

**GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY – BYK-Cera B.V.
May 2011**

1. GENERAL PROVISIONS:

- 1.1 Our General Terms and Conditions of Sale form an integral part of the agreement we conclude with our counterparty or our Customer (hereinafter: the “**Buyer**”).
- 1.2 All offers from and all orders to us and all agreements for the sale and delivery with us are subject to these general terms and conditions.
- 1.3 The applicability of general terms and conditions of the Buyer is hereby expressly excluded.
- 1.4 Provisions which deviate from these conditions or waivers of provisions from these conditions can be invoked by the Buyer only if and to the extent that these provisions have been accepted by us in writing.
- 1.5 The Buyer with whom an agreement has been concluded upon which these general terms and conditions are applicable, consents to the applicability of these general terms and conditions on agreements concluded with us hereafter.

2. OFFERS, ORDERS:

- 2.1 Our offers shall be subject to change and are non-binding (*vrijblijvend*).
- 2.2 Any written, electronic, or verbal orders issued to us or our representatives shall only be binding upon us after we accepted an order in writing or after we have started to implement such order by sending the goods. Any modifications-even of current orders-or collateral agreements must be confirmed by us in writing at all times. All orders and all acceptances of offers by the Buyer, including verbal orders or acceptances of offers, are irrevocable.
- 2.3 In the event an order is sent electronically, the articles 6:227b under 1 and 6:227c of the Dutch Civil Code are not applicable. We shall not be obligated to confirm the receipt of an order electronically. Incoming e-mails received between 9:00 a.m. and 4:00 p.m. shall be considered to have been received at 4:00 p.m., unless it can be proven that the e-mails were read earlier. Any e-mail we receive after these hours shall be considered to have been received at 4:00 p.m. on the next business day, unless it can be proven that the e-mail was read earlier. We shall only save the contractual provisions and general terms and conditions of business in the event we do not communicate with the customer individually and such provisions and terms and conditions may then be sent to the customer by e-mail upon request.

3. TERMS AND CONDITIONS OF PAYMENT, DEFAULT, SECURITY:

- 3.1 Unless agreed upon otherwise, our invoice amounts shall be due without deduction 30 days after the invoice date and payable in euros into one of the bank accounts provided to the Buyer by us. The Buyer shall bear any additional expenses related to making such payment to us whether or not such costs are charged to us or to the Buyer.
- 3.2 In the event of a late payment, the Buyer shall be in default (*verzuim*), without a prior notice of default being required. As from the day the Buyer is in default, overdue payment interest as set forth in article 6:119a of the Dutch Civil Code is due. We hereby reserve the right to claim additional damages due to the default of the Buyer.
- 3.3 The acceptance of orders and the performance of deliveries may be made dependent on the provision of security or advance payment.
- 3.4 In the event the financial situation of the Buyer substantially worsens after the conclusion of this agreement, whether through a petition for the initiation of insolvency proceedings, initiation of composition proceedings, a petition for the issuance of an affidavit or a warrant of arrest or similar events, we shall be entitled to use our discretion to demand advance payments or the provision of security within a reasonable period. We shall be entitled to withhold our performance until such requests are fulfilled. We shall be entitled to terminate this Agreement after the expiration of the period in the event the advance payment is not rendered or security is not provided prior to such date. A substantial worsening of the financial situation of the customer is to be assumed in the event the Buyer is in default with more than two payments.

3.5 The Buyer may only set off or reduce claims in the event we have recognized the counterclaims or such counterclaims have been recognized by a non-appealable judgment. The Buyer may not invoke a retention right against us.

3.6 We hereby reserve the right to refuse bills of exchange or cheques. Discount charges and expenses for bills of exchange or cheques shall be borne by the Buyer and shall be due immediately. Any amount due by Buyer shall only be deemed to have been paid by the provision of a bill of exchange or cheque upon receipt by us of the actual amount for which the bill of exchange or cheque was issued. After receipt of a bill of exchange or cheque by us we reserve the right to return or refuse such bill of exchange or cheque to the Buyer and demand another manner of payment up until we have received the actual amount for which the bill of exchange or cheque was issued.

4. DELIVERIES AND DELIVERY TIME:

4.1 We shall have delivered the goods to the Buyer ex warehouse after we have informed the Buyer that the goods are available and ready for transport or despatch in our warehouse or factory or the moment on which the goods are ready for transport (without a written notification being required) if we also arrange for the transport of the goods.

4.2 If the products are not collected within fourteen days after delivery has taken place, the Buyer shall be in default without prior notice of default and we will be entitled either to rescind the agreement or hand over the products to the Buyer in any way that we deem appropriate. All costs and damages which result from the default of the Buyer are at the expense of the Buyer.

