

# GENERAL TERMS AND CONDITIONS OF SALE

## COVERIS Rigid (Ravensburg) Deutschland GmbH

### 1. General

These General Terms and Conditions of Sale (hereinafter "**General Terms**") together with the purchase order and/or order confirmation shall apply to all products (hereinafter "**Products**") sold by COVERIS Rigid (Ravensburg) Deutschland GmbH with its registered office at Schubertstraße 27, 88214 Ravensburg, Deutschland or any of its affiliates (hereinafter "**Seller**") to its customers (hereinafter "**Buyer**"), unless specifically agreed otherwise in writing between Seller and Buyer. Buyer shall be deemed to accept General Terms by ordering and receiving any of the Products (hereinafter "**Contract**"). General Terms shall be subject to further amendments made by Seller and an updated version is always available on Seller's web site, <http://www.coverisrigid.com/about-us/general-terms-and-conditions/>

### 2. Seller's Commitments

Seller undertakes that the Products will at the time of delivery meet Seller's then current Sales Specifications applied in Seller's normal business practice, unless specifically agreed otherwise in writing between Seller and Buyer (hereinafter "**Sales Specifications**"). All descriptions, drawings, photographs, illustrations, performance and technical data, dimensions, weights and the like, contained in any promotional or technical literature issued by Seller are subject to variation without notice and shall not be considered as Sales Specifications as such. Seller shall also warrant that the Products shall be free from defects in material and workmanship, excluding any defect in parts, materials or equipment's not supplied or manufactured by Seller.

### 3. Patents and Trademarks

Seller warrants only that the manufacture of the Products does not infringe any patent of the country of the manufacture, unless manufactured under the instructions by Buyer. Buyer assumes all responsibility for the use of technical information, any design, trademark, trade name, or part thereof, printed/fitted on the Products at Buyer's request.

### 4. Warranty/Liability

4.1 The commitments set out in Articles 2 and 3 above are Seller's sole warranties in respect of the Products.

4.2 Any other condition or warranty as to the quality, suitability or merchantability of the products supplied under this contract or fitness for any particular purpose whether arising under statute or otherwise, is excluded.

4.3 Buyer shall inspect the Products supplied under this Contract immediately after delivery. If any of the supplied Products is rejected because of nonconformity to Sales Specifications, the Seller shall be entitled to replace the Products (or the part in question) free of charge or, at the Seller's sole discretion, refund to the Buyer the price of the Products, but the Seller shall have no further liability to the Buyer. Either, (i) failure to give written notice of any claim within thirty (30) days from the date of delivery or, (ii) use of the Products supplied under this Contract, constitutes an unqualified acceptance of such Products by Buyer and a waiver by Buyer of all claims in respect of such Products.

4.4 Seller shall not be liable for damage caused by the acts or omissions of Buyer to property, including but not limited to the products manufactured by Buyer or other products of which Buyer's products form a part, occurring during the time Products are in the possession of Buyer.

4.5 Except for direct product damage, death or personal injury caused by a defective Product, the maximum amount of damages recoverable in any event, whether arising from breach of Contract or from statutes, shall be limited to the invoiced price for the shipped Products with respect to which damages are claimed. In no event shall Seller be liable for indirect, consequential, special, punitive or exemplary damages, including but not limited to loss of profits, loss of business, depletion of goodwill or otherwise, in connection with or arising out of this Contract.

### 5. Price and Terms

5.1 Seller may change the previously agreed price, terms and conditions, of payment or of transportation, or the minimum requirement per shipment at any time, by fifteen (15) days prior written notice to Buyer. Buyer's failure to make written objection to the change prior to the effective date shall be considered acceptance. If Buyer objects within the 15 day period, Seller shall have the option (a) to continue to supply on the terms and conditions in effect prior to the announced change, or (b) to

cancel the affected Products quantities immediately and shall advise Buyer accordingly within fifteen (15) days from receipt of Buyer's written objection.

5.2 Seller reserves the right by written notice given at any time before shipment to increase the price under this Contract if there is any increase in the price or cost of the Products to Seller by virtue of foreign exchange fluctuations, currency regulations, changes in duties or taxes, increase in the cost of raw materials, labor or transport or any other causes beyond the control of Seller. If Buyer is of the opinion that any such increase in price is unreasonable, it may object to such increase by written notice given within fifteen (15) days of the date of receipt of Seller's notice; Seller shall then have the option to continue to supply Buyer with the Products at the price currently in effect if willing to do so or to cancel this Contract immediately in writing.

