

1. Definitions

1.1 In these terms and conditions:

"Buyer" means the person who accepts a quotation of Heraeus for the sale of the Goods or whose order for the Goods is accepted by Heraeus;

"Seller" means Heraeus Technologies India Pvt Ltd, having its registered office in India or any of its subsidiaries or subsidiary undertakings as defined by Section 2(87) Companies Act 2013;

"Terms" 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 Buyer and Heraeus;

"Contract" means the Contract for the purchase and sale of the Goods in accordance with these Conditions;

"Force Majeure Event" has the meaning given in Clause 10;

"Goods" means the Goods (including any instalment of the Goods or any parts for them) which Heraeus is to supply in accordance with these Conditions;

"Order" the Buyer's order for the Goods as set out in the Buyer's purchase order form or in the Buyer's written acceptance of Heraeus's quotation;

"Writing" includes facsimile and emails and comparable means of communication.

1.2 Any reference in these Terms 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 a reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

1.3 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.4 The headings in these Terms are for convenience only and shall not affect their interpretation.

2. Offer and Conclusion of Contract

2.1 Heraeus's offers are always subject to confirmation, unless expressly otherwise stated. Cost estimates are non-binding. Unless otherwise agreed, first offers or cost estimates are provided free of charge. Heraeus reserves the right to charge a reasonable fee for further offers or cost estimates as well as draft works when no supply contract comes into existence.

2.2 The order shall be placed in writing by the Buyer and the contract shall come into existence only upon written confirmation of Heraeus. Any changes, amendments or side agreements also require written confirmation of Heraeus.

3. Orders and Specifications

3.1 The Buyer shall be responsible to Heraeus for ensuring the accuracy of the terms of any Order (including any applicable specification) submitted by the Buyer, and for giving Heraeus any necessary information relating to the Goods within a sufficient time to enable Heraeus to perform the Contract in accordance with its terms.

3.2 The quantity, quality and description of and any specification for the Goods shall be those set out in Heraeus's purchase acknowledgement.

3.3 If the Goods are to be manufactured or any process is to be applied to the Goods by Heraeus in accordance with a specification submitted by the Buyer, or utilizing tooling, software or other Goods or equipment supplied by the Buyer, the Buyer shall indemnify Heraeus against all loss, damages, costs and expenses awarded against or incurred by Heraeus in connection with or paid or agreed to be paid by Heraeus in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from Heraeus's use of the Buyer's specification or use of such tooling, software or other Goods or equipment.

3.4 Heraeus reserves the right to make any changes in the specification of the Goods which are required to conform to any applicable safety or other statutory requirements or, where the Goods are to be supplied to Heraeus's specification, which do not materially affect their quality or performance.

3.5 Save as set out in Clause 4 below no order which has been accepted by Heraeus may be cancelled by the Buyer except with the prior agreement in writing of Heraeus and on terms that the Buyer shall indemnify Heraeus in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by Heraeus as a result of cancellation.

4. Price

4.1 The price quoted is based on these terms and conditions for sale of Goods / rendering of Services as enumerated in the Quotation.

4.2 Quotations are binding and non-refundable unless otherwise expressly agreed in writing. All prices quoted are valid for 30 days from

Heraeus's date of quotation, or until earlier acceptance by the Buyer, after which time they may be altered by Heraeus without giving notice to the Buyer.

4.3 Heraeus reserves the right to revise the price consequent upon any modifications in these terms and conditions of supply of Goods and rendering of Services. Prices prevailing at the time of delivery will be applicable. Heraeus has the right to modify/withdraw any part of its offer after submitting it, unless it has been specifically agreed to the contrary by Heraeus. The Price is ex-works, unpacked and exclusive of packing & forwarding charges, freight, sales tax, excise duty, octroi duty and/or other levies or charges, if any, unless specifically stated otherwise in the Quotation. All such freight, taxes, duties, levies and charges, as applicable, shall be billed at rates in force at the time of delivery and shall be paid by the Buyer before delivery of the Goods is made.

