

# GENERAL TERMS OF SALE OF CHEMOSVIT FIBROCHEM, s.r.o.

## Article 1. Scope of Application

1.1. These General Terms are applicable to all relations between CHEMOSVIT FIBROCHEM, s.r.o. (hereinafter referred to as „FIBROCHEM“) and its customers concerning delivery of its products. Application of general terms of purchase or any other terms issued or referenced to by the customers is excluded unless explicitly agreed otherwise between the parties in writing. These General Terms in their up-to-date version shall as well be applicable to all further transactions between FIBROCHEM and customer without need of a specific reference.

1.2. These General Terms are subject to modification from time to time upon decision of FIBROCHEM without specific notice to customers. Currently applicable version of General Terms is available at [www.fibrochem.sk/general\\_terms\\_of\\_sale](http://www.fibrochem.sk/general_terms_of_sale).

## Article 2. Formation of Contract

2.1. Offers submitted to customer are non-binding, they are to be understood as mere invitation to place orders; no offer shall be interpreted so that its acceptance constitutes a contract unless explicitly provided so in the offer.

2.2. By placing the order, customer irrevocably accepts these General Terms unless otherwise agreed in writing between the parties. The contract of sale shall be concluded upon confirmation of customer's order by FIBROCHEM in writing, by fax or e-mail. Unless otherwise agreed by the parties in writing, the decision to confirm or reject order shall in any case lie upon FIBROCHEM's sole discretion regardless of any previous relations with customer.

2.3. Confirmation of order shall be effective upon its delivery to the customer and its content shall be definitive in respect to the content of the contract. Should the confirmation include modifications compared to the order, the contract of sale shall be deemed concluded upon 5 days as of the effectiveness of confirmation, unless the customer within the same period notifies FIBROCHEM that it has no interest in delivery under terms included in the confirmation. In any case, the contract shall be concluded on delivery of goods at latest.

2.4. The contract of sale including product specification and these General Terms constitute the entire agreement between FIBROCHEM and customer with respect to the supply of goods. Brochures, catalogues and other promotional materials of FIBROCHEM as well as any prior promises or understandings of the parties shall not be taken into account.

## Article 3. Goods

3.1. The quality of goods shall be determined by FIBROCHEM's specifications and in accordance with the valid company's technical norm for production applicable at time of delivery unless different specification has been agreed by the parties. FIBROCHEM reserves the right to change composition, substitute raw materials and modify manufacturing process of goods at its own discretion without notice to customer. Samples are of indicative nature and shall not be relevant as specification.

3.2. Delivery shall be considered to have been completed in accordance with the contract when the delivered quantity neither exceeds nor falls short of the contractual quantity by more than the limit of tolerance which is +/- 10% at the quantity up to 5,000 kg, and +/- 5% at the quantity over 5,000 kg for the orders. The customer shall in any case be obliged to accept partial deliveries.

3.3. Unless otherwise agreed by the parties, a) FIBROCHEM shall use standard packaging common for goods of similar nature b) FIBROCHEM's obligation to hand over documents relating to goods shall be limited to certificate of quality.

## Article 4. Price

4.1. The price of goods shall be determined by contract, otherwise it shall be calculated according to FIBROCHEM's internal pricing standards applicable at time of invoicing. All prices are to be understood net including standard packaging, excluding VAT and other taxes, transport costs, custom fees as well as any other applicable charges. In case of more than 3 months between conclusion of contract and delivery term FIBROCHEM reserves the right to adjust agreed price up to 10 % in case of considerable increase of input costs whereas customer shall have the right to cancel contract after such adjustment.

4.2. If not otherwise agreed by the parties, the price is to be paid to FIBROCHEM by means of bank transfer within 30 days as of the invoice date; the invoice shall be issued on the day of expedition of delivery. The payment shall be deemed completed once the invoiced amount has been credited to the bank account of FIBROCHEM. Bank charges are to be borne by customer. All other means of payment such as cheque or bill of exchange are only allowed on basis of explicit consent of FIBROCHEM.

4.3. In case of customer's default with payment, FIBROCHEM shall be entitled to charge late interest under governing law. Complaints shall not have suspensive effect on payment obligations of customer; neither shall the customer be in such case entitled to retain selling price or its part.

4.4. In case of change in the prices of energy, transport, services, raw materials or other inputs necessary for the production or transportation of the goods or changes in legislation which affect the price of the goods, FIBROCHEM reserves the right to unilaterally adjust the price of the goods appropriately, by means of a written notice to the customer.

## Article 5. Delivery

5.1. Delivery of goods shall be performed according to delivery clause agreed by the parties in the contract (ICC INCOTERMS 2010), otherwise the goods shall be deemed delivered when

FIBROCHEM hands them over to the first public carrier selected by FIBROCHEM for transmission to customer at its risk and costs. Unless otherwise agreed by the parties, transport costs are to be borne by customer.

