

## **TERMS AND CONDITIONS OF SALE GERMANY**

**1. DEFINITIONS.** In these terms and conditions of sale Germany: "Bakelite" means any entity of the Bakelite Synthetics group that sells Products under the applicability of these terms and conditions of sale Germany, "Product" means any product or service sold by Bakelite, and "Buyer" means a party purchasing any Product from Bakelite. Even if Buyer sends Bakelite another form of agreement, or modifications to these terms and conditions of sale, and Bakelite does not respond, these terms and conditions of sale, without any modification, will govern the agreement between Bakelite and Buyer. The Products shall only be used for industrial or professional use and NOT for consumer uses.

**2. TERMS AND CONDITIONS OF SALE GERMANY.** Any agreement between Bakelite and Buyer for the sale of the Products will be governed by these terms and conditions of sale Germany. In the event of a discrepancy between these terms and conditions of sale Germany and a specific contractual term agreed between the parties in writing, such specific contractual term will prevail. The English version of these terms and conditions of sale Germany shall prevail over a version in any other language.

**3. PRODUCTS.** The Products sold are those described in Bakelite's order confirmation, unless, in the event of a discrepancy between Buyer's order and Bakelite's confirmation, Buyer notifies Bakelite in writing of its disagreement, within a period of ten (10) days from the date of Bakelite's confirmation.

**4. PRICE & PAYMENT.** Product prices are determined by Bakelite's order confirmation provided to Buyer or, in the absence of such confirmation, by Bakelite's list prices in effect at the time of shipment. Unless otherwise agreed in writing, all prices are CIF/CIP (INCOTERMS 2020) the facility specified by Buyer and payment will be due within thirty (30) days of the invoice date. Buyer shall make the payment by electronic fund transfer to an account designated by Bakelite. Buyer shall not be entitled to make any deduction from payments due to Bakelite on account of any alleged set-off or counter claim, unless the Buyer's counterclaim is acknowledged, undisputed, or assessed in a legally binding judgment. Bakelite has at all times the right to demand full or partial advanced payment and security for payment. Late payment immediately constitutes a default without notice and statutory interest applies automatically. Buyer shall reimburse Bakelite for Bakelite's full costs of collection and related legal costs, even where exceeding the legally recognized costs. Bakelite may at all times assign its invoices to a factoring company in which case payments shall be made into the account mentioned on the invoice. In the event that Bakelite's costs of the Products has increased as a result of an increase of external costs or a modification of rates of exchange or increase in Bakelite's raw material or input buying prices, taxes, duties or other levies imposed by public authorities, Bakelite has the right to increase the prices accordingly for all orders not yet shipped to Buyer, provided that Bakelite provides Buyer with at least fifteen (15) days prior written notice. All orders for such Products that are confirmed but not shipped as of the effective date of such increase shall be re-priced accordingly.

**5. DELIVERY.** Any delivery dates set out in Bakelite's order confirmation or acceptance are estimates. Bakelite cannot guarantee delivery on a specific date and variation of up to 10% in quantity is acceptable to Buyer. Buyer will be invoiced for the quantity actually delivered. The quantity recorded on Bakelite's officially calibrated weighing equipment at the point of loading shall be accepted by both parties as correct. Delivery may be made in installments and may be extended as long as Buyer is delayed in the performance of any obligation to Bakelite. If Buyer refuses to accept delivery of Products or any installment thereof, Bakelite may, without prejudice to its other rights, arrange for the storage of the Products at the expense and risk of Buyer. Risk of loss or damage passes to Buyer at the time Products are first transferred to a commercial transportation carrier for shipment. The Buyer is entitled to sell-on the Products which are subject to retention of title in the normal course of business. The claims against third parties arising from the sale of the Products are hereby assigned in full by the Buyer to Bakelite as security. Bakelite accepts this assignment. If the realizable value of the security exceeds the claims of Bakelite by more than 10%, Bakelite will, on request of the Buyer in writing, release security at the choice of Bakelite.

**6. WARRANTY.** Bakelite only warrants that all Products sold to Buyer will conform to the manufacturers' specifications. Bakelite makes no other warranty of any kind, express or implied, by contract, statute or otherwise, and Bakelite expressly excludes and disclaims all implied warranties of merchantability or fitness for a particular purpose or otherwise. Products that conform to the manufacturer's specifications shall never be considered defective. Buyer will inspect all Products for damage, defect or shortage promptly after Buyer receives them, and will give Bakelite prompt notice of any damage, defect or shortage that Buyer finds. Buyer must give Bakelite notice of any defect within thirty (30) days after the date of shipment or before the date the Products are used, whichever comes first. If any Product is determined not to conform to the warranty set forth above, Bakelite shall, at its option, either replace the defective Product or refund the purchase price thereof. Defective Products shall not be returned by Buyer until authorized by Bakelite. This warranty is given only to the original purchaser and does not extend to any subsequent purchaser or transferee of Products. Buyer is not entitled to extend or transfer this warranty to any other party.

