

**GENERAL SALES CONDITIONS****§ 1 Preamble**

1.1. These General Sales Conditions shall apply to all sales transactions of Siekmann Econosto GmbH & Co KG (hereinafter referred to as the "Seller"). General terms and conditions of the Buyer shall not apply, even if the Seller has not expressly refused to accept same. General purchase conditions of the Buyer, verbal amendments to or deviations from these General Sales Conditions, guarantees or side agreements shall bind the Seller only to the extent that they are confirmed in writing by the Seller in the Contract documents pertaining to the respective sale (hereinafter referred to as the "Contract"). Except as otherwise provided in the Contract, a Contract is concluded with the written order confirmation of the Seller.

1.2. The Seller reserves all proprietary rights and copyrights to samples, cost estimates / offers, drawings, and similar information, whether in tangible or intangible form, even in electronic form; they must not be made accessible to third parties. The Seller agrees to make information and documents designated by the Buyer as confidential available to third parties only with the Buyer's consent.

**§ 2 Price and Payment**

2.1. Except as otherwise provided in the Contract, the price basis shall be "ex works", excluding packing. Any taxes, duties, customs duties, or other charges arising outside Seller's country as well as value added tax, if applicable, shall be for the account of Buyer.

2.2. Except as otherwise provided in the Contract, the price shall be paid to the Seller without any deduction within thirty (30) days after delivery.

2.3. On exceeding the agreed payment date, the Buyer shall have defaulted without needing a written reminder.

2.4. If the Buyer fails to pay by the due date, the Seller shall be entitled to interest from the day on which payment was due. The rate of interest shall be 9 % above the base rate applicable in Germany. Seller reserved the right to pursue further damages caused by delay in payment.

2.5. Exercising the right of retention or offsetting due to any counterclaims of the Buyer that are disputed by the Seller or which have not been legally established, is excluded. The exercise of the right of retention is also excluded to the extent that Buyer's counterclaim is not based on the same contractual relationship.

2.6. In case of delayed payment, or in other cases of substantiated doubts about the solvency or creditworthiness of the Buyer, the Seller is entitled to require down payment or the provision of security for outstanding deliveries, and all claims arising from the business connection shall immediately become due. Seller's delivery obligation shall be suspended while the Buyer is in arrears with a due payment.

2.7. If the Buyer delays the payment for a period exceeding three months, the Seller shall be entitled to withdraw from the Contract after serving a written notice to the Buyer and demand compensation for the damages incurred. The compensation shall not exceed the agreed Contract price.

**§ 3 Passing of Risk and Acceptance**

3.1. The agreed trade terms shall be construed according to the INCOTERMS valid at the date of conclusion of the Contract. Except as otherwise agreed, the delivery term "ex works" (EXW) shall be applicable.

3.2. As far as an acceptance must take place, this is relevant for the transfer of risk. The acceptance shall be deemed effected on the agreed date of acceptance, alternatively, upon notification of Seller's readiness for acceptance. The Buyer shall not refuse acceptance in the event of a minor defect.

3.3. If the shipment or acceptance is delayed or failed due to circumstances beyond the Seller's control, the risk shall pass to the Buyer from the day of notification of dispatch or acceptance readiness. The Seller undertakes to insure the Goods upon request and at the sole expense of the Buyer.

3.4. The delivery of the Goods shall be accepted by the Buyer, even if they are slightly defective. Minor defects do not constitute a delay in delivery by the Seller. Partial shipments are permitted.

**§ 4 Delivery Time, Delay in Delivery**

4.1. The delivery time shall be based on the agreements reached by the contracting parties. Compliance thereof by the Seller is subject to all commercial and technical queries having been clarified between the contracting parties and the Buyer having fulfilled all relevant obligations, e.g. such as but not limited to down payments. If this is not the case, the delivery time shall be extended accordingly. This shall not apply if the Seller is liable for the delay.

4.2. The compliance with the agreed delivery time is subject to the proviso that correct deliveries are received in due time by the Seller.

4.3. The delivery time shall be deemed fulfilled when the readiness for shipment notification has been announced. As far as an acceptance procedure must be followed the acceptance date will be the prevailing one - except for a justified refusal of the acceptance - alternatively the readiness for acceptance notification.

4.4. The delivery time shall be appropriately extended in case of force majeure in accordance with § 10 as well as in the event of circumstances whose occurrence is beyond the sphere of influence of the Seller. The Seller is also not responsible for the circumstances named above when they arise during an already existing delay. The Seller shall indicate the start and end of such obstacles to the Buyer at the earliest possible time.

4.5. Insofar as it becomes impossible for the Seller to deliver to the Buyer due to the delay in acceptance, or if the Buyer is solely or mainly responsible for the same, the Buyer shall be liable to provide a service in return.

