

# General Terms and Conditions of Sale

of the PORAVER group (valid from 14.06.2024)

## 1. General, Application

- 1.1 These General Terms and Conditions of Sale (hereinafter referred to as „GTC“) shall apply for all business transactions between PORAVER GmbH, PORAVER Besitz GmbH, PORAVER Service GmbH & Co. KG, PORAVER Forschungs GmbH (hereinafter referred to as “PORAVER”) 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 PORAVER 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 PORAVER. The most current version of these GTC is retrievable at [www.poraver.com/agb/](http://www.poraver.com/agb/).
- 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 PORAVER; these approval requirements shall apply in any case, for example also if PORAVER is aware of the CUSTOMER’s GTC and performs without reservation.
- 1.5 To clarify, PORAVER points out that individual agreements with the CUSTOMER prevail over these GTC. Subject to proof to the contrary, a written contract or PORAVER’s written confirmation is decisive for the content of such agreements.
- 1.6 Declarations and notifications of legal relevance by the CUSTOMER with regard to the contract (e.g. setting of deadlines, notification of defects, revocation or reduction) shall be made in writing, i.e. in written or text form (e.g. letter, e-mail, fax). Legal formal requirements and further proof, in particular in case of doubts about the legitimacy of the declaring party, shall remain unaffected.
- 1.7 References to the applicability of statutory provisions shall only have a clarifying significance. Therefore, even without such clarification, the statutory provisions shall apply, unless they are directly modified or expressly excluded in these GTC.

## 2. Conclusion of Contract

- 2.1 Offers shall be nonbinding, including the delivery amount, delivery period and the price, PORAVER 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 PORAVER 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 PORAVER shall be entitled to accept this offer within two weeks, beginning with its receipt by PORAVER, by a written order confirmation or by delivery of the goods to the CUSTOMER.

## 3. Delivery Time, Default of Acceptance by the CUSTOMER

- 3.1 The delivery time is agreed upon individually or is specified by PORAVER upon acceptance of the order. A fixed-date transaction is only established if this is expressly agreed upon.
- 3.2 The occurrence of a default in delivery on the part of PORAVER is determined in accordance with the statutory provisions. Without a prior warning notice - which is required in any case - PORAVER is not, however, in default of delivery. If PORAVER is in default of delivery, the CUSTOMER can demand a lump-sum compensation for the damage caused by the delay. The lump-sum compensation amounts to 0.5% of the net price (delivery value) for each completed calendar week of the delay, but in total not more than 5% of the delivery value of the goods delivered late. PORAVER reserves the

right to prove that the CUSTOMER has not suffered any damage at all or that the damage is substantially less than the above lump-sum.

