

GLOBAL – GENERAL TERMS AND CONDITIONS OF SALE (AND SUPPLY) (Foam and Foam Hardware) (Rev NOV 2020)

1. APPLICABILITY

- 1.1. These General Conditions of Sale shall be applicable to all sales documents, contracts, offers, quotations, Order Confirmations, invoices, payment reminders and deliveries by Auxquimia, S.A., Solberg Scandinavian, AS, Perimeter Solutions LP, the Solberg Company, and/or Solberg Asia Pacific Pty Ltd (the "Seller" or "Supplier") to the Buyer detailed in the Purchase Order ("Buyer" or "Distributor"), that constitute an integral part of the Agreement.
- 1.2. No other agreements, including Buyer's general terms and conditions, or other general conditions shall be applicable or set aside this Agreement, unless expressly agreed to by Seller in writing.
- 1.3. Any conditions submitted, proposed or stipulated by Buyer in whatever form, whether written or oral, whether submitted in a later document or contained in any Purchase Order, offer, acceptance or counter offer made by Buyer are hereby expressly waived and excluded, unless agreed to by Seller in writing.
- 1.4. In this Agreement, headings are for ease of reference only and shall not affect construction.

2. DEFINITIONS

Throughout this Agreement, the following terms shall have the respective meanings set forth below:

"Agreement": These General Conditions of Sale, and any Order Confirmations, sales contracts, agreements, offers, quotations, invoices, payment reminders and deliveries between Seller and Buyer.

"Incoterms 2020": Incoterms 2020 Edition, published by the International Chamber of Commerce.

"Order Confirmation": a confirmation issued by Seller to Buyer as a response to a Purchase Order confirming the Products to be supplied by Seller, including quantities, price, delivery terms and payment terms.

"Products": any product sold by Seller under Seller's products specifications.

"Purchase Order": an order issued by Buyer for the supply of Products by Seller, including quantities and dates of delivery.

3. ESTABLISHMENT OF THE AGREEMENT

Any Purchase Order made by Buyer and any offer or quotation made by Seller shall bind Seller only after the issue by Seller of an Order Confirmation.

4. PRICE, DUTIES AND TAXES

- 4.1 The prices of the Products shall be as specified in the Order Confirmation.
- 4.2 All import and export duties - existing or to be levied - as well as all other dues, charges, taxes and other costs of any nature existing or to be levied and which are incidental to the sale, packing, transport, delivery, discharge, insurance, export and import of the Products or costs of any nature connected with, for example (but not limited to) certificates of origin and consular invoices shall be for Buyer's account, unless otherwise specified.
- 4.3 Seller may, by giving notice to the Buyer at any time up to 3 calendar days before delivery, increase the price of the Products to reflect any increase in the cost of the Products that is due to:
 - 4.3.1 any factor beyond Seller's control (including but not limited to foreign exchange fluctuations, increases in taxes and duties, and increases in the costs with respect to labor, transportation, raw materials and other manufacturing costs);
 - 4.3.2 any request by Buyer to change the delivery date or place, quantities or types of Products ordered; or
 - 4.3.3 any delay caused by any instructions of Buyer or failure of Buyer to give Seller adequate or accurate information or instructions.
- 4.4 Notwithstanding the aforementioned and unless otherwise agreed, the prices shall be EXW location of the Seller's plant, excluding VAT and including packaging. Transport and insurance fees can be added if agreed.

5.6 If delivery is delayed through Buyer's default or if Buyer

declines or delays accepting delivery of the Products for more than three days from the date of delivery, then in any such case Seller may (without prejudice to any other right or remedy available to it) do the following:

- 5.6.1 Sell the Products for Seller's account; and/or
- 5.6.2 Claim from Buyer any costs and expenses directly incurred by Seller as a result of such delay; and/or
- 5.6.3 Cancel the delivery of the Products in the consignment in question, or if it deems appropriate, cancel the Agreement as regards to any Products that remain to be delivered under such Agreement.
- 5.7 Seller's rights under this Section shall not be prejudiced by the fact that any delivery has been affected after the stipulated time.

