

# Supplier Terms and Conditions

These Supplier Terms and Conditions (“T&Cs”) are made between Matmatch GmbH (“Matmatch”) and the party using the Service as a supplier, i.e. as a business that is a manufacturer, reseller, retailer, agent etc. who is interested in publishing information about materials and their application to promote their products and gain sales leads and market insights (“Supplier”, Matmatch and Supplier each referred to as a “Party” and, collectively as the “Parties”).

## 1. The Agreement

The agreement between Matmatch and the Supplier governs the use of the Service (as defined below), offered by Matmatch, by the Supplier. The agreement shall become binding upon the execution of an order form or similar individual order document (“Order Form”) by both Parties (such Order Form together with these T&Cs the “Agreement”).

## 2. The Service

**2.1 Matmatch Materials Database and Platform.** Through its Internet platform at Matmatch.com (“Service”), with a searchable materials database at its core, Matmatch helps buyers who are interested in materials (“Buyers”) find, evaluate and source materials for their projects by aggregating and providing access to third party data on such materials. For suppliers of materials, the Service creates the opportunity to promote their products and to be reached by quality buyers.

**2.2 Supplier Account.** Matmatch shall establish an account for the use of the Service by Supplier at Matmatch.com (“Account”). Supplier will be provided with a temporary password to log into the Account and is obligated to replace this password with a new password at first login. Supplier agrees to keep access data, such as login data, passwords, and other data required in order to access the Service, strictly confidential and not to disclose such data to any third party without Matmatch’s prior written consent.

**2.3 Use of the Service by Supplier.** Supplier is given the opportunity to promote their products and applications by adding information to the publicly searchable materials database that is part of the Service, to generate sales leads, and to receive market insights,



including into the search behavior of potential buyers. In order for Supplier's information to be added to the database, Supplier will provide all information on their products and applications through the respective functionalities offered as part of the Service in their Account, or, if another form of submission is agreed between the Parties, in the form and formats so agreed.

**2.4 Supplier's Responsibilities.** Matmatch does not review the information provided by Supplier before it is published, but it reserves the right to take offline and remove information when there are reasonable grounds for suspicion that it may be inaccurate. The Supplier represents and warrants that all information submitted as part of the Service, especially any information regarding materials and their properties, is accurate and current, and that it will keep such information updated during the Term. As part of the Service, Supplier may receive or have access to personal data of third parties, including but not limited to that of Buyers. Supplier represents and warrants (i) that it will treat any personal data of Buyers that it receives or accesses as part of the Service in accordance with its contractual obligations and applicable law and (ii) that it will only use such personal data for the purpose that Supplier was sent or given access to the data for by Matmatch or the data subject.

## 3. Fees and Payment Terms

**3.1 Fees.** Supplier shall pay to Matmatch the fees agreed to in the Order Form ("Fees"), if any.

**3.2 Payment Terms.** Matmatch shall invoice the Fees at the time and in the intervals agreed upon in the Order Form. Fees shall be payable by Supplier within thirty (30) days from the invoice date. After such period and without further notice, any overdue amounts shall be subject to interest in the amount prescribed by sec. 288 of the German Civil Code (BGB - currently at nine (9) percentage points above the then-current ECB rate). Unless otherwise agreed between the Parties, Matmatch may send invoices by mail or provide them electronically by email or through the Account.

## 4. Tax

**4.1 Taxes.** All Fees in the Agreement or otherwise quoted through the Service do not include any taxes, customs, duties, levies, and charges of any kind whatsoever that may be incurred in connection with the Service under this Agreement (hereinafter collectively the "Tax(es)"). All such applicable Taxes shall be borne and paid by the Supplier as specified by Matmatch in any invoice, and all payments by the Supplier to Matmatch shall be made without any deduction or withholding of amounts on the account of Taxes.

**4.2 VAT.** If the provision of the Service by Matmatch is subject to value-added tax (“VAT”) in the meaning of the European VAT Directive or to any other similar non-European tax under the applicable tax jurisdiction, VAT in the amount applicable under statutory law at the time of payment shall be added and paid on the agreed fees by the Supplier, provided that Matmatch is the tax debtor of such VAT amounts.

