

## General Terms and Conditions of Sale

*These general terms and conditions of sale (“Terms and Conditions”) shall constitute part of a sale agreement, unless the sale agreement refers to specific terms and conditions in which case those specific terms and conditions shall prevail over the Terms and Conditions below*

### 1. Agreement

These Terms and Conditions are intended to establish the terms, conditions and procedures under which **Ottana Polimeri S.r.l., Italy** (the “**Company**”) shall sell its products (“**Products**”) to a purchaser (the “**Buyer**”) as and when purchase orders are placed by the Buyer and accepted by the Company (“**Order**”). By placing an Order the Buyer submits an offer to buy the Products pursuant to these Terms and Conditions. The Company shall not be deemed to have accepted any such offer unless and until it ships Products to the Buyer, or accepts the Order of the Buyer in writing, whichever comes first. The Company will not be bound by any standard or printed terms presented by the Buyer unless specifically accepted in writing by a duly authorized representative of the Company. Unless explicitly and specifically objected to in writing by the Company, the Terms and Conditions shall apply to all offers, Order confirmations, Order acceptances, or sales whether or not they applied to a prior purchase by Buyer. No employee or agent, other than the authorised officer of the Company is authorised to sell or make representations on the Products.

*“Affiliate” means, in relation to either Party, a subsidiary or a holding company of that Party*

*“Company” means the seller of the Products under these Terms and Conditions and*

*“Contract” means any of the following: the Terms and Conditions and/or a sale agreement and/or an Order for sale of the Products by the Company.*

*“Party” means, individually, the Company or the Buyer and “Parties” means both of them collectively.*

### 2. Price

The purchase price of the Products (“**Price**”) and any other terms and conditions of sale shall be as stated in the Contract or in the confirmation for acceptance of the Order issued by the Company. The Price shall be payable in the currency designated by the Company.

The Company may increase the Price in accordance with the provisions under Section 17 below.

### 3. Payment and Credit

Payment terms shall be those established by the Company from time to time as set out in the Contract. If the Buyer fails to pay for any one or more installments of the Price when due, or if the Buyer's financial worthiness, becomes unsatisfactory to the Company, then the Company, in its absolute discretion, shall have the right, in addition to other remedies available to it under the Contract or otherwise at law, to: (a) suspend or terminate the Contract, pursuant to article 1456 (*clausola risolutiva espressa*) of the Italian Civil Code, (b) require immediate cash payment for further deliveries, or (c) require satisfactory security before proceeding with further deliveries. Any amounts past due over thirty (30) days will accrue interest (*interessi di mora*) from their due date at the higher of (a) the rate provided under Article 5, paragraph 1, of Legislative Decree No. 231/2002, and (b) the maximum rate permitted under applicable law. The Company will invoice the Buyer for and in respect of each sale and individual consignment of the Products delivered under each Order via regular mail, electronic mail or by any other electronic means. Any invoice not objected to by the Buyer in writing within one (1) month of shipment will be deemed to be an undisputed invoice. The Price of each delivery shall be payable by the Buyer as directed in writing by the Company or as specifically mentioned in the Contract. The Price of the Products shall be due and payable within thirty (30) days after the issuance date of the invoice and this deadline shall be considered as a guaranteed and essential deadline (*termine essenziale*) for the payment of the Price under article 1457 of the Italian Civil Code. If a dispute between the Parties arises in relation to the correctness of an invoice issued by the Company, the Buyer shall still be bound to pay the invoiced amount in full within the above mentioned terms. If the Buyer disputes the accuracy of an invoice, it shall, on or before the date on which the relevant amount invoiced becomes due and payable, as provided above, (i) provide a written explanation of the basis for the dispute and (ii) pay to the Company the full amount invoiced by no later than the date on which such amount becomes due and payable, as provided above. If any amount

paid under dispute is finally determined to have not been due, such overpayment shall, at the election of the Buyer, be credited or returned to it within thirty (30) days of such determination. The payment is not deemed to be received unless it has been received in cleared funds. No partial payment by the Buyer shall constitute an accord and satisfaction or otherwise satisfy the entire outstanding balance of any invoice of the Company, notwithstanding any notation or statement accompanying that payment. The Buyer shall reimburse the Company for the cost of collection, including, without limitation, reasonable attorney's fees, of any overdue amount owed by Buyer to the Company. Buyer may not hold back or set-off any amounts owed to the Company in satisfaction of any claims asserted by Buyer against the Company or any of its Affiliate.

