General Sales Terms
As at 01 July 2021

I. Scope of Application, form

1. These General Terms and Conditions of Sale and Delivery **("FRAGOL -GTCS**") shall apply to all our business relations with our customers, in particular to contracts for the sale and/or delivery of movable goods, irrespective of whether we manufacture the goods ourselves or purchase them from suppliers (section 433, 650 of the German Civil Code (Bürgerliches Gesetzbuch **"BGB"**).
2. When placing an order the customer agrees to the FRAGOL-GTCS also for similar future transactions, even if there is no explicit reference to the FRAGOL-GTCS, but the customer has received them with an order previously confirmed by us.
3. The FRAGOL-GTCS apply exclusively. Deviating, conflicting or supplementary general terms and conditions of the customer shall only become part of the contract if and insofar as we have expressly acknowledged their validity in writing. This requirement of consent shall apply in any case, for example even if we do not object to the customer's general terms and conditions and make a delivery to the customer without reservation in knowledge of the customer's general terms and conditions.
4. The FRAGOL-GTCS only apply to buyers who are entrepreneurs in the sense of section 14 BGB, legal entities under public law or special assets under public law.
5. Individual agreements made with us in individual cases (including collateral agreements, supplements and amendments) take precedence over the FRAGOL-GTCS. For the content of such agreements, subject to proof to the contrary, a written contract or written confirmation from us is decisive.
6. Legally relevant declarations and notifications of the customer in relation to the contract (e.g. setting of deadlines, notification of defects, withdrawal or reduction), must be made in writing. Conclusion agreements in the sense of framework agreements shall only become valid upon written confirmation.
7. References to the applicability of statutory provisions shall only have clarifying significance. Therefore, even without such clarification the statutory provisions apply unless they are directly amended or expressly excluded in the FRAGOL-GTCS.

II. Conclusion of contract, Statements regarding the condition of the products

1. Our offers are non-binding and subject to change. Offer-related documents shall not be rendered accessible to third parties.
2. The order of the goods by the customer shall be deemed to be a binding offer of contract. Unless otherwise stated in the order, we shall be entitled to accept this contractual offer within two (2) weeks of its receipt by us.
3. The acceptance takes place either in writing (e.g. by confirmation of order) or by delivery of the goods to the customer.
4. Only the manufacturer's product description shall be deemed agreed as the quality of the goods. The customer does not receive any guarantees in the legal sense from us. Manufacturer warranties remain unaffected by this.
5. Cancelling an order that has already been confirmed and that FRAGOL produces for a specific customer order is not possible within a period of 14 days or less prior to the confirmed date of shipment. The aforementioned period shall not constitute a customer's general right to demand a cancellation of the contract. Such a cancellation is at the sole discretion of FRAGOL.

III. Delivery (Delivery Period, Delay in Delivery, Right of Withdrawal)

1. The amount and quality of the delivered products shall be bindingly examined and determined with a customary method of our choice.
2. Deliveries that are short or excessive of the agreed amount within a difference regarded usual in trade are considered as fulfillment of the contractual obligation.
3. Delivery dates or delivery periods shall be agreed individually or stated by us upon acceptance of the order. Only delivery dates/periods confirmed in writing shall be binding on us.
4. If we are unable to meet binding delivery deadlines for reasons for which we are not responsible (non-availability of the service), we shall inform the customer of this without delay and at the same time notify the customer of the expected new delivery deadline. If the service is also not available within the new delivery period, we shall be entitled to withdraw from the contract in whole or in part. We shall immediately refund any consideration already paid by the customer. A case of non-availability of the service shall be deemed to exist in particular if we ourselves are not supplied on time by our supplier upon conclusion of a congruent hedging transaction and neither we nor the supplier are at fault.
5. Should one of our suppliers discontinue the production of a certain product without timely notice, so that we are no longer able to deliver to the customer, we shall be entitled to replace the product ordered by the customer with goods of at least the same quality from another supplier.
6. We shall be liable in accordance with the statutory provisions if a commercial transaction for delivery by a fixed date (kaufmännisches Fixgeschäft, section 376 of the German Commercial Code (Handelsgesetzbuch "HGB")) has been agreed or if the customer is entitled, as a consequence of a delay in delivery for which we are responsible, to claim that he no longer has an interest in the further performance of the contract. Furthermore, we shall be liable in accordance with the statutory provisions if our default is based on an intentional or grossly negligent breach of contract for which we are responsible or on a culpable breach of a material contractual obligation (obligation the fulfillment of which makes the proper performance of the contract possible in the first place and on the observance of which the contractual partner regularly relies and may rely). Any fault on the part of our representatives or vicarious agents shall be attributable to us. If the delay in delivery is not due to an intentional or grossly negligent breach of contract for which we are responsible, our liability for damages in such cases shall be limited to the foreseeable, typically occurring damage.
7. Furthermore, in the event of a delay in delivery, we shall be liable, after prior reminder by the customer, for each completed week of delay within the scope of a lump-sum compensation for delay in the amount of 3% of the purchase price (however, not more than 15% of the purchase price), unless it is evident from the circumstances of the case that the customer has not suffered any disadvantage.

