) to the Supplier’s bank account specified in the invoice within 30 days from the date of the invoice. The Supplier is entitled to charge 9% p.a. interest on the delayed payments.

6. Delivery and Performance

Unless otherwise agreed upon, term of delivery shall be EXW, Incoterms 2000. If the Supplier fails to deliver the Goods for a reason not beyond the Supplier’s control and not due to the Buyer, The Supplier shall pay to the Buyer a sum equal to 1% price of the delayed delivery for each week in delay up to maximum amount of 5% of the price of the delayed or non-delivered Goods, provided that the Buyer claims such amount within thirty days from the original date of delivery. This shall be Buyer’s only and exclusive remedy in case of delay in delivery or non-delivery. If the Buyer fails to take delivery of the Goods or fails to give the Supplier adequate delivery instructions then, without prejudice to any other right or remedy available to the Supplier, the Supplier may store the Goods until actual deliver and charge the Buyer for the reasonable costs (including insurance) of storage and /or sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract. The Buyer shall comply with all laws governing the importation of the Goods into the Country of destination.

7. Risk and Property

Unless otherwise agreed in writing, the term of risk shall be on basis of EXW, Incoterms 2000. The Property in the Goods shall pass to the Buyer upon the payment in full of the price of the Goods. Until the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Supplier’s fiduciary agent, and shall keep the Goods separate and properly stored, protected and insured and identified as the Supplier’s property, and shall not be entitled to dispose of the Goods. Until such time as the property in the Goods passes to the Buyer, the Supplier may at any time require the Buyer to deliver up the Goods to the Supplier and, if the Buyer fails to do so forthwith, enter upon any premises of the Buyer or any third party where the Goods are stored repossess the Goods.

8. Warranty

The Supplier warrants all (i) Goods delivered under the Order to be free from defects in material and workmanship and to be of the quality, size and dimensions ordered and (ii) performance under the Order to be in conformity with all requirements, specifications, samples, drawings, descriptions and other data incorporated as part of this Order. In the case of defective Goods, the Buyer shall claim within 10 days after receipt. The Supplier may, at its option, replace or repair the Goods free of charge or refund the price of the Goods, but the Supplier shall have no further liability to the Buyer. The Supplier’s entire liability under the Contract shall not exceed the price of the Goods which are the subject of the claim by the buyer.

9. Insolvency of Buyer

Without prejudice to any other right or remedy available to the Supplier, the Supplier may cancel the Contract or suspend any further deliveries without any liability to the Buyer, if: (i) the Buyer is in breach of a payment to the Supplier (ii) becomes bankrupt or goes into liquidation; or (iii) the Buyer ceases, or threatens to cease, to carry on business; or (iv) the Supplier reasonably believes that any of the foregoing events is about to occur in relation to the Buyer and notifies the Buyer accordingly.

10. Force Majeure

Neither party shall be held responsible for any delay or failure in performance of any part of this Order to the extent such delay or failure is caused by flood, strike, civil unrest, government or military authority or other similar causes beyond its control and without the fault or negligence of the delayed or non-performing party or its sub-contractors provided that (i) such party gives prompt notice and (ii) takes reasonable steps to mitigate the duration of the delay or failure of performance.

11. Arbitration

Any dispute, controversy or claim arising out of or in connection with this contract shall be finally settled in accordance with the Rules of the Arbitration Institute of the Stockholm Chamber of Commerce (SCC Institute). The arbitral tribunal shall be composed of three arbitrators. The arbitration shall take place in Stockholm, Sweden. The language to be used in the arbitral proceedings shall be English. Without prejudice to clause above, the Supplier reserve the right, at its own choice, to sue the Buyer at the Buyer’s general place of jurisdiction.

12. Severability

If any of the terms herein are declared void or unenforceable, the remaining provisions shall continue in full force.