4.3 A delivery time only becomes effective after all the following requirements have been fulfilled: (a) conclusion of the agreement, (b) we have received all documents and data to be provided by the Buyer, and (c) any advance payments agreed upon have been received by us or a security for the benefit of us has been provided.

4.4 If we expect that the agreed delivery period will be exceeded, we will inform the Buyer thereof as soon as possible. A failure to make a timely delivery shall never entitle the Buyer to additional or substitute compensation or to non-compliance by the Buyer of any of his own obligations arising from the agreement. However, if the failure to provide a timely delivery is the result of a circumstance which can be attributed to us and subsequently, if and insofar as we still fail to deliver within a reasonable period after the Buyer has informed us thereof in writing, the Buyer shall be entitled to rescind the agreement by means of a written statement.

4.5 We have the right to deliver in parts. Each partial delivery will be deemed an independent delivery with respect to the applicability of these conditions.

5. RISK AND TRANSFER OF OWNERSHIP:

5.1 After the products have been delivered as per **Article 4.1**, the products are for the Buyer's expense and risk.

5.2 Unless expressly agreed otherwise and notwithstanding **Article 6** loading, dispatching or transport, unloading and insuring of the goods to be delivered shall be effected for the risk and account of the Buyer, even if we arrange or pay for the same.

5.3 The industrial or intellectual property rights to or in connection with the delivered goods shall remain with us or with third party title owners and shall never be transferred to the Buyer.

6. PRICES:

We shall carry out orders at the list price valid on the delivery date. Such prices shall not include turnover tax, which shall be calculated separately in accordance with the valid turnover tax rate. Unless agreed upon otherwise, delivery prices shall be per net/kg, including transport costs for delivery in the Netherlands or free delivery to the Dutch border for other countries, duty unpaid in non-recyclable packaging. In the event the Buyer requests express delivery or delivery by air, we shall invoice the additional expenses.

7. RETENTION OF TITLE:

7.1 All products sold by us shall remain our property until the Buyer has paid in full all that is owed to us in connection with the underlying agreement and/or in connection with prior or

subsequent agreements of the same nature, including damages, costs and interest. The Buyer has no right of retention in respect of those products.

7.2 In the event the retention of title expressly agreed upon herein is not recognized by the law of the country in which the delivery object is located, or in the event such retention is only recognized in observation of certain prerequisites, the Buyer shall be obligated to point this out to us no later than at the conclusion of the Agreement. In the event the law does not allow the retention of title or the extended retention of title but allows us to reserve other rights to the delivery object serving the purpose of security in a manner similar to the retention of title, we hereby declare that we shall assert such rights. The Buyer hereby agrees to cooperate in the execution of any measures necessary to obtain such rights by us (in particular in the observation of formal requirements).

7.3 In the event the Buyer processes (connects, mixes) the goods to which we have retained rights with other goods not belonging to us, the provisions of 5:14, 5:15 and 5:16 of the Dutch Civil Code shall apply with the consequence that our co-title to the new good is then a reserved good in the terms of these Terms and Conditions. Buyer is obliged to ensure that he possesses sufficient data regarding the title of the goods to determine who are the owners of the newly formed goods.

7.4 Buyer may only sell products which it has not yet paid in full to third parties: (a) when acting in the ordinary course of its business, and (b) if the Buyer, with our co-operation, establishes an undisclosed right of pledge (according to Dutch law) for our benefit on the claims which originate from such sale.

7.5 From the time of cessation of payment by the Buyer or in case of the issuing of an application for insolvency of the Buyer, the Buyer shall no longer be entitled to sell, process, connect or mix any retention of title goods. The Buyer shall in such case undertake separate storage and labelling of retention of title goods without undue delay and shall further keep for us on a fiduciary basis any moneys received from assigned claims arising from the delivery of goods.

7.6 Buyer shall keep the reserved good for us and hereby agrees to insure such good against fire, temperature, theft and water. The Buyer hereby pledges its compensation claims against insurance companies to which it is entitled from damages of the above-mentioned type or any other claims for replacement to us. Buyer herewith declares that it is entitled to pledge such claims. We hereby accept such pledge. In the event the Buyer does not fulfil its obligations from agreements concluded with us or delays the performance, we shall be entitled to disclose pledge to the insurer and directly collect the claim.

7.7 In the event the value of our securities exceeds our outstanding claims by more than 10%, we shall release such additional securities upon request. The taking back of the good delivered with reservation shall not be equated with the withdrawal from this Agreement unless such is expressly declared.

7.8 Buyer shall not be entitled to pledge, transfer by way of security or otherwise dispose of the good without our express written approval. The Buyer must inform us without delay in the event of the pledge or other measures of third parties and if necessary take suitable immediate measures.