6. PAYMENT

- 6.1 Payment shall be as provided in the Order Confirmation and in accordance with the payment terms stated in the Order Confirmation and on the invoice.
- 6.2 The payment general rule (payment terms) shall be by Bank Transfer at 30 days from the invoicing date.
- 6.3 If any payment becomes overdue; or if before the fulfillment of this Agreement, Buyer shall suspend payment or give notice that it is about to suspend payment of its debts; or commit an act of bankruptcy, whether voluntary or involuntary; or, being a company, shall be unable to pay its debts, either in fact or in law; or have an order made or pass a resolution for winding up or liquidation (other than for the purpose of reconstruction, merger or amalgamation); or have a receiver appointed; then, until payment in full thereof has been made or until Buyer has fulfilled all its obligations, Seller may (without prejudice to any other right or remedy available to it):
 - 6.3.1 Withhold future deliveries of Products to Buyer until such default has been cured or Buyer's financial responsibility has been established to Seller's satisfaction; and/or
 - 6.3.2 Require payment in advance as to future deliveries; and/or
 - 6.3.3 Require a payment guarantee by a parent or affiliate of Buyer; and/or
 - 6.3.4 Require the provision of a letter of credit or bank guarantee by an entity approved by Seller; and/or
 - 6.3.5 Demand return from Buyer of any Products under the Agreement for which payment has not been made; and/or
- 6.4 Buyer shall be liable under the aforesaid circumstances for damages the Seller may suffer due to the above.
- 6.5 Without prejudice to any other right or remedy available to it, any default by Buyer to make any payment shall entitle Seller to any of the following:
 - 6.5.1 Calculated as of the invoice date, an interest of (5) percent annually (or such maximum amount allowed under applicable law) on the amount in default; and
 - 6.5.2 Buyer shall reimburse all costs, including collection costs, incurred by Seller to recover all or part of claims from Buyer.
- 6.6 In the event of default in any payment by Buyer, Seller retains the right to collect the Products without warning, notice of default, or legal intervention, such without prejudice to any Seller's other rights regarding such late payment.
- 6.7 Buyer shall not be entitled to withhold payment or to deduct from the price invoiced to it on the ground that it has a claim or set-off against Seller.
- 6.8 The remedies contained in this Section are (where applicable) cumulative and shall be in addition to any other remedies available to Seller under applicable law.
- 6.9 Notwithstanding Clause 6.3.2, Seller shall at all times have the right to request payment in advance in whole or in part for the Products to be delivered and/or request security for the payment in any other way.

Products with any other goods, or alter the Products in any way;

7. TITLE TO PRODUCTS

- 7.1 Title to Products shall pass to Buyer once the purchase price is paid in full and risk of loss or damage to the Products shall pass to Buyer on delivery, in accordance with the provisions of the agreed Incoterms 2020.
- 7.2 If relevant, Buyer agrees that until title to the Products passes to Buyer, Buyer shall:
 - 7.2.1 Hold the Products on a fiduciary basis as Seller's trustee;
 - 7.2.2 Store the Products separately from other goods held by Buyer so that they remain distinguishable from other goods and identifiable as Seller's property and not mix the

