

Terms and Conditions of Calumite s.r.o. 2022

1. GENERAL PROVISIONS

1.1 These terms and conditions ("**Terms and Conditions**") are part of the purchase agreements or framework agreements concluded by Calumite s.r.o., Business ID No. 25134868, with registered office in Ostrava - Kunčičky, Lihovarská 636/44, Postal Code 718 00 ("**Company**") as a seller with natural or legal persons ("**Customer**") as purchasers, the subject matter of which is the Company's obligation to deliver to the Customer the item or items that are the subject of the purchase ("**Goods**") and to allow the Customer to acquire title to the Goods, and the Customer's obligation to accept the Goods and pay the Company the purchase price.

1.2 "**Customer**" in these Terms and Conditions also means any person to whom an offer is made or whose order is accepted by the Company and "**Goods**" also means the items which are the subject of such offer or order.

1.3 These Terms and Conditions always apply to the contractual relationship between the Company and the Customer unless otherwise expressly agreed in writing between the Company and the Customer. Different provisions of the Customer's terms and conditions are binding on the Company only if it has expressly accepted them in writing.

1.4 No representative of the Company has the authority to make any representation or warranty on behalf of the Company or to enter into any agreement on terms other than those set out in these Terms and Conditions.

2. AGREEMENT CONCLUSION

2.1 A binding agreement is created by a simultaneous expression of will by the Company and the Customer (usually by the Customer's acceptance of the Company's offer) or, if the parties so agree, by the conclusion of an agreement between the Company and the Customer in writing.

3. PRICE

3.1 The price of the Goods is agreed at a certain amount per unit of measurement of the Goods that are the subject of the purchase agreement.

3.2 If the Company makes an offer, it accepts the orders within the time and at the price stated in the offer.

3.3 The price of the Goods is exclusive of VAT and other applicable taxes and does not include the cost of any special packaging required by the Customer.

3.4 Any increase in costs or expenses arising from any act or omission or as a result of special requests by the Customer or a change made at the Customer's request will be charged to the Customer.

3.5 In the event that there is an obvious error or omission in the price of the Goods, the Company is not obliged to deliver the Goods to the Customer at the obviously incorrect price. The Company informs the Customer of the error without undue delay and sends the Customer an amended offer, which will be deemed to be a new proposal for the conclusion of the agreement. The agreement is concluded upon acceptance of the amended offer by the Customer.

3.6 The agreed price is based on the current electricity, gas and cinder prices valid on the date of the concluded agreement. If during the contractual relationship there is an increase in the input prices of electricity, gas (prices can be compared on the public portals eex.com or pxe.cz, with the monthly price of the given product before the month in which the goods are taken) or cinder by more than 10% compared to the price at the time of the valid offer (or conclusion of the agreement), on which the price of the Goods agreed in the purchase agreement is based, the Customer is obliged to negotiate with the Company on the change in the price of the Goods and, in this regard, on new terms of delivery of the Goods. In the event that the Customer fails to agree on the new price and delivery terms within one (1) month from the date on which the Company has been notified by the Customer of the above-mentioned change in input prices and requested to negotiate new price and delivery terms, the Company's obligation to deliver the Goods to the Customer under the purchase agreement ceases and the Company is entitled to withdraw from the agreement.

3.7 The Company does not assume the risk of a change in circumstances.

4. SPECIFICATIONS

4.1 The Goods are specified as to the subject matter and quantity in the Company's offer accepted by the Customer, unless so specified by express agreement in a written purchase agreement. The quality and other characteristics of the Goods conform to the Company's current specifications published on its website www.calumite.cz.

4.2 The Company assumes no responsibility for compliance with any local resolutions or legal regulations or for compliance with any special requirements that the Customer may be required to observe or comply with.

5. METHOD OF DELIVERY AND CANCELLATION

5.1 The time or period for shipment or delivery of the Goods, whether stated in the Company's offer or otherwise communicated by the Company, is deemed to be a good faith estimate made by the Company. The time of delivery is not decisive unless agreed in advance in writing by the Company.

5.2 If it is agreed that the Company delivers the Goods to the Customer's premises, then liability for accidental destruction, damage or loss of the Goods passes to the

Customer upon delivery of the Goods to its premises.

