

## Terms and Conditions

### Conditions of sale and delivery for NIBE Element (Backer Heatrod Ltd in the UK)

#### 1. General

These conditions of sale and delivery are applicable on deliveries of products, plants and components manufactured, delivered and/or erected by Backer Heatrod Ltd (the "Supplier"). Such products, plants and components are hereinafter jointly referred to as the "Products".

These conditions apply as a complement to the parties' separate contract or any other corresponding written agreement, such as for example offers and orders preceding the delivery (the "Agreement"). The applicable Orgalime General Conditions shall be stated in the Agreement. If applicable Orgalime General Conditions are not indicated in the Agreement, Orgalime SC 06 (or any subsequent conditions that replace Orgalime SC 06) shall apply between the parties. However, Appendix 1 to Orgalime SC 06 shall never apply between the parties unless otherwise specifically set forth in the Agreement.

In the event the provisions of these conditions of sale and delivery, the Agreement and applicable Orgalime General Conditions should be in conflict the documents shall take precedence in the order listed below.

1. The Agreement
2. These conditions of sale and delivery
3. Applicable Orgalime General Conditions (including supplementary conditions)

Any deviation from the above mentioned documents shall be approved in writing by the Supplier in order to form part of the parties' agreement. This means *inter alia* that the purchaser's conditions of purchase are applicable between the parties only after the Supplier's written approval.

#### 2. Prices

All prices indicated in the Agreement are exclusive of value added tax and packaging costs.

#### 3. Packaging

The purchaser shall pay compensation for packaging in accordance with the Supplier's at each time valid price list.

The purchaser shall at its own risk and expense return standard pallets and collars to the Supplier within two months from receipt. The purchaser shall receive compensation for such standard pallets and collars in accordance with the Supplier's at any time current price list. The Supplier does not accept any other packaging in return.

#### **4. Conditions of delivery**

Unless otherwise stated in the Agreement the Products are delivered Ex Works the Supplier's factory in accordance with the valid Incoterms at any time.

#### **5. Payment and invoicing**

Unless otherwise stated in the Agreement, the purchase price shall be paid no later than thirty (30) days from the delivery date.

The Supplier has the right to request payment in advance of the purchase price or that the purchaser provides other corresponding security, such as for example documentary letter of credit, before delivery of the Products, irrespective of the reason therefor.

#### **6. Retention of title**

The Products shall remain the property of the Supplier until full payment of any of the Supplier's claims out of or in connection with the Agreement has been made.

However, until full payment of any of the Supplier's claims out of or in connection with the Agreement has been made the purchaser shall be entitled to process and resell the Products in the ordinary course of business in accordance with the following provisions.

Any processing of the Products shall be conducted on behalf of the Supplier as manufacturer and the Supplier shall acquire the ownership in any such newly manufactured products ("Newly Manufactured Products") in whole or, if the Newly Manufactured Products comprise products of different owners; pro rata in accordance with the value of the processed products. The purchaser herewith (in advance) assigns any current and future claims against its customers resulting from or in connection with the resale of the Products or resale of Newly Manufactured Products (in case of co-ownership of the Newly Manufactured Products; pro rata) to the Supplier as security. The Supplier herewith authorizes the purchaser to collect such assigned claims on behalf of the Supplier. The Supplier may at any time revoke said authorization.

The stipulations set forth above shall apply to the extent that such retention of title is valid under the applicable law.

#### **7. Deviations**

The following shall only apply when Orgalime SC 06 or Orgalime S 2012 (or any subsequent conditions that replace said conditions) is applicable between the parties:

The purchaser must accept a deviation in the quantity of delivered Products (excess or short delivery) by maximum ten (10) per cent of the ordered quantity and must make full payment of the purchase price. In case of excess delivery the purchaser is also obligated to pay for the surplus Products.

## **8. Samples, tools and equipment**

All samples and tools as well as equipment furnished by the Supplier for the manufacture of the Products remain the sole property of the Supplier.

## **9. Documentation**

To the extent available, the Supplier will provide product information regarding the delivered Products. Other documentation and assembly instructions are offered separately at the purchaser's request.

## **10. Complaints and liability for defects**

The Supplier's liability for defects follows from the applicable Orgalime General Conditions, except as set out below in this clause 10.

The Supplier assumes no liability for defects as regards layout and design of the Products unless expressly stated in the Agreement.

Each Product is marked with a serial number indicating the date of manufacture. The Supplier's liability for defects expires after a period of 52 weeks calculated from the date of manufacture of the Product in question. The mentioned time limitation shall apply irrespective of whether the Product or parts of the Product has/have been repaired or replaced during this period.

The purchaser is liable for all costs in connection with reparations or replacements of the Products or parts of the Products. All transportation of defect Products or defect parts of the Products to and from the Supplier shall be at the purchaser's risk and expense.

## **11. Third party claims**

If the Supplier incurs liability towards a third party that has purchased the Products from the purchaser or from downstream distributors, the purchaser shall indemnify, defend and hold the Supplier harmless against any and all such claims.

## **12. Customers other obligations**

**The customer warrants that it shall not sell, export or re-export, directly or indirectly, to Russia or Belarus or for use in Russia or Belarus, any Products provided by Backer Heatrod Ltd under or in connection with this Agreement that fall under the scope of Article 12g of Council Regulation (EU) No 833/2014 (as amended) or any other subsequent Council Regulation. The customer also agrees to take the measures necessary to prevent any of its business partners or customers from doing the same. In the event of a breach of this obligation, Backer Heatrod Ltd shall be entitled to claim compensation for any loss or damage suffered as a result of such violation and has the full right to suspend and/or terminate this Agreement (including any orders placed under this Agreement).**