7.9 Buyer will store the relevant products that have not yet been fully paid for separately and in such a way that they are recognisable as our property.

7.10 Buyer grants us irrevocable authority to take such measures which are necessary to maintain our property rights to the products.

8. WARRANTY, NOTICE OF DEFECTS, LIABILITY:

8.1 The warranty for defective products shall correspond with the provisions of law unless stipulated otherwise below. Damage as a result of improper handling, storage, installation or other external influence shall be excluded from the warranty.

8.2 The Buyer must inspect the delivered good for defects in quantity and quality upon delivery without delay insofar as can be expected by trial processing, and shall inform us of any defects without delay; otherwise the good shall be considered to have been approved. The goods will be deemed approved in any case within five working days after receipt of the goods by the Buyer. Any defects that cannot be recognized in such inspection (invisible defects) are to be notified to us after being detected without delay. Any complaints are to be issued in writing while specifying the order information and the invoice and shipment number.

8.3 Upon the commencement of the processing, connecting or mixing with other goods, the delivered goods shall be deemed to have been duly accepted by the Buyer in case of any recognisable defects. The same shall apply in case of the goods being further transported on from the original place of destination.

8.4 In case of any visible defects, the respective goods must be left in the transport container, so that we are able to check the correctness of any complaint, unless we expressly waive the right to such by way of a written declaration and the Buyer ensures the separate storage of the respective goods.

8.5 In the event of justified complaints of defects filed within the prescribed period, we shall elect to either (at our discretion) remedy such defects free of charge or subsequently deliver goods free of defects (subsequent performance). Our approval must be obtained prior to returning any goods. In the event we do not remedy defects or deliver a replacement of the defective good within a reasonable period set for us, or the subsequent performance fails (whereby we shall be entitled to two attempts), or we refuse subsequent performance or such subsequent performance cannot reasonably be expected of us, the Buyer shall have the right to terminate this Agreement. The option to terminate the agreement shall not apply in the event of insignificant defects.

8.6 Our liability is limited to fulfilling our warranty obligation set forth in this article. Our liability for any other damages is excluded, unless such damages are the direct result of intent or gross negligence from our side. Our liability for consequential damages, loss of profits and the like are however always excluded, unless such damages are the direct result of intentional actions from our side.

8.7 In any case in which we are obliged to pay damages, such damages shall never be higher than the invoice value of the goods involved or the amount actually paid out in that regard by our insurer.

8.8 Warranty claims shall lapse one year as of the delivery of the good.

8.9 In the event of damages resulting from loss of life, personal injury or illness resulting from a negligent or intentional breach of duty on our part, our liability shall be limited to either EUR 500,000 or the amount specified under Article 8.5 (whichever is higher). Our limitation of liability shall not exclude any claims for product liability for which we are liable in accordance with Section 6:185 and further of the Dutch Civil Code.

9. FORCE MAJEURE:

9.1 We shall be entitled to invoke force majeure if the implementation of the agreement is, in whole or in part, temporarily or not, prevented or impeded by circumstances reasonably out of our control, including (but not limited to): (a) site or building blockades, (b) fire, (c) strikes, (d) faults on the part of suppliers, (e) price increases by suppliers, (f) delayed delivery of parts, products or services by third parties to us, (g) accidents, (h) loss during transport and (i) interruptions of business operations.

9.2 In the event of force majeure on our part, our obligations are suspended. We are entitled at our discretion to rescind the agreement or to postpone the time of delivery until the moment at which the force majeure has ceased to exist, even if a fixed delivery date had been agreed. In such case, neither the Buyer nor third parties shall have a claim against us for any compensation.

9.3 If the situation of force majeure lasts three months or longer, each party is entitled to rescind the agreement with immediate effect by sending a written notice to the other party.

10. PLACE OF PERFORMANCE, JURISDICTION AND APPLICABLE LAW:

10.1 The place of performance of this agreement shall be Deventer, the Netherlands.

10.2 All disputes between the parties resulting from or in connection with an agreement to which these terms and conditions are applicable shall be brought in first instance before the competent court in Zwolle-Lelystad. We shall also be entitled to file an action before the court at the registered office of the Buyer.

10.3 This contract is subject to the law of the Netherlands, the applicability of the UN Convention on Contracts for the International Sale of Goods is expressly excluded. Unless specified otherwise in these Terms and Conditions, the last amended Incoterms issued by the International Chamber of Commerce shall apply.

11. SEVERABILITY

In the event any of the individual provisions above are or become invalid, the validity of the other provisions and this Agreement shall not be affected thereby.

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