4.4 The price is exclusive of any applicable prevailing Goods and Services Tax, which the Buyer shall be additionally liable to pay to Heraeus. Unless otherwise specified in the quotation, quotations for components containing precious metal material are valid on the date of quotation only (end of business day).

5. Payment

5.1 Unless otherwise confirmed by Heraeus in writing, the terms of payment shall be net cash by advance Telegraphic Transfer to the designated account or by Irrevocable Letter of Credit payable at sight issued by any First Class Bank.

5.2 Payment shall be deemed to have been effected once the sums due without deduction are made available to Heraeus in the account designated by Heraeus. Agents and distributors have no authority to receive payment.

5.3 Payment shall be made to Heraeus for the delivered products in accordance with the conditions laid down by Heraeus's quotation or at the time of the acceptance of order. Invoicing shall be made with delivery of products ordered. The time of payment of the price shall be the essence of the order. Receipts for payment shall be issued only on request.

5.4 If the Buyer contends that any Invoice is incorrect, the Buyer shall notify Heraeus's accounting department, in writing, within 14 days after receipt of such Invoice and specify the reason for such contention. If the Buyer does not notify Heraeus, the Buyer waives the right to further dispute such Invoice and the Buyer agrees to the accuracy of such Invoice.

5.5 Failure to pay an Invoice in the stipulated period of time shall permit Heraeus, without prejudice to any other rights it may have, (i) to suspend any delivery, whatever the conditions of the relevant order, until full payment, (ii) to cancel any discount which may have been granted to the Buyer on the said Invoice, (iii) to refuse to make further deliveries, (iv) to declare due and payable immediately all unpaid amounts for Goods or services previously provided to the Buyer and/or in process. In addition, Heraeus may assess the Buyer at the rate of 1.5 % per month service charge on any past due balances for the full duration of the payment delay.

5.6 The Buyer shall submit, in writing, any request for change to any order accepted by Heraeus. Changes in the services to be performed hereunder may be made only by the authority of the Buyer's written instructions and written acceptance of Heraeus. Any changes in scope, drawings, materials, or design of the parts, units, tools, fixtures, or any other elements, which effect costs, will require re-pricing. If work had been started, the Buyer shall reimburse Heraeus for work already performed if the units already produced are not acceptable to the Buyer. Heraeus similarly reserves the right to re-price if changes involve an increase or decrease in the quantity due at the time of the required performance for the order. Once the Buyer approves samples, the Buyer must pay for services performed or Goods produced thereafter, or changes, even if approved samples differ from the Buyer's drawings or specifications.

5.7 The Buyer shall not be entitled to make any deductions, set-offs or counterclaims in sums due to Heraeus, unless confirmed by Heraeus in writing.

5.8 Heraeus shall be entitled to cancel the Contract and/or suspend any further deliveries under any current Contract until any and all outstanding sums have been paid in full.

5.9 Title in the Goods shall pass from Heraeus to the Buyer only when payment of all sums due has been made in full.

6. Delivery

6.1 All dates quoted for delivery of the Goods shall be approximate only, and Heraeus shall not be liable for any losses or damages suffered by the Buyer due to any delay in delivery or non-delivery of the Goods howsoever caused.

6.2 If the Buyer fails to take timely delivery of the Goods – or if, where the Buyer is to give delivery instructions, the Buyer fails to give such

instructions – Heraeus may at its discretion either extend the time of delivery or shipment of the Goods, storing the Goods at the Buyer's risk and cost until actual delivery or cancel the Contract or any part thereof, in either case without prejudice to any other right or remedy available to Heraeus.

6.3 Partial shipment or partial delivery and/or transshipment shall be permitted. Each partial shipment or delivery shall be regarded as fulfilment of a separate and independent Contract.

6.4 Risk of damage to or loss of the Goods shall pass to the Buyer at the time of delivery, or if the Buyer wrongfully fails to take delivery of the Goods, at the time when Heraeus has tendered delivery of the Goods.