- 3.3 If PORAVER cannot meet binding delivery deadlines for reasons for which PORAVER is not responsible (unavailability of performance), PORAVER shall inform the CUSTOMER of this without undue delay and at the same time notify the CUSTOMER of the expected new delivery deadline. If the performance is also not available within the new delivery period, PORAVER is entitled to revoke the contract in whole or in part; PORAVER shall immediately refund any consideration already paid by the CUSTOMER. A case of non-availability of the performance in this sense is in particular the non-timely self-delivery by a supplier of PORAVER, if PORAVER has concluded a congruent hedging transaction, neither PORAVER nor the CUSTOMER is at fault, or PORAVER is not obligated to procure in the individual case.
  - 3.4 If the CUSTOMER is in default of acceptance, fails to perform an act of cooperation, or if PORAVER’s delivery is delayed for other reasons for which the CUSTOMER is responsible, PORAVER is entitled to claim compensation for the resulting damages, including additional expenses (e.g. storage costs). The lump-sum compensation amounts to 0.5% of the net contract volume per completed calendar week, but not more than 5% of the net contract volume, beginning with the delivery deadline or - in the absence of a delivery deadline - with the notification that the goods are ready for shipment. PORAVER reserves the right to prove higher damages and to assert legal claims (in particular, compensation for additional expenses, reasonable compensation, termination); in any case, the lump-sum is to be credited against further monetary claims. The CUSTOMER is entitled to prove that PORAVER has suffered no damage at all or that the damage is significantly less than the above lump-sum.
  - 3.5 If the CUSTOMER definitively refuses to fulfil the contract before he is in default of acceptance, PORAVER is entitled to demand a lump sum compensation for expenses in the amount of EUR 250 plus VAT. PORAVER reserves the right to prove higher damages and to assert legal claims; in any case, the lump sum is to be credited against further monetary claims. The CUSTOMER is entitled to prove that PORAVER has suffered no loss at all or that the loss is substantially less than the above lump sum.
  - 3.6 The rights of the CUSTOMER according to clause 8 of these GTC and the statutory rights of PORAVER, in particular in the case of an exclusion of the obligation to perform (e.g. due to impossibility or unreasonableness of performance and/or cure), remain unaffected.
- ## 4. Delivery, Passing of Risk and Acceptance
- 4.1 Deliveries and passing of risk, unless otherwise agreed between PORAVER and the CUSTOMER, are made EXW (Incoterms 2020) from PORAVER’s plant location in Schlüsselfeld, Postbauer-Heng, or from another place of delivery named by PORAVER. Insofar as an acceptance has been agreed, this shall be decisive for the transfer of risk. In all other respects, the statutory provisions of the law on contracts to produce a work shall also apply mutatis mutandis to an agreed acceptance. The delivery or acceptance shall be deemed equivalent if the CUSTOMER is in default of acceptance.
  - 4.2 The CUSTOMER is obliged to return packaging materials that are not exclusively suited for single use (“reusable transport packaging“) to PORAVER at his own expense. For reusable transport packaging, PORAVER can charge a deposit in an appropriate amount.
  - 4.3 The receipt of the goods shall be confirmed by the CUSTOMER, stating the day and hour.
  - 4.4 Partial deliveries are permissible to an extent that is reasonable for the CUSTOMER, in particular if the partial delivery is usable for the

