

1. Definitions and Interpretation

- 1.1. In these Terms & Conditions of Sale (these "CONDITIONS"):
 - SELLER means Wolfram Bergbau- und Hütten AG (registered in Austria under number FN 174652t)
 - CUSTOMER means the person who accepts a quotation of SELLER for the sale of the GOODS and whose order for the GOODS is accepted by SELLER.
 - GOODS means the goods, articles, products, materials and/or items (if any) (including any instalment or samples of the GOODS or any parts for them) which SELLER is to supply in accordance with these CONDITIONS.
 - CONDITIONS means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in WRITING between the CUSTOMER and SELLER.
 - CONTRACT means the CONTRACT for the purchase and sale of the GOODS (here included the Purchase Order).
 - WRITING includes facsimile transmission, email and comparable means of communication.
- 1.2. Any reference in these CONDITIONS to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.
- 1.3. The headings in the CONDITIONS are for convenience only and shall not affect their interpretation.

2. Offer and Acceptance

- 2.1. Unless otherwise stated by SELLER, or previously withdrawn, every tender or offer from SELLER is open for acceptance during the period of 30 days from the date upon which it is submitted.
- 2.2. Acceptance of a tender or offer made by SELLER must be in WRITING and accompanied by sufficient information to enable SELLER to proceed with the order forthwith.

3. Basis of the Sale

- 3.1. SELLER shall sell and the CUSTOMER shall purchase the GOODS in accordance with any written quotation of SELLER which is accepted by the CUSTOMER, or any written order of the CUSTOMER, which is accepted by SELLER, subject in either case to these CONDITIONS, which shall govern the CONTRACT to the exclusion of any other terms and conditions.
- 3.2. No variation to these CONDITIONS shall be binding unless agreed in WRITING between the authorised representatives of the CUSTOMER and SELLER.
- 3.3. SELLER's employees or agents are not authorised to make any representations concerning the GOODS unless confirmed by SELLER in WRITING.
- 3.4. Any typographical, clerical or other error or omission in any sales documentation, quotation, price list, acceptance of offer, invoice or other document or information issued by SELLER shall be subject to correction without any liability on the part of SELLER.

4. Orders and Specifications

- 4.1. The CUSTOMER shall be responsible to SELLER for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the CUSTOMER, and for giving SELLER any necessary information relating to the GOODS within a sufficient time to enable SELLER to perform the CONTRACT in accordance with its terms.
- 4.2. The quantity, quality and description of and any specifications for the GOODS shall be those set out in SELLER's quotation (if accepted by the CUSTOMER) or the CUSTOMER's order (if accepted without amendment by SELLER).
- 4.3. If the GOODS are to be manufactured in accordance with a specification submitted by the CUSTOMER, the CUSTOMER shall indemnify SELLER against any claim for infringement of any patent, copyright, design, trademark or other industrial or intellectual property rights of any other person which results from SELLER's use of the CUSTOMER's specification.

5. Price of the GOODS

- 5.1. The price of the GOODS shall be SELLER's quoted price. All prices quoted are valid for 30 days only or until earlier acceptance by the CUSTOMER.
- 5.2. SELLER reserves the right, by giving notice to the CUSTOMER at any time before delivery, to increase the price of the GOODS to reflect any increase in the cost to SELLER which is due to any factor beyond the control of SELLER, any change in delivery dates, quantities or specifications for the GOODS which is requested by the CUSTOMER, or any delay caused by any instructions of the CUSTOMER or failure of the CUSTOMER to give SELLER adequate information or instructions.
- 5.3. The price is exclusive of any applicable value added tax, which (if payable) the CUSTOMER shall be additionally liable to pay to SELLER.

6. Terms of Payment

- 6.1. Subject to any special terms agreed in WRITING between the CUSTOMER and SELLER, SELLER shall be entitled to invoice the CUSTOMER for the price of the GOODS on or at any time after dispatch of the GOODS.

