

HET China General Terms and Conditions (2021 version)

1 Applicable Scope

- 1.1 These general terms and conditions (hereinafter referred to as “GTC”) apply to all quotations and offers made by companies of Heraeus Electronic Business Unit in China (including Heraeus Zhaoyuan Precious Metal Materials Co., Ltd. and Heraeus Zhaoyuan (Changshu) Electronic Materials Co., Ltd., hereinafter individually and collectively referred to as “Heraeus”), all acceptances, acknowledgements and confirmations by Heraeus of any order of the customer (hereinafter referred to as “Customer”), and all agreements or contracts between Heraeus and the Customer regarding the provision of goods and/or services (hereinafter referred to as “Products”) by Heraeus to the Customer, unless otherwise expressly agreed by relevant contracting parties in writing.
- 1.2 Except for this GTC, the terms and conditions in relation to transactions between Heraeus and the Customer as follows are excluded for application: (1) any Customer’s general terms and conditions as well as any of its supplements. Heraeus’ confirmation of a written order placed by a Customer and Heraeus’ subsequent performance of the order is not and should not be construed as Heraeus’ acknowledgement of any of the Customer’s general terms and conditions and any of its supplements printed on, attached to, referred to, or otherwise associated with the written order of the Customer; and (2) any terms and conditions implied in any trade, custom, practice, business activity or process.
- 1.3 A sales agreement or contract concluded by Heraeus and the Customer shall take precedence over this GTC. In the absence of evidence to the contrary, the conclusion of or change to such sales agreement or contract shall be in written form or with Heraeus’ written consent. This GTC shall not limit or affect any of Heraeus’ rights under the relevant sales agreement or contract, or Heraeus’ other rights and remedies available under the applicable law.
- 1.4 Heraeus reserves the right to change the Products or to discontinue production at its own discretion, provided that Heraeus shall continue to perform the concluded specific sales contract (hereinafter referred to as a “Specific Contract”).

2 Contract Conclusion

- 2.1 A Specific Contract is concluded when Heraeus and the Customer confirm the specific terms and conditions of the transaction (i.e. subject name, specifications, quantity and total price) in written form (including but not limited to e-mail form) or through the trading system of Heraeus’ e-commerce platform. After the Specific Contract is concluded and comes into effect, it is binding on both parties, and the Customer shall not unilaterally revoke or suspend the performance of the Specific Contract, except as provided by laws or as agreed by both parties.
- 2.2 If the Customer places an order as a purchase offer to Heraeus, it cannot unilaterally revoke or cancel the order within 5 working days prior to Heraeus’ written confirmation.
- 2.3 If the Customer unilaterally revokes its offer or withdraws or suspends the performance of a Specific Contract in breach of laws or the agreements between the parties, or if the

Customer has payment delay or other contractual defaults which cause Heraeus to terminate the relevant Specific Contract in accordance with the laws or relevant agreement, the Customer shall compensate Heraeus for damages, including in particular, but not limited to, the price difference of the precious metals purchased by Heraeus for the performance of the Specific Contract, the cost of cash occupation, the fees and costs paid by Heraeus for the hedging of precious metals, etc. This clause is without prejudice to Heraeus' right to claim other damages against the Customer in accordance with the laws or the sales agreement or contract.

3 Payment

- 3.1 The Customer shall fully pay the price to Heraeus via bank transfer within 2 working days after the conclusion of the Specific Contract, and no later than the goods shipment date or the service commencement date, unless otherwise expressly agreed by both parties in writing. All the bank charges for or relevant to Customer's payment shall be borne by the Customer.
- 3.2 Heraeus is entitled to set a credit limit for the Customer. If the outstanding payments under all Specific Contracts owned by the Customer to Heraeus exceed the credit limit approved by Heraeus, the exceeding amount shall be deemed due and payable by the Customer immediately, and Heraeus is entitled to suspend the delivery of the Products corresponding to the exceeding amount prior to the actual payment by the Customer.
- 3.3 If the Customer fails to make any due payment to Heraeus or has any other defaults under any agreement or contract with Heraeus, Heraeus is entitled to suspend or withhold delivery of Products or performance of other obligations. Heraeus is entitled to unilaterally adjust and/or cancel Customer's credit limit and payment term based on the Customer's performance and credit conditions.
- 3.4 If the Customer fails to pay any due amount, the Customer shall pay liquidated damages to Heraeus at the rate of 0.1% of the total overdue payment per each delayed day; if the payment delay exceeds 30 days, Heraeus is entitled to terminate the contract and/or cancel the order.
- 3.5 Unless otherwise expressly agreed by both parties in writing, the Customer has no right to set off any payment.