**7. LIMITATION OF CLAIMS AND INDEMNITY** Bakelite will not be responsible and Buyer indemnifies Bakelite for, and Buyer releases Bakelite and holds Bakelite harmless from, any losses and harm arising out of Buyer's loading, storage, handling, purchase, possession, distribution, disposal or use of any Products, Buyer's use of any function on Bakelite's web-sites or any technical or Product handling advice Bakelite may offer. Bakelite will not be liable for damages whether consequential, indirect, special, incidental, exemplary or otherwise, including, but not limited to, loss of goodwill, profits or turnover, equipment downtime, repair or material cost, cost of any substitute for the Products Buyer bought, claims of third parties or injury to person or property. Bakelite shall not be liable for any damage, injury, contamination or loss in case of breach by Buyer of its obligations under paragraph 12 and Buyer shall indemnify and hold Bakelite, its employees, suppliers and sub-contractors harmless against all claims, costs, loss or damages in connection with such breach. This limitation of Bakelite's liability shall not apply if Bakelite has been guilty

of intent or gross negligence. In case of simple negligence, Bakelite shall be liable only for (a) damages due to injury to life, limb or health, and (b) for damages due to not insignificant violation of a material contractual obligation (an obligation whose satisfaction enables the proper performance of the contract in the first place and on whose satisfaction, the contracting party regularly relies and may rely); in this case, however, the liability shall be limited to compensation for foreseeable damages which typically occur. This limitation of liability shall not apply to claims of the Buyer under the Product Liability Act. Conditions limiting, excluding or establishing liability, which can be invoked by suppliers or independent contractors of Bakelite against Bakelite in respect of the goods delivered, may also be invoked against Buyer.

Indemnity for solid Products. Bakelite's solid Products, including but not limited to powder and flake resin products, can be combustible and present a fire or explosion hazard under certain conditions (including but not limited to when dusts are finely divided and suspended in air, and/or allowed to accumulate on surfaces). Buyer shall comply with all laws, regulations and standards applicable to the possession, handling and use of all solid products by Buyer, including but not limited to National Fire Protection Association Standard 654, UK HSE Guidance HSG 103, European Directive ATEX 137 or other national guidance, as applicable, and shall defend, indemnify and hold Bakelite harmless from all claims, liabilities and costs and expenses except to the extent a liability of Bakelite is stipulated under this article 7 above.

**8. TECHNICAL ADVICE AND OTHER SERVICES.** Buyer is responsible for the design, processing, testing and labeling of any product produced using Bakelite's Products and Buyer will not rely on anything on Bakelite's web site or any statement by Bakelite about the suitability of Products Bakelite provides. Buyer is responsible for testing and investigating Products sold by Bakelite to form an independent judgment concerning their suitability for the use, conversion or processing intended by Buyer and will not make any claim against Bakelite based on Bakelite's technical advice, statements, data, services or recommendations.

**9. INTELLECTUAL PROPERTY.** Any suggestions Bakelite makes about possible applications, designs or uses of Bakelite's Products do not give Buyer a license under any intellectual property right covering such applications, designs or uses, nor are they a recommendation for use of such Products, applications or designs which may infringe any intellectual property right. Bakelite does not warrant that the use of the Products, or articles made therefrom, either alone or in conjunction with other materials, will not infringe another person's valid patent rights. Bakelite will defend Buyer if there is a claim that Products, as delivered to Buyer infringe another person's valid patent rights, and if necessary will refund the purchase price. The foregoing sentence states the entire obligation of Bakelite for intellectual property infringement by any Product sold hereunder.

