

GENERAL TERMS & CONDITIONS OF SALE AND DELIVERY

1. General

- 1.1 These General Terms and Conditions of Commercial Sale and Delivery ("**GTC**") of Holitech Europe GmbH ("**Seller**") apply to and form an integral part of all our offers and quotations, all our acceptances and confirmations of any orders and requests by you as customer of Seller ("**Customer**"), and any (purchase) agreements regarding the sale and delivery of all Seller's products ("**Products**").
- 1.2 By contracting on the basis of these GTC, you agree to the applicability thereof in respect of future agreements between us.
- 1.3 We shall be entitled to amend these GTC regularly, and by (and as of the moment of) notifying you of such amendment or by sending you the amended GTC, these revised GTC shall apply to all future dealings between us.
- 1.4 Any terms and conditions set forth in any document issued by you either before or after issuance of any document by us setting forth or referring to these GTC are hereby explicitly rejected, and any such terms shall not be binding in any way on us. Failure on our side to object to terms and conditions used by you shall in no event be construed as an acceptance thereof.
- 1.5 These GTC may only be varied or waived by written agreement, concluded by us or on behalf of us by a duly authorised representative. No other person shall have any authority on behalf of us to vary or waive these GTC in any respect or to agree to any additional terms or conditions.

2. Quotations, orders and confirmation

- 2.1 Quotations issued by us in whatever form are without any obligation, are not binding on us and merely constitute an invitation to you to place an order.
- 2.2 Your orders are not binding until accepted by us by means of an order confirmation, resulting in an individual sales agreement regarding the so ordered Products ("**Sales Agreement**"). We are always entitled to reject an order without indication of its reasons, or to accept an order under the condition of prepayment or collection at delivery.
- 2.3 Samples supplied to you are supplied solely for information purposes and in no way imply any express or implied conditions or warranties as to quality, description, fitness for purpose or merchantable quality, and you shall be deemed to have satisfied yourself as to such matters prior to ordering the Products.
- 2.4 Any of our offers are open for acceptance within the period stated in the offer or, when no period is stated, within ten days from the date of the offer.

3. Pricing

- 3.1 Prices in any offer, order confirmation or Sales Agreement are net prices, based on delivery condition FCA Hong Kong (as per ICC Incoterms, latest version), unless agreed otherwise in writing.
- 3.2 Our prices shall be the prices in effect at the time of order confirmation. Any volume discounts or other discounts or rebates will need to be expressly agreed in the relevant Sales Agreement.

4. Payment

- 4.1 Net payment is due within thirty days of the date of invoice unless agreed otherwise between us in writing. No discount is allowed for early payment. All payments shall be made without any deduction on account of any taxes. You may not set off any counterclaim unless it is undisputed or confirmed by a final judgment.
- 4.2 We reserve the right to withhold shipment for non-payment of earlier invoices and to make delivery in instalments, and all such instalments are to be separately invoiced and paid for when due per invoice, without regard to subsequent deliveries.
- 4.3 All deliveries of our Products shall at all times be subject to our credit approval. If, in our judgment, your financial condition at any time does not justify production or delivery of Products on the agreed or standard payment terms, we may require full or partial payment in advance or other payment terms as a condition to delivery.
- 4.4 In the event of any default by you in the payment of any prices or charges due, we will have the right to refuse performance and/or delivery of any Products and we may suspend, delay or cancel any credit, delivery or any other performance without any liability towards you. Such

right shall be in addition to, and not in lieu of, any other rights and remedies available hereunder, under the Sales Agreement or at law.

5. Delivery, inspection

- 5.1 Products shall be delivered on the basis of delivery condition FCA Hong Kong (as per ICC Incoterms, latest version), unless otherwise agreed in writing.
- 5.2 Delivery dates communicated or acknowledged by us are indicative only.
- 5.3 If you fail to take delivery of Products ordered or to call Products within the agreed shipping windows or delivery dates, then we may arrange, at our option, for carriage and physical delivery to you whereby you shall bear all risks of loss or damage to the Products from the time they have been placed at the disposal of the carrier nominated by us, or for storing the relevant Products at your risk at a location to be determined by us. Any agreed discounts and/or rebates regarding these Products shall not be applicable anymore. All costs related to the carriage, storage, handling, demurrage and administration of Products not accepted by you shall be for your account. Alternatively, we are entitled to terminate the Sales Agreement, and to sell and deliver the Products to a third party. In such case you are liable for any costs and damages suffered by us as a result of your non-acceptance.
- 5.4 Upon delivery we ask you to examine the Products and to satisfy yourself that the Products delivered meet all contractual requirements. Complaints about the quality of the delivered Products, as well as complaints regarding volume shortages or miss-shipments must be made in writing and must reach us not later than seven days from the date of physical delivery in respect of any defect which would be apparent from a reasonable inspection on delivery, but in no event later than one year from the date of delivery of the Products.
- 5.5 Failing such complaints, the quality and quantity specifications of the Products as stated on the waybills, transport documents, packing lists, invoices or other documents relating to the Products shall be deemed to be correct, and the Products shall be deemed to be delivered in accordance with all contractual requirements. Any complaints received by us after the periods stated above shall not have any legal consequence.
- 5.6 Defects regarding quantity or quality regarding parts of the Products do not entitle you to reject the entire delivery of the Products.
- 5.7 In the event of a defect or non-conformity you must return Products postage paid and accompanied by a written explanation of the alleged defect or non-conformity and a Return Merchandise Authorization number ("**RMA number**") which number shall be requested from us. This explanation shall state at least the date on which you have purchased the Products concerned, as well as the date and the number of the order and invoice concerned.