IV. Transfer of risk, acceptance, default of acceptance

1. Unless otherwise stated in the order confirmation, delivery shall be agreed "free carrier" (FCA) within the meaning of the current Incoterms.
2. The customer shall cooperate in the acceptance and notify us in due time of any difficult delivery conditions (e.g. poor access, long narrow paths).
3. If the customer is in default of acceptance, fails to cooperate or if delivery is delayed for other reasons for which the customer is responsible, the customer shall bear the risk of accidental loss or accidental deterioration. In addition, we are entitled in these cases to demand compensation for the resulting damage, including additional expenses (e.g. storage costs). For this purpose, we shall charge a lump-sum compensation of 0.25% of the invoice amount per calendar week, starting with the delivery date or - in the absence of a delivery date - with the notification that the goods are ready for dispatch or collection, but not exceeding a total of 5% in the event of final non-acceptance. The proof of a higher damage by us as well as our legal claims (in particular compensation of additional expenses, reasonable compensation, withdrawal) remain unaffected. The customer shall be entitled to prove that we have incurred no damage at all or only significantly less damage than the above lump sum.

V. Handling of delivered products

1. The customer is responsible for the suitability of the containers and equipment to be filled by us (e.g. cleanliness, tightness, filling quantity, etc.).
2. If our goods are subject to the Ordinance on Hazardous Substances, the customer is obligated to observe our product-specific safety data sheet when storing and processing them or to provide the customer with corresponding data when selling the goods to third parties. Current safety data sheets are available from us.
   If the goods delivered by us are classified as dangerous goods, they may only be stored and (further) transported in the packaging and means of transport approved for this purpose and with the prescribed labelling.

VI. Prices

"Delivered" prices are subject to the condition of unhindered traffic. The customer shall bear any additional costs which arise in this case and are caused by traffic hindrances FRAGOL is not

responsible for. In case of “delivered” prices we are entitled to determine transport route and method

VII. Unloading

In case delivery was agreed upon differing from Section IV No. 1, the customer is obliged to unload immediately and appropriately. Should we assist, this happens without any legal obligation and at the customer’s risk.

VIII. Force majeure

1. In cases of force majeure, in particular in the event of strike, lock-outs, unforeseeable interruption of operations, unavoidable raw material shortage and/or any other circumstances beyond our control, we are entitled to restrict or defer delivery for the duration of the hindrance. In case the event of force majeure lasts for more than two (2) months or leads to permanent impossibility of performance, we are entitled to withdraw from the contract fully or in part. This shall also apply in case our suppliers as our vicarious agents are released partly or entirely from their delivery duty due to force majeure. We shall immediately inform the customer in the event of force majeure. In such cases we are entitled to deliver with delay including a reasonable start-up time. After a period of four (4) weeks from the occurrence of the event, the customer may impose a reasonable deadline saying that it will no longer accept delivery after the expiry of this deadline. Should the deadline expire and no delivery be made, the customer is entitled to withdraw from the contract by written notification. In this case, any advance payments will be refunded to the customer. Provided it is apparent that delivery will not be carried out within the determined deadline, the customer is entitled to withdraw from the contract immediately.
2. Should, in the event of force majeure, the quantities available to us not be sufficient for the satisfaction of all customers, we are entitled to make even reductions from all delivery obligations. In this case, the customer is only obliged to pay the proportional purchase price. Beyond that we are released from our delivery duty.