**10. EVENTS BEYOND BAKELITE'S CONTROL.** Bakelite shall not be responsible if Bakelite's performance of any obligation towards Buyer becomes, in whole or in part, temporarily or not, impossible or commercially unreasonable due to any cause or event beyond Bakelite's reasonable control, including, without limitation, extreme weather

conditions, natural catastrophe, warfare, terrorist activity, fire, acts of any governmental authority, site or building blockades, breakdown of utilities, transport interruptions, strikes, specific work interruptions or work-to-rule slowdowns and lock out, machine breakdown, emergency repair or maintenance, delay in the provision to Bakelite of parts, goods or services ordered from third parties, accidents and interruptions of business operations. If such event occurs on the part of Bakelite, Bakelite shall not be liable and its obligations are suspended. If the event lasts longer than 90 days, both Bakelite and Buyer may rescind the non-feasible parts of any agreement between Bakelite and Buyer by a written declaration. In addition, Bakelite will be excused if it is unable to acquire from its usual sources and on terms it deems reasonable, any material necessary for manufacturing the Product. If, because of such circumstances, there is a shortage of Product, Bakelite will not be obligated to purchase Product from a third party in order to perform its obligations and it may apportion its available Product among all its customers and its own internal use in such manner as Bakelite finds fair and reasonable; provided, however, that Bakelite will not be obligated to apportion or otherwise make available to Buyer, Product which Bakelite obtains by purchase or exchange for its own internal use. Quantities of Product consequently not shipped will be deducted from the applicable remaining quantity obligation unless the parties agree otherwise.

**11. ENVIRONMENTAL, HEALTH AND SAFETY COMPLIANCE.** Bakelite will provide Buyer Safety Data Sheets (“SDSs”) applicable to the Product and Buyer will provide the SDSs to all persons required by law to receive them. Buyer will take all such precautions to protect human health and the environment as may be appropriate for hazards identified in the SDSs or otherwise identified to Buyer by Bakelite. Buyer will use, handle and process the Products, and manage and dispose of all wastes and residues resulting from use, handling and processing of Products, including any packaging, in accordance with applicable laws and regulations.

**12. EXPORT CONTROL COMPLIANCE.** Bakelite is subject to application of United States, EU and national export control laws. In this capacity Bakelite is prohibited from directly or indirectly exporting and/or selling products, or allowing third parties to directly or indirectly sell and/or export products, into certain embargoed countries and to certain restricted or denied customers under the export control laws of the United States, the EU and/or the UN. Prohibited transactions include any transaction in which Products are shipped to or through the embargoed countries or which involve the restricted or denied customers. Penalties for violation of these laws are severe.

Buyer shall not directly or indirectly, sell or export the Products or any technical information concerning the Products to any person, entity or country which is embargoed, restricted or denied under the laws of the United States, nor sell or otherwise transfer the Products or such technical information to any Buyer under circumstances where it has knowledge or reason to believe that the Products or technical information will be sold or exported to any such embargoed, restricted or denied person, entity or country. Without limiting the generality of the foregoing, Buyer shall not directly or indirectly, sell or export the Products or any technical information concerning the Products to Cuba, Syria, Sudan, Iran, North Korea, or the Crimea region of the Ukraine, nor sell or otherwise transfer the

Products or technical information to any Buyer under circumstances where it has knowledge or reason to believe that the Products or information will be sold or exported to Cuba, Syria, Sudan, Iran, North Korea, or the Crimea region of the Ukraine. Buyer shall not directly or indirectly, sell or export the Products or any technical information to a prohibited end use or end user under US export control laws, nor sell or otherwise transfer the Products or technical information to any Buyer under circumstances where it has knowledge or reason to believe that the Products or technical information will be sold to a prohibited end use or end user under US export control laws.

Buyer acknowledges that Seller is a U.S. company and is subject to United States laws and regulations, and that Seller Products are subject to U.S. export controls (in addition to other country's export controls when applicable). U.S. export controls may apply to the Product even after it is incorporated into another product that is manufactured outside of the U.S. (i.e. *de minimis* rule). Buyer is responsible to ensure compliance with U.S. export controls in the use of Seller Products. Seller will not participate in a transaction when it knows or has reason to know that the transaction would violate U.S. exports controls. Seller will not be obligated to proceed with and is excused from performance of any transaction when it reasonably believes that U.S. export controls would be violated in relation to the transaction.

**13. REACH.** Buyer shall comply with its obligations arising from the Regulation of the European Parliament and of the Council concerning the Registration, Evaluation, Authorization and Restriction of Chemicals (REACH), and shall provide such assistance as Bakelite may reasonably require in view of the provisions set out in REACH and in any other laws, rules and regulations applicable to the Products and its chemical elements from time to time.

**14. TERMINATION FOR DEFAULT.** If Buyer does not fulfill its obligations, does not fulfill them timely or adequately, is declared bankrupt, requests (temporary) moratorium, or proceeds with the liquidation of its business, as well as when its assets are attached in whole or in part, Bakelite has the right to suspend the performance of any obligation hereunder or to rescind the agreement in whole or in part, without prior notice or default, by written declaration, at its option and always reserving any rights to which it is entitled with respect to compensation for costs, damage and interest. In these cases, all of Bakelite's claims against Buyer are immediately and totally due. Buyer is authorized to rescind the agreement only in the events referred to in these terms and conditions, and then only after payment to Bakelite of all amounts owed to Bakelite at that time, whether due or not.