#### **4. Taxes**

All amounts set out, or expressed to be payable under this agreement by the Buyer to the Company shall be deemed to be exclusive of any present or future tax, duty, excise, levy or similar governmental charge (severally defined as "Tax") which are chargeable on any supply. Accordingly if any Tax is chargeable on any supply made by the Company to the Buyer under this agreement, the Buyer shall pay to the Company (in addition to and at the same time as paying the consideration) an amount equal to the amount of Tax.

#### **5. Title and Risk of Loss**

##### ***A. Domestic Sales***

The title, risk of loss for the Products delivered shall pass from the Company to Buyer the moment the Products are delivered at the agreed point of delivery.

##### ***B. International Sales***

Unless otherwise agreed in writing or indicated in the Contract, invoice or elsewhere in any sale agreement, title shall pass from the Company to the Buyer EXW agreed delivery point (INCOTERMS 2010).

However, both for domestic and international sales, the Company can reclaim title to the Products delivered or to be delivered to Buyer if the Company has not received payment in full of the Price of the Products, the fees for any work done in relation to the Products and any costs or damage, including late payment interest (*interessi di mora*) resulting from a breach by the Buyer of its obligations in regard to the sale of the Products.

#### **6. Insurance**

##### ***A. Domestic Sales***

Unless otherwise stated in the Contract, the Company shall insure the Products up to the agreed delivery point, whilst the Buyer shall insure the Products thereafter.

##### ***B. International Sales***

The Buyer / the Company shall be responsible for insuring the Products according to the provisions of EXW (INCOTERMS 2010), unless otherwise stated in the Contract, in the invoice or agreed elsewhere in writing.

However, both for domestic and international sales, if title to the Products has passed to the Buyer but the Buyer has not made the full payment for the Products within the period set out in the Contract, the Company shall be entitled to receive the insured claim amount from the insurer of the Buyer.

The insurance to be provided by the Buyer must be made to cover any damages or loss on the Products for the full amount of the insurable value of the Products.

#### **7. Cancellation or Delay**

Other than with the express written consent of the Company, the Buyer has no right to cancel any Order sent to the Company or to delay any delivery. If the Company has so consented to any cancellation of an Order or delay of a delivery, the Buyer shall pay the Company all costs the Company has incurred, and will incur, with respect to the cancellation or delay, including all restocking charges. It is understood and agreed between the Buyer and the Company that if the Contract covers Products that must be manufactured especially for the Buyer (custom made) and such an Order is suspended or terminated for any reason, the Buyer shall take delivery of and make payment for such Products as have been completed and such Products as are in process on the date notice of suspension or termination is received by the Company. If the Buyer for any reason cannot accept delivery of such custom made manufactured Products, the Buyer shall make payment therefore as though delivery has been made and the Company may in its sole discretion, store such Products for the Buyer's account and at the Buyer's expense or destroy or dispose of such Products as it deems appropriate.

#### **8. Shipment and Delivery**

Unless otherwise expressly stated in the Contract, the Company shall deliver the Products on the agreed delivery date(s) set out in the relevant Contract. In the event of delay of delivery, the Buyer shall grant to the

Company a fifteen (15) days tolerance period; after the expiry of such fifteen (15) days tolerance period, the Buyer shall be entitled to terminate the Contract, but subject to a thirty (30) days further notice under article 1454 (*diffida ad adempiere*) of the Italian Civil Code. Unless stated otherwise in the Contract, selection of carrier and routing of shipment shall be in the Company's absolute discretion, but the Company will not, by exercising such selection right to select the carrier and routing, assume any liability in connection with shipment, nor shall the carrier in any way be construed to be the agent of the Company. The Company may make partial deliveries or may discontinue deliveries of any Products, at any time, without notice provided that the agrees delivery dates set out in the relevant Contract are complied with. The Products shall be delivered EXW delivery point agreed in the Contract (INCOTERMS 2010) and accepted by the authorised officer of the Company . Without the express written consent of the Company, the Buyer shall not be entitled to refuse to accept delivery and/or return any consignment of the Products, or portion thereof, delivered by the Company.