4.6. In case of non-binding delivery time, the Seller shall only be in delay of delivery upon written notice of the Buyer, which must not be provided earlier than one month after expiry of the non-binding delivery time.

4.7. If the dispatch or the acceptance of Goods is delayed on Buyer's request, it shall be charged the costs incurred for storage commencing

## GENERAL SALES CONDITIONS

one month after readiness for shipment or acceptance notification. In the event of storage in Seller's works, no less than 0.5% of the invoice amount shall be charged to the Buyer for each commenced month, whereby the Seller is entitled to assert higher storage costs. The Buyer reserves the right to evidence lower storage costs for the Goods.

**4.8.** Should the Buyer fail to collect Goods intended for collection on a bindingly agreed delivery date, the Buyer will be in default of acceptance hereunder. In the event of a non-binding delivery time, the Seller is entitled to inform the Buyer beforehand of the possibility to collect the Goods with a two-week period; if the Buyer does not collect the Goods in question within this time, he comes into default of acceptance. The collection of the Goods shall be deemed as a major contractual obligation. Any claim for damages is set at a lump sum of 15 % of the Contract value; the Seller reserves the right to prove lower or higher damages.

### § 5 Reservation of Title

**5.1.** Delivered Goods shall remain the property of the Seller until full payment of the Contract price and all other claims due at the time of the conclusion of the Contract.

**5.2.** After the risk has passed, the Seller is entitled to insure the delivered Goods against theft, breakage, fire, water and other damage at the Buyer's expense, unless the Buyer furnishes evidence of having taken out the insurance himself.

**5.3.** The processing or modification of the Goods through the Buyer is always made for the Seller. If the Goods are processed with other materials not belonging to the Seller, the Seller shall acquire joint ownership of the new product in the relation to the value of the Goods to the other processed materials at the time of processing. In all other respects, the same shall apply to the materials being created through the processing as to the Goods delivered under reservation. The Buyer hereby assigns to the Seller by way of security all claims from third parties arising from the resale, either in total or in the amount of the possible joint ownership share. The Buyer is entitled to sell Goods subject to reservation of title in the ordinary course of business and to collect the claims assigned to the Seller. Other dispositions however are not permitted.

**5.4.** In case of the Buyer acting contrary to the Contract, especially in case of delay in payment, the Seller is entitled to take back the delivered Goods following a reminder and the Buyer is obliged to hand over the same. The assertion of reservation of title and the seizure of the delivered Goods by the Seller shall not be deemed withdrawal from the Contract which can only be effected by written notice and without fixing a deadline.

**5.5.** The application to commence with insolvency proceedings entitles the Seller to withdraw from the Contract requesting the immediate return of delivered Goods.

### § 6 Liability for Defects of the Goods

The Seller shall be liable for defects in quality and in title of the Goods excluding any further claims notwithstanding, however, § 8, as follows:

**6.1.** The Seller shall repair or replace all parts that are proved as defective due to certain circumstances prevalent before the transfer of risk, as per the Seller's discretion. Determination of such defects must be reported to Seller in writing without delay. Parts replaced shall become the property of the Seller.

**6.2.** The Seller shall not be liable for defects or damages caused by: Unsuitable and improper use, faulty or negligent assembly, commissioning, operation, treatment, maintenance and repair, construction works, chemical, electrochemical or electrical influences, unless caused by the Seller, normal wear and tear, modifications or repairs by the Buyer or third parties without the Seller's prior consent, materials provided by the Buyer or designs specified by the Buyer, deviations from the installation or operating conditions stipulated or assumed in the Contract.

**6.3.** Upon consultation the Seller, the Buyer shall grant the Seller the necessary time and opportunity to proceed with any repairs or replacements which the Seller deems necessary; otherwise the Seller shall be released from liability for the consequences arising therefrom. The Seller shall, if the complaint proves to be justified, bear the costs of the replacement part including shipping as well as the reasonable costs of dismantling and installation and, if this can be reasonably demanded depending on the case in question, the costs of any necessary provision of its fitters and assistants. Additional expenses required for the purpose of rectification, in particular transport, travel, labour and material costs, shall be borne by the Buyer if the expenses increase because the concerned Goods have been delivered to another location different from the agreed place of delivery.

**6.4.** In accordance with statutory regulations, the Buyer has the right to withdraw from the Contract if the Seller - considering the legal exceptions - fails to take action within a reasonable period of time for rectification or replacement due to a defect of quality. If the defect is only of a minor nature, the Buyer shall only be entitled to the right to reducing the Contract price. The right to reduce the Contract price shall otherwise be excluded.

**6.5.** If the Buyer or a third party make improper rectifications, then the Seller is not liable for the consequences arising therefrom. The same applies for modifications of the supplied Goods made without the prior consent of the Seller.

