

General Terms and Conditions of Sale

of the PORAVER-group (valid from 08.08.2018)

1. General, Application

- 1.1 These General Terms and Conditions of Sale (hereinafter referred to as „GTC“) shall apply for all business transactions between Dennert Poraver GmbH, Poraver Besitz GmbH, Poraver Service GmbH & Co. KG (hereinafter referred to as “DENNERT”) and the respective customer regarding all deliveries and services to the customer (hereinafter referred to as “CUSTOMER”). The GTC shall especially apply to all contracts concerning the delivery of movable objects regardless if DENNERT is the producer or an intermediary.
- 1.2 These GTC shall only apply to CUSTOMERS who are entrepreneurs according to sec. 14 of the German Civil Code (“BGB”), a legal person under public law or a special fund under public law as set out in sec. 310 par. 1 BGB.
- 1.3 These GTC shall apply in their respective version as a framework agreement to all future contracts with the CUSTOMER even if not explicitly referred to by DENNERT. The most current version of these GTC is retrievable at www.poraver.com/agn/.
- 1.4 These GTC shall apply exclusively. Deviating, conflicting or supplementary General Terms and Conditions of the CUSTOMER shall only apply if expressly accepted by DENNERT; these approval requirements shall apply in any case, for example also if DENNERT is aware of the CUSTOMER’s GTC and performs without reservation.
- 1.5 For the avoidance of doubt, individual agreements between DENNERT and the CUSTOMER shall prevail over these GTC. Individual agreements shall only be effective if made in textform. The same applies to unilateral legal acts of the CUSTOMER after a conclusion of contract. Also notifications by email or telefax preserve the textform.

2. Conclusion of contract

- 2.1 Offers shall be nonbinding, including the delivery amount, delivery period and the price, DENNERT reserves the right to prior sales. Commitments given regarding the delivery amount, delivery period and the price shall only be legally binding if confirmed by DENNERT in writing or if the corresponding order has already been executed.
- 2.2 The CUSTOMER’s order shall be deemed as binding contractual offer. If not otherwise stipulated in this order DENNERT shall be entitled to accept this offer within two weeks, beginning with its receipt by DENNERT, by a written order confirmation or by delivery of the goods to the CUSTOMER.

3. Delivery Term

- 3.1 Delivery dates shall only be binding as far as DENNERT confirms them in writing. Deliveries to be settled on a fixed date shall only be established if expressly stipulated.
- 3.2 DENNERT shall not be in default with delivery without prior reminder. The CUSTOMER shall be entitled to assert subsequent general compensation if DENNERT is in default with delivery. This compensation amounts to 0,5 % of the net price (delivery value) for each completed calendar week, but not exceeding a total of 5 % of the value of the delayed delivery. DENNERT shall be entitled to prove that the CUSTOMER either has not suffered any damage or a substantial lower damage as included in the general compensation.
- 3.3 DENNERT shall not be obliged to deliver, under exclusion of liability vis-à-vis the CUSTOMER, if DENNERT has not received a correct and timely self-delivery without bearing responsibility for that and if a congruent covering transaction has been concluded.
- 3.4 If the CUSTOMER is in default with acceptance, breaches its duties to cooperate or the delivery of DENNERT is delayed because of other reasons the CUSTOMER is liable for, DENNERT shall be entitled to assert any resulting damage including but not limited to additional expenses, if any occurs. The general compensation in these cases amounts 0,5 % of the net-contract-value for each completed calendar week, beginning with the delivery date or with the notification of the readiness for dispatch of the goods in the case of absence of a delivery date, but not exceeding a total of 5 % of the net-contract-value. DENNERT shall be entitled to prove that it has suffered a

bigger damage and to assert its statutory claims (especially compensation of additional expenses, reasonable remuneration, termination of contract). The general compensation shall be credited against further monetary claims. The CUSTOMER shall be entitled to prove that DENNERT has not suffered any damage or a substantial lower damage as included in the general compensation.