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- CUSTOMER within the scope of the contractual intended purpose, the delivery of the remaining ordered goods is ensured and the CUSTOMER does not incur significant additional expenses or costs as a result.
- 4.5 PORAVER reserves the right to make customary deviations in the delivery items, provided that they do not unreasonably affect the CUSTOMER, do not affect the usability of the goods, and are caused by important operational requirements of PORAVER.
- 4.6 PORAVER reserves the right to make customary deviations in the delivery items, provided that they do not unreasonably affect the customer, do not affect the usability of the goods and are caused by important operational requirements of PORAVER.
- 4.7 If PORAVER undertakes the delivery in deviation from clause 4.1 and if silo vehicles are used for the delivery, these shall be cleaned dry before loading, unless otherwise agreed between PORAVER and the customer.
5. Prices and Terms of Payment
- 5.1 Unless otherwise agreed in individual cases, the list prices of PORAVER valid at the time of the conclusion of the contract shall apply. Prices are understood to be in EURO on the basis of delivery EXW (INCOTERMS 2020) from PORAVER's plant in Schlüsselfeld, Postbauer-Heng, and Innisfil (Ontario) in Canada or another place of delivery designated by PORAVER, plus packaging and the respective statutory value-added tax, in the case of export deliveries plus customs duties as well as fees and other public charges. Invoicing is based on delivery weight, the packaging weight (big bag and pallets) shall be deducted from the delivery weight.
- 5.2 The purchase price is due and payable within 30 days of invoicing and delivery or acceptance of the goods. If the CUSTOMER makes payment within 10 days, PORAVER grants him a 2% discount. Discounts are not granted if the CUSTOMER is in default with the payment of previous invoices. PORAVER is not obliged to accept bills of exchange and/or checks. If PORAVER accepts bills of exchange and/or checks, this is done on account of performance. If, after the conclusion of the contract, it becomes apparent (e.g., through an application for the opening of insolvency proceedings) that PORAVER's claim to the purchase price is jeopardized through the CUSTOMER's lack of ability to perform, PORAVER is entitled, in accordance with the statutory provisions, to refuse performance and - if necessary, after setting a reasonable period of time - to withdraw from the contract (sec. 321 BGB). In the case of contracts for the production of unjustifiable items (custom-made products), PORAVER can declare the revocation immediately; the legal regulations concerning the dispensability of setting a period of time remain unaffected. In the case of contracts for the production of unjustifiable goods (custom-made products), PORAVER can declare the revocation immediately; the legal regulations concerning the dispensability of setting a period of time remain unaffected. PORAVER is entitled at any time, even within the framework of an ongoing business relationship, to make a delivery in whole or in part only against advance payment. PORAVER declares a corresponding reservation at the latest with the order confirmation.
- 5.3 Upon expiry of the aforementioned payment deadline, the CUSTOMER shall be in default without reminder. During the period of default, the purchase price is subject to interest at the applicable statutory default interest rate. PORAVER reserves the right to claim further damages for delay. With respect to merchants, PORAVER's claim to the commercial due date interest rate (sec. 353 German Commercial Code "HGB") remains unaffected.
- 5.4 The CUSTOMER shall only be entitled to rights of set-off or retention insofar as his claim has been finally and non-appealable established or is uncontested. In the event of defects in the goods delivered, the CUSTOMER's counter rights shall remain unaffected, in particular in accordance with clause 7.5 sentence 2 of these GTC.
6. Retention of Title
- 6.1 PORAVER retains title to the goods sold until all present and future claims of PORAVER arising from the contract of sale and from an ongoing business relationship (secured claims) have been paid completely.
- 6.2 The goods subject to retention of title may not be pledged to third parties or assigned as security before full payment of the secured claims. The CUSTOMER shall inform PORAVER immediately in writing if an application is made to open insolvency proceedings or if third parties (e.g. seizures) seize the goods belonging to PORAVER.
- 6.3 In the event of a breach of contract by the CUSTOMER, in particular in the event of non-payment of the purchase price due, PORAVER is entitled to revoke the contract in accordance with the statutory provisions and/or to demand the return of the goods on the basis of the retention of title. The demand for the return of the goods does not at the same time imply a declaration of revocation of the contract; PORAVER is entitled only to demand the return of the goods and to reserve the right to revoke the contract. If the CUSTOMER does not pay the due purchase price, PORAVER may only assert these rights if PORAVER has first unsuccessfully set the CUSTOMER a reasonable deadline for payment or if such a deadline is dispensable according to the statutory provisions.
- 6.4 Until this authorisation is withdrawn in accordance with clause 6.4. c) below, the CUSTOMER shall be entitled to resell and/or process the goods subject to retention of title in the ordinary course of business. In this case, the following provisions shall apply complementary.
- a) The retention of title extends to the full value of the products resulting from the processing, mixing, or combining of PORAVER's goods, in which case PORAVER is deemed to be the manufacturer. If, in the case of processing, mixing, or combining with goods of third parties, their right of title remains, PORAVER obtains co-ownership in proportion to the invoice values of the processed, mixed, or combined goods. In all other respects, the same applies to the resulting product as to the goods delivered under retention of title.
- b) The CUSTOMER hereby assigns to PORAVER by way of security all claims against third parties arising from the resale of the goods or the product, in whole or if applicable, in the amount of PORAVER's co-ownership share according to clause 6.4 a). PORAVER accepts the assignment. The obligations of the CUSTOMER set forth in clause 6.2 also apply with respect to the assigned claims.
- c) The CUSTOMER remains authorised to collect the claim in addition to PORAVER. PORAVER undertakes not to collect the claim as long as the CUSTOMER meets his payment obligations to PORAVER, there is no inability to perform and PORAVER does not assert the retention of title by exercising a right according to clause 6.3. If this is the case, however, PORAVER can demand that the CUSTOMER disclose to PORAVER the assigned claims and their debtors, give PORAVER all the information necessary for collection, hand over the relevant documents and inform the debtors (third parties) of the assignment. In addition, PORAVER is entitled in this case to withdraw the CUSTOMER's authority to further sell and process the goods subject to retention of title.
- d) If the realisable value of the securities exceeds PORAVER's claims by more than 10%, PORAVER shall, at the CUSTOMER's request, release securities at PORAVER's choice.
7. Warranty Rights
- 7.1 The CUSTOMER's rights to claim for defects presuppose that the