**15. VAT.** If the supply qualifies as an intra-community transaction as defined in Article 138 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, Buyer will notify Bakelite, in writing and before the supply takes place, which VAT number he will use for each transaction and, in case transport is not arranged by or on behalf of Bakelite, that the Product will be transported by him or on his behalf to another EC Member State. If, in the above described situation, Bakelite has sufficient confidence that it will receive the evidence required in time, and, therefore, invoices Buyer with 0% VAT, Buyer shall provide Bakelite as soon as possible and in any event within 6 weeks with documents proving that the Product has been transported to another EC Member

State. Buyer is liable for any VAT and fines due by Bakelite if the documents mentioned are not received in time by Bakelite. If the VAT number can not be verified with fiscal authorities in due time, or if fiscal authorities can not validate the number at verification, the supply will be deemed to be a national supply and VAT will be levied accordingly. If Products are transported by or on behalf of Bakelite and fiscal authorities do not accept the proof that the Product has been transported to another EC Member State, Buyer will do his utmost to provide Bakelite with additional information and to assist Bakelite in having the proof accepted.

**16. GENERAL.** Cancellation of or changes to any order, refusal to take delivery or return of any conforming Product purchased hereunder, will be subject to acceptance by Bakelite and to a cancellation fee in accordance with Bakelite's policy then in effect. Neither course of performance or dealing, nor usage or trade, nor prior writings or agreements shall be used to qualify, explain or supplement any of these terms and conditions. Failure by either party, at any time or from time to time, to require the performance by the other of any term or provision here of shall not constitute a waiver of such term of provision. The invalidity, in whole or in part, of any provision herein, shall not affect any other provision herein, each of which shall be enforced to the full extent permitted by law.

Buyer specifically agrees that Bakelite may issue electronic order acceptances or confirmations and electronic invoices for any purchases of Products made using the Internet, e-mail or any other electronic communications method, and agrees to honor such order acceptances or confirmations and invoices as if they had been delivered in writing.

**17. ASSIGNMENT.** Buyer shall obtain the written consent of Bakelite prior to and as a condition of the assignment, transfer, encumber or novation of any right, benefit and/or obligation (including rights to receivables). Bakelite is entitled to assign, transfer, encumber or novate its receivables in whole or in part without obtaining written consent of the Buyer.

**18. LETTERS OF CREDIT.** If payment is to be made by letter of credit ('LOC'), Buyer shall immediately establish an irrevocable LOC in favor of Bakelite through a prime bank acceptable to Bakelite. Such LOC shall be in a form and upon terms satisfactory to Bakelite and shall authorize reimbursement to Bakelite for such sums, if any, as may be advanced by Bakelite for consular invoices, inspection fees and other expenditures for the account of Buyer. If the LOC is not honored by the bank immediately upon Bakelite's presentation of the corresponding draft, Buyer shall, upon notice from Bakelite, immediately make payment by electronic funds transfer in immediately available funds to the account of Bakelite directly and unconditionally. All bank charges incurred, including collection charges and stamp duties, if any, within the country of the Buyer shall be for the account of Buyer and any bank charges incurred outside Buyer's country shall be for Bakelite, unless the parties agree otherwise.

**19. INSURANCE.** If Bakelite agrees to obtain insurance for Buyer's account and Bakelite is obliged to provide insurance on a shipment in view of the agreed delivery condition (INCOTERM), Bakelite will insure 110% of the invoice amount unless other valuation is agreed.

**20. GOVERNING LAW & DISPUTES** Any agreement between Bakelite and Buyer for the sale of the Products shall be governed by the substantive laws of the country of the corporate seat of Bakelite. The UN Convention on the International Sale of Goods will not apply.

Any dispute arising out of or in connection with any agreement between Bakelite and Buyer for the sale of the Products shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. The seat of the arbitration will be Amsterdam, the Netherlands and the proceedings will be conducted in the English language. If both Bakelite and Buyer are domiciled in countries to which the Brussels I Regulation (recast) (Regulation (EU) No. 1215/2012) applies, the arbitration agreement shall not apply and any dispute arising out of or in connection with an agreement between Bakelite and Buyer for the sale of the Products shall be settled by the state court of the seat of Bakelite.