4 Delivery, Risk Transfer and Title Transfer

- 4.1 The delivery date notified or confirmed by Heraeus is just an estimated delivery date. It does not constitute a breach of Heraeus' obligations to the Customer if Heraeus' actual delivery takes place within reasonable period before or after such delivery date, and Heraeus shall not assume any liability therefor. However, Heraeus' delivery period shall not exceed 60 days after conclusion of the Specific Contract, except under special conditions such as a force majeure or the Customer's default. Heraeus is entitled to deliver Products in batches or in advance.
- 4.2 Unless otherwise explicitly agreed by both parties in writing, Heraeus will deliver the Products to the destination agreed in accordance with Incoterm EXW under the latest version of International Rules for the Interpretation of Trade Terms. In any event, the risk of the Products will be transferred to the Customer at the latest when the Products

arrive at the destination as agreed. If it is agreed that Heraeus is obligated to deliver the Products to the designated place of the Customer, such designated place shall be within the territory of Mainland China and Heraeus is entitled to charge transportation fee and insurance fee unless otherwise agreed by both parties.

- 4.3 Titles to all delivered Products shall remain with Heraeus unless or until the Customer has made full payment for the Products. Before the Customer obtains the title to the Products, the Customer shall take proper care of the Products, and the Customer may use the Products for the common and appropriate purpose of its normal business unless the Customer has been in breach and Heraeus has notified the Customer thereof in writing.
- 4.4 The Customer shall not create any mortgage or pledge over the Products which Heraeus retains title to without prior written consent of Heraeus. If the Customer further processes the Products which Heraeus retains title to or incorporates them into or with other Products, such new Products containing any parts of the original Products shall become the property of Heraeus. Heraeus' rights and interests in such new products shall be limited to the outstanding amount owed by the Customer to Heraeus and, after the Customer sells such new products, the rights and interests of Heraeus extend to the sales price of such new products and the relevant claim thereof.

5 Product Defects and Quality Warranty

- 5.1 The Customer shall carry out an incoming inspection over the Products immediately on the date when it receives the Products. If the Customer finds any apparent defect or damage or shortage during its incoming inspection, the Customer shall immediately (at the latest within 2 working days as from its receipt of the Products) notify Heraeus in writing. The Customer's failure to notify any apparent defect, damage or shortage within the aforesaid time period would be deemed as its waiver of relevant claims against Heraeus relating to such apparent defect, damage or shortage.
- 5.2 Unless otherwise explicitly agreed by both parties in writing, the quality warranty period is subject to the information marked on the packaging or technical description of the Products, and quality warranty period is not applicable to vulnerable or consumable parts. Within the quality warranty period and provided that the Customer uses the Products properly, if any defect of quality appears which is not attributable to the Customer, Heraeus is responsible to, at its own option, repair or replace the defective Products. The quality warranty period of the repaired or replaced Products will not restart. Heraeus does not assume any other liabilities to the defect of quality beyond the above, unless otherwise required by the applicable mandatory laws.
- 5.3 Without prior written consent of Heraeus, the Customer has no right to remedy the defect within the warranty scope during the quality warranty period by itself and to claim Heraeus for reimbursement of the costs incurred therefrom. Heraeus does not warrant for Products reworked or changed by the Customer, or damaged through or due to improper use or other negligence of the Customer. Heraeus shall not be liable for losses or damages caused or expanded due to the fact that the Customer continues to use Products that either have been verified as defective or is known or should have known by the Customer as defective.

5.4 Defects of Products mean clear deviation of the delivered Products from the material aspects of the Products' specifications and technical requirements as agreed in writing by the parties. Heraeus does not warrant the Products' merchantability and fitness for special purposes.

6 Liability Limitation

6.1 To the maximum extent permitted by applicable mandatory laws, Heraeus' aggregate liability under a Specific Contract to the Customer shall not exceed 15% of the total contract price (excluding tax) of that Specific Contract, and Heraeus is not liable for any consequential damages (including, but not limited to, profit loss, production stop loss, and goodwill loss) or any incidental, indirect, special or punitive damages, whether or not such damages are based on tort, warranty, contract or any other legal theory.

6.2 The Products procured by the Customer may cause personal injury or property damage if not used, stored or processed properly. The Customer hereunder expressly acknowledges that it fully understands all relevant safety measures relating to the use, processing or storage of the Products thereof and other safety precautions. The Customer is further responsible to acquaint its employees, managers, consultants, agents, contractors, customers or any other persons who may have access to, store, process and/or use the Products, with all necessary safety measures, and shall provide necessary trainings to them. Any loss or liability resulting from the Customer's insufficient or inappropriate safety measures or its failure to notify the relevant person(s) shall be solely assumed by the Customer, Heraeus will not assume liability incurred therefrom.

7 Confidentiality

The Customer shall keep all technical, commercial and financial information (including but not limited to the object of sales, technical materials, specifications and data, photos and test trials information, correspondences and emails between the parties during the transaction period) provided by Heraeus for transaction purposes in confidence. Without prior written consent of Heraeus, the Customer shall not disclose or copy any confidential information or transfer the same to any third party or any internal personnel who is not involved in the transaction or who is not bound by relevant confidentiality obligations, nor shall the Customer use the confidential information for other purposes. This confidentiality clause hereunder shall remain valid.