5.3 If delivery of the Goods from the manufacturer's factory is agreed, then the liability for accidental destruction, damage or loss of the Goods passes to the Customer upon loading of the Goods at the Company's premises. If delivery of the Goods from the manufacturer's factory is required, then the Customer ensures that the contract carrier responsible for arranging collection of the Goods properly cleans the interior of the bulk carrier to be used for the transport of the Goods and that any material deemed to be harmful is removed prior to arrival at the Company's premises. The Company accepts no liability for any claims relating to contamination occurring during collection, transport and delivery in cases where the Customer has agreed with the Company to purchase the material by delivery from the manufacturer's factory.

5.4 If the delivery is to be made to premises or another location agreed with the Customer, the Customer ensures that the carrier makes the delivery to the correct location, silo or hopper. The Company is not liable for any loss, damage, cost or expense if, through no fault of the Company, delivery is made to an incorrect location, silo or hopper. The Customer will allow the transport vehicles safe access and space to unload.

5.5 In the event that the delivery of the Goods and their unloading is carried out by the Company and the completion of the unloading of the Goods is delayed for reasons on the part of the Customer by more than two (2) hours after it has been delivered to its premises or to another designated place, the Customer shall pay the Company a delay fee of EUR 30 for each additional hour of such delay in unloading the Goods. The Customer further indemnifies the Company against all losses, costs, damages and expenses incurred as a result of such delay.

5.6 The Company reserves the right to store the Goods or any part thereof at the Customer's risk and expense in the circumstances set out below or in other comparable circumstances:

a) if the Customer notifies the Company that it is not or will not be able to receive the Goods or provide suitable storage facilities for them or will not be able to take delivery;

b) if the Company is awaiting delivery instructions;

c) if the Customer does not collect the Goods within seven (7) days after notification that the Goods are ready.

5.7 Except as otherwise set out in clauses 5.8.1 and 5.8.2 below, the Company is not liable for any loss, damage, cost or expense arising from non-delivery or late delivery howsoever caused.

5.8.1 If a delivery is delayed by more than 28 days (except in cases of force majeure as set out in clauses 13.1 and 13.2 below), the Customer has the right to cancel such delivery by written notice to the Company and, except as provided in clause 5.8.2, the Customer has no recourse against the Company for any loss or damage suffered.

5.8.2 In the event that the Customer cancels delivery pursuant to clause 5.8.1 above due to a delay caused directly by the Company's negligence, any liability the Company may have is limited to the difference (if any) between the price at which the Customer (in the cheapest possible market) procures similar goods instead of the undelivered Goods and the price of the relevant undelivered Goods.

5.9 The Customer undertakes that the Goods will be loaded in such a way that the vehicle used is not overloaded and meets the obligations arising from the Ministry of Transport Decree No. 209/2018 Sb., on weights, dimensions and connectivity of vehicles. The Customer undertakes that the vehicles will be equipped with a tarpaulin and that the Goods will be covered with it before leaving the premises in order to prevent the material from flying away during transport and will remain covered with it throughout the transport. In the event that the means of transport does not meet the conditions set out in this provision, the Company is entitled to refuse to load or refuse to sell the loaded Goods to the Customer and not to issue a delivery note or not to allow the vehicle to leave the premises. In the event of a breach of the obligations agreed in this provision, the Customer is obliged to pay the Company a contractual penalty of CZK 5,000 for each individual breach.

6. LOSS OR DAMAGE DURING TRANSPORT

6.1 In no event is the Company liable for any loss or damage to the Goods in transport unless the Customer notifies the Company in writing:

a) in the event of loss or damage to the Goods delivered within three (3) days of delivery, or

b) in the event of non-delivery of the Goods within seven (7) days from the date on which the Customer is informed of the delivery of the Goods for transport.

6.2 In no event is the Company liable for any loss or damage to the Goods where the Goods are sold by delivery from the manufacturer's factory.

6.3 Any liability which the Company may have for loss or damage to the Goods transported in no event exceeds the invoiced amount for the Goods and in no circumstances is the Company liable for any indirect or consequential loss or damage howsoever caused.