#### **9. Weights, Measurements and Quantities**

The Company's weights and/or measurements shall govern and be deemed to be accepted by the Buyer if the Buyer has not complained, of any discrepancy in weight, to the Company within seven (7) days of taking delivery.

On bulk marine vessel shipments, no claim may not be made (including, without limitation, for Price adjustment) for shortages of less than one percent. (1%) of the net weight. On bulk tank trucks, bulk tank cars, or packaged shipments, no claim may be made (including, without limitation, for Price adjustment) for shortages of less than zero point percent. (0.5%) of net weight.

While the Company will act in good faith (*obbligazione di mezzi*) to deliver the full quantities purchased by the Buyer, and in such consignments and intervals as indicated in the Contract, such deliveries will be subject to availability and the Company shall have no liability to the Buyer if the the actual deliveries differ from those set out in the Order. Where delivery of the Products is to be made in bulk, the Company reserves the right to deliver up to five percent. (5%) more or five percent. (5%) less than the quantity ordered, and the quantity so delivered shall be deemed to be compliant with the quantity ordered.

#### **10. Containers and Delivery Equipment**

The Buyer shall unload and return delivery equipment furnished by the Company to the carrier within two (2) days after arrival. In case of delay

of the Buyer in unloading the Product, the Buyer shall reimburse to the Company all the demurrage charges (*corrispettivi di controstaillia*), detention charges, and all other costs borne by the latter in connection with the delayed unloading and return of delivery equipment and the Buyer shall be responsible for any damage to such delivery equipment. If shipment/delivery requires use of returnable containers, title to such containers shall remain in the Company at all times. Such containers shall be returned in good condition to the Company within sixty (60) days from the date of shipment, and the Buyer shall be responsible for the cost of any damage to such containers and/or the costs of any demurrage or detestation charges with respect to such containers.

#### **11. Product Characteristics**

The Buyer represents that it has the requisite expertise, facilities and equipment to properly unload, take delivery of, store, test, use and dispose of the Products. The Buyer and all its employees and agents that handle the Products shall familiarize itself with the characteristics of the Products and shall comply with all laws, regulations, and standards applicable to the unloading, taking delivery of, possession, handling, processing or use of the Products. The Buyer shall follow the safety recommendations of the Company provided that, notwithstanding any product instructions given by the Company, the Buyer shall be responsible to ensure that the Products shall be unload, offtaken, stored, tested, used, sold and/or disposed of strictly in compliance with instruction of the Company and any applicable law, regulation and standard.

#### **12. Product Suitability**

Determination of the suitability of the Products for the uses and applications contemplated by the Buyer and others shall be the sole responsibility of the Buyer. The Company makes no representations or warranties with respect to their suitability for any use for which the Buyer may intend them. The Company makes no warranty or guarantee of the results to be obtained since the conditions of the use and application by the Buyer and others may vary and are beyond the Company's control.

#### **13. Warranties and Disclaimers**

There are no warranties, express or implied, made by the Company herein, except for the limited warranty against defects in materials set forth in the following paragraph. Therefore the Parties agree to contract out from article

1490 (*garanzia per i vizi della cosa venduta*) of the Italian Civil Code.

The Company warrants that the Products shall meet the standard written specifications of the Company in effect as of the date of delivery and the Buyer shall take delivery of the Products in the condition in which they are at that moment (*visto e piaciuto*).

For the avoidance of doubt, this limited warranty is expressly in lieu of any other warranties, express or implied, including, without limitation, any implied warranty of merchantability or fitness for a particular purpose.