8 Termination

Heraeus is entitled to terminate a Specific Contract or other sales agreement or contract under any of the following circumstances by serving a written termination notice to the Customer and the termination shall take effect upon the Customer's receipt of such termination notice:

- (1) when the Customer has any breach under the laws or contracts and fails to rectify or mitigate such breach within reasonable time period as requested by Heraeus;
- (2) when the Customer becomes insolvent; is adjudicated bankrupt; or a property receiver, trustee or custodian is appointed for it; or there is an assignment of the Customer's business for the benefit of creditors; the Customer liquidates or dissolves; or the occurrence of any action or event involving the Customer which is the

equivalent of one or more of the events described above;

- (3) the Customer fails to function as a legal entity or to conduct its operations in the normal course of business; or
- (4) the Customer engages in fraudulent conduct.

9 Force Majeure

- 9.1 Force majeure event includes but not limited to natural disaster such as typhoons, tornadoes, floods, mountain torrents, earthquakes, mudslides, landslides, tsunamis, rainstorms, snowstorms, etc.; fire; explosion; epidemic or public health emergencies; war, invasion, act of foreign enemy, hostilities, civil war, rebellion, civil strife, riot; strike; lockout; interruption of manufacturing, transportation or carriage; embargo; government intervention, government order or other government action, etc., or as a result of any other unexpected events which are not due to a fault of either party (including but not limited to non-delivery or delay of Heraeus' subcontractors or third-party suppliers; breakdown of facilities, equipment or software as required for the performance of a contract; interruption of public facilities (water, electricity or gas etc.); unavailability of raw materials on the market, etc.)
- 9.2 If a force majeure event occurs and Heraeus is prevented from performing its obligations under this GTC and/or a sales agreement or contract, the time period for performing such affected obligations will be extended by a same time period as the delay caused by the force majeure event. Heraeus will not assume default liability, but shall immediately notify the Customer after the occurrence of such force majeure event.
- 9.3 Customer's obligation to make monetary payment shall not be reduced or delayed due to any force majeure event.

10 Special Provisions on Transactions through the E-commerce Platform

- 10.1 The Customer shall agree to the Heraeus' privacy policy if it is willing to place an order to Heraeus through the Heraeus e-commerce platform. If the Customer does not agree to the privacy policy, the Customer's use of the e-commerce platform may be subject to necessary restrictions.
- 10.2 The Customer shall keep its account and password of the e-commerce platform secure and shall be responsible for the actions performed through such account and password. The Customer shall immediately notify Heraeus of any unauthorized use of the account. Heraeus cannot and will not hold liability for any loss or damage of the Customer under its account incurred from Customer's failure to maintain the security of the account.
- 10.3 The e-commerce platform displays the real-time prices of Products. The order price shall be subject to the real-time price displayed on the e-commerce platform when the Customer places the order, and if Heraeus has special reminder on the real-time price, the special reminder shall prevail. The Customer is not entitled to withdraw an order on the grounds of a change in the real-time price or a refusal to accept a special reminder.
- 10.4 Heraeus reserves the right to change the Products available on the e-commerce platform at any time without notice, and such change will not affect the performance of the Specific Contract already concluded.

11 Applicable Law and Dispute Resolution

This GTC shall be governed by the applicable law and/or dispute resolution clauses as agreed by the parties for the relevant sales agreement or contract. If there is no provision or agreement concerning the applicable law and/or dispute resolution in the relevant agreement or contract or other document regarding the sales between the parties, the following provisions shall apply:

- (1) This GTC and the sales agreement or contract shall be governed by Chinese law without giving effect to its rules of conflict laws;
- (2) All disputes arising out of or in connection with this GTC and the sales agreement or contract shall be submitted to the people's court at the jurisdiction of Heraeus' domicile for settlement.

12 Compliance Clause

The Customer hereby commits to Heraeus to comply with all legally binding rules and regulations, in particular all applicable laws for the protection of fair competition, all export and import prohibitions in force, all applicable customs and tax regulations as well as all applicable legal regulations for the protection of the environment, and to ban forced and child labor, and to ensure payment of wages to its own staff in accordance with all applicable labor laws, appropriate working hours, safety at work and a non-discriminating working environment. Heraeus has the right to terminate relevant sales agreement or contract without notice in the event that the Customer commits a breach of its obligations set forth in the preceding paragraph.

13 Miscellaneous

13.1 If any provision of this GTC or sales agreement or contract should be or become invalid or unenforceable, the remaining provisions of this GTC or sales agreement or contract will not be affected, which shall remain in full force and effect. In such case, the parties shall replace the invalid or unenforceable provision with a legally valid provision which reflects the economic intent and purpose of the invalid provision as close as possible.

13.2 No failure or delay by Heraeus in exercising any of its rights or remedies in accordance with laws or contracts shall be deemed a waiver of the rights or remedies; the partial exercise of any right or remedy in accordance with law or contract shall not preclude the exercise of such right or remedy in any other manner or in the future.