7. SAMPLES

7.1 The offer of samples to the Customer and their inspection by the Customer will not cause the sale to be a sale by the sample. The characteristics of the Goods are determined not by a sample but by a specification that is part of the contractual agreement.

8. PAYMENT

- 8.1 Unless otherwise stated or agreed in writing in the payment terms set out in the offer, all bills will be paid in full to the Company's billing address and notified in writing within 28 days of the end of the month in which the deliveries are made.
- 8.2 In the case of a non-cash payment, the date of payment is the date on which the funds corresponding to the purchase price or other debt are credited to the Company's account.
- 8.3 The Company is entitled to a contractual penalty for the Customer's delay in monetary performance, in particular in the event of a breach of the Customer's obligation to pay the price of the Goods on time (i.e., at the time of its due date), in the amount of 0.25% for each day of delay until payment. This is without prejudice to the Company's right to compensation for damages caused by the Customer's breach of duty, in an amount exceeding the contractual penalty.
- 8.4 The Customer is not entitled to set off against the Company's claim for payment of the price of the Goods or any other claim of the Company against the Customer arising in connection with the agreement any claim which it has against the Company.
- 8.5 The assignment of the Customer's receivables from the Company requires the prior written consent of the Company.

9. TRANSFER OF TITLE

- 9.1 The title right passes to the Customer at the moment of payment of the price of the Goods to the Company. Until that time, the goods remain the property of the Company.
- 9.2 The Customer acknowledges that until the price is paid in full to the Company, the Goods are in its possession only and undertakes to take proper care of the goods received and to indemnify the Company against any damage or loss arising from any breach of this obligation.
- 9.3 Until the Customer becomes the owner of the Goods, the Customer ensures that the Goods are properly stored, protected and insured on its premises, separately from its own goods or those of any other person, and will do so in such a way that the Goods are easily recognizable as those of the Company.
- 9.4 The Customer's right to possession of the Goods ceases if the Customer fails to pay the price of the Goods or any other debt incurred in connection with the agreement (clause 10.1) to the Company by the due date or if insolvency proceedings are commenced against the Customer. The Company may enter premises where the Goods are stored, or which it believes are stored, for the purpose of recovering and repossessing the Goods.
- 9.5 The Customer has no right to create a lien or any other right to the Goods which are still owned by the Company. However, if the Customer does so, then any monetary money owed by the Customer to the Company becomes immediately due and payable (without prejudice to any other right or remedy of the Company).

10. SUSPENSION OR CANCELLATION OF DELIVERIES

- 10.1 If the Customer is in default in the payment of any debt incurred in connection with the agreement, this constitutes a material breach of the agreement and the Seller is entitled to:
 - a) require payment before handover or on acceptance of the Goods, for all agreements concluded between the Company and the Customer, for the period of delay and one (1) month after the end of the delay;
 - b) stop deliveries of Goods under all agreements concluded between the Company and the Customer and not to conclude further agreements on the basis of framework agreements;
 - c) terminate with effect upon delivery of notice any agreement or framework agreement between the Company and the Customer; the notice is valid if sent at the time of the Customer's default.

This is without prejudice to the right to a contractual penalty pursuant to clause 8.3.

- 10.2 The Customer has also the rights pursuant to clause 10.1 in the event that the Customer's right to possession of the Goods (clause 9.4) ceases.
- 10.3 The Company is entitled to terminate the obligation under the agreement or the master purchase agreement with effect upon delivery of the termination notice in the event that insolvency proceedings are initiated against the Customer, as well as in the event of any other serious or repeated breach of obligations by the Customer other than those specified in clause 10.1.

11. LIABILITY OF THE COMPANY

- 11.1 The Customer is obliged to inspect the Goods as soon as possible after receipt and notify the Company in writing of any defects found without undue delay. In the event of any claim that the Goods do not meet the express requirements set out in the Company's specification, the Customer provides the Company with a sample of the Goods in question (at least 0.5 kg), packed in intact packaging, together with details of the shipment containing the relevant material. In all such cases, if the Customer uses any Goods from the same shipment, then the Customer uses them solely at its own risk. The Customer provides the Company with such assistance as is necessary to enable the Company to carry out the inspection of the tests or evaluations carried out or to be carried out by the Customer.
- 11.2 The Company is not liable for any direct, indirect or consequential loss or damage of any kind whatsoever arising out of the use of the Goods supplied by the Company or out of any defects in the Goods or otherwise arising out of any agreement with the Company including (without limitation) the non-performance or non-functioning of any equipment or system in which the Goods are used, loss of profit, unnecessary

loss of goods, loss of machine time or wasted labour in production or other operational costs. In particular, the Company is not liable for any claims made by third parties, including the Customer's customers.