- 3.5 In case of force majeure, the delivery period reasonably extends to a reasonable extent if DENNERT is not able to timely comply with its contractual obligation because of conditions of force majeure and other unforeseeable and unusual circumstances, which DENNERT is not responsible for, e.g. war-like conditions, breakdown of production or delivery by fire, catastrophes and other similar events, strike, lockout, governmental interventions, epidemics, lack of raw materials, difficulties with the power supply etc.. DENNERT shall not be obliged to perform if DENNERT’s contractual obligation becomes impossible or unreasonable because of conditions of force majeure. DENNERT will inform the CUSTOMER as soon as possible about beginning and ending of the aforementioned circumstances. If the delay in delivery takes more than a month the CUSTOMER shall be entitled to rescind the contract under exclusion of any further claims. If the delivery period is extended or DENNERT is not obliged to deliver the CUSTOMER shall not be entitled to assert any claims out of this.
- 3.6 Delivery periods are extended for the time the CUSTOMER is in delay with the fulfillment of its obligations with regard to a current transaction or other contracts with DENNERT.

4. Delivery, Passing of Risk

- 4.1 Deliveries and passing of risk occur EXW (Incoterms 2010) from the premises of DENNERT in Schlüsselfeld, Postbauer-Heng or from another site stated by DENNERT.
- 4.2 DENNERT shall be entitled to engage subcontractors at its own charge without prior reconciliation with the CUSTOMER. Notwithstanding, DENNERT shall be obliged to contractual performance. The engaged subcontractor shall be deemed as a vicarious agent of DENNERT.
- 4.3 The CUSTOMER shall be obliged to send back to DENNERT the packaging for repeated use („returnable transport packaging“) at its own charge. DENNERT shall be entitled to charge a reasonable deposit for returnable transport packaging.
- 4.4 The CUSTOMER shall be obliged to confirm the receipt of the goods stating day and hour.
- 4.5 Partial delivery shall be permitted to a reasonable extent for the CUSTOMER, especially if the CUSTOMER can use the partial delivery according as provided by the contractual purpose, the delivery of the remaining goods is ensured and the CUSTOMER has neither to bear significant additional expenses, nor additional costs.
- 4.6 DENNERT reserves the right to customary deviations of the delivery items as long as the CUSTOMER is not unreasonably affected, the serviceability of the goods is not affected and the deviations are necessary because of important operational requirements of DENNERT.

5. Prices, Payment

- 5.1 Unless otherwise agreed, the respective list prices of DENNERT, valid at the moment of conclusion of contract, shall apply. Prices are in EURO on the basis of deliveries EXW (Incoterms 2010) from DENNERT’s premises in Schlüsselfeld, Postbauer-Heng and Innisfil (Ontario), Canada, plus the respective statutory VAT and packing extra. If the delivery is an export shipment the prices are plus customs, fees and other public charges. Only the delivery weight shall be invoiced less the weight of packaging (bags and pallets).
- 5.2 DENNERT’s invoices shall be payable within 10 days with a 2 % discount or within 30 days without discount, beginning with the invoice date. DENNERT will not grant any discount if the CUSTOMER is in default with the payment of



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former invoices. DENNERT shall not be obliged to accept bills of exchange or cheques. DENNERT shall be entitled to demand an advance or a security before delivery according to sec. 321 BGB in the event of an application for the opening of insolvency proceedings about the CUSTOMER's assets or/and DENNERT becomes aware of circumstances that may diminish the CUSTOMER's credit standing. DENNERT shall be entitled at any time (even in current transactions) to fully or partially deliver only against prepayment. DENNERT shall issue a respective reservation in an order confirmation at the latest.

