



## General Terms & Conditions of the FluidSolids AG

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### 1. Scope of Application

The customer accepts our General Terms & Conditions (GTCs), which in their current valid version shall form the basis for any present and future contracts concluded between the customer and FluidSolids AG. Any offers, deliveries and performances are exclusively undertaken on the basis of these GTCs. They shall also apply for all future business relations, even if they are not expressly agreed each time. Ancillary agreements and amendments or addenda to these General Terms & Conditions require our written confirmation to be effective. The customer's general terms and conditions shall not apply, even if the customer decides to want to only conclude a contract on the basis of its general terms and conditions.

### 2. Conclusion of a Contract

Offers made by FluidSolids AG are non-binding. Prices quoted and technical specifications are non-binding. An order shall only be deemed as accepted, when we have confirmed it in writing. (Verbal agreements are non-binding.)

All information provided by FluidSolids AG in their documents must be checked by the customer. The customer is obliged to notify us of any potential errors or discrepancies contained in our order confirmation which differ from their ordered requirements.

### 3. Price

The price quoted in our offer is valid for 30 days and refers to the delivery date specified. If not expressly stated otherwise, all prices quoted are net prices in CHF, exclusive of VAT and are ex-works prices.

Other costs, for example for transport, delivery, insurance, taxes, custom duties, export/import permits and certificates (ISO, DIN) or any other permits and certificates shall be borne by the customer and shall be charged additionally.

A packaging fee is applied, which must also be borne by the customer. All contract conclusions are based on the freight, insurance and custom duty tariffs or tax rates applicable at the time. Any changes to these tariffs or fees shall be borne by the customer. The sales prices also exclude any costs for: the production of plans, travel expenses, external material tests, training courses for the processing or for support during a pilot series/production, and for assembly or installation. FluidSolids AG will, however, furnish or organise such additional services upon the customer's request and in return for separate payment.

### 4. Payment Terms

Payment must be made in full within 30 days from the date of invoice, provided that nothing to the contrary has been agreed. If this deadline is exceeded, the customer shall be in default, without this requiring any reminder.

The payment deadlines must also be observed, if transport, delivery or acceptance of the delivery is delayed for any reason.

Should the customer be in payment arrears, all discounts and reductions promised to the customer shall become void for any outstanding payments. FluidSolids AG shall furthermore also be entitled to withhold its performances and deliveries until the outstanding amount has been paid in full or demand payments in advance or assurances prior to delivery and performance. The offsetting of claims of FluidSolids AG with counterclaims of the customer is excluded.

### 5. Delivery / Delivery Period

The delivery dates stated in our offer, or respectively our order confirmation, are to be understood as guidelines only and are non-binding. The customer shall not be entitled to damages or contract

cancellation because of delayed delivery. Partial deliveries or performances by us are permissible. Under deliveries and excess deliveries of up to 10% of the contractually agreed quantity are also permissible. The delivery obligation of FluidSolids AG exists subject to receiving timely self-deliveries from their sub-stream suppliers.

If an order cannot be fulfilled for reasons beyond our control, we shall be entitled to increase the agreed prices by any price rises which may have occurred in the interim period.

If FluidSolids AG has agreed in writing with the customer that the goods will be delivered on request, the customer must request all goods upon expiry of a three-month period following the first possible delivery date. Upon expiry of this three-month period and after written warning, FluidSolids AG shall be entitled to deliver and charge the stored goods to the customer.

Benefit and risk shall pass to the customer at the latest upon the delivery being collected from or leaving the place of performance or factory.

### 6. Uses / Quality

The customer shall be solely responsible for the deployment, use and processing of the goods supplied by FluidSolids AG. In particular, it is the sole responsibility of the customer to check whether or to what extent the goods are permissible and suitable for the intended application or use or processing. It shall also bear sole responsibility for compliance with all applicable safety regulations in this regard. Any liability of FluidSolids AG is excluded in this regard. Any technical and other advice provided by FluidSolids AG is always non-binding and does not exempt the customer from checking each individual delivery prior to processing or use to ensure it is suitable for the intended use and purpose.

Minor or other alterations to the performance or delivery obligation of FluidSolids AG deemed acceptable for the customer shall be deemed as agreed beforehand. This applies in particular to deviations that are an inherent part of the actual product (e.g. in masses, colours, wood and veneer patterns, wood grain and texture, etc.). The quality of the products made by FluidSolids AG is interdependent on the raw materials that are available for their production.

### 7. Retention of Title / Assignment of Receivables

We shall retain ownership of the goods delivered until all claims we have vis-à-vis the customer have been fulfilled, even if specially designated demands have been met. For all open accounts, the retained ownership to the goods delivered shall serve as security for the balance carried forward vis-à-vis the customer. We are entitled to register the reservation of title in the register that is responsible for the customer.

In the event that the customer breaches the term of these GTCs or the applicable order, we shall be entitled to reclaim the deliveries. Reclaiming the deliveries does not constitute a withdrawal from contract, unless we expressly declare this in writing.

Reclaiming the deliveries by us shall always constitute a withdrawal from the contract. After reclaiming the goods we shall be entitled to make use of them; the profit achieved from their use is to be offset against the customer's liabilities (minus any reasonable usage costs).

In the event of third party seizures or other third party interventions the customer must notify us immediately in writing. Intervention costs shall be borne by the customer.

