

## **GENERAL TERMS AND CONDITIONS ("GTC")**

for contractual partners ("*Contractual Partners*") of **Calmit GmbH** ("*Company*")  
for the sale of packaged and unpackaged products and materials and, mutatis mutandis, for  
services

### **1. Binding nature of the GTC**

1.1 Sales and deliveries are made exclusively on the basis of the following GTC, which are deemed to be accepted and binding upon placement of an order or confirmation of an order. Any deviating agreements require the express written confirmation of the Company to be valid.

1.2 The following General Terms and Conditions apply to all legal transactions between the Company and the Contractual Partner, including future transactions. The Contractual Partner's general terms and conditions of purchase or business are not valid, even if their validity is stated as an express condition therein.

1.3 These General Terms and Conditions are designed for legal transactions between companies. If they are used as a basis for legal transactions with consumers, they shall only apply insofar as they do not contradict mandatory statutory provisions.

### **2. Offers and order confirmations**

2.1 All offers made by the Company are subject to change. Orders placed shall only become binding for the Company upon written order confirmation or upon dispatch of the ordered products and materials.

2.2 Amendments and cancellations of orders placed require the written consent of the Company.

2.3 Verbal agreements are only binding on the Company once they have been confirmed by it in writing.

### **3. Warnings**

3.1 When transferring products and materials to third parties, each Contractual Partner is obliged to observe all warnings in accordance with the enclosed product information (e.g. delivery note or packaging label) and the applicable processing guidelines in accordance with the current state of the art.

3.2 The Contractual Partner is liable for full compliance with these warnings both when using the products and materials themselves and when reselling or passing them on.

### **4. Subject matter of the delivery**

4.1 The subject matter of the delivery is the products and materials offered by the Company. Unless a specific quality has been agreed in writing in the course of the order or order confirmation, these products and materials do not have to have any customary or special properties.

4.2 Information and details regarding the suitability and application of the Company's products and materials are non-binding and do not release the Contractual Partner from conducting its own tests and trials.

4.3 Information provided by the Company regarding the subject matter of the delivery or service (e.g. utility values, tolerances and technical data) is only approximate. It does not constitute guaranteed characteristics, but rather descriptions or identifications of the delivery or service. Deviations that are customary in the trade and deviations that are due to legal regulations, deviations that constitute improvements and unavoidable deviations are permissible.

4.4 Samples sent or approved by the Contractual Partner are considered reference samples. The approval of a sample by the Contractual Partner is considered approval of existing properties or quality, even if these deviate from the description of the materials and products. Analyses, sieving and fineness data provided by the Company are approximate and non-binding.

4.5 Certificates or confirmations issued by the Company in relation to products and materials offered are deemed to be issued exclusively to the respective Contractual Partners and do not establish any legal relationship with third parties.

## **5. Prices and quantities**

5.1 Unless otherwise agreed, the prices offered by the Company are ex works, loaded onto railcars or trucks, gross for net, and before taxes and fees.

5.2 Prices are based on the cost components applicable on the date the offer is made. If these cost components change significantly, the Company is entitled to adjust the prices retrospectively. The weight determined by the delivery plant is decisive for the price calculation.

5.3 Prices for packaging shall be charged separately, whereby, unless otherwise agreed, delivery shall be made in the Company's standardised packaging materials. Used packaging materials cannot usually be taken back or reused.

## **6. Terms of payment**

6.1 Unless otherwise agreed, invoices shall be paid to the Company immediately upon receipt, without any deductions, in the agreed currency, in cash or by bank transfer free of charges.

6.2 If the actual receipt of an invoice is uncertain, the Contractual Partner must notify the company of any missing invoice; otherwise, the Contractual Partner shall automatically be in default five working days after delivery or performance by the Company.

6.3 In the event of default in payment or the opening of bankruptcy proceedings, rejection of a bankruptcy petition due to insufficient assets to cover costs, or the opening of reorganisation proceedings against a contracting party, any discounts or other remuneration granted by the Company on outstanding invoices shall automatically be deemed not to have been granted retroactively and the corresponding claims shall be deemed due and payable.

6.4 A Contractual Partner is not entitled to withhold or offset payments to the Company on the basis of warranty claims or other counterclaims.

6.5 The Company shall be entitled to withdraw from a contract consisting of several partial deliveries if a partial delivery is not paid for or if the Company becomes aware of a deterioration in the Contractual Partner's financial circumstances.

6.6 If the Contractual Partner is in arrears with the payment of an invoice, all invoices dated earlier and later shall become due for payment immediately, regardless of the payment terms agreed for these invoices.

## **7. Default interest and expenses**

7.1 If the Contractual Partner defaults on a payment, the Company shall charge the Contractual Partner the base interest rate of the Austrian National Bank plus a surcharge of 9.2% as well as collection costs of a flat rate of €40.00 and any further collection costs as compensation (such as, in particular, costs for commissioning a collection agency or solicitor or other extrajudicial collection measures), plus VAT if applicable.

7.2 Any acceptance of cheques or bills of exchange shall be on a case-by-case basis and always only on account of payment. All related expenses (such as collection or discount charges) shall be borne by the Contractual Partner.