6. Transfer of risk and title

- 6.1 The risk of the Products shall pass from us to you upon delivery in accordance with the agreed delivery condition.
- 6.2 All Products delivered at any time shall remain our property until you have paid all your debts to us, including interest and costs.
- 6.3 Until further notice you are authorized to dispose of the Products under retention of title within the framework of your ordinary business operations. You herewith assign to us your claims resulting from your resale of the Products under retention of title.
- 6.4 In the event of non-performance of your obligations, and in case of your bankruptcy, we are entitled to reclaim or to have returned any Products from their current location, without the necessity of your authorisation. You will allow us unconditional and unlimited access to the Products under retention of title which are still in your possession and will send us a detailed list of the Products and their whereabouts.

7. Warranty and liability

- 7.1 Our obligation to repair, replace or credit shall be contingent upon receipt by us of your timely notice of any alleged non-conformity of Products and the return of the Products in accordance with Article 5 of these GTC.
- 7.2 Communications by or on behalf of us concerning the quality, composition, application possibilities, properties, handling in the widest sense, etc., of Products shall only be considered as warranties if they have been confirmed in writing in the form of a warranty.
- 7.3 In case of non-conformity of the Products, we are entitled to alternative performance in the form of subsequent improvement or delivery of conforming goods. Only if such alternative performance has failed, you are entitled to reduce the purchase price or to withdraw from the agreement.

- 7.4 All warranty claims shall become time-barred after twelve (12) months from the time when the risk has passed.
- 7.5 In case of intent or gross negligence on our part or by our agents or assistants in performance, we are liable according to the provisions of the applicable law; the same applies in case of breach of fundamental contract obligations. To the extent the breach of contract is unintentional, our liability for damages shall be limited to the damage which typically occurs and which is foreseeable.
- 7.6 Our liability for culpable damage to life, body or health as well as our liability under the Product Liability Act shall remain unaffected.
- 7.7 Any liability not expressly provided for in Article 7.5 and 7.6 shall be disclaimed.

8. Force majeure

- 8.1 We shall not be liable for any failure or delay in performance if such failure or delay results from interruptions in the manufacturing process of the Products, or if such failure or delay is caused by Force Majeure as defined below.
- 8.2 In case of a failure as set forth above, the performance of the relevant part(s) of the Sales Agreement will be suspended for the period such failure continues, without us being responsible or liable to you for any damage resulting therefrom.
- 8.3 The expression "**Force Majeure**" shall mean any circumstances or occurrences beyond our reasonable control – whether or not foreseeable at the time of the Sales Agreement – as a result of which we cannot reasonably be required to perform our obligations, and this includes, without limitation: acts of God, laws, statutes, ordinances, regulations, legislative measures, acts of governments or other administrative measures, trade sanctions, orders or decrees of any court, earthquake, flood, fire, explosion, war, terrorism, riot, sabotage, accident, epidemic, strike, lockout, slowdown, labour disturbances, difficulty in obtaining necessary labour or raw materials, lack of or failure of transportation, breakdown of plant or essential machinery, emergency repair or maintenance, breakdown or shortage of utilities, and delay in delivery or defects in Products supplied by our suppliers or subcontractors.