- 6.2. The CUSTOMER shall pay the price of the GOODS (without any deduction) within 30 days of the date of SELLER's invoice. The time of payment of the price shall be of the essence of the CONTRACT. Receipts for payment will be issued only upon request.
- 6.3. If the CUSTOMER fails to make any payment on the due date then, without prejudice to any other right or remedy available to SELLER, SELLER shall be entitled to:
 - a) cancel the CONTRACT or suspend any further deliveries to the CUSTOMER; and
 - b) charge the CUSTOMER interest (both before and after any judgement) on the amount unpaid, at the rate of 4% per cent per annum above ECB base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

7. Delivery

- 7.1. Time for delivery shall not be of the essence of the CONTRACT unless previously agreed by SELLER in WRITING. The GOODS may be delivered by SELLER in advance of the quoted delivery date upon giving reasonable notice to the CUSTOMER. Notwithstanding any specified time for delivery, delivery may be made by instalments at the discretion and convenience of SELLER.
- 7.2. If the CUSTOMER fails to fulfil its obligations or any of them within a reasonable time with regard to the supply of all necessary particulars import licences advance payments and letter of credit or if the CONTRACT is altered or in any way varied by it or if in any other way it causes or contributes to any delay in the completion of the CONTRACT SELLER may postpone the time for delivery to the extent that this is reasonable having regard to any of the aforesaid causes.
- 7.3. In the case of a delay exceeding one calendar month by reason of any failure as aforesaid by the CUSTOMER, SELLER shall be entitled wholly or in part to cancel the CONTRACT but with the right to recover damages in respect of any loss (including loss of profit) which it may suffer as a result.
- 7.4. The CUSTOMER shall accept delivery of the GOODS in accordance with the CONTRACT and shall not be entitled to refuse delivery.
- 7.5. SELLER shall have a lien on the GOODS in respect of all monies due to SELLER.

8. Risk and Property

- 8.1. Risk of damage to or loss of the GOODS shall pass to the CUSTOMER at the time of delivery or, if the CUSTOMER wrongfully fails to take delivery of the GOODS, the time when SELLER has tendered delivery of the GOODS, but the property in the GOODS shall not pass to the CUSTOMER until SELLER has received in cash, or cleared funds, payment in full of the price of the GOODS.
- 8.2. Until such time as the property in the GOODS passes to the CUSTOMER (and provided the GOODS are still in existence and have not been resold), SELLER shall be entitled at any time to take back the GOODS from the CUSTOMER and the CUSTOMER shall deliver the GOODS to SELLER.
- 8.3. The CUSTOMER shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the GOODS which remain the property of SELLER, but if the CUSTOMER does so all moneys owing by the CUSTOMER to SELLER shall (without prejudice to any other right or remedy of SELLER) forthwith become due and payable.
- 8.4. Any and all intellectual property rights (including but not limited to know-how, trade secrets, drawings and technical information) ("IPR") owned or controlled by either CUSTOMER or SELLER (or its affiliates) prior to the entering into force of any CONTRACT, or generated or acquired by either party (or its affiliates) at any time subsequently thereto, supplied by either party to the other party related to the GOODS and/or the performance of a CONTRACT, shall remain the property of the supplying party and may only be used by the receiving party for the intended purpose and fulfilment of the CONTRACT and may not by the receiving party be disclosed to third parties, reproduced or improperly used. No CONTRACT entail any transfer of ownership of IPR. Any development or transfer of IPR shall be subject to separate agreement.

9. Inspection of GOODS

- 9.1. GOODS shall be deemed to have been accepted by the CUSTOMER as being in conformity with the CONTRACT (including as regards any claim for loss, shortages or damages in transit) if after 5 days from delivery of the GOODS (or such longer period as is specified by SELLER in WRITING) the CUSTOMER fails to notify SELLER in WRITING specifying the nature and extent of the fault. If the CUSTOMER does not lodge a complaint within the stated period it shall forfeit the right to make any monetary claims against SELLER save as otherwise allowed by these CONDITIONS.
- 9.2. The CUSTOMER shall be solely responsible for ensuring that the GOODS ordered and received are fit for the purpose (or purposes) for which they are required and SELLER shall be under no obligation or liability whatsoever in that respect.
- 9.3. Without prejudice to the foregoing, SELLER shall be under no obligation or liability in respect of any defect in the GOODS arising from fair wear and tear, wilful damage, negligence, abnormal working CONDITIONS, failure to follow SELLER's written instructions, misuse or alteration of the GOODS.
- 9.4. Any claim made by the CUSTOMER regarding any fault in the GOODS which has been caused by damage during transportation carried out by an independent carrier, shall be directed to the carrier. SELLER shall not be liable.



