



## **1. General, Scope**

1. The following General Terms and Conditions (hereinafter referred to as "GTC") of Resysta International GmbH (hereinafter referred to as "INTELLIGENT WOOD") shall exclusively apply to all current and future business relationships with the customer.
2. Terms and conditions of the customer that are contrary to or deviate from INTELLIGENT WOOD's GTC shall not be recognised, unless INTELLIGENT WOOD expressly consent to their validity in writing. INTELLIGENT WOOD's GTC shall also apply if INTELLIGENT WOOD performs the delivery without reservation in full awareness of contradictory or deviating terms and conditions of the customer.
3. Any and all agreements on deliveries concluded between INTELLIGENT WOOD and the customer shall be stipulated in writing in the relevant agreement and any additional agreements. Amendments or supplements to the agreement between INTELLIGENT WOOD and the customer, including this written form clause, require the written form to become effective. Telefax and email shall be sufficient to fulfill the written form requirement.
4. These GTC shall only apply vis-à-vis companies as well as legal entities under public law and special funds under public law within the meaning of Sec. 310 para. 1 German Civil Code (Bürgerliches Gesetzbuch, BGB).

## **2. Conclusion of Contract**

1. Offers by INTELLIGENT WOOD shall not be binding. This shall also apply if INTELLIGENT WOOD provided the customer with illustrations, drawings and other documents - also in electronic form. INTELLIGENT WOOD reserves any and all rights of ownership and copyrights thereto.
2. The customer's order for goods shall be considered a binding offer of contract, which INTELLIGENT WOOD may accept within two (2) weeks from receipt of such offer. A contract between INTELLIGENT WOOD and the customer shall only take effect if INTELLIGENT WOOD confirms the offer in writing. The submission of an invoice by INTELLIGENT WOOD shall equal an order confirmation.

### **3. Product Specification, Amendments**

The execution of the order, in particular the quality of the goods to be produced and/or delivered by INTELLIGENT WOOD, shall exclusively be determined by the product specifications of INTELLIGENT WOOD. INTELLIGENT WOOD may at any time make changes to the execution of the order or to the delivery items to the extent such changes:

- a) are required to comply with any requirement imposed by law or any public authority, or
- b) bring about no material impairment of quality or function and are reasonably acceptable to the customer.

### **4. Compliance with Instruction Manuals and Installation Guidelines**

INTELLIGENT WOOD's instruction manuals and installation guidelines must be complied with. These are enclosed to each delivery.

### **5. Payment**

1. Unless otherwise agreed, INTELLIGENT WOOD's prices are quoted excluding the respectively applicable statutory VAT which will be indicated separately in the invoice.
2. Unless not indicated otherwise in the order confirmation, the purchase price must be paid (without deduction) in advance (advance payment).
3. INTELLIGENT WOOD reserves the right to adjust its prices accordingly if more than four (4) months elapse between the conclusion of the contract and the delivery of the goods and price increases occur, in particular wage and salary increases, increases in freight costs including customs, import and export fees, the prices charged by INTELLIGENT WOOD's upstream suppliers as well as cost increases due to exchange rate fluctuations.
4. Cheques and bills of exchange are accepted by INTELLIGENT WOOD only on account of performance. Any costs and taxes falling due in this respect shall be borne by the customer.
5. Unless otherwise indicated in the order confirmation, INTELLIGENT WOOD's prices shall be "ex works" (EXW, Incoterms 2010), excluding shipping and insurance costs.
6. Costs for the disposal in the DUAL SYSTEM and/or the INTERSEROH SYSTEM shall be borne by the customer.

## **6. Due Date/Default in Payment**

1. Invoices shall be due for payment upon receipt. If the customer fails to effect the agreed payment, it shall automatically be in default after two (2) weeks from the due date and receipt of the invoice without a reminder being required. Payment will be considered made in due time if the relevant amount is received by INTELLIGENT WOOD, or credited to the account of INTELLIGENT WOOD, in due time.
2. In case of default INTELLIGENT WOOD shall be entitled to demand default interest in the amount of 9 percentage points above the applicable basic rate of interest. INTELLIGENT WOOD shall be entitled to prove that the level of damage caused by the default is higher in the individual case.