5.3 The agreed price for the Product shall always be exclusive of any value added tax or other similar taxes, duties or imposts levied by any governmental agency (including, but not limited to, those at state or municipal levels) with respect to the Products supplied hereunder. If the Seller is required by applicable law or regulation to pay or collect any such taxes, as enumerated in the preceding sentence on the Products supplied hereunder, then such taxes shall be paid by the recipient of the Products in addition to the payments of the agreed price for the Product.

5.4 Buyer shall pay each relevant invoice sent by Seller in respect of the Products no later than fourteen (14) days after the date of the invoice by direct bank transfer to the bank account defined by Seller. The time for payment of Seller's invoices shall be of the essence of the Contract. The interest rate for overdue payments is the greater of two (2) % per month or the maximum amount as permitted under the applicable law. The specific terms of payment shall be those set out in Seller's invoice.

## **6. Title**

6.1 Seller will convey the Products with good title, free from any lawful lien or encumbrance.

6.2 Until payment in full has been received by Seller for all Products supplied by Seller under the Contract:

(a) title to the Products shall remain with Seller;

(b) the Products shall so far as practicable be kept separate from other goods on the premises of Buyer so as to be readily identifiable as the property of Seller, and;

(c) Buyer shall be at liberty to resell the Products in the ordinary course of business or to use the Products in any process provided that such liberty shall be deemed automatically cancelled without the need for notice if Buyer shall fail to make any payment when it becomes due, or shall default in due performance or observance of any other obligation under this Contract, or shall enter into liquidation or receivership. Seller may then by notice in writing to Buyer cancel this Contract. Upon such cancellation Seller shall be entitled to enter upon Buyer's premises in order to remove any of the Products to which Seller has retained title and for this purpose Buyer shall afford Seller all reasonable assistance to locate and take possession of the Products.

6.3 Upon cancellation of Buyer's liberty to resell or use the Products it shall promptly place the Products at Seller's disposal and Seller shall be entitled to enter upon Buyer's premises for the purpose of removing the Products.

6.4 For the purpose of the foregoing paragraphs of this Condition and in the absence of evidence to the contrary Products supplied by Seller to Buyer at any time shall be deemed to have been resold, used or processed in the order in which Products was supplied. Nothing herein shall give Buyer the right to return the Products to Seller.

## **7. Interpretation of Trade Terms**

Trade terms shall be interpreted in accordance with Incoterms latest edition. If this Contract does not specify trade terms as defined in Incoterms, risks of loss and damage to the Products shall pass to Buyer upon delivery into the custody of the carrier.

## **8. Force Majeure**

In the event of accident, mechanical breakdown of facilities, fire, flood, strike, labor trouble, riot, revolt, war, acts of governmental authority, acts of God, or contingencies beyond the reasonable control of the party affected interfering with the performance of this Contract the quantity of the Products provided for in this Contract shall be reduced by the amount so affected without liability but the Contract shall otherwise remain unchanged. The decision of the party affected as to the quantities of the Products affected shall be final and binding.

## **9. Non-performance**

If Buyer fails to perform any of the terms of this Contract when due, Seller may, at its option, decline to make further deliveries against this Contract except for cash, or may recall or defer shipments until

such default is remedied, or may treat such default as final refusal to accept further shipments and cancel this Contract.

#### **10. Performance by Affiliates**

At Seller's option, any Contract obligation may be performed by COVERIS Rigid (Ravensburg) Deutschland GmbH or any of its affiliates. Any deliveries made under this condition may be invoiced by such affiliate and shall constitute performance of this Contract by Seller.

#### **11. Non-transferable**

This Contract is neither transferable nor assignable by Buyer without Seller's prior written consent.

#### **12. Non-waiver**

Failure to exercise any rights under this Contract upon any occasion shall not waive the right to exercise the same on another occasion.

#### **13. Severability of Provisions**

If any provision of this Contract should be held invalid or unenforceable, the validity and enforceability of the remaining provisions shall not be affected.

#### **14. Applicable Law and Arbitration**

This Contract shall be governed by and construed in accordance with laws of the place of incorporation of Seller. Any dispute, controversy or claim arising out of or relating to this Contract, or the breach or validity thereof shall be finally settled by arbitration in accordance with the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. The arbitration shall take place in the domicile of Seller and shall be conducted in the English language.

The United Nations Convention on Contracts for the International Sale of Goods (1980) shall not apply to this Contract.

#### **15. Controlling Terms & Amendments**

Buyer agrees to all the terms and conditions of this document which override any additional or different terms or conditions included in Buyer's purchase order or referred to by Buyer. Any amendments or additions to this Contract shall be valid only if in writing and signed by both parties.