10. Warranties and Liability
- 10.1. Subject to the conditions set out below SELLER warrants that the GOODS will correspond with their specification at the time of dispatch from SELLER.
- 10.2. The above warranty is given by SELLER subject to the following conditions:
- SELLER shall be under no liability in respect of any defect in the GOODS arising from any drawing, design or specification supplied by the CUSTOMER;
 - SELLER shall be under no liability if the total price for the GOODS has not been paid by the due date for payment.
- 10.3. Any claim by the CUSTOMER which is based on any defect in the quality or condition of the GOODS or their failure to correspond with specification shall be notified to SELLER within 5 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If the CUSTOMER does not notify SELLER accordingly, the CUSTOMER shall not be entitled to reject the GOODS and SELLER shall have no liability for such defect or failure, and the CUSTOMER shall be bound to pay the price as if the GOODS had been delivered in accordance with the CONTRACT.
- 10.4. Where any valid claim in respect of any of the GOODS which is based on any defect in the quality or condition of the GOODS or their failure to meet specification is notified to SELLER in accordance with these CONDITIONS, SELLER shall be entitled to replace the GOODS (or any part thereof in question) free of charge, or at SELLER's sole discretion, refund to the CUSTOMER the price of the GOODS (or a proportionate part of the price), but SELLER shall have no further liability to the CUSTOMER.
- 10.5. Except in respect of death or personal injury caused by SELLER's negligence, SELLER shall not be liable to the CUSTOMER by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the CONTRACT, for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of SELLER, its employees or agents or otherwise) which arise out of or in connection with the supply of the GOODS or their use or resale by the CUSTOMER, and the entire liability of SELLER under or in connection with the CONTRACT shall not exceed the price of the GOODS, except as expressly provided in these CONDITIONS.
- 10.6. SELLER shall not be liable to the CUSTOMER or be deemed to be in breach of the CONTRACT by reason of any delay in performing, or any failure to perform, any of SELLER's obligations in relation to the GOODS, if the delay or failure was due to any cause beyond SELLER's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond SELLER's reasonable control:
- Explosion, flood, tempest, fire, pandemic or accident, war or threat of war, sabotage, insurrection, civil disturbance or requisition;
 - acts, restrictions, trade restrictions, regulations, by-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
 - import or export regulations or embargoes;
 - strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of SELLER or of a third party);
 - difficulties in obtaining raw materials, labour, fuel, parts or machinery; or
 - other failure or breakdown in machinery not attributed to the negligence of the SELLER.
11. Global Trade Compliance and End Use/User Assurance
- 11.1. For the purpose of this CONDITIONS "Global Trade Laws and Regulations" means customs, import, export, re-export, trade control and economic or financial sanctions laws, regulations and orders, always including such laws, regulations and orders of the UN, US, EU and UK, but also, as applicable, such laws, regulations and orders of any country in which the GOODS are manufactured, received, used, exported from, imported to, or as otherwise applicable.
- 11.2. For the purpose of this CONDITIONS "Prohibited Countries" means Afghanistan, Belarus, Iran, North Korea, Russia, Syria, Crimea and non-government controlled areas of the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts of Ukraine. SELLER reserves the right to amend the list of Prohibited Countries by written notice to the CUSTOMER.
- 11.3. For the purpose of this CONDITIONS "Listed Person" means any person or entity, specially designated, blocked or otherwise individually listed or targeted under Global Trade Laws and Regulations.
- 11.4. The CUSTOMER represents and warrants that:
- none of the CUSTOMER, its affiliates, or any of their respective officers or directors, is a Listed Person, or is owned to 50 % or more, directly or indirectly, individually or in the aggregate, or is otherwise controlled by one or more, Listed Person(s);
 - the CUSTOMER has not engaged in, is not engaging in, and will not engage in any business involving a Listed Person, or any entity owned to 50% or more, directly or indirectly, individually or in the aggregate, or otherwise controlled by one or more, Listed Person(s); and
 - the CUSTOMER has not engaged in, is not engaging in, and will not engage in any transaction that circumvents, evades, or avoids, or has the purpose or effect of circumventing, evading, or avoiding, or attempts to violate, any Global Trade Laws and Regulations.