### § 7 Compliance and Export Control

**7.1.** As specified in the Code of Conduct, the Seller and its employees are committed to professional and honest conduct, which includes compliance with legal regulations and ethical standards. The Seller also expects corresponding conduct from its business partners. In the event of violations of legal regulations by the Buyer, in particular in the event of corrupt or fraudulent acts, the Seller shall be entitled to terminate the Contract without notice. The Seller reserves the right to claim damages.

**7.2.** The Seller shall not be obliged to fulfil the Contract if such fulfilment is prevented by any impediments arising out of national or

**GENERAL SALES CONDITIONS**

international foreign trade or customs requirements or any embargos or other sanctions.

**7.3.** The Buyer shall inform the Seller without undue delay if the delivery item is to be delivered for final use to a country or to a natural person or legal entity that is subject to export restrictions or embargoes. The same shall apply if the Buyer subsequently becomes aware of this fact. The Buyer shall be responsible for obtaining the relevant export licenses if the Seller has not expressly assumed responsibility for obtaining them. In any case, delivery shall not take place until a corresponding permit has been issued; the delivery dates shall be adjusted accordingly. If a permit is not granted within a reasonable time, the parties shall be entitled to terminate the contract. In this case, the Seller reserves the right to claim damages.

**§ 8 Limitation of Liability**

**8.1.** If the Goods cannot be used by the Buyer for the contractually agreed purpose, due to omission or failure on the part of the Seller in the execution of suggestions or advices before or after conclusion of the Contract, or by breach of other additional contractual obligations, especially instructions on the proper operation and maintenance of the delivered Goods, then the provisions specified under §§ 6 and 8. 2 shall apply accordingly, excluding further claims of the Buyer.

**8.2.** Besides

- the Seller shall not be liable for consequential damages, e.g. loss of profit, loss of business and/or interruption of business;
  - the Seller's liability for damages is limited to the Contract value.
- The Buyer shall indemnify the Seller for damages or claims exceeding this amount.

**§ 9 Limitation Period**

All claims of the Buyer - for any legal reasons whatsoever - shall expire within 12 months from readiness for shipment or acceptance notification. The legal deadlines shall apply to wilful or fraudulent conduct and to claims under the Product Liability Act. Upon rectification and/or a replacement delivery, the limitation periods for the rectified Goods and/or the replacement delivery shall recommence. It finally expires at the latest 24 months after the passing of risk for the Goods.

**§ 10 Force Majeure**

**10.1.** Either party shall be entitled to suspend performance of his obligations under the Contract to the extent that such performance is impeded or made unreasonable onerous by any of the following circumstances occurring after conclusion of the Contract, or, if occurred prior to the conclusion of the Contract, to the extent its effect on the performance of the Contract could not be foreseen at the time of the conclusion of the Contract: Industrial disputes and any other circumstances beyond the control of the parties such as fire, armed conflicts, war, general mobilization, rebellion, terroristic acts, requisition, seizure, embargo, restrictions in the use of power and natural disasters.

**10.2.** The party invoking force majeure shall without delay notify the other party in writing of the occurrence and cessation of such circumstance.

**10.3.** Either party shall be entitled to terminate the Contract by serving written notice on the other if performance of the Contract should be impeded for more than six months pursuant to § 10.1.

**§ 11 Termination for Convenience**

**11.1.** The Buyer is only entitled to terminate the Contract in the cases of §§ 4.5 and 6.4.

**11.2.** The Buyer's right to terminate the Contract is limited to the defective or delayed part of the delivery unless the Buyer has a justified reason to reject the entire delivery.

**11.3.** If the Buyer terminates the Contract without having a right of termination according to §§ 10.3 or 11.1, the termination is free of charge if it reaches the Seller within one week after receipt of the order. If the termination is received later, the Seller shall be entitled to payment of the Contract price less the expenses saved by the termination.

**§ 12 Place of Jurisdiction, Applicable Law**

**12.1.** The Contract shall be governed by and construed in accordance with German law, to the exclusion of its rules for the conflict of laws and the Vienna UNCITRAL law (CISG).

**12.2.** For all disputes arising from the contractual relationship, the sole place of jurisdiction shall be Dortmund in Germany. The Seller, at his discretion, is further entitled to sue the Buyer at the court of his registered headquarters or subsidiary or at the court of the place of delivery.

**§ 13 Voidness in Part**

Should any provision in these General Sales Conditions or in the Contract prove to be void, ineffective or inoperable, the validity of the remaining provisions shall not be affected. The Buyer and the Seller shall be obliged, however, in such a case to negotiate in good faith and agree upon the replacement of the respective provision by a valid and operable provision which meets as closely as possible the purpose of the original provision.