**4.3 Withholding Taxes.** If the Supplier is required by any law or regulation to make any withholding or deduction from payments to Matmatch on the account of Taxes, the Supplier shall, together with the relevant payment, pay such additional amount as will ensure that Matmatch receives an amount equal to the sum it would have received if no such withholding or deduction had been required. In such case, upon the Supplier's request, Matmatch shall provide the Supplier with such available information and documents as reasonably necessary for obtaining an exemption from the withholding or deduction of amounts or for a refund of the amounts to be withheld by the Supplier on the account of Taxes under the applicable tax jurisdiction.

## 5. Rights

**5.1 License.** By providing data, texts, logos and other images (still or moving), including but not limited to data concerning materials and their names, properties, and sources (together the “Data”), to Matmatch to be used in connection with the Service, Supplier grants Matmatch a worldwide, perpetual, non-exclusive, transferable and sub-licensable to any third parties (including through multiple tiers) license to the Data and any rights (including but not limited to copyrights and their neighboring rights, trademarks, design rights, database rights, patents, trade secrets etc.), to Matmatch, to make the data available to its customers with or without remuneration, in print and in electronic form, on storage media of any kind and over communications networks (including but not limited to the Internet), through browsers and specialized software applications on desktop and mobile systems, to combine it with other data or works by Matmatch or third parties, and to incorporate it into databases that are the sole property of Matmatch and/or its licensees. Supplier represents and warrants that Supplier (i) owns the granted rights in and to the Data, (ii) is entitled to grant these rights to Matmatch, and (iii) the granted rights are free from any third party rights and other encumbrances that may affect the use of the Data as licensed hereunder.

**5.2 Reference to Supplier.** Matmatch shall have the right but be under no obligation to Supplier, to publicly and privately (i) refer to Supplier as a source of any Data provided by Supplier and (ii) refer to Supplier and the cooperation between the Parties in marketing materials (online and offline), in both cases (i) and (ii) including by use of Supplier's name and trademarks.

**5.3 Rights in Databases.** Supplier shall have no rights to databases created by Matmatch and/or its licensees, including to the extent that such databases are in whole or part created from Data provided by Supplier under the Agreement.

## 6. Personal Data

Matmatch will treat personal data of the Supplier in accordance with the Matmatch Privacy Policy available on this page.

## 7. Quality, Availability, Modifications and Disruptions

**7.1 Quality and Availability.** Matmatch shall provide the Service in accordance with the recognized state of the art and the care of a prudent business person. Matmatch shall maintain an availability of the Service of no less than 97% averaged per calendar month.

**7.2 Modifications.** The Service will be updated and developed continuously over time. Matmatch may modify the Service without prior notice and provided that the modification is reasonable taking into account the interests of the Supplier. A modification shall, in particular, not be unreasonable for the Supplier if it is necessary to adapt the Service to changed circumstances with regard to technological developments, market requirements, changes in the applicable law, and in case of any new features, functions, or services added to the Service. Therefore, the Supplier is granted a right of use only for the then-current version of the Service. If a modification of the Service is not reasonably acceptable for Supplier, Supplier shall have the right to terminate the Agreement upon notice with immediate effect. Supplier shall have no other claims against Matmatch due to modifications to the Service within the scope of this Section 7.2.

**7.3 Disruption of Service.** If Matmatch cannot supply the Service to the Supplier for reasons not under the control of Matmatch ("Disruption of Service"), Matmatch will inform the Supplier without undue delay, at the same time – if possible – indicating when the Disruption of Service is expected to be resolved. If a Disruption of Service continues for four (4) weeks, either Party may terminate the Agreement upon notice to the other Party with immediate effect. The prevention of the timely provision of the Service by force majeure, i.e., by events which cannot reasonably be foreseen and averted by Matmatch by taking reasonable precautions, such as war, acts of terrorism, unrest, disaster, sabotage, and attacks by third parties, strikes in areas for whose functioning Matmatch is not responsible or failure of communications networks or systems of a third party for which Matmatch is not responsible (including where such a case of force majeure occurs at one of Matmatch's subcontractors or suppliers) shall be considered to be a Disruption of Service. The statutory rights of termination of each Party in the case of a Disruption of Service remain unaffected.

