

Conditions of Delivery and Sale

General provisions

- (1) The following General Terms and Conditions of Business are deemed an integral part of the contractual relations between us and the Buyer. This also applies in the event that a contract is brought about by telex or telephone. The Buyer's conditions of purchase that vary from these conditions shall only be deemed valid in individual cases, and only if this has been expressly confirmed in writing. Honouring the contract on our part does not replace such written confirmation.
- (2) The contract shall only be brought about following receipt of our written confirmation of order. Until confirmation in writing is received, all orders, including delivery times and capacities that may be stated therein, shall be subject to change without notice and are deemed non-binding.
- (3) Subsidiary agreements, amendments or supplementary information regarding the contract are subject to written confirmation by us. This also applies to an amendment to this agreement.
- (4) The documents that are part of the offer or confirmation of order, such as drawings and diagrams as well as other details and performance data, shall only be deemed binding if they are expressly described as binding. In other respects, details that refer to the subject matter of delivery and performance are merely to be considered approximate values. In particular, they do not constitute any guarantees, but are merely used to describe and identify goods. The same applies to reference to technical sets of rules such as DIN norms and the like.
- (5) We reserve the right to alter and improve our products insofar as such action is acceptable to the customer with due consideration to our interests.
- (6) We reserve ownership and copyrights to all documents associated with the offer and contract such as diagrams, samples, drawings and the like. They may not be made available to third parties, and on request are to be returned to us.
- (7) The Buyer's rights resulting from the contract may only be assigned following our prior approval.
- (8) We shall be entitled for manufacturing reasons to exceed or reduce the agreed scope of delivery by up to 10%.
- (9) The products ordered by the Buyer shall be manufactured in the Federal Republic of Germany, or abroad due to cost or capacity reasons.
- (10) Providing the contract concluded between us and the customer is an intra-EU-community supply, the customer is obliged to provide the documentary evidence necessary for the VAT exemption and/or to take part in the preparation of the necessary documentary evidence. In case of any infringement, the customer is obliged to reimburse any damages resulting from the infringement.

Prices and payment conditions

- (1) Our prices are to be construed ex warehouse or works as net prices plus the statutory value added tax and packaging/transport costs.
- (2) The prices stated in the confirmation of order are based on the technical delivery conditions specified by us. Requirements that extend beyond this, such as those in relation to tests, documentation, drawings or other project services, shall be charged according to the costs incurred unless an agreement to the contrary was reached and specified in the confirmation of order.
- (3) The prices stated in the confirmation of order are binding in the case of delivery within four months following conclusion of contract. In the case of a later delivery date we shall be entitled to increase the price if the circumstances change following conclusion of the contract, in particular if the cost of raw materials, wages or transportation increases. In such a case, the change in prices shall only be possible as part of, and to settle, the stated price and cost increases.
- (4) Special packaging and shipping requests on the part of the Buyer shall only be taken into consideration if we are informed of such requests in writing at the latest six weeks prior to the delivery or shipment date, and we provide written confirmation in that respect. Otherwise, the products shall be packed and shipped at our discretion.
- (5) Hire packaging must be returned clean, undamaged, freight free and without delay.
- (6) At the Buyer's special, written, request and cost, we shall insure the delivery against theft, breakage and damage caused by transportation; fire and water as well as other insurable risks.
- (7) Insofar as no agreement to the contrary is reached in our offer or by way of the written confirmation of order, invoice amounts shall fall due without deductions within 30 days from the date of invoice, or within 14 days subject to a 2% trade discount. Partial payments are not subject to trade discounts. Separately charged freight and packaging costs are not subject to trade discounts. Bills of exchange are not accepted as means of payment.
- (8) Withholding payments by the Buyer is excluded insofar as the counterclaims are based on a different contractual relationship. If the counterclaim is based on the same contractual relationship, payments may only be withheld if such counterclaims are not disputed or have become res judicata.
- (9) The Buyer may only set off using counterclaims if the claims are not disputed or have become res judicata.
- (10) In the event of default in respect of a claim, we shall be entitled to suspend the deliveries or other services resulting from all contracts up until all our claims against the Buyer have been honoured in full. The Buyer may avoid such a right of retention by providing an absolute and unlimited guarantee of a credit institution licensed as a customs or tax guarantor in the sum of all outstanding claims. Following expiry in vain of a period of payment set for the Buyer, we shall also be entitled to withdraw from all contracts that have not been honoured up until that date. We reserve the right to assert a claim for further-reaching damage caused by default.
- (11) The Buyer agrees that we may set off against the Buyer's claims even if the due dates of the opposing claims differ, or if payment in cash has been agreed by one party and payment by way of bills of acceptance or trade bills has been agreed by the other.