## **7. Security in Case of Endangered Ability of the Customer to Effect Payments**

1. If following the conclusion of contract there are indications that the customer's ability to effect payment is endangered (in particular, in case of arrears with payments, suspension of payments, application to open insolvency proceedings, assignment of current assets as security, unfavorable statements by banks or credit institutions or credit insurers), INTELLIGENT WOOD may – if in deviation from item 5 no advance payment is agreed upon – request the advance payment or provision of security within a reasonable period and may refuse performance until the demand has been fulfilled.
2. The same shall apply if the credit insurance of INTELLIGENT WOOD rejects to cover a specific transaction or if the credit insurance revokes its cover note after the conclusion of the contract.
3. As security INTELLIGENT WOOD at its own discretion may make in particular future deliveries, even if confirmed, conditional on the opening of a letter of credit confirmed by a German commercial bank.
4. INTELLIGENT WOOD shall not be obliged to continue performance if a security provided by the customer should prove to be unreasonable or could be contestable pursuant to an applicable law.

## **8. Delivery, Passing of Risk, Default in Delivery and Acceptance**

1. Unless otherwise stipulated in the order confirmation, the parties agree upon a delivery ex works (EXW, Incoterms 2010). If requested by the customer, the goods will be shipped to a different destination. Unless agreed otherwise, INTELLIGENT WOOD at its own discretion shall be entitled to choose the means of shipment (in particular the forwarding company, dispatch route, packaging).

The goods will be delivered unmounted. The risk shall pass to the customer when the goods are handed over to the person carrying out the transport.

2. INTELLIGENT WOOD shall be entitled to partial deliveries, if the partial delivery is suitable for the customer within the contractually intended application, the delivery of the remaining goods ordered is ensured and hereby no significant supplementary expenses or additional costs are generated for the customer, unless INTELLIGENT WOOD agrees to bear these costs. In case of partial deliveries, INTELLIGENT WOOD may request payment in proportion to the share of the partial delivery based on the order value. INTELLIGENT WOOD may require the customer to accept delivery of a partial delivery which is complete as such within the meaning of sentence 1 hereof.
3. If the partial delivery or the delivery on call is expressly agreed upon, INTELLIGENT WOOD may entirely withdraw from the contract within a reasonable grace period of at most four (4) weeks or request the agreed price against provision of the total quantity of goods – if in deviation from item 5 no advance payment is agreed upon - if the customer accepts or calls off the partial delivery as agreed.
4. The delivery times indicated by INTELLIGENT WOOD are non-binding, unless INTELLIGENT WOOD expressly confirms the specific delivery date or a specific delivery period in writing. The compliance with the delivery duty by INTELLIGENT WOOD shall be subject to the timely and proper fulfilment of all contractual duties by the customer, in particular its duty to cooperate, which are required for INTELLIGENT WOOD's performance in accordance with the agreement.
5. The delivery dates and periods shall be deemed to have been met where, by expiry of this period, the goods have left the works and were delivered to the forwarding company or where a notice of readiness for dispatch has been given.
6. If the dispatch at the request of the customer is delayed , INTELLIGENT WOOD shall store the goods at the expense and risk of the customer. INTELLIGENT WOOD will charge the costs actually incurred for each calendar day from the date of the occurrence of default of acceptance. INTELLIGENT WOOD's right to prove a higher damage and INTELLIGENT WOOD's statutory rights shall remain unaffected; the lump-sum compensation, however, shall be credited against any further payment claims. The customer may provide proof that no damage was suffered at all, or that the damage suffered was significantly lower than the lump-sum compensation indicated above.
7. If the customer is in default of acceptance or if it culpably violates other cooperation duties, INTELLIGENT WOOD shall be entitled to request

compensation for the damage occurred insofar, including any additional expenses. Any further rights shall remain unaffected.