IX. Notification of defects

1. The customer shall immediately examine goods and packaging after delivery, in any case prior to reselling, processing, mixture or using the goods and shall immediately notify us of any defects or wrong, short or excessive delivery in written form. To facilitate our analysis of defective goods the customer shall take a sample of 1 liter if this is viable with respect to the amount delivered. Notice of defects must reach us in written form within ten days of delivery, otherwise the goods are considered as approved by the customer, unless it is a latent defect that was not identifiable during the examination of the goods. If such a defect appears later, the notification must be made immediately after the identification, otherwise the goods are considered as approved with regard to this defect also. Notifications of defects are not permissible if the examination of the goods is no longer possible, unless the product was processed within its intended purpose.
2. Rejected goods may only be sent back with our express consent. In case of legitimate notice of defects we shall reimburse the costs of the cheapest dispatch of goods.
3. The customer shall document damages in transit against the transporter and notify us of such damages immediately in written form.
4. Our damage reduction measures shall not be deemed as an acknowledgment of the defect. In case of negotiations regarding complaints, we do not waive the objection that the complaint was not made in time or that it was unfounded or insufficient in any other way.

X. Liability of defects

1. We shall not be liable in principle for defects of which the customer is aware at the time of conclusion of the contract or is not aware due to gross negligence (section 442 BGB). The customer's claims for defects also presuppose that he has fulfilled his statutory obligations to inspect and give notice of defects (sections 377, 381 HGB).
2. If the delivered goods are defective, we shall be entitled to choose whether we provide subsequent performance in the form of remedying the defect (subsequent improvement) or by delivering a new item free of defects (replacement delivery). Our right to refuse subsequent performance under the statutory conditions shall remain unaffected.
3. We shall bear or reimburse the expenses necessary for the purpose of inspection and subsequent performance, in particular transport, travel, labor and material costs and, if applicable, removal and installation costs, in accordance with the statutory provisions if a defect is actually present. In the event of rectification of a defect, we shall bear expenses only up to the amount of the purchase price. In the event of failure of the rectification or replacement, the customer may, at his discretion, demand a reduction in price or withdraw from the contract. In the case of an insignificant defect, however, there is no right of withdrawal.
4. The customer's right of recourse against us pursuant to sections 445a, 478 BGB (recourse of the entrepreneur) shall only exist insofar as the customer has not entered into any agreements with its customer exceeding the statutory claims for defects. If only entrepreneurs are involved in the supply chain, including the last purchase contract, the application of section 445a para. 1 and para. 2 BGB is excluded.
5. The period of limitation for claims for defects shall be one year, calculated from the transfer of risk. This shall not apply to claims for damages in case of injury to life, body, health and in case of gross negligence.
6. Insofar as the customer has suffered damage or incurred expenses in vain due to a defect in the item, our liability shall be governed by section X. 4. and section XI; any further liability shall be excluded

XI. Other Liability

1. We shall be liable for damages within the scope of fault liability in the event of intent or gross negligence, including intent or gross negligence on the part of our representatives or vicarious agents.
2. In the event of simple negligence we shall only be liable, subject to statutory limitations of liability (i) for damages arising from injury to life, body or health, (ii) for damages arising from a breach of a material contractual obligation (obligation the fulfillment of which is a prerequisite for the proper performance of the contract and on the fulfillment of which the contractual partner regularly relies and may rely); in the second case, liability for damages shall be limited to the foreseeable, typically occurring damage.
3. The limitations of liability resulting from section XI. 2. shall not apply insofar as a defect was fraudulently concealed or a guarantee for the quality of the goods was assumed and for claims of the customer under the Product Liability Act.
4. The aforementioned limitation of liability according to the preceding paragraphs shall also apply if and when a customer instead of a claim for damages, requests compensation for useless expenses.
5. Insofar as our liability is excluded or limited, this applies equally in relation to our employees’ and representatives’ personal liability to pay compensation for damages.

XII. Terms of payment, setoff

1. The purchase price is due and payable within thirty (30) days from the date of invoice.
2. The statutory value added tax is not included in our prices. It will be indicated as a separate item of the invoice in the amount applicable at the time of billing.
3. The customer shall only be entitled to setting off against payments due to us or exercising his right of retention if and when the counterclaim of the customer is undisputed or established as legally valid or in case the counterclaim is mutual in terms of section 320 of German Civil Code. The customer is entitled to exercise his right of retention insofar as his opposing right is based on the same contractual relationship.
4. Our employees are not entitled to receive payments and are not authorized to any kind of disposal, unless they are provided with a written power of attorney.
5. We are entitled to assign our claims from our business relationships.

XIII. Delay in payment, doubts regarding the buyers creditworthiness

1. Should the customer be in default with any of its payment obligations, all granted discounts, deductions and other privileges shall become invalid and all existing outstanding debts shall

become due. This does not apply if the buyer is not responsible for the delay in payment.