7. Right of Resale

Irrespective of the fact whether the Goods have been appropriated to the Contract or not, Heraeus hereby expressly reserves its right of reselling the Goods in case the Buyer makes default in payment on the respective due dates and/or thereafter to take delivery of the Goods.

8. Examination and Notice

8.1 Immediately upon receipt of the Goods the Buyer shall carry out a thorough examination of the Goods in order to ascertain whether the Goods are conforming.

8.2 The Buyer shall not be entitled to the right to rely on a non-conformity in the Goods if the Buyer fails to notify Heraeus thereof in writing, specifying the nature of the nonconformity within 30 days of receipt of products.

9. Warranties and Liability

9.1 The price of Goods is based, in part, on the limits on Heraeus's liability in these Conditions. The Buyer's attention is drawn in particular to the conditions 9.3 to 9.8.3 (inclusive). In setting these limits Heraeus has had regard to its insurance cover, copies of which are available on request. The Buyer should make sure it has in place adequate insurance cover.

9.2 Subject to the conditions set out below Heraeus warrants that on delivery and for a period of 12 months from the date of delivery ("the Warranty Period"), the Goods will:

9.2.1 correspond in all material respects with their specification; and

9.2.2 be free from material defects in design, material and workmanship.

9.3 Subject to Clause 9.4 below, if:

9.3.1 the Buyer gives notice in Writing to Heraeus, during the Warranty Period, on delivery, or if the defect or failure was not apparent on reasonable inspection of the Goods, within five business days after the Buyer becomes aware of the defect or failure;

9.3.2 Heraeus is given a reasonable opportunity of examining such Goods; and

9.3.3 the Buyer (if asked to do so by Heraeus) returns such Goods to Heraeus's place of business at Heraeus's cost and Heraeus shall, at its option, repair or replace the defective Goods or refund the price of the defective Goods (or a proportionate part of the price).

9.4 Heraeus shall not be liable for any Goods' failure to comply with the warranty set out in Clause 9.2 in any for the following events:

9.4.1 the defect arises as a result of any drawing, design or specification supplied by the Buyer;

9.4.2 the defect arises as a result of fair wear and tear, wilful damage, negligence, abnormal working conditions;

9.4.3 the Buyer makes any further use of the Goods after giving notice in accordance with Clause 9.3;

9.4.4 the defect arises because the Buyer has failed to follow Heraeus's instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good and reasonable trade practice regarding the same, including where the Goods have been used in circumstances where their failure could directly endanger life;

9.4.5 the defect arises as a result of any parts, materials or equipment not manufactured by Heraeus (to the extent that the benefit of any warranties made or provided by the manufacturer of the Goods (or the relevant parts) can be assigned to the Buyer, Heraeus shall assign them to the Buyer;

9.4.6 the Buyer or a third party alters or repairs the Goods without Heraeus's approval in Writing.

9.5 Except as expressly provided in these Conditions, all warranties, conditions or other terms implied by laws as applicable in India, including the terms implied by the Sale of Goods Act 1930 (as amended) are excluded to the fullest extent permitted by law.

9.6 These Conditions shall apply to any repaired or replacement Goods supplied by Heraeus.

9.7 Notwithstanding anything else in the Contract, nothing shall limit or exclude Heraeus's liability for:

9.7.1 death or personal injury caused by Heraeus's negligence or the negligence of Heraeus's employees, agents or subcontractors;

9.7.2 fraud or fraudulent misrepresentation;

9.7.3 breach of the terms implied by the Sale of Goods Act 1930 (as amended);

9.7.4 any matter in respect of which it would be unlawful for Heraeus to exclude liability.

