

# TERMS AND CONDITIONS OF SALE

1. **PRICE:** All prices are subject to change without notice and are not guaranteed, except that prices for an order that have been accepted by ReadyCell S.L.U. and/or its affiliates ("Seller") are not subject to change after acceptance and prices of the offers issued by the Seller are not subject to change after the acceptance of the offer by Buyer within the period of validity of the offer. Prices stated do not include any sales, use or excise tax or any other tax, duty or charge which is now in effect or may be hereafter imposed by any Federal, State or other authority. All such taxes, duties or other charges shall be paid by Buyer unless Buyer shall provide Seller an exemption certificate acceptable to the appropriate authorities.

2. **PAYMENT TERM:** Payment term is 30 days from the date of Seller's invoice. For Seller's invoices which are not paid within the foregoing terms, Seller shall have the right, in addition to all other rights and remedies, to assess a late payment charge of one and one-half percent (1½%) (or the maximum allowed by law, if less) per month on the outstanding balance. In addition, Buyer shall be responsible for any and all fees and expenses incurred by Seller in collecting any payments due hereunder, including, but not limited to, attorneys' fees and collection costs.

3. **ORDERS AND ACKNOWLEDGEMENTS:** Seller reserves the right to refuse orders which may be submitted to it and will not be bound to fill any orders unless or until they have been accepted by Seller unless they are issued within the validity period of an offer issued by Seller. Except as otherwise specifically set forth in writing, executed by Seller and Buyer, these Terms and Conditions of Sale shall govern the rights and obligations of the parties to the exclusion of any other terms and conditions. These Terms and Conditions of Sale shall govern in the event of any conflict with any terms proposed by Buyer, and are not subject to change by reason of any written or oral statements by Buyer or by any terms stated in Buyer's purchase order or confirmation of its order, unless such conflicting or additional terms are accepted in a writing making reference to this order and signed by an authorized representative of Seller.

In the event of offers issued by the seller and accepted by the buyer, the particular conditions of the offer will prevail over these general conditions in case of contradiction.

4. **ORDER CHANGES:** Any Buyer requested changes to an existing order may result in new scheduled ship date for that order. If, pursuant to Buyer written direction or request, any change is made in the products to be furnished or any work to be performed, the agreed price will be equitably adjusted to reflect such change and the time for completion will be extended to the extent required to make such change. No change is binding on the parties unless mutually agreed in writing by the parties. These Terms and Conditions of Sale are subject to revision and change by Seller without notice, however: (i) the current Terms and Conditions of Sale at the time of placing an order shall be applicable at the time it is accepted by Seller (ii) the current Terms and Conditions of Sale at the time of issuing an offer shall be applicable to said offer. Submission of

an order by Buyer shall be conclusive evidence of acceptance of these Terms and Conditions of Sale.

5. **SHIPMENTS:** Prices and deliveries of products are Ex Works Seller's facility. Upon delivery of shipments to the carrier, title to, and the risk of loss or damage in transit for, such shipments passes to Buyer. Shipping schedules are estimates only which cannot be guaranteed because of the nature of Seller's products, and material, labor and manufacturing conditions beyond Seller's reasonable control. Under no circumstances shall Seller be responsible for any inability or delay in meeting shipping schedules or for any loss or damage (whether direct or consequential) resulting therefrom. Specifications, weights, dimensions and descriptions are estimates but are not guaranteed and are subject to change without notice.

6. **CLAIMS:** Claims on prices must be submitted within seven (7) days from the date of Seller's invoice. Claims on errors in shipments must be submitted within seven (7) days from the date of delivery of the products.

7. **RETURNS:** Products are not returnable. Credit or replacement will only be made after a thorough inspection of the products has been made by Seller's representative and investigation shows that it is defective, or was shipped in error.

8. **CANCELLATIONS:** Cancellation of orders or any portion thereof will be allowed only with Seller's prior written consent and the payment of such cancellation charges as Seller may determine.