## **8. Delivery time**

8.1 Delivery dates or delivery periods agreed with the Company are given to the best of our knowledge and belief, but are not legally binding. The Company shall only be in default if the Contractual Partner has set a reasonable grace period in writing.

8.2 The agreement of the delivery period is reserved for each individual order or call-off. The delivery period is always approximate and non-binding. The contracting party waives any claim for default interest or compensation for delayed deliveries.

8.3 If, in the case of agreed collection, the goods are not collected by the Contractual Partner as agreed, the Company shall be entitled to claim damages in this connection, to store the goods at its own discretion at the expense and risk of the Contractual Partner and to invoice them as delivered with immediate due date.

## **9. Force majeure**

9.1 All events and circumstances beyond the Company's control (force majeure) shall release the Company from its contractual obligations for the duration of the disruption and to the extent of its effects.

9.2 In particular, cases of force majeure entitle the Company to suspend, restrict or delay the agreed deliveries and contracts without being liable to the Contractual Partner for damages due to delayed deliveries; such claims for damages against the Company are excluded. If the events and circumstances last longer than one month, the Company shall be entitled to withdraw from the contract without consequence. Partial deliveries are permissible.

9.3 Force majeure shall include, in particular, natural disasters, war, transport or customs delays, official measures, raw material and energy shortages, unavoidable traffic and operational disruptions, fire and explosion damage, operational disruptions and restrictions, strikes, machine damage, rail blockades, cyber attacks, war, uprisings, pandemics, epidemics,

shortages of packaging materials or operating materials, and other acts of God – regardless of whether these events occur at the Company's or Contractual Partner's premises or elsewhere. Force majeure shall also be deemed to exist if the events and circumstances make the execution of the transaction in question permanently uneconomical or if they affect upstream suppliers.

## 10. Transfer of risk Delivery

10.1 Shipping and transport are always at the risk of the Contractual Partner; this also applies if the transport costs are included in the price for products and materials, and regardless of who carries out the transport. At the request of the Contractual Partner, the shipment will be insured at their expense to the extent specified.

10.2 Unless otherwise agreed in writing, deliveries shall be made in accordance with the ICC INCOTERMS in their currently valid version or in accordance with the following provisions:

– For rail delivery: "Carriage paid to recipient's station" (packaged goods unloaded): The place of performance and transfer of risk is the place where the wagon is handed over by Rail Cargo Austria to the recipient. In order to be able to assert claims for damages against Rail Cargo Austria, the recipient must arrange for the railway's internal investigation to be carried out by the responsible station personnel in the event of a complaint before unloading.

– For collection: "Free carrier" or "Ex works": The place of performance is the Company's loading point. The Contractual Partner bears the transport risk for collection by vehicle. Changes in the composition or quality of silo goods resulting from contamination of the collecting vehicles shall not be borne by the Company. The safety rules applicable on the Company's premises must be observed by both the Contractual Partner and its vicarious agents.

– For delivery by the Company: Packaged goods: "Carriage paid to the buyer's warehouse, unloaded/unloaded". Silo goods: "Carriage paid to the buyer's silo, blown in".

– In the case of delivery by vehicle, the Contractual Partner bears the risk of transport. The place of performance for packaged goods is the buyer's warehouse with/without unloading, for silo goods the buyer's silo blown in.

10.3 Trucks must be able to drive to and from the construction site and unload without obstruction and without waiting time on a good road surface. Unloading by the Contractual Partner or by persons commissioned by him may not take longer than one hour, otherwise he shall be liable for damages and additional expenses.

10.4 The contracting party may not complain about shortfalls of up to 2%; the assertion of larger shortfalls requires the presentation of a certificate from the carrier.

10.5 The weight determined on the calibrated factory scales shall be decisive for invoicing. In the case of deliveries of packaged goods, the quantity stated on the delivery documents shall be used as the invoice price. The Company accepts no liability for weight losses.

10.6 The persons signing the delivery note are deemed by the Company to be authorised to accept and order goods. If such authorisation does not actually exist, the signatory of the delivery note shall be personally liable. The records on the delivery note shall also be authoritative if the delivery note is not signed due to the absence of the Contractual Partner,

their authorised representative or one of their agents. Loading by the Contractual Partner shall be at their own risk and peril.

## **11. Advice**

11.1 Processing and consulting information provided by the Company is only binding if this information is expressly given as binding, in writing and in relation to a specific project known to the Company in all details. In any case, however, the Contractual Partner remains obliged to check the information provided, taking into account the product descriptions, properties of the goods and the specific intended use, and to consult a specialist if in doubt.

11.2 Any dimensions, weight and quality specifications contained in the Internet, catalogues, technical data sheets, brochures and illustrations, as well as samples or test pieces, are indicative values of the respective average production. All drawings, plans, quantity extracts and requirements assessments made available to the Contractual Partner are non-binding. They are the property of the Company and may not be made available to third parties unless otherwise agreed in writing.