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- CUSTOMER has fulfilled its statutory obligations to inspect the goods and give notice of defects (sec. 377, 381 HGB). In the case of building materials and other goods intended for installation or other further processing, an inspection shall in any case take place immediately before processing. If a defect becomes apparent upon delivery, inspection, or at any time thereafter, PORAVER shall be notified thereof in writing without undue delay. The CUSTOMER shall examine the goods immediately upon receipt and notify PORAVER in writing of any recognisable defects. In any case, obvious defects are to be noticed in writing within 10 calendar days after delivery, and defects that are not visible during the inspection are to be noticed within the same period after detection. In all cases, the date of receipt of the notice of defect by PORAVER is decisive. In the case of a defect which is obviously recognisable without prior examination, the CUSTOMER is obliged to notify PORAVER of the defect within 2 calendar days. If the CUSTOMER fails to perform the proper examination and/or to give notice of the defect, PORAVER's liability for the defect not notified or not notified in time or not notified properly is excluded according to the statutory provisions. In the case of goods intended for installation or processing, this shall also apply if the defect only became apparent after the corresponding processing as a result of the breach of one of these obligations; in this case, in particular, the Buyer shall have no claims for reimbursement of corresponding costs ("removal and installation costs").
- 7.2 The CUSTOMER shall refrain from processing the goods that are the subject of the notice of defects until PORAVER has inspected them. If the CUSTOMER further processes the delivered goods, breaks them or sells them, the CUSTOMER loses any right to complain about the respective defect and the resulting claims for compensation, unless the CUSTOMER declares a reservation of the complaint to PORAVER. In the event of disagreement as to the existence of a defect notified in time, an expert to be appointed jointly by the CUSTOMER and PORAVER shall decide on the justification of the defect. If no agreement can be reached on this, an expert from the "Landesgewerbeamt" in Nuremberg shall decide.
- 7.3 Insofar as the claims for defects should not be excluded in accordance with the above paragraphs, the statutory provisions shall apply unless otherwise stipulated below. In all cases, the special statutory provisions remain unaffected in the case of final delivery of the unprocessed goods to a consumer, even if the consumer has processed them further (supplier recourse pursuant to sec. 478 BGB). Claims from supplier recourse are excluded if the defective goods have been further processed by the CUSTOMER or another entrepreneur, e.g. by installation in another product.
- 7.4 If the goods delivered are defective, PORAVER is obliged, at its option, to remedy the defect or to supply goods free from defects. PORAVER's right to refuse cure under the statutory requirements remains unaffected. The cure does not include the removal of the defective goods or the re-installation if PORAVER was not originally obliged to install the goods. Claims of the buyer for reimbursement of corresponding costs ("removal and installation costs") remain unaffected.
- 7.5 PORAVER is entitled to make the cure owed upon the condition that the CUSTOMER pays the purchase price due. The CUSTOMER is, however, entitled to retain a part of the purchase price that is reasonable in relation to the defect.
- 7.6 The CUSTOMER shall give PORAVER the time and opportunity necessary for the cure owed and, in particular, allow PORAVER to examine the goods which are the subject of the complaint. For this purpose, the CUSTOMER shall store the goods with the care of a prudent businessman and in compliance with the storage instructions. If the goods have been consumed, a sample of the goods complained of shall be kept and handed over to PORAVER.
- 7.7 PORAVER shall bear or reimburse the expenses necessary for the purpose of inspection and cure, in particular transport, travel, labour and material costs, as well as dismantling and installation costs, if any, in accordance with the statutory provisions, if there is actually a defect. Otherwise, PORAVER can demand reimbursement from the CUSTOMER of the costs incurred as a result of the unjustified request to cure the defect (in particular inspection and transport costs), unless the lack of defectiveness was not apparent to the CUSTOMER.
- 7.8 Claims of the CUSTOMER for damages or reimbursement of futile expenses shall also exist in the case of defects only in accordance with clause 8 and clause 11 and are apart from that excluded.
8. Other Liability of PORAVER
- 8.1 Unless otherwise provided in these GTC including the following provisions, PORAVER is liable for a breach of contractual and non-contractual obligations in accordance with the statutory provisions.
- 8.2 PORAVER is liable for damages - regardless of the legal grounds - within the scope of fault liability in the case of intent and gross negligence. In the case of ordinary negligence, PORAVER is liable, subject to legal limitations of liability (e.g. for care in own affairs; insignificant breach of duty), according to statutory provisions only
- a) for damages arising from injury to life, limb or health, and
- b) for damages resulting from the breach of an essential contractual obligation (obligation, the fulfilment of which makes the proper execution of the contract possible in the first place and on the fulfilment of which the contractual partner regularly relies and may rely); in this case, however, PORAVER's liability is limited to the compensation of the foreseeable, typically occurring damages.
- 8.3 The limitations of liability arising from clause 8.2 also apply to breaches of duty by or in favour of persons for whose fault PORAVER is responsible according to statutory provisions. They do not apply insofar as PORAVER has fraudulently concealed a defect or has assumed a guarantee for the quality of the goods and for claims under the Product Liability Act.
- 8.4 Because of a breach of duty that does not consist in a defect, the CUSTOMER may only revoke from or terminate the contract if PORAVER is responsible for the breach of duty. In all other respects, the statutory provisions and legal consequences apply.
9. Weight Tolerances
- Weight tolerances of plus/minus 10% do not constitute a defect within the meaning of warranty law and do not give rise to claims for compensation.
10. Load Safety
- PORAVER shall provide the CUSTOMER with a place designated and marked for securing the load. The load shall be secured at the CUSTOMER's responsibility in accordance with the relevant legal provisions, in particular in accordance with German DIN, EN and VDI Guidelines 2700 ff. for road vehicles. PORAVER also points out that a vehicle with superstructures in accordance with DIN EN 12642, Code XL is required for the collection of general cargo by the CUSTOMER.
11. Limitation
- 11.1 In deviation from sec. 438 para. 1 no. 3 BGB, the general limitation period for claims arising from material defects and defects of title shall be one year from delivery. Insofar as acceptance has been agreed, the limitation period shall commence upon acceptance.
- 11.2 Where the goods are a building or a thing that has been used for a

