

# General Terms and Conditions of Sales

## 1. Area of validity

Our terms and conditions of sales below have exclusive validity; contradictory or deviating conditions of the buyer will not be accepted by us, the only exception being if we explicitly confirm their validity in writing. Our terms and conditions of sales are also deemed to be valid if we deliver to the buyer without reservation, even though we are aware that he has terms and conditions of trade which contradict ours or deviate from them.

Our terms and conditions of sales are only valid for merchants within the meaning of Sect. 14 of the German Civil Code (*BGB*). Our terms and conditions of sales are also applicable for the business abroad on all other issues.

## 2. Offers

Our offers are non-binding with regard to the period of delivery and availability of products. A sales contract will only become effective by our explicit written confirmation. In all other cases, a sales contract comes into existence upon the delivery and date of invoicing in accordance with these terms and conditions of sales. Our sales personnel are not authorized to make any verbal side agreements or give any verbal promises which cover issues beyond the content of the written contract.

We reserve all proprietary rights and exploitation rights resulting from copyrights in illustrations, drawings, calculations and other documents. These documents may not be disclosed to third parties. This is especially true for written documents which are classified as "confidential". The buyer requires our explicit written consent before passing them on to third parties.

## 3. Prices/Conditions of Payment

Should nothing to the contrary be agreed to in the contract, our prices are considered "ex works".

Our list prices valid at the time of the purchase order are applicable. We reserve the right to change our prices accordingly, if cost reductions or cost increases occur, in particular due to the coming into effect of collective agreements or material price changes after conclusion of the contract. We will send proof of those to the buyer upon request.

All payments have generally to be made to our company. Our representatives or stores managers are only entitled to receive payment if they have been explicitly granted authorisation from us in writing for a special case.

Our invoices are due for payment on receipt. The buyer is in default if he does not pay after being sent a demand for payment sent after the date the payment has become due.

Regardless of this, the buyer is in default if he does not make payment on a certain calendar date for due payment fixed in the contract. Statutory regulations according to which a debtor is automatically in default 30 days after due date of payment and receipt of invoice remain valid.

If the buyer is in default, we are entitled to claim interest from the outstanding amount of payment up to an interest rate of 8 per cent above the current basic interest rate fixed by the German Federal Bank, in addition to a cost contribution of 5.00 euros for each reminder, subject to other claims.

The debtor is entitled to submit proof that no other damage or a substantially lower damage has been caused to our disadvantage or the reminder costs are lower.

The Customer is only entitled to set off if his counterclaims are determined, undisputed or recognized by us.

If the buyer is in default of payment, the seller is entitled to withhold other deliveries, including those with agreed delivery dates, until all outstanding debts are paid.

## 4. Securities for commercial credit deliveries

a) All goods delivered remain the seller's property until all claims from the business relationship and those incurring in the future are fully paid. In case of serious violation of contract or substantial deterioration of his financial situation, the buyer is obliged to immediately return, at his expense, all goods under reservation of title without being notified of a final deadline or advice of cancellation to the seller's shipping stores.

b) The goods are considered to be altered or processed on behalf of the seller without this giving rise to any obligations for the seller. Should any goods under reservation of title be blended, mixed, combined with or incorporation into other objects, the seller reserves the right of co-ownership in the new object in the proportion of the invoiced value of the goods under reservation of title to the value of the other goods used. This also applies accordingly to the consumption of the goods under reservation of title for production purposes. If the buyer acquires the sole property in the new object, the buyer grants the seller as of now the co-ownership in the new object in the proportion of the invoiced value of the goods under reservation of title to the value of the new object. The buyer agrees to keep the new object for the seller with the diligence of a prudent merchant.

c) Until revocation, the buyer may sell goods in the ownership or co-ownership of the seller but he may not pledge them or transfer them as securities.

In the event of reselling goods under reservation of title, the full amount of purchase price claim is transferred as security to the seller until all claims of the seller from the delivery of goods are fully paid. If the reselling concerns other objects as well, including after processing, blending, mixing or combining, this provisional transfer only applies to the invoiced value of the reserved goods delivered by us.

If the goods under reservation of title are installed into the land of a third party, including after processing, blending, mixing or incorporation, or if the seller loses his rights of property in the goods due to any other legal business of the buyer (consumption to provide work or services), the claims from the legal business concerned are transferred as security to the seller to the extent of the invoiced amount of the goods under reservation of title used.

d) Notwithstanding the transfers from Item 4 and the right of redemption by the seller, the buyer is entitled to redeem the claim so long as he has met all of his obligations towards the seller and does not suffer financial collapse. The buyer is to confirm towards the seller the transfer in writing upon demand and give all details necessary for the redemption.

e) If the value of the securities granted to the seller in accordance with letters a) to c) exceeds the total of the seller's claims from the business relationship with the buyer by more than 20 %, the seller is obliged to transfer them back to this extent upon the buyer's demand.

f) If the goods under reservation of title or the securities granted to the buyer according to letters a) to c) become the subject of execution proceedings of third parties or are endangered in any other way, the buyer will refer to the seller's rights and immediately notify the seller by handing him over the documents required for the seller's intervention.