8. The customer may request INTELLIGENT WOOD to deliver the goods two (2) weeks after the expiry of the non-binding delivery date or the non-binding delivery period. With receipt of the request INTELLIGENT WOOD shall be deemed to be in default. If a binding delivery date or a binding delivery period is exceeded, INTELLIGENT WOOD shall be in default when the delivery date or the delivery period has expired.
9. In the event of force majeure INTELLIGENT WOOD shall be entitled - also within the period of delay - to extend the period of delivery or performance by the duration of the hindrance. Force majeure shall mean all circumstances for which INTELLIGENT WOOD cannot be held responsible, and as a result of which it becomes temporarily impossible or unreasonably difficult for INTELLIGENT WOOD to effect the delivery or performance, such as lawful strike action or lockout, war, import and export prohibitions, shortages of resources, measures taken by the authorities, late delivery to INTELLIGENT WOOD for which INTELLIGENT WOOD is not responsible. In the event such hindrance should exceed two (2) months, the customer shall be entitled to withdraw from the agreement after setting a reasonable grace period and if the customer proves that the complete or partial fulfilment of the contract that is still due is no longer of interest to the customer due to the delay. The customer shall stipulate in writing a deadline for the subsequent performance of at least two (2) weeks.
10. If requested, a forwarding agent might be advised who transports the delivery to the address indicated. A notification of dispatch by phone amounts to EUR 3.00.

## **9. Warranty**

If a defect in the goods exists, INTELLIGENT WOOD shall at its own option either remedy the defect or deliver an item free of defects.

## **10. Liability**

1. INTELLIGENT WOOD shall be liable without limitation for intent and gross negligence.
2. For slight negligence INTELLIGENT WOOD shall be liable only in case of a violation of a material duty which is essential to the proper execution of the order or the contract (contract) and on the fulfilment of which the customer may regularly rely. In such cases the liability of INTELLIGENT WOOD shall be limited to the foreseeable damage which is typical of that kind of contract.

3. Limitations and exclusions of liability pursuant to this item 10 shall not apply to claims arising from the German Product Liability Act (Produkthaftungsgesetz, ProdHaftG) and to damages arising from injury to life, body or health.
4. Where a liability of INTELLIGENT WOOD is excluded or limited, such exclusion or limitation shall be valid also for the personal liability of its bodies, employees, representatives and vicarious agents of INTELLIGENT WOOD.
5. The customer shall exempt INTELLIGENT WOOD, its bodies, employees, representatives and vicarious agents on INTELLIGENT WOOD's first request from any claims of a third party incurred by INTELLIGENT WOOD and/or said persons as a result of a culpable breach of duty by the customer. The customer shall refund INTELLIGENT WOOD and the persons indicated all expenses reasonably incurred and required for the legal defence.

### **11.Limitation of Defects**

1. The limitation period for claims resulting from defects (item 9) shall amount to twelve (12) months from the passing of risk (item 8). This shall not apply to claims that are based on intent or gross negligence, to damages arising from injury to life, body or health or to claims arising from the ProdHaftG.
2. The limitation period in case of a recourse against the supplier pursuant to Secs. 478, 479 BGB shall remain unaffected.
3. If the goods were used in accordance with their usual purpose for a building and caused its defectiveness, the limitation period shall amount to five (5) years.

### **12.Retention of Title**

1. INTELLIGENT WOOD retains the title in the delivery items until receipt of payment of all amounts due under the respective contract and all other claims vis-à-vis the customer resulting from the business relationship.
2. The customer shall be obliged to treat all delivery items which are subject to retention of title with due care. Furthermore, the customer shall be obliged to insure such delivery items at its own cost against loss, fire and water damage, theft and natural hazards in the amount of their purchase price. The customer hereby assigns all rights from such insurances for loss of or damage to the goods to INTELLIGENT WOOD, subject to the condition subsequent that INTELLIGENT WOOD has settled all claims vis-à-vis the customer. INTELLIGENT WOOD accepts this assignment.
3. The retention of title also extends to the full value of the products created by way of processing, mixing or combining the goods, in which case INTELLIGENT WOOD shall be considered the manufacturer. If in case of processing, mixing

or combination with goods of third parties their property rights remain in place, INTELLIGENT WOOD shall obtain joint ownership in the proportion of the invoice amounts of the processed, mixed or combined goods. The new product resulting from the processing shall be subject to the same provisions that are applicable to the goods delivered subject to retention of title.