12. EXPORT CONDITIONS

- 12.1 In these Terms and Conditions, "INCOTERMS" means the international rules of interpretation of the terms and conditions of the International of Commerce in Paris in force at the date of the agreement. Unless the circumstances require a different interpretation, any term or expression which is restricted or given a particular meaning under the provisions of the INCOTERMS has the same meaning in these Terms and Conditions. However, if there is a conflict between the provisions of INCOTERMS and the Terms and Conditions, the Terms and Conditions prevail.
- 12.2 In cases where Goods are supplied for export from the Czech Republic, the rules of INCOTERMS apply (unless special terms are agreed in writing between the Customer and the Company), notwithstanding any other provision of these Terms and Conditions.
- 12.3 Unless otherwise agreed between the Customer and the Company, the Goods are delivered in accordance with the INCOTERMS *FCA* clause, *manufacturing plant of the Company*. However, the Customer is always responsible for complying with all laws and regulations governing the export of goods to the destination country and for payment of all customs duties.

13. FORCE MAJEURE

- 13.1 If performance of the agreement by the Company is delayed by reason of circumstances or conditions beyond the Company's control, including (but without limiting the generality of the foregoing) war, labour disputes, strikes, lockouts, public disturbances, fire, storm, accident, unavailability or shortage of materials or labour, any act, decree, ordinance or regulation or expropriation made or issued by any legislative body, government, government department, local or duly constituted authority, or any other case of force majeure or similar impediment to performance, then the Company is not liable for such delay in performance and has the right to suspend further performance of the agreement until the cause of such delay has ceased. In such cases, the Company is also exempted from the obligation to pay the contractual penalty, if it has been agreed upon in case of breach of the unfulfilled obligation.
- 13.2 In cases of force majeure or similar impediments to performance as referred to in clause 13.1 also deem to include a shortage of water or operating water at the relevant establishment, or a prohibition on pumping and abstraction of water, unforeseeable accidents or technical difficulties, as well as any reasons related to the spread of contagious disease and measures against its spread, including preventive measures by public authorities, measures taken by the Company or by third parties, including the closure of the Company's premises due to the illness of its employees or their quarantine or the closure or restriction of operations due to any failure by suppliers or even the preventive closure of the Company's premises at the Company's discretion for reasons related to the disease.
- 13.3 If the Company's performance of the agreement is delayed or hindered for more than seven (7) days due to any of the above circumstances or conditions, the Company is entitled to be released from further performance and liability under the agreement, including the obligation to pay liquidated damages. If the Company exercises this right, the Customer pays the full amount of any performance to date.

14. COMMON AND OTHER PROVISIONS

- 14.1 The Customer expressly acknowledges that the Customer's ability or expertise as a user of the Goods in evaluating any description or information regarding the Goods is consistent with the Company's ability and expertise and that the Customer is not relying on the Company's expertise or judgment in selecting the Goods for any purpose.
- 14.2 The right to contractual penalty is without prejudice to the right to full compensation, unless otherwise stated in these Terms and Conditions.

15. APPLICABLE LAW, JURISDICTION OF COURTS

- 15.1 The law of the Czech Republic is the governing law for the assessment of contractual relations to which these Terms and Conditions apply.
- 15.2 The courts of the Czech Republic with jurisdiction over property disputes arising out of such contractual relations, which cannot be resolved by mutual negotiations, have exclusive jurisdiction and jurisdiction to resolve such disputes according to the registered office of the Company. The Company is also entitled to bring an action in the Customer's local court of competent jurisdiction.
- 15.3 In cases of any disputes, the text of these Terms and Conditions in the Czech language prevails.

16. EFFECTIVENESS OF THE TERMS AND CONDITIONS

- 16.1 These Terms and Conditions are effective from 1 July 2022.