## 5. Copyrights

Whenever we deliver objects manufactured from drawings or models, the buyer ensures that no copyrights of third parties are violated by the production and supply of the goods. We are not obliged to make inspections to this purpose. The buyer agrees to indemnify us against claims for compensation made by third parties and to reimburse us for all direct or indirect damage incurred by us though any violation of the copyrights of third parties.

Whenever we supply any products under a customer's own label, the customer agrees to respect any copyrights of third parties.

## 6. Period of delivery/shipping mode/order quantities

Our periods of delivery are generally non-binding. Binding periods of delivery must be explicitly agreed to in writing. If delivery should be interrupted either by force majeure, strikes, lock-outs, governmental acts or any other unforeseeable circumstances or operational disturbances and shortage of raw materials supplied by our suppliers, we are entitled to prolong the period of delivery by the duration of the obstruction and a reasonable period of subsequent delivery or cancel any part of the contract on the grounds of a non-fulfilled part if the fulfillment is no longer reasonable for us.

Should the duration of the hindrance exceed a period of 3 months, the buyer is entitled to fix a reasonable final deadline and then repudiate that part of the contract which has not been fulfilled.

We will notify the buyer of the above circumstances within a reasonable period of time. Without any specifications by the buyer, shipping mode and route are selected at discretion.

If delivery is to be made free buyer's address, we generally determine the forwarding agent. Partial deliveries are admissible.

Excess deliveries and/or lower quantities resulting from production and packaging are within the scope of the quality of the goods agreed and do not represent any material defects within the meaning of Sect. 434 of the German Civil Code.

## 7. Compensation in case of prolongation of delivery periods

Should the period of delivery be prolonged or are we exempted from its fulfillment due to the buyer's cancellation of contract, the buyer may not derive any claims for compensation from this.

## 8. Risk transfer/packaging costs

Should nothing to the contrary be agreed to in the order confirmation, the delivery is considered "ex works". Goods which the buyer must collect from our works are kept at the buyer's risk as from the date of the readiness for shipping notice. Should the buyer not comply with his obligation to collect the goods, he is to pay a reasonable remuneration for storage. Packaging pursuant to our specifications is included in the price. All packing specifications and special standards from the buyer are invoiced separately. If the buyer wishes, we will cover the delivery by transport insurance. All costs resulting from this insurance are to be borne by the buyer.

## 9. Warranty

a) The buyer's warranty rights require that the buyer has regularly met the regulations for inspection and complaint required in Section 377 of the German Commercial Code (*HGB*).

b) Quality and manufacturing of our products and therefore the appearance of our products within the meaning of Section 434 of the German Civil Code are based on the samples with which the buyer was presented for inspection. The details provided by us in the Technical Data Sheets relating to product properties and the intended use of the product are based on our experience and laboratory examinations and the technical data received from our suppliers, if any. These details do not exempt the buyer from his own examination of the suitability of the product for the intended purpose, unless we have explicitly and declared the suitability for this purpose in writing. We offer such a declaration subject to the condition that the buyer has correctly submitted us all details necessary for such an extended description of the properties of our products. We are not obliged to make inspections to this purpose. The product qualities are based on the state of the art at the date of our accepting the order.

c) In case of justified complaints of material defects, the seller – regardless of any other extended obligations of the seller for compensation for damages – is only obliged to either replacement delivery or the repair of the products delivered according to his choice. If this action fails, the Customer can ask for either a reduction of the remuneration or cancellation of the contract after indicating a period of remedy. All goods complained about are to be immediately released for return to the seller.

d) The seller must be immediately notified in writing of all complaints – irrespective of any shorter return periods to the forwarding agent – after detection of the defects and not later than seven days following delivery and the defects must be documented by returning samples of the goods complained about. Small commercially customary or technically unavoidable deviations from colour, quality, dimensions and equipment are not considered a difference from the contractual properties of the goods delivered within the meaning of 434 of the German Civil Code and are therefore not material defects.

e) The seller grants liability in accordance with statutory provisions if the buyer claims compensational damages due to a violation of essential obligations under the contract. In case of any violation of side obligations, the seller only grants liability for damage which is caused by malintent or grave negligence either by the seller or his representatives or agents.

f) The seller is generally only liable for obligations within the scope of compensation for damages in case of damage typical and foreseeable for the type of contract during the fulfillment of the contract and of deliveries.

g) The entire duration of warranty is reduced to 1 year for all issues unless other separate durations have been agreed to for special issues.

## 10. Jurisdictional venue/place of performance

If the buyer is a trader, legal entity or special fund under public law, or if the buyer has no competent jurisdictional venue in Germany, our legal domicile is the jurisdictional venue; we are, however, entitled to file suit before the buyer's competent court of justice.

Should nothing to the contrary be agreed to in the order confirmation, our legal domicile is also the place of performance.

In business relations with customers in Eastern Europe, prior to filing any suit before ordinary courts, it is necessary to initiate arbitration pursuant to the Arbitration and Mediation Regulations of the International Court of Arbitration of the Vienna Economic Chamber (Viennese Regulations) which has power of final decision by one or more arbitrators appointed according to those regulations for this purpose.