- 7.2.3 Not repackage, remove, deface or obscure any identifying mark or packaging on or relating to the Products;
- 7.2.4 Maintain the Products in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
- 7.2.5 Notify Seller immediately if it becomes subject to any of the events listed in Clause 3; and
- 7.2.6 Give Seller such information relating to the Products as Seller may require from time to time, but Buyer may resell or use the Products in the ordinary course of its business.
- 7.3 If before title to the Products passes, Buyer becomes subject to any of the events described in Clause 3, Seller:
- 7.3.1 may enter the premises of Buyer (or of any third party where the Products are stored) at any time to take possession of, and recover, the Products and Buyer hereby grants to Seller, its officers, servants and agents and assigns an irrevocable license to enter the premises of the Buyer during normal business hours and to remove the Products; and
- 7.3.2 shall be entitled to sell the Products to third parties.
- 7.4 If the Products are mixed or incorporated so as to form a new product, such new product shall, if so required, be stored separately by Buyer, who will hold the new product for Seller, at which time property in the new product shall pass to Seller (subject to Buyer's entitlement to make normal sales to third parties in the ordinary course of his business) and only for so long as Buyer has not discharged the total debt due to Seller with respect to the Products.
- 8. WARRANTIES**
- 8.1 To the extent not provided in a separate warranty document, the following warranty provisions shall apply: To the extent permitted by law, all conditions, warranties or obligations whether express or implied by statute, common law or otherwise, including specifically any implied warranties of merchantability or fitness for a particular purpose, are excluded in their entirety. The provisions of the Agreement shall apply in lieu thereof.
- 8.2 Seller warrants that, as of the date of the delivery by Seller, Products delivered in accordance with the Agreement meet Seller's standard specifications for the Products or such other specifications as have been expressly agreed between Seller and Buyer.
- 8.3 Buyer represents and declares that it is aware that the Products, by their very nature, may be dangerous or hazardous and shall apply the necessary professional and legal standard of diligence and the Seller's instructions regarding the use, handling, storage and maintenance of the Products. If any claim is brought subject to the conditions mentioned above, Buyer must prove to the satisfaction of Seller that Buyer applied said standards and instructions.
- 8.4 Seller makes no other warranty, express or implied, except as expressly provided herein. In furtherance, and not in limitation, of the foregoing, Seller makes no warranty that the Products are merchantable or fit for any particular purpose, or with respect to freedom from infringement of any patent and/or copyright resulting from Buyer's use of products or Seller's information.
- 8.5 Seller shall be liable only for the reposition of the goods in case of reasonable and substantiated non-conformity by Buyer, but not for damages or other claims.
- 9. CLAIMS AND LIABILITY**
- 9.1 Seller's liability and Buyer's exclusive remedy for any cause of action arising out of the sale, use, or non-delivery of the Products or under any warranty, is expressly limited at Buyer's option to (1) replacement of the non-conforming Product, or (2) refund of the invoiced purchase price of the Product for which remedy or damages are claimed (plus transportation costs, if any, paid by Buyer with respect thereto), provided that:
- 9.1.1 Buyer gives written notice to Seller within 7 calendar days from the date of delivery that a Product does not comply with the warranty under Clause 8.2;
- 9.1.2 Seller is given reasonable opportunity to examine and inspect such Products (including taking samples); and/or
- 9.1.3 Buyer (is so requested by Seller) returns such Products to Seller's place of business at the Buyer's cost
- 9.2 Claims for minor deviations in measure, weight, form, appearance, quality and/or durability, which deviations are considered to be acceptable in the branch and/or in international trade practice and/or which are technically unavoidable, will not be allowed.
- 9.3 Seller shall not be liable for loss of profits, loss of production, indirect, or other special, incidental or consequential damages regardless of negligence. Seller shall not be responsible for the distribution, possession, further manufacture, transportation, use, resale, discharge, release of the Product or any product derived therefrom into water, land or into air.