9. Intellectual property rights

- 9.1 The sale and delivery of Products to you implies the non-exclusive and non-transferable limited license to you under any of our intellectual property rights to use and resell the Products. You are authorised to use such intellectual property rights, but you may do so only for the purpose of identifying, advertising and promoting the Products within the scope of our contractual relationship, and within the scope of the Sales Agreement. Any such use must be in accordance with our instructions.
- 9.2 You agree not to register, or to have registered, any of our trademarks, trade names or symbols or any name or sign which is confusingly similar to any of our names or signs.
- 9.3 Your right to use our intellectual property rights shall cease immediately upon the expiration or termination, for any reason, of our contractual relationship.
- 9.4 If you become aware that any other person or company alleges that our intellectual property rights are invalid or that the sale or use of our Products infringes any rights of another party or that such rights are otherwise attacked or challenged, you must promptly give us particulars in writing thereof and you may make no comment or admission to any third party in respect thereof.
- 9.5 We shall defend, indemnify, and hold you harmless against any and all losses, damages, liabilities, costs, and expenses with respect to any claim or proceeding brought by any third party arising out of any alleged infringement or violation (a "Claim") of any patent, utility model or copyright in force in any EU Member State (including U.K.), provided that you give us written notice of the Claim, the ability to solely control the defense against the Claim, and you fully cooperate with us in the defense of such Claim. Our sole obligation under this Article 9.5 shall be to settle the Claim or judgement on the Claim in one of the following ways, at our sole option and expense: (a) procure for your right to continue to use the Product, (b) replace or modify the Product so that it becomes non-infringing but functionally equivalent, (c) grant the refund of the price paid for the individual units of the Product which are the subject of the Claim, depreciated over a five-year period on a straight line basis, upon return to us of such Product. This Article 9.5 shall not apply if the infringement is due to (a) the combination of the Product with other equipment to the extent that the Product alone would not have resulted in a Claim or infringement; (b) any modifications or alterations to the Product performed by anyone other than us; (c) use of the Product outside of the intended use; (d) continued use of the Product by you after receiving notice of an infringement Claim and being requested by us to cease such use or (e) failure on your side to replace the Product with a non-infringing

substitute provided by us. The foregoing Article 9.5 states our entire liability concerning infringement of intellectual property rights; all further liability shall be excluded.

10. Confidentiality

- 10.1 Both parties shall refrain at all times from disclosing to a third party any confidential information regarding our contractual relationship, the Sales Agreements, or with regard to other documents or information regarding our operations provided pursuant to these GTC or the Sales Agreements, or to use these for any purpose other than these GTC or the Sales Agreements or the fulfilment thereof, except:
- a. to the extent such is required by or pursuant to the law or by a competent authority, or;
 - b. to the extent such information is provided to a professional adviser in imposing on this party equivalent confidentiality obligations as set out in this article, and then only to the extent such disclosure serves legitimate purposes, or;
 - c. to the extent the information in question is already available to the general public, without any wrongful act on the part of any person or for which this person should reasonably have been expected to know that disclose thereof is wrongful.
- 10.2 Our confidential information is and will remain our property and contains all the information, both written and oral, recorded on data carriers or otherwise, which, due to its nature, must be considered confidential, all the information which is labelled confidential by or on behalf of us and all the other information which you should reasonably have known we consider confidential. Amongst others, our confidential information consists of its designs, Product specifications, intellectual property rights, knowhow, pricelists, customer files and data, and other confidential information regarding the Products.
- 10.3 Both parties shall impose equivalent confidentiality obligations on their employees and on third parties which are engaged by them and to only grant them access to that confidential information which is necessary to the execution of their respective work.

11. Governing law and jurisdiction

- 11.1 The parties' rights and obligations arising out of or in connection with the Sales Agreements and/or these GTC shall be governed, construed, interpreted and enforced according to the laws of the Federal Republic of Germany. The applicability of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded.
- 11.2 Parties shall first attempt to settle disputes arising out of or in connection with the Sales Agreements and/or these GTC through consultation and negotiation in good faith in a spirit of mutual cooperation. In case such disputes cannot be solved amicably, the parties agree that any suits, actions or proceedings arising out of or in connection with the Sales Agreements and/or these GTC shall be submitted to the exclusive jurisdiction of the competent court in Munich, Germany, without prejudice to our right to submit the relevant case to the court which would have jurisdiction if this provision had not been incorporated in the GTC. Nothing in this Article 11 shall be construed or interpreted as a limitation on our rights under applicable law for injunctive or other relief or to take any action to safeguard our possibility to have recourse on you.

12. Miscellaneous

- 12.1 Both parties are independent contractors, and the relationship created hereby shall not be deemed to be that of principal or agent.
- 12.2 Neither party may assign any of the rights or obligations under the Sales Agreement and/or these GTC without the prior written consent of the other party, provided however, that we may assign such rights and obligations, wholly or partly, to any of our parent companies, subsidiaries or affiliates.
- 12.3 Failure by us to enforce at any time any provision of these GTC shall not be construed as a waiver of our right to act or to enforce any such term or condition and our rights shall not be affected by any delay, failure or omission to enforce any such provision.
- 12.4 Termination of one or more of the rights and obligations of the parties, for whatsoever reason, shall not affect the provisions of these GTC which are intended to continue to have effect after such termination.
- 12.5 In the event that any provision of these GTC shall be held invalid or unenforceable, this shall not affect the validity or enforceability of any other provisions of these GTC. In the event that any provision of these GTC shall finally be determined to be unlawful or unenforceable, such provision shall be deemed severed from the GTC, but every other provision shall remain in full force and effect.