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building in accordance with the normal way in which it is used and has resulted in its defectiveness (building material), the limitation period shall be 5 years from delivery in accordance with the statutory provision (sec. 438 para. 1 no. 2 BGB). Other special statutory provisions on the limitation period (in particular sec. 438 para. 1 no. 1, para. 3, sec. 444, 445b BGB) also remain unaffected.

- 11.3 The above periods of limitation under the law on sales also apply to contractual and non-contractual claims for damages by the CUSTOMER based on a defect in the goods, unless the application of the regular statutory period of limitation (sec. 195,199 BGB) would lead to a shorter period of limitation in individual cases. However, the CUSTOMER's claims for damages under section 8.2 sentence 1 and sentence 2 a) as well as under the Product Liability Act shall become statute-barred exclusively in accordance with the statutory limitation periods.
12. Compliance, Use of Goods  
The CUSTOMER is obliged to check before the use/application of all products (e.g. PORAVER<sup>®</sup>, poraSpheres<sup>®</sup>, poraComp<sup>®</sup>, Metapor<sup>®</sup>, Extover<sup>®</sup>) to what extent it is permissible for its intended use. If approvals or similar are required for this (e.g. according to Federal Building Code, building regulations, DIN-, production-, application-, approval-regulations), the CUSTOMER shall obtain and observe these himself at its own expense before use. PORAVER is not responsible for restrictions of use imposed by regulations, unless PORAVER has expressly assured that they do not exist.
13. Final Provisions
  - 13.1 The place of performance is PORAVER's location in Schlüsselfeld, Postbauer-Heng or another place of delivery named by PORAVER.
  - 13.2 The exclusive place of jurisdiction - including international jurisdiction - for all disputes arising out of or in connection with the agreement referring to the GTC is 96047 Bamberg, Germany. However, PORAVER is also entitled in all cases to bring an action at the place of performance of the delivery obligation according to these GTC or a prior individual agreement or at the CUSTOMER's general place of jurisdiction. Overriding statutory provisions, in particular regarding exclusive jurisdiction, remain unaffected.
  - 13.3 The agreement referring to the GTC shall be governed exclusively by the laws of the Federal Republic of Germany, excluding international uniform law and the "United Nations Convention on Contracts for the International Sale of Goods" (CISG).
  - 13.4 For versions of these GTC in other languages, the German version shall prevail in the event of differences in linguistic or content with the German version of these GTC.
  - 13.5 If any provision of these GTC or any provision within the scope of other agreements is or becomes invalid, the validity of all other provisions or agreements shall not be affected by this.