5.2. Unless expressly agreed otherwise by the parties, time of delivery is not of the essence, i.e. the delay of delivery itself does not constitute the right of the customer to cancel the contract. FIBROCHEM reserves the right to unilaterally extend any delivery deadline, even where "time is of the essence", in case of events or measures related to current COVID-19 crisis; in such case FIBROCHEM shall not be in default with delivery. If the goods are to be delivered upon request of the customer (call-off), FIBROCHEM shall in any case be free to dispatch the goods to the customer after 4 months as of the conclusion of the contract. If no explicit delivery term or date has been agreed by the parties, FIBROCHEM shall be free to dispatch the goods to the customer immediately.

5.3. Should the customer fail to provide assistance or any other action required for the takeover of the goods ready to be delivered in accordance with the contract, FIBROCHEM shall have the right, regardless of the agreed delivery term, to perform delivery either by (1) handing the goods over to the first public carrier selected by FIBROCHEM for transport to the customer at its costs and risk or by (2) giving notice to the customer that the goods have been stored at customer's risk and expenses in FIBROCHEM's stock with the right of FIBROCHEM to dispose of the goods after 3 months. Having done that, FIBROCHEM shall be free to invoice the agreed price of the goods to the customer. In such case the delivery shall be considered to have been completed in accordance with the contract.

## Article 6. Retention of Title

6.1. The title in the delivered goods shall be retained by FIBROCHEM until full payment of invoice price of the delivery by the customer.

6.2. The customer may process or resell the reserved goods within ordinary course of its business, however if the goods are processed before transfer of title by combining or mixing it with other essence thus forming new item, FIBROCHEM shall acquire co-ownership of the new item in the ratio of the invoice value and value of the new item.

6.3. The customer hereby pre-assigns to FIBROCHEM claims and rights from the sale of items, to which FIBROCHEM shall have ownership or co-ownership rights, as security on proportional basis in the ratio of the ownership share of FIBROCHEM to the total value of the items sold.

## Article 7. Force majeure

7.1. Unforeseeable circumstances affecting FIBROCHEM and beyond FIBROCHEM's control, such as, but not limited to, operational breakdowns, malfunctions, delayed or defective deliveries by suppliers, energy or fuel shortage, strikes, lockouts and other labor disputes affecting a party or its suppliers, war, hostilities, state of emergency, economic mobilization, acts of terrorism, civil commotions, regulations and measures issued by government, European Union authorities or other public authorities (acts of authority), diseases, epidemics, pandemics, quarantines, acts of nature, flood, fire or similar catastrophes (force majeure events) shall release FIBROCHEM from its obligations under the contract for the duration of such an impediment. In such case the customer shall not be entitled to compensation for any damages (direct or indirect), neither to cancel the contract, nor to contractual penalties or any other sanctions. For the avoidance of doubts, it is explicitly agreed that the current COVID-19 crisis and its consequences such as government interventions shall be considered such circumstance.

7.2. In case of a force majeure event, FIBROCHEM shall inform the customer of the nature and expected duration of the event, in writing or by email within ten (10) days from the occurrence of the event. The parties shall negotiate to mitigate the effect of the event on the business of either of them. Should the event last for more than 6 months, either party shall be entitled to cancel the contract with exclusion of any further claims.

## Article 8. Warranty

8.1. FIBROCHEM warrants that at the time of delivery the goods substantially conform to its specifications as well as to applicable mandatory standards of European Union and that they are free from defects in material and workmanship. Provided the goods are properly handled and stored, FIBROCHEM warrants that the goods preserve the same quality within guarantee period of 6 (six) months as of the delivery. The declared features of the goods apply exclusively to the goods and are in no case automatically applicable to the final product.

8.2. FIBROCHEM represents and warrants that at the time of delivery the goods are free from any proprietary rights of third parties including intellectual property rights. However, customer assumes all responsibility for use of any technical information, instruction, design etc. in the manufacturing process at customer's request.

8.3. The commitments set out in this article are FIBROCHEM's sole warranties in respect to the goods. Any other conditions, warranties or representations (express or implied) as to the quality, suitability or merchantability of goods or fitness for any particular purpose are excluded.

8.4. Warranty claims are excluded if customer processes, destroys or re-sells the goods after he has detected or should have detected its non-conformity, unless he proves that it was necessary in order to prevent considerable damage. Warranty claims are also excluded if they concern unpaid goods.

8.5. Any registered as well as unregistered trademarks, labels or other designs owned by FIBROCHEM may only be used by the customer to mark the final product based on prior written consent of FIBROCHEM and in compliance with the requirements contained in the relevant approval document.

customer's domicile.