The Products subject to the Contract are not warranted as suitable for any particular purpose particular to Buyer. The suitability of Products for any purpose particular to Buyer is for Buyer, in Buyer's sole judgment, to determine. The Company assumes no responsibility for the selection or furnishing of Products suitable to the individual needs and purposes of Buyer.

Without prejudice for the provisions of article 1229 (*clausole di esonero da responsabilità*) of the Italian Civil Code, the Buyer shall have no recourse against the Company for the damages and losses suffered under the Contract, unless in the event of gross negligence (*colpa grave*) or wilful misconduct (*dolo*) of the Company; no claim of any kind against the Company shall exceed the Price of the Products that has actually been paid to the Company under the Contract; provided further that the size of any claim shall be limited in amount to the Price of the particular Order of Products and/or the Price of the actual quantity of Products delivered for which the Buyer is making a claim. The remedy hereby provided shall be the sole and exclusive remedy of Buyer; and any right of the Buyer to loss of profits (*lucro cessante*) or for special, indirect, incidental, exemplary, punitive or consequential damages of any kind is hereby excluded. No charges or expenses incident to any claims will be allowed unless approved in writing by an authorized representative of the Company.

#### 14. Representations

The Buyer represents and warrants to the Company that:

- (a) it is a company validly incorporated and existing under the laws of Italy;
- (b) it has obtained every qualification and every consent necessary for performing its obligations under the Contract;
- (c) it is able to perform all its obligations under the Contract, which represent the valid and binding obligations of the Buyer

to be performed in accordance with the Contract;

- (d) the negotiation and execution of this Contract and the performance of the obligations set out in it do not violate and will not violate the Buyer's deed of incorporation and by-laws, nor do they or will they constitute an event of default under any agreement entered into by the Buyer; and
- (e) it has not entered into agreements or undertaken contractual obligations that could adversely affect the Buyer's ability to perform its obligations under the Contract or cause it to be in breach of the Contract.

#### 15. Liability Limitations

The Buyer assumes all risk and liability resulting from the use of the Products, whether alone or in combination with other materials.

Without prejudice for the provisions of article 1229 (*clausole di esonero da responsabilità*) of the Italian Civil Code, the Buyer assumes responsibility to analyze the Products, and the Company shall have no liability if Buyer uses the Products that do not conform to the standard written specifications of the Company in effect

as of the date of delivery. The Buyer must give the Company written notice of any failure of the Products to comply with the Company's specifications within five (5) days after the Buyer identifies any non-compliance. The Company shall have a reasonable opportunity to inspect the Products at issue. For any Products that the Company determines do not conform to the specifications, the Buyer's sole and exclusive remedy shall be for the Company, at its sole discretion, to replace the non-conforming Products or refund the amount of the Price that the Buyer has already actually paid to the Company for the non-conforming Products, and in no event shall the Company's liability for any claim exceed that amount. Claims related to non-conforming Products shall be made within thirty (30) days after the date when the Buyer has discovered or should have discovered such non-conformity. All other claims shall be made within thirty (30) days after receipt of the Products to which the claim relates, or if for non-delivery, after the scheduled delivery date. The Buyer's failure to give the Company written notice of any claim within the above applicable time periods shall constitute an absolute and unconditional waiver of such claim

(*decadenza*). In no event shall the Buyer commence any action against the Company later than ninety (90) days after the cause of action has accrued.**Indemnity**

The Buyer represents that it is familiar with the characteristics of the Products and assumes all responsibility and liability for and will indemnify and hold the Company, its Affiliates, the Company's and its Affiliates' employees, agents, servants, officers, directors, distributors and dealers, harmless from any and all loss or injury to persons or property arising out of handling use or possession of the Products delivered to it. The Buyer shall defend, indemnify and hold the Company and its employees free and harmless from and against any and all claims, liabilities, judgments, losses, damage to property or bodily injury, economic losses or expenses (including legal and other defence expenses) in connection with, without limitation, (a) the performance or breach of this Contract by the Company and (b) Buyer's use of the Products, (c) any processing or modification of the Products in any manner by the Buyer, its employees, agents or customers, (d) any violation of law or regulation by, intentional or negligent act of, or unauthorized representation by the Buyer, its Affiliates, the Buyer's and its Affiliates' employees or agents in their use, sales, distribution or handling of Products, and (e) any violation or infringement of any patent, trademark, copyright, trade secret or other property interest of a third party. At the Company's request, the Buyer shall defend the Company, at the Buyer's expense, against any such claims made against the Company.