## 8. Liability of Matmatch

8.1 Subject to Section 7.2, Matmatch shall be liable for damages and futile expenses (jointly the “Damages”) caused to Supplier pursuant to statutory law.

8.2 The liability of Matmatch for Damages of Supplier (irrespective of the legal nature of the claim, whether under contract, tort, or otherwise),

- caused by (i) a breach of material contractual obligations of Matmatch under the Agreement with ordinary negligence (einfache Fahrlässigkeit), or (ii) a breach of non-material obligations by employees or vicarious agents of Matmatch who are not legal representatives or executive officers (leitende Angestellte) of Matmatch with gross negligence (grobe Fahrlässigkeit), shall be limited to those Damages foreseeable at the time of the conclusion of the Agreement that typically arise in transactions of this kind;

- caused by a breach of non-material obligations under the Agreement with ordinary negligence (einfache Fahrlässigkeit) shall be excluded; and

- caused by a defect of the Service that already existed at the conclusion of the Agreement shall be excluded, provided that the Damages were not caused by negligence or willful intent of Matmatch.

8.3 For the purposes of this Agreement, a material contractual obligation of Matmatch is an obligation, the fulfilment of which is a prerequisite for enabling the proper fulfilment of the Agreement and on the fulfilment of which the Supplier regularly relies and may rely.

8.4 Notwithstanding Section 7.2, nothing in this Agreement shall limit the liability of Matmatch for Damages arising from death or personal injury, from breach of a contractual guarantee as to the quality of goods or services or, in case of any other liability pursuant to applicable mandatory law, where such liability cannot be excluded or limited by agreement between the Parties in advance (e.g., under section 1 of the German Product Liability Act).

8.5 The above-mentioned limitations to liability apply accordingly to the liability of employees, executive officers, legal representatives and vicarious agents of Matmatch.

## 9. Indemnity

Supplier shall indemnify, defend, and hold harmless Matmatch and the Buyers, as well as their respective directors, officers, and employees including their successors, heirs, and



assigns against any liability, damage, loss, or expense, including reasonable attorneys' fees and costs incurred in connection with any third-party claim arising out of or relating to (a) Data provided and/or published by Supplier through the Service or Buyers' use thereof violating any law or infringing upon or misappropriating any intellectual property right (including but not limited to copyrights and their neighboring rights, trademarks, design rights, database rights, patents, trade secrets etc.); (b) Data provided and/or published by Supplier through the Service being inaccurate or misleading; (c) unauthorized use of the Service through Supplier's Account; and (d) any alleged or actual breach of Supplier's obligations under the Agreement.

## 10. Term and Termination

**10.1 Term.** The Agreement enters into force on the date specified on the Order Form and remains in force for an initial term of twelve (12) months or for such other initial term that may be specified in the Order Form ("Initial Term"). Thereafter, unless terminated in accordance with this Section 10, the Agreement automatically renews for consecutive renewal terms of twelve (12) months each ("Renewal Term"; the Initial Term together with all Renewal Terms the "Term").

**10.2 Termination for convenience.** The Agreement can be terminated by either Party upon three (3) months' notice to the end of the Initial Term or the then-current Renewal Term.

**10.3 Termination for cause.** Nothing in the Agreement shall limit a Party's statutory right to terminate the Agreement for cause. It shall particularly be considered cause for immediate termination by Matmatch if Supplier is in arrears with any payable part of the Fees for more than 30 days.

## 11. General Provisions

**11.1 Written Agreement.** The Agreement is made in written form, provided that the use of an electronic signature process or the exchange of scans of signed documents suffices. Changes or amendments to the Agreement, including changes to this form requirement, must be made in the written form, provided that the use of an electronic signature process or the exchange of scans of signed documents suffices, and that the T&Cs may also be modified in accordance with Section 11.5.

**11.2 Entire Agreement.** The Agreement is the entire agreement between the Parties relating to its subject matter and supersedes all previous written and oral agreements in

this regard. No further verbal or written agreements, arrangements, or commitments with respect to the subject matter of the Agreement exist.

**11.3 Severability.** If any provision of the Agreement is found by a competent court to be unenforceable or invalid under applicable law, the validity of the remaining provisions shall not be affected. The Parties shall replace any invalid or unenforceable provision and remove any omission by a valid and enforceable provision that the Parties would have agreed on in good faith if they had been aware of the invalid or unenforceable provision or the omission when entering into the Agreement.