9.8 Subject to Clause 9.7:

9.8.1 Heraeus shall under no circumstances be liable to the Buyer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect, special or consequential loss or damage, costs, expenses or other claims for consequential compensation whatsoever, arising out of or in connection with this Contract, the supply of the Goods or their use or resale by the Buyer;

9.8.2 Heraeus's entire aggregate liability to the Buyer in respect of all other losses arising under or in connection with the Contract whether for tort (including negligence), breach of contract, breach of statutory duty or otherwise shall in no circumstances exceed hundred percent of the price of the relevant Goods paid by the Buyer under the relevant Order.

9.8.3 Except as provided in this Clause 9, Heraeus shall have no liability to the Buyer in respect of the Goods' failure to comply with the warranty set out at Clause 9.2.

10. Force majeure

10.1 Neither party shall be liable to the other party or be deemed to be in breach of these Conditions for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A Force Majeure Event means any event beyond the party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including (without limitation) strikes, lock-outs or other industrial disputes (whether involving its own workforce or third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of Heraeus or subcontractors.

10.2 In the event of that the affected party is prevented from carrying out its obligations under this Contract due to a Force Majeure Event, the affected party shall give notice of suspension as soon as is reasonably possible to the other party stating the date and the extent of the suspension and its cause. Heraeus shall resume the performance of its obligations as soon as reasonably possible after the removal of the Force Majeure Event and shall so notify the other party. In the event that the cause continues for more than one month either party may terminate this Contract by giving the other party notice in Writing.

11. Product Liability

11.1 The Buyer agrees to hold harmless and indemnify Heraeus, its affiliates and representatives against and from all costs, losses, liabilities, damages and expenses arising out of or resulting from the death of or injury to any person or from any damage to or loss of property due to the acts and/or omissions of the Buyer.

11.2 Heraeus shall never be liable for any operating loss, loss of orders, loss of income, loss of profits, loss of public subsidies, loss of goodwill or for any special, indirect or consequential losses or damages whatsoever, howsoever caused.

11.3 Recall:

In the event of a recall of the Goods instigated by Heraeus or a competent authority, the Buyer shall in consultation with Heraeus take all necessary actions that are appropriate in the circumstances. These may include, without limitation, to stop delivery of the Goods and to recall the Goods from warehouses, distributors and retailers. The Buyer shall not interfere with the recall proceedings, which shall be controlled by Heraeus only, and shall not make public any actual or planned recall of the Goods, except as provided by applicable mandatory law or as instructed by Heraeus.

11.4 Heraeus shall not assume any liability in respect of the manner in which the product supplied by Heraeus reaches to the end user after the delivery of Goods. Heraeus shall at no stage be held liable for any change in quality of the Goods supplied by Heraeus on account of any process, or mixture or alteration on part of the Buyer in the original product supplied by Heraeus.

12. Assignment

12.1 The sale contract may not be assigned by the Buyer, whether voluntarily or by operation of law, to a third party without the prior written consent of Heraeus.

12.2 The sale contract may be assigned by Heraeus to a third party.

13. Inspection

13.1 The Buyer shall be responsible for arranging for testing and inspection of the Goods at Heraeus's premises before delivery. Heraeus shall have no liability for any claim in respect of any defect in the Goods which would be apparent on inspection and which is made after or in respect of any damage during transit or any damage after delivery of Goods.

13.2 Any delivery under this contract is subject to the proviso that performance does not conflict with any national regulations, for example embargoes or other sanctions. The Buyer undertakes to provide all information and documents required for transfer. Delays due to examinations or permission procedures shall set aside any time limits and delivery periods. If necessary, permissions are not granted, or if the delivery and service is not capable of being permitted, the contract shall be deemed as not concluded with regard to the parts of it that are concerned.

14. Termination

14.1 Heraeus reserves the right at any time to terminate the sale contract in whole or in part, without any liability to the Buyer if (i) the Buyer is insolvent, files or has filed against it an application for bankruptcy or winding up, has a receiver or trustee appointed for it or its assets, or makes a general assignment for the benefit of creditors, or is subject to other similar proceeding, (ii) the Buyer fails to timely pay the purchase price for any outstanding orders, or (iii) Heraeus reasonably apprehends that any of the events mentioned in (i) and/or (ii) above is about to account in relation to the Buyer and notifies the Buyer accordingly.