## 16. Force Majeure

Each Party may suspend the performance of its obligations during the occurrence of an event of force majeure ("**Force Majeure**"), which shall mean any event not caused by, and outside the reasonable control of the Party which invokes it, and which renders said Party commercially unable to comply totally or partially with its obligations under this Contract. In particular and without limitation, any of the following events may be considered as a Force Majeure: accidents, acts of God, acts and omissions of any governmental authority, declared or undeclared wars, terrorism, explosions, strikes or other labor disputes, fires and natural calamities (including floods, earthquakes, storms and epidemics), changes in the law, and delays in obtaining (or the inability to obtain) labor, materials or services through the Company's usual sources at normal prices, riots, embargoes, fuel, power, materials or supplies, delay or default of common carriers, transportation delays, or without limiting the foregoing, any other cause or causes, whether or not similar in nature to any of these herein before specified or which are beyond its reasonable control. The obligations of the Party

affected by the Force Majeure shall be regarded as suspended for the whole duration of such Force Majeure Event. If a Party is or will be prevented from performing any of its obligations by the occurrence of Force Majeure, then it shall give notice to the other Party of the circumstance constituting the Force Majeure and shall specify the obligations the performance of which is or will be prevented. The notice shall be given within two (2) business days after the Party became aware of the relevant event or circumstance constituting Force Majeure. At the occurrence of Force Majeure, the Company shall be entitled to, in its absolute discretion, cancel any Order or any part thereof, without any charge or penalty. Each Party may withdraw from the Contract, with intimation to the other Party, if Force Majeure lasts for a period longer than three (3) months.

## 17. Change in Circumstances

In the event of the repeal, amendment, making or change in the judicial or administrative interpretation of, a law, regulation, directive (even if not directly applicable) or other source of Italian law or European Union law, including regional and local laws or any change or modification of indexes calculation and tariffs regulation, or alteration in the relevant market, or in the case of any other hardship event, the Company shall notify to the Buyer any necessary amendments to the Contract required to maintain the commercial relationship that existed before the change. The Buyer shall notify within thirty (30) days from the receipt of the communication whether it accepts the amendments proposed by the Company. If the Buyer fails to notify within the terms above, the amendments shall be considered as accepted. If the Buyer does not accept, the Company shall be entitled to withdraw from this Contract upon thirty (30) days prior written notice to the other Party. Without prejudice to the provisions above, all the obligations under this Contract which have been fulfilled shall be effective.

## 18. Waiver

No waiver by the Company of any breach by the Buyer of any of the Contract, or delay or failure of the Company to enforce any right or remedy, shall be construed as a waiver of any succeeding breach of the same or any other terms or conditions. Nothing contained herein shall limit the remedies of the Company in the event of the Buyer's breach of any obligations under the Contract.

## 19. Assignment

The Buyer shall not assign to any person or entity a Contract or any of its rights or obligations under the Contract without the prior written consent of the Company, in its absolute discretion, and any attempted assignment without that consent shall be void. The Company may freely assign the Contract and any right thereof without the consent of the Buyer, to any of its Affiliate and in the event that the Company shall effect a reorganization, consolidate with or merge into any other corporation, partnership, organization or other entity, or transfer all or substantially all of its properties or assets to any other corporation, partnership, organization or other entity or in the event of lease, usufruct or assignment of a going concern (*ramo d'azienda*) by the Company. The Company shall have the right to assign a Contract or any of its right and obligations to third parties, with the prior written approval of the Company, which shall not be unreasonably withheld..

## 20. Severability

If any of the provision of a Contract or an Order is held by a competent authority to be invalid or unenforceable, the validity of the other provisions of the Contract or such Order shall not be affected.