- 5.3 If the aforementioned payment term is expired the CUSTOMER defaults without prior reminder. The CUSTOMER shall pay interests according to the respective statutory default interests applicable. DENNERT shall be entitled to assert any further damage caused by delay. Vis-à-vis merchants the claim for commercial maturity interest (sec. 353 BGB) shall remain unaffected.
- 5.4 The CUSTOMER shall be entitled to offset claims to retention rights only insofar as the CUSTOMER's counterclaim is acknowledged, undisputed or determined in a legally binding judgement. If the delivery is defective the CUSTOMER's counterclaims remain unaffected.
6. Retention of Title
- 6.1 DENNERT retains title to the goods until receipt of full payment of the purchase price as well as the fulfilment of all other claims from current accounts.
- 6.2 The CUSTOMER shall be neither entitled to pledge the reserved goods nor to assign it as a security or to encumber it with third parties' rights. The CUSTOMER shall be obliged to immediately inform DENNERT about attachments or other impairments. The CUSTOMER shall be entitled to resell, connect or mix the reserved goods with other movable objects within its ordinary course of business unless it is not in default with payments. If DENNERT's title is lost due to connection or mixing the CUSTOMER shall be obliged to transfer coownership to DENNERT in consideration of the relation of the respective values of the objects connected or mixed.
- 6.3 The CUSTOMER shall be obliged to maintain DENNERT's retention of title if possible and hereby assigns the full purchase price claim against its purchaser to DENNERT or in the amount of the proportion of the co-ownership. DENNERT hereby accepts the assignment. After assignment, the CUSTOMER shall be entitled to collect the account receivable. DENNERT reserves the right to collect the account receivable itself if the CUSTOMER does not comply with its contractual payment obligation and is in default with payment. On the request of DENNERT, the CUSTOMER shall be obliged to state the names of its buyers and to provide DENNERT with all documents necessary to assert its rights.
- 6.4 If the CUSTOMER does not comply with its contractual obligations, especially in the event of non-payment of the purchase price, DENNERT shall be entitled to rescind the contract in accordance with the statutory provisions and to claim the return of the goods on the basis of the retention of title. If the CUSTOMER fails to pay the due purchase price, DENNERT shall only be entitled to assert the aforementioned rights if it has set a reasonable term for payment or if setting such a term is dispensable in accordance with statutory regulations.
- 6.5 If the realizable value of the given securities exceeds the secured claim of DENNERT by more than 10 % DENNERT shall be obliged, upon DENNERT's option, to release securities on the CUSTOMER's request.
7. Warranty
- 7.1 The CUSTOMER has to comply with its obligations to inspect and complain in accordance with sec. 377, 378 of the German Commercial Code ("HGB") to assert its warranty claims. The CUSTOMER shall be obliged to immediately inspect the goods after receipt without undue delay and to notify DENNERT of recognizable defects. The complaint shall only be deemed as without undue delay if it is made within 10 calendar days. The receipt of the complaint by DENNERT shall be deemed as solely relevant. If a defect is obviously

recognizable without prior inspection the CUSTOMER shall be obliged to notify DENNERT of a defect within 2 calendar days. If the CUSTOMER fails to properly inspect and/or to make a complaint the goods shall be deemed as accepted in any case.