- 11.5. The CUSTOMER hereby agrees to observe and comply fully, and use the GOODS in full compliance, with all Global Trade Laws and Regulations. The CUSTOMER agrees that no GOODS provided by SELLER shall be, directly or indirectly, sold, exported, re-exported, transferred, retransferred or otherwise released or disposed to any person or entity, legal or natural, in breach of Global Trade Laws and Regulations. The CUSTOMER shall not take any actions in furtherance of this CONDITIONS that would cause SELLER to violate any Global Trade Laws and Regulations to which SELLER is subject.
- 11.6. Without limitation to the generality of the foregoing, the CUSTOMER shall not, directly or indirectly, sell, export, re-export, transfer, retransfer or otherwise release or dispose any GOODS:
- without securing all licenses and/or authorizations necessary under the Global Trade Laws and Regulations from the relevant governmental authority;
 - to, or for the benefit of, a Listed Person;
 - to, via, or otherwise for use in, Prohibited Countries;
 - for any purpose connected with chemical, biological or nuclear weapons, or missiles capable of delivering such weapons, or for any nuclear explosive or unsafeguarded nuclear fuel cycle activity; or
 - for military end-use or to a military end-user, including military intelligence end-uses and end-users, without obtaining SELLER'S prior approval.
- 11.7. The CUSTOMER shall impose the obligations above in this Section in all subsequent transactions involving the GOODS. Further, the CUSTOMER shall establish and maintain adequate internal controls and mechanisms to (i) detect conduct by third parties in its downstream commercial chain, including possible resellers, that violates, or frustrates the purpose of, Global Trade Laws and Regulations; and (ii) ensure it obtains sufficient knowledge about end-user to determine whether for each CONTRACT, the GOODS, could be destined for an end-use which is not permitted under this CONDITIONS.
- 11.8. The CUSTOMER agrees to, as promptly as possible and in any event within five (5) business days, notify SELLER in WRITING of actual or suspected breaches of any of the obligations above in this Section and shall to the best of its abilities, cooperate with SELLER to facilitate compliance with Global Trade Laws and Regulations and will upon request, provide SELLER with copies of all documentation relating to any business dealings involving the GOODS, including but not limited to, end-user certifications. Further, the CUSTOMER shall provide all information relating to requests for any GOODS, that the CUSTOMER suspects could violate or circumvent Global Trade Laws and Regulations, or where the provision of GOODS would breach the CUSTOMER's commitments under the obligations above in this Section, including requests from or on behalf of a Listed Person or attempts to acquire any GOODS in violation of Global Trade Laws and Regulations.
- 11.9. If the CUSTOMER, in whole or in part, breaches any of the obligations above in this Section or (to the furthest extent permissible under applicable law) in SELLER's reasonable opinion any such breach is likely to occur, SELLER and CUSTOMER agree that: (i) SELLER shall be under no obligation to fulfil outstanding payments, deliveries, orders or alike; (ii) SELLER shall not be liable toward the CUSTOMER or any third party for any subsequent non-performance by SELLER under this CONDITIONS; and (iii) that the CUSTOMER shall indemnify and hold SELLER harmless from any claims or losses relating to such non-performance.
- 11.10. Any failure by the CUSTOMER to comply, in whole or in part, with this Section, is to be considered a material breach of this CONDITIONS which will entitle SELLER to terminate the CONDITIONS with immediate effect. Further, SELLER is entitled to terminate the CONDITIONS with immediate effect upon written notice if either [Party's] ability to fulfil an obligation under this CONDITIONS is materially affected by the imposition of restrictions in Global Trade Laws and Regulations.
12. Export Terms
- GOODS shall be delivered EXW in accordance with INCOTERMS 2020 as in force at the date when the CONTRACT is made, but if there is any conflict between the provisions of Incoterms and these CONDITIONS or the delivery defined in the CONTRACT, the latter shall prevail.
13. Cancellation
- Orders cannot be cancelled except upon terms which will indemnify SELLER against all loss occasioned directly or indirectly thereby. GOODS returned without SELLER's consent in WRITING will not be accepted for credit and shall remain at the sole risk and liability of the CUSTOMER.
14. General
- 14.1. SELLER is a member of the group of companies whose holding company is Sandvik AB and accordingly SELLER may perform any of its obligations or exercise any of its rights hereunder by itself or through any other member of its group, provided that any act or omission of any such other member shall be deemed to be the act or omission of SELLER.
- 14.2. If any provision of these CONDITIONS is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these CONDITIONS and the remainder of the provision in question shall not be affected.
- 14.3. The CONTRACT shall be governed by the laws of Austria, and the CUSTOMER agrees to submit to the non-exclusive jurisdiction of the Austrian Courts.