## 21. Notices and Communication

Any notice or other communication that either party gives under the Contract shall be made in writing and given either by hand, first class recorded postal delivery or facsimile transmission or electronic mail to a previously designated authorized individual or by any other electronic means.

## 22. Conflicting provisions

Subject to the provisions under Section 1 above, in the event of any conflicting or inconsistent provisions between 1) the relevant sale agreement, 2) these Terms and Conditions, 3) the Order/Contract, and 4) the other applicable document or correspondence, the provisions of 1) the sale agreement 2) the Terms and Conditions and 3) the Order and 4) other applicable documents or correspondence shall always prevail respectively and take precedence with respect to any such conflicting or inconsistent provisions.

## 23. Status of the Buyer

Nothing in these Contract or these Terms and Conditions shall create or be construed as creating a partnership, joint venture, a contract of employment or relationship of employer and employee, or a relationship of principal and agent between the Buyer and the Company.

## 24. Confidentiality

Neither Party may reveal or convey to third parties the existence of the Contract, their clauses, statements, or other provisions, without the express prior written authorization of the other Party. The Parties shall likewise refrain from revealing or conveying to third parties by any means whatsoever any information relating to the organization of the other Party, including, by way of example, technical, production, industrial, commercial, organizational, employment, or financial information, except as expressly permitted herein.

In any event, a Party that reveals or conveys any such information to third parties, with the express prior written authorization of the other Party, may only do so by requiring that such third party receivers of such information to undertake the same confidentiality commitment as that described herein.

Notwithstanding the foregoing, the Company may disclose the information when required by the applicable laws or by its rating agencies, actual or potential financial institution or its professional advisers.

The duty of confidentiality shall be indefinite and shall remain in force after the termination or expiration of the Contract.

The provisions above shall not apply to: (i) information in the public domain obtained otherwise than by breach of this Section; (ii) information which (a) was already in the possession of the receiving Party before divulgence thereof and (b) was not obtained from a third party that was under any obligation of confidentiality; and (iii) information obtained from a third party who the receiving Party believes, after reasonable inquiry, is free to divulge the same so long as the information was not obtained by the receiving Party under any obligation of confidentiality to the third party.

## 25. Mutual Data Protection

Under article 13 of Italian Legislative Decree No. 196 of 30 June 2003:

the personal data of the Parties acquired during negotiation, execution or performance of the Contract (the **Parties' Data**) shall be processed, including by electronic and automated means, for the

- (a) purposes relating to the performance of the Contract or for compliance with legal requirements;

- (b) conferment of the Parties' Data is optional, but refusal to provide the Parties' Data may cause difficulties in the performance of the Contract;
- (c) the Parties' Data shall be disclosed only to consultants or Affiliates of the Parties or to persons appointed to process the relevant data for the purposes set out in paragraph (a) and shall not otherwise be disclosed or divulged to third parties; and
- (d) in relation to the processing of the Parties' Data the Parties may exercise the rights set out in article 7 of Italian Legislative Decree 196 of 30 June 2003.

**26. Model of Organization, Management and Control (Legislative Decree No. 231/2001)**

The Buyer acknowledges to be aware of:

- (a) the administrative and criminal liability of corporations under Legislative Decree No. 231 of 8 June 2001 and its implications for the Company; and
- (b) the organizational, management and control model followed by the Company.

In this regard, the Buyer represents that it has never been part of proceedings under Legislative Decree No. 231 of 8 June 2001 and undertakes to comply throughout the duration of these Contract with the principles set out thereof.

**27. Language**

The official language between the Parties shall be Italian and all communications between the Parties related to these Contract shall be in such language.

**28. Governing Law and Disputes Resolutions**

The Contract shall be governed by and construed in accordance with the laws of Italy, excluding any application of the "United Nations Conventions on Contracts for the International Sale of Goods of 11 April 1980". Any dispute arising out of or related to the Contract shall be settled by arbitration under the Rules of the Chamber of Arbitration of Milan, by three arbitrators, appointed in accordance with such rules. The seat of the arbitration shall be Nuoro, Sardegna and the arbitration proceeding shall be carried out in Italian.