- 9.4 The Seller shall in no event be liable towards the Buyer for any consequential damages whatsoever, except and in so far the damages suffered by the Buyer have been caused by intentional or grossly negligent acts of the Seller or the Seller's employees.
- 9.5 Neither party excludes or limits its liability for fraud, death or personal injury arising from its negligence or any liability to the extent the same may not be excluded or limited as a matter of law.
- 9.6 Seller's liability shall never exceed the purchase price of the Products in respect of which any cause of action arises.
- 9.7 If only part of the Products delivered pursuant to the Agreement between Buyer and Seller is claimed to be defective, Buyer shall accept delivery of and duly pay for the remaining Products.
- 10. INSPECTIONS AND COMPLAINTS**
- 10.1 Buyer shall inspect the Products and packing materials as quickly as possible and to the extent that reasonably and/or customarily can be expected of him. Defects noted by the Buyer in the Products and packing materials during this inspection shall be reported to Seller immediately, but in any case at the latest within 10 (ten) calendar days after delivery. To limit the damage, Buyer shall follow Seller's directions regarding the handling and storage of the Products and packing material.
- 10.2 Buyer shall, in case of defective products, make sure that the whole consignment, in respect of which a claim will be lodged, remains available for inspection by Seller; in case only part of the consignment is available for inspection, the same will constitute a waiver by Buyer of any claim with respect to the other part of the consignment.
- 10.3 Buyer's failure to give notice of any claim within 30 (thirty) calendar days from the date of delivery shall constitute a waiver by Buyer of all claims with respect thereto and the Products delivered shall be deemed to be in all respects in accordance with the Order Confirmation.
- 11. SAFETY AND HEALTH COMMUNICATIONS**
- 11.1 Buyer acknowledges that it has consulted Seller's documents, including information set forth on Seller's Material Safety Data Sheets regarding the Products and other technical bulletins and publications containing safety, health, handling and environmental hazard information concerning Products and their properties, that it has read and it understands such information, and that it agrees to incorporate such information into its personnel safety programs.
- 11.2 Buyer shall fully and adequately inform its employees, contractors, agents and other third parties who may become exposed to Products after delivery to Buyer hereunder, of any hazards associated with Products, and of the proper storage, handling and use procedures for Products, whether disclosed in such documents or in additional documents which are transmitted to Buyer during the term of the Agreement.
- 11.3 Buyer acknowledges its independent obligation to fully and adequately incorporate available information, including that supplied by Seller, into its product safety communications and to provide to all of its employees, contractors, agents and customers copies of such hazard communication documents.
- 11.4 If Products are further processed, mixed or incorporated into another product, Buyer shall likewise disseminate appropriate health and safety information to all persons Buyer reasonably foresees may be exposed.
- 12. TERMINATION**
- 12.1 Either party may terminate the Agreement on 30 (thirty) days prior written notice to the other in the event the other party is in default of a material obligation hereunder; provided, that if during the 30 (thirty) day notice period the defaulting party cures its default (or takes steps to cure a default that is not capable of being cured in such 30 (thirty) day period), the termination notice shall not take effect.
- 12.2 Notwithstanding any other terms of this Agreement, Seller may terminate this Agreement with immediate effect and without notice if the Buyer becomes insolvent or if the normal conduct of Buyer's business shall become substantially impaired by Buyer's credit problems.
- 13. FORCE MAJEURE**
- 13.1 Neither party shall be liable in any respect for failure to perform this Agreement if the performance of the Agreement in whole or in part, temporarily or permanently is prevented, delayed or hindered, including prevention or hindrance in manufacturing or delivering the Products under normal conditions and by normal route or means of delivery respectively and by circumstances beyond parties' reasonable control, including but not limited to acts of God, pandemics, perils of the sea, accidents of navigation or breakdown or injury of vessels, floods, fires, explosions, frost