- 7.2 The rejected goods shall not be used until DENNERT has inspected them. If the CUSTOMER processes, broaches or resells the delivered goods, it forfeits its right to complain with regard to the respective defect and to assert statutory claims resulting from the defect, provided that the CUSTOMER has not reserved its right to complain against DENNERT. If both parties cannot agree on the existence of a timely rejected defect an expert chosen by both parties shall decide whether or not the CUSTOMER is entitled to complain. If the parties are not able to make a common choice an expert of Landesgewerbeamt in Nuremberg shall decide.
- 7.3 If the warranty claims are not excluded according to the aforementioned provisions, the statutory regulations shall apply save as otherwise provided hereinafter.
- 7.4 If the delivered object is defective, DENNERT shall be obliged, upon DENNERT's option, to repair or to replacement of a defect-free good.
- 7.5 DENNERT shall be entitled to make supplementary performance owed conditional on the CUSTOMER's payment of the due purchase price. However, the CUSTOMER shall be entitled to retain a reasonable part of the purchase price with relation to the defect.
- 7.6 The CUSTOMER shall be obliged to grant DENNERT the time necessary and to give opportunity for the supplementary performance, especially to inspect the rejected goods. Therefore, the CUSTOMER shall be obliged to store the goods, taking into consideration the due diligence of a proper merchant and all storage instructions.
- 7.7 In the event of defects the CUSTOMER shall be entitled to claim for damages or compensation for additional expenses only in accordance with clause 8 of these GTC. Apart from that these claims shall be excluded.
8. Liability of DENNERT
- 8.1 DENNERT shall be liable for any damages, irrespective of the legal basis thereof, in case of intent and gross negligence. In the event of slight negligence and subject to a lenient standard of liability (e.g. diligence for own affairs) DENNERT shall be liable for
- a) Culpable damage to life, body or health and
- b) Damages based on the significant breach of DENNERT's fundamental contractual obligations (obligation, which has to be fulfilled to implement the contract and to which the contracting party commonly relies on and may rely on). In this event DENNERT's liability for damages shall be limited to the typically predictable damage.
- 8.2 The aforementioned exclusion of liability in clause 8.1 of these GTC shall also apply for breaches of obligations by third parties whose fault DENNERT has to represent according to statutory provisions. DENNERT shall not be liable for the fault of other persons. The aforementioned exclusion of liability in clause 8.1 of these GTC shall not apply to claims for damages under the German Product Liability Act ("ProdHaftG"), if DENNERT maliciously concealed any defect of the goods and if DENNERT accepts a quality guarantee.
9. Product information
- General information in price lists, brochures, recommendation, samplings etc. about the product PORAVER® and its characteristics shall only be deemed as an approximate information and contain nonbinding averages. Therefore, deviations shall not constitute a defect according to statutory provisions and do not result in compensation claims, provided that ordinary care was applied. Aforementioned provision shall apply particularly for weight tolerances of about 10 % plus/minus. This information shall only be binding if explicitly agreed as a contractual quality with the CUSTOMER.
10. Cargo securing



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DENNERT shall allocate a place intended and marked for cargo security. Cargo security shall be made on CUSTOMER's responsibility in accordance with the relevant statutory provisions, in particular DIN-, EN-, and VDI-directive 2700 et seq. for road vehicles. Besides, DENNERT indicates that the CUSTOMER needs a vehicle with constructions according to DIN EN 12642, Code XL to collect general cargo up.

11. Limitation

- 11.1 Contrary to sec. 438 par. 1 lit. 3 BGB the general limitation period is one year for all material defect claims and claims for defects of title. The limitation period starts with delivery.
- 11.2 Clause 11.1 of these GTC shall also apply for all contractual and non-contractual claims for damages of the CUSTOMER, which are based on a defect of the goods unless the application of the statutory period of limitation (sec. 195, 199 BGB) would lead to a shorter limitation period in an individual case. The CUSTOMER's claims for damages according to clause 8.1 of these GTC and the Product Liability Act become timebarred exclusively in accordance with the statutory period of limitation.

12. Compliance, Usage of the goods

The CUSTOMER shall be obliged to check before using PORAVER® to what extent it is permitted for its intended purpose. The CUSTOMER shall be obliged to obtain necessary authorizations (e.g. in accordance with building law and regulations, DIN-, production-, application and licensing-provisions) at its own charge and to comply with it. DENNERT shall not be liable for use restrictions due to statutory provisions insofar as DENNERT has not explicitly assured the non-existence of such restrictions.

13. Final provisions

- 13.1 The place of delivery or performance shall be DENNERT's premises at Schlüsselfeld, Postbauer-Heng or another site stated by DENNERT.
- 13.2 Exclusive place of jurisdiction for all disputes arising out of or in connection with the agreement which refers to these GTC (including those regarding its validity) shall be exclusively 96047 Bamberg, Germany. However, DENNERT shall be entitled to commence any litigation against the CUSTOMER at its residence or office.
- 13.3 The agreement which refers to these GTC shall be governed by the laws of the Federal Republic of Germany under exclusion of its law rules as well as the UN Convention on the International Sale of Goods (CISG).
- 13.4 If these GTC are made known to the CUSTOMER in another language the German version shall prevail in the event of any inconsistencies.
- 13.5 Should any provision of these GTC, or any provision incorporated into these GTC in the future, be or become invalid or unenforceable, the validity or enforceability of the other provisions of these GTC shall not be affected thereby.

