

Commercial Terms and Conditions of Sale (B2B) - USA

§ 1 Scope and Commercial Qualifications (1) These Commercial Terms and Conditions of Sale ("B2B Terms") exclusively govern all sales transactions between AFATEK AG, Muenchener Strasse 13, 85247 Schwabhausen, Germany ("Seller") and commercial entities, corporations, partnerships, sole proprietorships, or government bodies located in the United States ("Buyer").

(2) Transactions under these B2B Terms are strictly limited to commercial purchasers buying for resale, industrial integration, or commercial fleet usage. Sales to consumer end-users are expressly excluded under this agreement.

§ 2 Pricing, Import Tariffs, and Incoterms (Ex-Works / FOB) (1) All prices are net prices expressed in USD or EUR, excluding applicable freight, packing, insurance, and taxes.

(2) Incoterms & Taxes: Unless otherwise expressly stipulated in writing, deliveries are conducted EXW (Ex Works Schwabhausen, Incoterms 2020) or FOB Port of Shipment. Buyer shall assume full responsibility for US customs entry, import tariffs, harbor maintenance fees, clearance charges, and applicable state/local use taxes.

§ 3 Risk of Loss and Freight Requirements Risk of loss, damage, or destruction passes entirely to Buyer upon handover of goods to the primary carrier, logistics provider, or buyer-designated freight forwarder at Seller's facility in Germany. Seller shall have no liability for transit damage, carrier delays, loss, or customs clearance delays.

§ 4 Inspection, Non-Conformity, and Waiver (1) Buyer shall inspect all goods immediately upon arrival at Buyer's destination. Claims concerning visible defects, short shipments, or incorrect goods must be submitted in writing with supporting photographic evidence within five (5) business days of receipt.

(2) Failure to submit written notice within the 5-day window constitutes absolute waiver of all claims regarding visible defects or deficiencies.

§ 5 Complete Disclaimer of Warranties ALL GOODS ARE SOLD "AS IS, WHERE IS." SELLER MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS, INCLUDING ANY (A) WARRANTY OF MERCHANTABILITY; (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; OR (C) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY, WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE.

§ 6 Absolute Cap on Commercial Liability IN NO EVENT SHALL SELLER BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES, OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO ANY BREACH OF CONTRACT OR SALE OF GOODS. SELLER'S MAXIMUM AGGREGATE LIABILITY SHALL NOT EXCEED THE TOTAL INVOICE AMOUNT ACTUALLY RECEIVED BY SELLER FOR THE SPECIFIC GOODS GIVING RISE TO THE CLAIM.

§ 7 Dispute Resolution, Binding Arbitration, and Governing Law (1) Governing Law: All legal matters arising out of or related to these B2B Terms shall be governed by and construed under the substantive laws of the Federal Republic of Germany, excluding the UN Convention on Contracts for the International Sale of Goods (CISG).

(2) Arbitration: Any dispute or controversy shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce (ICC) by one arbitrator appointed in accordance with said Rules. The place of arbitration shall be Munich, Germany, and proceedings shall be conducted in English.

§ 8 Indemnification Buyer agrees to defend, indemnify, and hold harmless Seller and its officers, directors, and employees from and against any claims, liabilities, losses, damages, or expenses (including legal fees) arising out of Buyer's resale, installation, or commercial utilization of the products.