- or ice, storms, acts of government or other competent authority, hostilities, military action, war or warlike situations, sabotage, restraint of rulers or peoples, revolution, civil commotion, expropriation, confiscation or nationalization, strikes, lock-outs or other labor disturbances of any kind, embargoes, export or import restrictions, rationing or allocation whether imposed by law, decree or regulation or by voluntary cooperation of industry at the insistence or request of any governmental authority, domestic or foreign, or any person purporting to act in such manner, whether legal or de facto, accidents, breakdowns of plant or machinery, shortage or unavailability of raw materials from normal sources of supply at normal prices and under normal conditions and/or delay in or unavailability of transportation ("Force Majeure Event").
- 13.2 If either party is unable to perform its obligations under the Agreement due to a Force Majeure Event, or if either party considers it likely that it may become so unable, then such party shall as soon as reasonably practicable, notify the other of such situation and the estimated extent and duration of such inability. If the Force Majeure Event continues for a period exceeding 3 (three) months from the date of notification, then either party may end the Agreement, in part or in full by registered letter and without legal intervention, without being liable for damages.
- 13.3 Seller, during any period of shortage due to a Force Majeure Event, may allocate its available supply of Products among its internal requirements and its customers on whatever basis Seller may deem fair and practical.
- 13.4 Any quantity of Products so affected shall be deducted from the total quantity purchased by Buyer.
- 13.5 Seller shall not be required to procure Products from third parties to satisfy its obligations to Buyer hereunder during any period of shortage due to a Force Majeure Event.
14. **HARDSHIP**
- 14.1 Should the circumstances assumed by either party at any time after signing the Agreement materially change during the term of the Agreement that compliance with one or more of the stipulations cannot reasonably be expected from such party, consultations shall take place regarding the interim amendment of the Agreement.
- 14.2 In the event that the parties fail to agree as to the amendment of the Agreement, each of the parties will be entitled to unilaterally end the Agreement by registered letter, while observing a period of notice of 3 (three) months.
- 14.3 During this period of notice, the conditions stipulated in the Agreement shall remain in force without prejudice.
15. **ASSIGNABILITY**
- 15.1 This Agreement shall not be transferred or assigned by the Buyer without the prior written consent of the Seller, such consent not to be unreasonably withheld.
- 15.2 Seller shall have the right to assign the Agreement without Buyer's consent, including the right to assign the receivables due to it from Buyer and/or any third party, as the case may be, to a third party without any limitation and without notice.
16. **WAIVER**
- 16.1 Delay or failure by either party in exercising any right under this Agreement, with the exception of Buyer's right to file notice of claim under Clause 10.3, shall not constitute a waiver of that or any other right or subsequent right in this Agreement.
17. **INDEMNIFICATION BY THE BUYER**
- 17.1 Buyer shall indemnify, defend and forever hold Seller and its directors, officers, employees, agents, suppliers, parents, affiliates, subsidiaries, successors and assigns harmless from any and all fines, penalties, suits, actions, claims, liabilities, judgments, costs, and expenses (including lawyers' fees and expenses) resulting or arising from any one of the following:
- 17.1.1 Buyer's liability under law including Buyer's negligence or breach of this Agreement; or
- 17.1.2 Buyer's use, sale, handling, storage, or disposal of the Products or any product or waste derived therefrom; or
- 17.1.3 Buyer's discharge or release of the Products or any product or waste derived therefrom into water, onto land or into the air; or
- 17.1.4 Buyer's exposing any person (including Buyer's employees) to the Products or any product or waste derived therefrom,
- including failure to warn of such exposure; or
- 17.1.5 The transportation of the Products after delivery by Seller in accordance with the provisions of the Order Confirmation and the relevant Incoterms 2020.
- 17.2 The foregoing indemnification shall apply, but shall not be limited to, injury to person (including death) or damage or harm to property or the environment. Buyer shall not be obligated to indemnify Seller for any fine, penalty, suit, action, claim, liability, judgment, cost, or expense to the extent attributable to Seller's gross negligence or willful misconduct.
18. **SEVERABILITY**
If any provision or part of a provision of the Agreement shall be, or be found by any authority, tribunal or court of competent jurisdiction to be, invalid or unenforceable, such validity or enforceability shall not affect the other provisions or parts of such provisions of the Agreement, all of which shall remain in full force and effect.
19. **ENTIRE AGREEMENT**
The Agreement, together with any documents expressly incorporated herein by reference, constitutes the entire Agreement between the parties and supersedes any previous writing or understanding relating to the subject matter. No alteration of or addition to the Agreement shall be effected by the acknowledgment or acceptance by Seller of a Purchase Order, acknowledgment, release or any other forms or conditions. Neither party shall claim any modification, limitation or release from any of the terms or conditions contained herein except by mutual agreement to that effect, signed by both Seller and Buyer.
20. **DISPUTE RESOLUTION**
In the event of any controversy or claim arising out of or relating to the Agreement, the parties hereto shall consult and negotiate with each other and, recognizing their mutual interests, attempt to reach a solution satisfactory to both parties. If they do not reach settlement within a period of 60 (sixty) days, then they hereby consent to the exclusive jurisdiction of the courts as set forth in Clause 21.
21. **GOVERNING LAW**
The Agreement shall be governed and construed in all respect in accordance with the laws of the country, state and province in which Seller has its principal place of business (without reference to conflict of laws) and shall be disputed in the courts located in the jurisdiction which Seller's principal place of business resides. For Auxquimia, S.A. the courts of Mieres, Asturias and the laws of Spain, for Solberg Scandinavian, AS, the courts located in Nyberg, Vestland, Norway and the laws of Norway, for Perimeter Solutions LP and the Solberg Company, the courts located in St Louis County, St Louis, MO and the laws of the State of Missouri, and for Solberg Asia Pacific Pty Ltd, the courts in New South Wales, Australia, and the laws of Australia. The rights and obligations of the parties under the Agreement shall not be governed by or construed in accordance with the provisions of the Convention for the UN International Sale of Products.
22. **NOTICES**
Notices by either Seller or Buyer shall be made in writing only by electronic transmission, or by e-mail, effective at the time sent, with confirmation, or by registered letter addressed to the other party at its registered address, and shall be considered given as of the time it is sent through the post. Notices to Seller shall be sent to the contact as set forth in the Purchase Order.
23. **LANGUAGE**
The parties agree that the prevailing language of the Agreement is the English language.
24. **CODE OF ETHICS.**
Buyer agrees to comply with Seller's Code of Ethics, which can be found here: <https://perimeter-solutions.com/social-responsibility/> July 2020