4. The customer shall be entitled to resell delivery items which are subject to retention of title in the ordinary course of business, unless being in arrears with payment. The customer hereby assigns to INTELLIGENT WOOD all receivables in the overall amount of the respective invoice covering INTELLIGENT WOOD's claim, which it acquires vis-à-vis its buyers or third parties from reselling the products, regardless of whether the products were sold without or after further processing and combination, respectively. INTELLIGENT WOOD accepts this assignment. The customer shall remain authorised to collect these receivables even after the assignment. INTELLIGENT WOOD's authority to collect the receivables itself shall remain unaffected hereby. However, INTELLIGENT WOOD shall be obliged to waive collection of the receivables as long as the customer meets its payment obligations arising from the received proceeds, is not in arrears with payments and, in particular, has not applied for the opening of insolvency proceedings regarding its assets or has ceased payment. However, if this is the case, INTELLIGENT WOOD shall be entitled to request that the customer advises INTELLIGENT WOOD of the assigned claims and the respective debtors, provides all of the information required for the collection, hands over the corresponding documents and informs the debtors (third parties) of the assignment.
5. INTELLIGENT WOOD shall be obliged to release all securities it is entitled to regarding delivery items and claims upon request of the customer, provided that the realisable value of the securities exceeds the claims to be secured by more than 10%.
6. In the event that a third party arranges for the pledge of any delivery items subject to retention of title or otherwise impairs the title held by INTELLIGENT WOOD, the customer shall inform INTELLIGENT WOOD in writing without undue delay to enable INTELLIGENT WOOD to resort to legal remedies for the protection of title, which means, in particular, bringing action under Sec. 771 of the German Code of Civil Procedure (Zivilprozessordnung, ZPO). In addition to that, the customer shall be obliged to notify the third party as well as any execution body, in particular, a bailiff that the respective product is the property of INTELLIGENT WOOD. Where the third party is unable to refund INTELLIGENT WOOD the court cost and other costs relating to those means of

defence, the customer shall be liable towards INTELLIGENT WOOD for any cost not paid by the third party.

7. The customer shall be obliged to immediately inform INTELLIGENT WOOD on possible defects of the products subject to retention of title as well as on any change of the customer's registered office.
8. In case of a cancellation of the contract, INTELLIGENT WOOD shall be entitled to request surrender of the products subject to retention of title.

### **13.Excess Delivery in Case of Special Orders**

In case of special orders such as special paintings, special decors or special surface textures INTELLIGENT WOOD reserves an excess delivery of up to 10 %. The excess amount shall be paid by the customer.

### **14.Own Constructions by the Customer**

INTELLIGENT WOOD does not assume any warranty or liability for constructions of goods or parts thereof which the customer has made itself. In particular, INTELLIGENT WOOD shall not assume any responsibility for the correctness of the construction on the basis of which the items are produced, even if INTELLIGENT WOOD accepts such order.

### **15.Set-off, Rights of Retention, Assignment**

1. The customer may set off only if its counterclaims have been established by valid and final judgment or if they are undisputed or have been acknowledged by INTELLIGENT WOOD.
2. The same shall apply to any rights of retention or refusal of performance pursuant to Secs 320, 273 BGB. Such rights may only be exercised by the customer if they result from the same contractual relationship. Within the scope of an ongoing business relationship, each and every order shall constitute a separate contract.
3. The customer shall not be entitled to assign its claims against INTELLIGENT WOOD under this contract. This shall not apply as far as Sec. 354 HGB is applicable.
4. INTELLIGENT WOOD shall be entitled to assign claims against the customer to third parties without the consent being required by the customer.

### **16.Consequences in Case of Invalidity, Place of Performance, Jurisdiction, Applicable Law**

1. If individual provisions or parts of these GTC are or become invalid or void or if it contains a gap, the validity of the remaining provisions shall remain



unaffected thereby. The invalid provision shall be replaced by an agreement which comes closest to the purpose of the contract and the intent of the parties.

2. Munich shall be the place of jurisdiction for all disputes arising from the business relationship. However, INTELLIGENT WOOD shall also be entitled to bring action against the customer at the customer's general place of jurisdiction.
3. The laws of the Federal Republic of Germany shall apply exclusively. The provisions of the UN Convention on the International Sale of Goods shall be excluded.
4. The place of performance shall be INTELLIGENT WOOD's place of business in Taufkirchen.

As of May 2018