#### **Article 9. Liability for Defects**

9.1. The customer must inspect the goods with due diligence immediately after taking delivery. The inspection shall include but not be limited to checking integrity of packaging, quantity and other basic parameters of delivery and performing trial processing.

9.2. If the customer does not within 14 days as of the delivery give to FIBROCHEM notice on defects, which could have been detected during duly made inspection, the goods are deemed to be accepted including all defects and customer loses the right to rely on lack of conformity of the goods. As for the defects, which could not have been detected during duly made inspection, the same shall apply if customer does not give notice on defects to FIBROCHEM within 14 days after he has discovered or ought to have discovered the defect. All notices on defects must be delivered to FIBROCHEM within guarantee period, the customer shall not have any claims regarding quality of goods whatsoever after expiry of guarantee period.

9.3. FIBROCHEM shall either recognize or reject customer's complaint in writing within 30 days as of receiving notice on defects. Customer shall enable to FIBROCHEM examination of the goods in question; in no case shall the customer return goods to FIBROCHEM without its prior consent. If FIBROCHEM recognizes the claim, its liability for defects shall be limited to a) removing defects by repair or replacing defective goods with substitute delivery against return of defective products, or at customer's option b) providing reasonable price reduction. Should non-conformity of goods not be confirmed, customer shall compensate FIBROCHEM's costs incurred in connection with examination of customer's claim.

9.4. Customer shall only be entitled to cancel the contract in case that FIBROCHEM fails to remove defects of the delivered goods within reasonable period of time (not less than 30 days) or the repaired or replaced goods have been proven defective again.

9.5. In case of dispute between parties regarding conformity of the goods, the parties shall designate a mutually acceptable independent expert whose award shall be accepted as definitive except if obviously erroneous.

#### **Article 10. Liability for Damage**

10.1. Contractual and statutory liability of FIBROCHEM in relation to customer insofar it is based on non-mandatory provisions of governing law shall be limited in amount to the invoiced price of the defective delivery which amount is to be considered maximum damage reasonably foreseeable by FIBROCHEM. Furthermore, FIBROCHEM shall in no event be liable for indirect, consequential, special, punitive or exemplary damages including but not limited to loss of profits, loss of business, depletion of goodwill, contractual penalties or other losses claimed at customer by third parties.

10.2. FIBROCHEM shall without limitation be liable for damage caused by defective goods under governing law including transposition of EU directive 85/374/EEC on liability for defective products.

10.3. The customer shall undertake all reasonable endeavors to mitigate damage which might be subject of a claim against FIBROCHEM otherwise customer itself shall be fully or partially liable for the damage.

#### **Article 11 Miscellaneous**

11.1. The customer shall not be entitled to suspend fulfillment of any of its obligations in case of FIBROCHEM's default with fulfillment of its obligations concerning other delivery. FIBROCHEM may suspend all outstanding deliveries to customer in case of customer's default with fulfillment of its obligations concerning any other delivery.

11.2. The customer shall only be entitled to unilaterally set off FIBROCHEM's claims against customer with those of its claims against FIBROCHEM, which are recognized by FIBROCHEM or adjudicated.

11.3. FIBROCHEM reserves the right to demand from customer at any time satisfactory security such as deposit, letter of credit etc. for payment obligations of customer. If the customer fails to provide such security in reasonable time and until he does so, FIBROCHEM may suspend production and delivery of goods under all unfinished contracts with customer.

11.4. Failure to take delivery of goods according to contract, failure to provide satisfactory security for payment obligations on demand of FIBROCHEM as well as default with any payment under the contract exceeding 30 days shall be considered fundamental breach of contractual obligations of the customer.

11.5. If at any time during the contractual relation between FIBROCHEM and the customer, a substantial change in business, economic, monetary, technical or commercial conditions occurs, as a result of which performance of FIBROCHEM's contractual obligation has become excessively onerous, FIBROCHEM shall notify the customer in writing that it wishes to review the conditions of the contractual relation in the light of the changed business conditions. The parties shall meet within a reasonable period of time to negotiate in good faith alternative contractual terms which reasonably allow to overcome the consequences of the event. In case the parties shall be unable to agree alternative contractual terms, either party shall be entitled to request the court to adapt the contract with a view to restoring its equilibrium.

#### **Article 12 Governing Law, Dispute Resolution**

12.1. The contractual relation between FIBROCHEM and the customer shall be governed by and construed according to laws of Slovak Republic including UN Convention on Contracts for the International Sale of Goods (Vienna 1980).

12.2. In case of any dispute arising out of or in connection with contractual relation between FIBROCHEM and the customer the courts of Slovak Republic shall have the exclusive jurisdiction. However, FIBROCHEM reserves the option to sue the customer at the courts in the country of

#### **Article 13 Severability**

13.1. Should any of the provisions of these General terms become invalid or ineffective, this shall not affect validity or effectiveness of other provision.