14.2 Heraeus shall also be entitled to terminate the contract without notice if termination on the part of Heraeus is required for compliance with national or international legal regulations. In the event of such termination, the assertion of any claim for damages or the assertion of other rights by the Buyer based on the termination shall be excluded.

14.3 If the Buyer terminates or cancels this agreement for any cause other than breach by Heraeus, then, at Heraeus's options, and in addition to all other remedies available at law or in equity: (i) the Buyer shall accept delivery of and pay the contract price for all Goods which are either finished or ready for shipping; and (ii) the Buyer shall reimburse Heraeus for (1) all actual costs incurred by Heraeus in connection with the uncompleted order as of receipt of notice of cancellation; and (2) all other costs, including but not limited to, general, selling and administrative expenses, cancellation charges incurred by Heraeus (if any), and a reasonable profit on the terminated portion of this sales contract.

15. Notices

Any notice or other communications required to be served pursuant to these terms and conditions shall be in writing and served (i) by personal delivery, (ii) by postage prepaid registered mail or (iii) by facsimile (with postage prepaid mail confirmation) on Heraeus at its registered address or place of business or such other address as Heraeus may from time to time notify the Buyer. Notice so sent will be deemed effective when delivered by hand or upon receipt of the confirmation (if notice was sent by way of facsimile).

16. Set-Off

The Buyer may not withhold payment of any Invoice or other amount due to Heraeus by reason of any right of set-off or counterclaim which Heraeus may have or allege to have or for any reason whatsoever.

17. Waiver

Waiver by Heraeus of any breach of any of the Terms shall not be construed as a waiver of any other breach, and the failure of Heraeus to exercise any right arising from any default of the Buyer hereunder shall not be deemed to be a waiver of such right, which may be exercised at any subsequent time.

18. Intellectual property rights

All intellectual property rights or other proprietary rights in and to the Goods or related to the Goods, including but not limited to their formula, design, packaging and know-how, and any modifications or developments thereto, as well as the trademarks and trade names under which the Goods are marketed shall remain the sole and exclusive property of Heraeus and the Buyer acquires no rights, title or license therein or thereto. If the Buyer challenges, harms or prejudices the validity or enforceability of such proprietary rights, Heraeus shall without liability be entitled to immediately terminate any cooperation between the parties with immediate effect and to cancel any Contract.

19. Miscellaneous

19.1 If any provision contained in these Terms should be held to be void or unenforceable, the validity of the other provisions shall not be affected thereby.

19.2 No waiver by Heraeus of any breach by the Buyer, or failure by Heraeus to insist on the Buyer's performance of obligations shall be considered a waiver of any subsequent breach of the same or any other provision.

19.3 The Buyer shall hold in confidence and not disclose to any third party any confidential information disclosed by Heraeus. The Buyer shall not use such information for the Buyer's own benefit or the benefit of any third party.

19.4 Nothing in the relationship between Heraeus and the Buyer shall create an agency, partnership or joint venture between the parties and in specific the Buyer shall not be entitled to make any representation or warranty on behalf of Heraeus.

20. Governing Law and Jurisdiction

20.1 The validity, performance and construction of any Contract with Heraeus shall be governed by the laws of India. Any disputes arising out of or in connection with any Contract or offer, quotation or order confirmation issued by Heraeus or in connection with the delivery of the Goods to the Buyer, including but not limited to disputes relating to the construction of these Terms, shall be settled in accordance with laws of India.

20.2 Any dispute shall be settled before the courts of law in India and legal proceedings shall be instituted at the courts of India.

20.3 Notwithstanding the above, Heraeus shall at all times at its discretion be entitled to initiate legal proceedings against the Buyer in the country in which the registered office of the Buyer is located.