9. **WARRANTY:** Seller warrants to Buyer that such products sold hereunder shall be in compliance with the written specifications accepted by Seller. This warranty does not cover any damage or defect which arises in whole or in part from any act or omission by Buyer or by any other person or entity after delivery of the products Ex Works. No claim against Seller will be allowed unless asserted in writing within 10 days from the date of shipment of the products alleged to be defective. Notwithstanding anything to the contrary, Buyer's exclusive remedy for Seller's breach of the warranty set forth in this Section 10 shall be limited to either repair or replacement of non-conforming products or, in the sole discretion of Seller, an adjustment in the purchase price of the non-conforming products. In no event shall Seller's liability under this Agreement exceed the purchase price of the allegedly non-conforming products.

10. **LIMITATION OF WARRANTY:** EXCEPT FOR THE WARRANTY SET FORTH IN SECTION 10 ABOVE, SELLER MAKES NO OTHER REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE PRODUCTS.

11. **LIMITATION OF LIABILITY:** SELLER SHALL NOT BE LIABLE TO ANY PERSON OR ENTITY FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL OR INDIRECT DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR BUSINESS INTERRUPTION LOSSES) AS A RESULT OF THIS AGREEMENT (OR THE BREACH HEREOF) OR SUCH DAMAGES SUFFERED BY ANY PURCHASER OR END USER OF ANY PRODUCTS, WHETHER ARISING IN TORT, CONTRACT OR OTHERWISE.

12. **DEFAULT:** If Buyer shall become overdue on its account or otherwise defaults in any payment to Seller or if its financial condition shall at any time seem to Seller otherwise

inadequate to warrant further shipment on an open account basis, Seller shall have the right, without liability, to refuse to accept any or all orders, to cancel any and all orders, to delay shipments to Buyer, or to require advance payment before accepting or shipping any orders.

13. **NON-ASSIGNMENT:** Buyer shall not assign its orders nor any of its rights or obligations thereunder without Seller's prior written consent.

14. **CHOICE OF LAW:** These Terms and Conditions of Sale and any subsequent sales agreements between Seller and Buyer shall be governed by the laws of Spain without regard to its conflicts of law principles. Each party hereto irrevocably consents to the jurisdiction of the courts of Spain and agrees that the exclusive venue for any suit arising from or relating to these Terms and Conditions of Sale is Barcelona, Spain. EACH PARTY TO THIS AGREEMENT WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION BROUGHT IN CONNECTION WITH THESE TERMS AND CONDITIONS OF SALE. The United Nations Convention on Contracts for the International Sale of Goods expressly does not apply to this sale of goods.

15. **WAIVER AND MODIFICATION:** No waiver or modification of any of the terms and conditions contained herein shall be effective unless such waiver or modification is in writing and signed by an authorized representative of Seller.

16. **EXCUSABLE DELAY:** Seller will not be liable for any delay in the performance of orders or contracts, or in the delivery or shipment of products, or for any damages suffered by Buyer by reason of such delay, when such delay is, directly or indirectly, caused by, or in any manner arises from any Act of God, or the public enemy, war, compliance with law, governmental act or regulation, fire, flood, quarantine, embargo, epidemic, unusually severe weather, strike, work stoppage, acts or omissions of carriers or other cause (whether or not similar in nature to any of these herein before specified) beyond the control of Seller. In the event of such delay, there will be no termination and the date of delivery or of performance shall be extended for a period equal to the required time to produce the order.

17. **PATENT INFRINGEMENT:** Seller takes no responsibility for the suitability of Buyer's designs or installation procedures. If any products are manufactured or sold by Seller to meet Buyer's particular specifications or requirements and are not part of Seller's standard line offered by it to the trade generally in the course of Seller's business, Buyer agrees to defend, protect and save harmless Seller against all suits at law or in equity and from all damage, claims and demands for actual or alleged infringement of any United States or foreign Letters Patent and to defend any suit or action which may be brought against Seller for any alleged infringement because of the manufacture or sale of the products covered hereby.

18. **CERTIFICATIONS:** All certification and verifications related to products (and the documentation associated therewith), including, but not limited to, certifications for testing and re-verification of products, shall be and remain the property of Seller.

19. **DISCLOSURE OF INFORMATION:** Any information, suggestions, or ideas transmitted by Buyer to Seller in connection with the performance hereunder shall not be deemed a secret or confidential or submitted in confidence to Seller, except as may be specifically agreed to in writing by Seller.