## **12. Liability for defects**

12.1 Apart from transport damage, for which the Company accepts no liability whatsoever, the Contractual Partner must report defects in products and materials in writing immediately (but no later than 14 calendar days) after the arrival of the products and materials, otherwise the complaint will not be considered. The Contractual Partner must therefore inspect the products and materials delivered by the Company before use or processing and notify the Company in writing of any defects within the above-mentioned period in a specified and complete manner, otherwise warranty and damage claims will be lost. In particular, the Company shall not be liable for damage caused by failure to comply with relevant standards or processing guidelines in accordance with the current state of the art.

12.2 The notification must be accompanied by a sample of the rejected goods and, for identification purposes, a copy of the designations printed on the packaging, such as the variety designation. If the Contractual Partner fails to submit such a notice of defect, the products and materials shall be deemed to have been approved and accepted with their actual properties. This excludes any subsequent complaints, unless they concern hidden defects that could not be detected upon delivery despite professional inspection and sampling ( ). If the delivered products and materials are not suitable for the Contractual Partner's intended purpose, there shall be no defect if the delivered products and materials correspond to the order or to a previously accepted sample or specimen.

12.3 In the case of rectifiable defects, the Company shall be free to either grant a reasonable reduction in payment or to remedy the defect or supplement the missing item. Returning the goods to the delivery plant involves enormous freight costs and may only be done with the express consent of the Company.

12.4 The warranty period for material defects and defects of title is limited to 12 (twelve) months from delivery. The Contractual Partner may only assert rights under the warranty within the warranty period specified above – after this period, these rights shall be time-barred. The existence of defects at the time of delivery of the products and materials must be proven by the

Contractual Partner; §924 ABGB (Austrian Civil Code) therefore does not apply. Likewise, the Contractual Partner's right of recourse in the event that it provides a warranty to a consumer (§933b ABGB) is expressly excluded.

### **13. Damages and exclusion of liability**

13.1 Any liability on the part of the Company is limited or excluded to the extent permitted by law. The Company shall only be liable for damages caused if it is directly responsible for the occurrence of the damage and if an exclusion of liability would be legally inadmissible, for example because the Company is guilty of intent or gross negligence. Mandatory liabilities of the Company are also capped at the respective order value of the underlying delivery or service.

13.2 The Company shall not be liable for indirect damage, pure financial loss or consequential damage (in particular the aforementioned consequential damage caused by defects) – such as loss of profit, renovation costs, business interruptions, loss of data and information, costs arising from production downtime, unrealised savings, loss of interest and damage arising from third-party claims against the Contractual Partner – is excluded in all cases.

13.3 Liability for property damage resulting from a product defect is excluded – to the extent permitted by law – for all companies involved in manufacturing and distribution. The Contractual Partner undertakes to also indemnify the Company vis-à-vis the next Contractual Partner or to include it in its indemnification clause with the next Contractual Partner. In the event of non-compliance, the Contractual Partner shall indemnify and hold the Company harmless.

13.4 Claims for damages that are mandatory under law may only be asserted by the Contractual Partner within 6 (six) months of becoming aware of the damage and the party responsible for it. After this period, these claims shall become time-barred and the Contractual Partner shall waive them accordingly. The Contractual Partner shall bear the sole burden of proof that the conditions for the claims asserted by it are met.

13.5 The Company has taken all organisational and technical measures to prevent cybercrime attacks as far as possible. The measures correspond to the current state of the art and are continuously updated. In the event of malfunctions or failures of the IT systems, the Company excludes liability for any resulting negative consequences, in particular damages.

### **14. Retention of title**

14.1 The Company retains title to all delivered goods and materials until all invoice amounts, including interest and costs, have been paid in full.

14.2 In the event of seizure or other claims on the Company's property, the Contractual Partner is obliged to point out the Company's right of ownership and to notify the Company immediately.

14.3 In the event of non-compliance with contractual obligations on the part of the Contractual Partner, the Company shall be entitled to remove goods subject to retention of title from the Contractual Partner's custody itself, and the Contractual Partner waives the right to bring an action for disturbance of possession on this basis.

### **15. Choice of law, place of jurisdiction, miscellaneous**

15.1 All matters between the Company and the Contractual Partner, including individual contracts and deliveries as well as these GTC, shall be governed by the provisions of Austrian civil law, excluding international reference standards and the UN Convention on Contracts for the International Sale of Goods. These GTC are an integral part of every contract concluded.

15.2 In the event of ambiguity, the current version of the ICC INCOTERMS at the time of conclusion of the contract shall apply to the interpretation of trade clauses agreed in individual cases.

15.3 The place of performance shall always be the Company's registered office in Austria.

15.4 The exclusive place of jurisdiction between the Company and the contracting parties shall be the competent court in Austria, Bad Ischl. However, in the case of contracting parties with branches outside Austria, the Company shall be entitled to bring legal action at the contracting party's place of business at its discretion.

15.5 If individual parts of these General Terms and Conditions or the individual contract are invalid or unenforceable, the validity of the remaining provisions shall remain unaffected. Invalid provisions shall be replaced by comparable valid provisions that correspond as closely as possible to the invalid provisions in terms of their meaning, purpose and economic result.