**11.4 Notices.** Termination notices and notices making claims for Damages or indemnification must be made in writing and signed by the notifying Party; any other notices may be sent in text form by email. Notices to a Party shall be sent to the postal and electronic mail addresses set forth in the Order Form, or such different address as a Party may designate in writing. Notices will be deemed given when (a) delivered personally, or (b) delivered by recognized overnight courier (established by written verification of personal, certified, or registered delivery from a courier or the postal service), or (c) by fax (established by a transmission report), or (d) if sent by email to the recipient, provided that (i) the sending Party can show that the email was apparently sent successfully according to its ordinary technical records and did not receive an error notice, and (ii) the email includes in its subject line the phrase "LEGAL NOTICE".

### **11.5 Modifications to T&Cs.**

11.5.1 Matmatch reserves the right to change or amend the T&Cs at any time with effect for the future. Any change or amendment will be announced to Supplier in writing, by email and/or by display in the Account at least two (2) weeks prior to its effective date and will state the effective date of such change or amendment.

11.5.2 Supplier has the right to object to any change or amendment of the T&Cs within two (2) weeks after the date of receipt of the notification of such change or amendment. In case of a timely objection, each Party is entitled to terminate the Agreement for cause upon notice to the other Party, such termination to take effect on the effective date of the change or amendment that gave cause to the objection. If Supplier does not object within the objection period, the change or amendment shall be deemed accepted by Supplier and become part of the Agreement.

11.5.3 In its notification, Matmatch will inform Supplier of Supplier's right to object within two (2) weeks, both Parties' rights to terminate the Agreement in case of such objection, and the legal consequences of non-objection.

**11.6 Governing Law.** The Agreement, including any obligations, rights, and claims of the Parties arising out of or in connection with the Agreement, any questions regarding its valid conclusion, and any amendments hereto – irrespective of their legal grounds (e.g., under contract, tort or otherwise) – shall be exclusively governed by and construed in accordance with the laws of the Federal Republic of Germany, excluding its conflicts of laws provisions.

**11.7 Jurisdiction of the German courts.** The competent courts of Germany shall have exclusive jurisdiction over any claim, dispute or action arising under or in connection with the Agreement, including disputes on its valid conclusion, irrespective of the legal nature of such dispute, claim, or action, except that Matmatch, at its option, shall also be allowed to bring suit at the seat of the Supplier.

**11.8 Jurisdiction of the Munich courts.** If (i) the Supplier is a merchant (Kaufmann) within the scope of the German Commercial Code (HGB) with its seat in Germany or (ii) the Supplier has its seat outside of Germany, the competent courts in Munich, Germany, shall have exclusive jurisdiction over any claim, dispute, or action arising under or in connection with the Agreement, including disputes on its valid conclusion, irrespective of the legal nature of such dispute, claim, or action, except that Matmatch, at its option, shall also be allowed to bring suit at the seat of the Supplier. Mandatory statutory provisions on the exclusive jurisdiction of certain courts shall not be affected by the foregoing provisions.

**11.9 Assignment.** Neither Party shall assign the Agreement or any rights or obligations thereunder to any third party without the prior written consent of the other Party. Notwithstanding the foregoing, (a) either Party may assign to any third party without consent of the other Party any claim under the Agreement that has been recognized in writing by the other Party or confirmed by final judgment of a competent court; (b) Matmatch may assign the entire Agreement pursuant to a merger or a sale of all or substantially all of its assets or capital stock; or (c) Matmatch may assign the entire Agreement to any successor or assignee of all or substantially all of its business. Subject to the foregoing restriction on assignments, the Agreement shall be fully binding upon, inure to the benefit of, and be enforceable by the Parties and their respective successors and assigns. Except as permitted by the foregoing, any attempted assignment or delegation will be void.

**11.10 Independent Contractors.** The relationship between the Parties is that of independent contracting entities and nothing in the Agreement is to be construed as creating an employer/employee relationship, a principal/agent relationship, or a partnership or joint venture relationship or to allow either Party to exercise control or direction over the manner or method by which the other Party transacts its business affairs.