The customer shall be entitled to resell the purchased goods within the scope of normal business transactions; however, s/he shall herewith already assign to us all claims to the amount of the final invoice total (including statutory VAT), which shall arise as a result from his/her resale vis-à-vis his/her customers or third parties and this irrespective of whether the purchased object was sold with or without further processing. The customer shall retain entitlement to collect the claims even after assignment. Our entitlement to



collect the claims ourselves shall remain unaffected by this. We shall, however, undertake not to collect the claims ourselves, as long as the customer performs his/her payment obligations from the collected proceeds, does not get into arrears with payment and in particular, no application for opening insolvency proceedings has been filed and payments have not been suspended.

Should this however be the case, we shall be entitled to demand that the customer discloses to us the assigned claims and their debtors, furnishes all information required for collection, hands over the relevant documents and informs the debtors (third parties) about the assignment. Other assignments of the customer are not permitted.

Processing or modifications of the delivery by the customer are always performed on our behalf. In the event of the processing of the delivery with other goods not belonging to us, we shall acquire co-ownership of the new object in proportion to the value of the other mixed object at the time of processing. For the remainder, the same provisions that apply to goods delivered under title retention shall also apply to the object resulting from processing.

At the request of the customer, we shall take reasonable steps to release any security interest we have in any secured customer property insofar as the value of our remaining security interest exceeds the value of the customer claims to be secured by more than 20%; the choice of which security interest to release, shall be at our sole discretion.

## 8. Force Majeure

Neither FluidSolids AG nor the customer shall be liable for damages of any kind in the event of obstacles occurring which they are unable to avoid despite exercising due care, irrespective whether these arise at FluidSolids AG, at the customer or at a third party.

If a malfunction that prevents FluidSolids AG from fulfilling its obligations in accordance with the contract lasts longer than three months, FluidSolids AG shall be entitled to contract dissolution. In the event of partial or full discontinuation of supply sources due to force majeure in the sense of the above provisions, FluidSolids AG shall not be obligated to secure supplies from other upstream suppliers.

## 9. Copyright / Intellectual Property Rights

FluidSolids AG retains the full rights to all intellectual property rights related to the goods including all plans, notes about process flows or similar, sketches, other technical documentations, specifications, samples, models, concepts, designs, catalogues, brochures, illustrations, films, photographs, technical drafting plans, instruction manuals, handbooks, quotes, tools, IT data and data carriers etc. (collectively, FluidSolids Intellectual Property). Notwithstanding any earlier agreement entered into by the parties, customer acknowledges and agrees that nothing in these GTCs or any order shall confer in customer any right of ownership in any FluidSolids Intellectual Property unless otherwise specifically set forth in an order.

## 10. Warranty

All information given about suitability, processing and utilisation of the goods sold, and all technical advice and other information, is given to the best of our knowledge, but does not, however, release the customer from making their own checks and carrying out their own tests. Guaranteed characteristics shall be only those characteristics which were explicitly stated as such and were thus confirmed as such in our order confirmation.

The warranty period is six months from the date of delivery. The customer must check the goods as soon as is feasible in the ordinary course of business, but at the latest prior to processing the goods, for any defects with regards to condition and intended purpose, otherwise the goods are deemed accepted.

Complaints shall in any case only be considered, if they are made in writing and with enclosed documentations, within eight days after receipt of the goods – hidden defects must be reported immediately upon their discovery, at the latest, however, six months after receipt of the goods.

After notification of defects we shall be entitled to check the goods at our end. Until that time, the customer must ensure access and correct storage.

Our warranty obligation is limited, at our discretion, to replacement delivery, repair or reduction. Defective goods must only be returned to us after obtaining our express consent.

Any further warranty and liability, especially for indirect and consequential damages like loss of profit, cost savings not realised, or claims by third parties, in particular when caused by our agencies, employees or vicarious agents, shall be, in as far as is legally permissible, excluded.

## 11. Liability / Damages / Indemnity

FluidSolids AG shall only be liable for damages, which result from its own grossly negligent behaviour or deliberate acts. Any further liabilities shall be excluded in as far as legally permissible.

The same shall also apply with regard to the personal liability of its employees, representatives and auxiliary persons.

FluidSolids AG shall not be liable for damages resulting from imprecise or wrong information about the use, the requirements with regards to the electrical, mechanical, thermal, chemical, physical, or biological nature or about any other nature, or resulting from incorrect type designation or from inappropriate storage, treatment or usage of the goods or resulting from alterations or repairs made to the goods or resulting from any other culpable conduct by the customer, his/her auxiliary persons or third parties that he/she consulted.

FluidSolids AG shall not be liable for the technical or commercial success of a product developed as part of a development order.

The customer shall at first request fully indemnify FluidSolids AG and hold it harmless from all demands and claims of third parties that are asserted as a result of or in connection with goods delivered by us to the customer, or their application or processing, including claims for damages.

## 12. Applicable Law / Jurisdiction

These GTCs and all legal transactions concluded between FluidSolids AG and the customer shall be governed by Swiss (substantive) Law to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods, dated 11 April 1980 (CISG; the Vienna Convention) and the referral provisions of the German Federal Act on Private International Law (IPRG, SR 291).

The ordinary courts in Zurich (Switzerland) shall be responsible for assessing all disputes or claims arising out of or in connection with these General Terms & Conditions or any related contract, including the validity, invalidity, breach or dissolution of such contract.

FluidSolids AG shall also be entitled to sue the customer at his/her place of residence or registered office.

## 13. Place of Fulfilment

Place of fulfilment for all obligations is our registered office in Zurich (CH), unless the parties agree otherwise in writing.

Zurich, 17 December 2019