2. Should we be obliged to advanced performance, we are entitled to refuse performance if it becomes apparent after conclusion of the contract that our entitlement to payment is endangered by the customer's inability to fulfill its payment obligations or by justified doubts in its creditworthiness. In this case, we may impose a reasonable deadline by which the customer at its option may perform its payment obligation against delivery of the goods or provide other security for the delivered goods. After the unsuccessful expiry of the deadline we shall be entitled to withdraw from the contract.

XIV. Retention of title

1. We retain title to the goods sold until full payment of all our present and future claims arising from the purchase contract and an ongoing business relationship.
2. The customer is obliged to treat the sold goods with care; he is especially obliged to insure them sufficiently at his own expense against damage by fire, water and theft in the amount of the replacement value. The customer hereby assigns the insurance claim for the case of damage to us, as a first-priority partial sum in the amount of the purchase price of the retained goods delivered by us.
3. In the event of attachments or other interventions by third parties, the customer is obliged to inform us immediately in written form, so that we can file an action in accordance with section 771 of the German Code of Civil Procedure (Zivilprozessordnung "**ZPO**"). Insofar as the third party is not able to reimburse us for court costs and extra-judicial costs of an action pursuant to section 771 ZPO, the customer shall be liable for the loss.
4. The customer shall be entitled to resell or process the purchased goods in the ordinary course of business. However, he hereby assigns to us all claims in the amount of the final invoice amount (including any VAT) of our claim accruing to him from the resale against his customers or third parties, irrespective of whether the object of sale has been resold without or after processing. We accept this assignment. The customer shall remain authorized to collect this claim even after the assignment. Our authority to collect the claim ourselves shall remain unaffected by this. However, we undertake not to collect the claim as long as the customer meets its payment obligations from the proceeds collected, is not in default of payment and, in particular, as long as no application for the institution of insolvency proceedings has been filed or payments have not been suspended. If this is the case, however, we may demand that the customer informs us of the assigned claims and their debtors, provides all information necessary for collection, hands over the relevant documents and informs the debtors (third parties) of the assignment.
5. Processing or transformation of the purchased goods by the customer is in each case performed for us. If the provided goods are processed with other objects which do not belong to us, we obtain co-ownership of the new item in relation to the value of our item (final invoice amount plus VAT) to the other processed items at the time of processing. Apart from that, the same terms apply to the item produced by processing as to our retained goods.
6. If the provided goods are inseparably combined with other objects which do not belong to us, we obtain co-ownership of the new item in relation to the value of our item (final invoice amount plus VAT) to the other processed items at the time of mixing. If mixing takes place in such a way that the customer's item is to be considered the main item, it is considered as agreed upon that the customer transfers joint ownership to us in proportion. The sole ownership or co-ownership as it has thus originated shall be held in custody for us by the customer
7. We shall release the security owed to us at the customer's request to the extent that the value of our security exceeds the claims to be secured by more than 10%; the selection of the type of security to be released lies with us.

XV. Prohibition of assignment

The customer needs our prior consent in order to assign, pledge or in any other way dispose of any claims the customer is entitled to against us.

XVI. Containers and transport packaging (no liability for customer containers, obligation to return).

1. We are not obliged to inspect containers provided by our customers regarding their suitability - in particular with regard to cleanliness. We are not liable for any damages or defects caused by defective or in any other way inadequate containers. All containers provided by us or third parties must not be interchanged or used as storage containers or handed over to third parties.
2. Containers and any other reusable transport packaging shall be returned to the place determined by us immediately. In case of late return we may charge rent in the customary amount. Regardless of fault, the customer is liable for improper use, damage or loss of containers which we provided the customer or any customer determined third party with.

XVII. Storage of Data

We store the customer's personal data within the scope of our business relationship. We do not pass this data on to third parties.

XVIII. Jurisdiction, place of performance, choice of law

1. If the customer is a merchant, our place of business shall be the place of jurisdiction; however, we shall also be entitled to sue the customer at the place of jurisdiction of its place of business.
2. Unless otherwise stated in the order confirmation, our registered office shall be the place of performance.
3. The contract shall be governed by German law, excluding the international private law, in particular the UN Convention on Contracts for the International Sale of Goods (CISG).
4. If Incoterms are agreed, the current version shall apply.
5. Should individual provisions of the contract with the customer, including the FRAGOL-GTCS be or become invalid in whole or in part, the validity of the remaining provisions shall not be affected thereby.