Credit basis

- (1) Delivery is conditional on the Buyer's creditworthiness. If we receive information, following conclusion of the contract, which gives rise to objections about granting a credit in the sum resulting from the order, or if facts apply that give rise to doubts in this respect, or if, in particular, the financial situation

deteriorates considerably (enforcement by writ; suspension of payment; insolvency; discontinuation of business activities; business take-over), we shall be entitled to demand a security or payment in cash without giving consideration to former agreements to the contrary.

- (2) Under the same conditions we shall be entitled, after supplying the Buyer, to inspect its warehouse and temporarily secure goods that are subject to our reservation of title without consideration to former agreements to the contrary up until payment in cash. Transport and storage costs shall be borne by the Buyer.

Delivery periods and deadlines

- (1) In the absence of provisions to the contrary in the confirmation of order, stated delivery dates are deemed non-binding details, and no responsibility is accepted for adhering to such dates.
- (2) The delivery period shall commence on the day of the ultimate confirmation of order, but not, however, prior to clarification in full of all implementation details, in particular receipt of documents which the Buyer may be required to provide, and receipt of an agreed downpayment that falls due upon the conclusion of contract. In addition, adherence to the delivery date is conditional on the Buyer honouring its contractual obligations.
- (3) The agreed delivery period shall be extended, irrespective of our rights resulting from default, by the period in which the Buyer defaults on its obligations resulting from this or another contract.
- (4) The delivery period shall be deemed met if the subject matter of delivery has left the works up until such a delivery period expires, or in the case of collection by the Buyer the delivery is ready for shipment, and the Buyer is informed accordingly. The Buyer may not reject partial deliveries unless this is unacceptable for the Buyer.
- (5) The delivery period shall be extended accordingly in the case of measures as part of legal industrial action, in particular strikes and lock-outs in the own company, and independent of the legality of industrial action in third companies, insofar as we are not in any way responsible in respect of take-overs, provision or warding off action stated above, and furthermore in the event of unforeseeable circumstances such as mobilisation; war; blockades; export and import bans; special legal regulations or those issued by the authorities; a shortage of raw materials or fuel; fire or traffic blocks, or force majeure insofar as such circumstances are proven to exert an influence on the completion or delivery of the subject matter of delivery and occur at our premises, that of a supplier or subcontractor or forwarding agent, and are not our responsibility, whereby our liability is only excluded for minor negligence. If the above-mentioned circumstances give rise to a situation in which we are unable to render the service, we shall also be entitled to withdraw from the contract.
- (6) The Buyer shall be entitled to exercise the statutory rights in the event of default on our part. However, the Buyer may only assert claims for damages if we, our legal representatives or vicarious agents have acted intentionally or gross negligently, or mandatory liability applies to damage resulting from a threat to life and limb or violating key contractual obligations. However, compensation for damages is restricted to typical contractual and foreseeable damage in the absence of intent or gross negligence, or the damage in question amounts to damage attributable to us resulting from a threat to life and limb.

At our request, the Buyer undertakes to state within a period of reasonable length whether it demands that the contract be honoured irrespective of the default, or whether it rejects this due to the default.

- (7) If shipping is delayed at the Buyer's request, or for reasons that are the Buyer's responsibility, we shall charge the Buyer 14 days following the agreed delivery date, or if no precise delivery date had been agreed 14 days after notice was given that the goods were ready for shipment, for the costs incurred for storage, in the case of storage at our works at least 1% of the invoice amount for each month that commences in which the goods are stored. This shall not have any effect on exercising further-reaching rights resulting from default. The Buyer is permitted to furnish proof that we did not suffer any damage or significantly less damage was caused.
- (8) Furthermore, we shall be entitled, once a period of reasonable length for acceptance has been set and allowed to expire in vain, to otherwise dispose of the subject matter of delivery, and supply the Buyer by way of a new period of reasonable length, or withdraw from the contract and/or claim for damages.

Reservation of title

- (1) We reserve the right to ownership of the goods we deliver and the items created from finishing and processing such goods up until the purchase-money claim has been honoured. The expenses incurred in conjunction with the conclusion and execution of the contract of purchase; maintaining the item of purchase and exercising our rights to the purchase item are deemed part of the secured purchase-money claim within the meaning set out above. These are, in particular, the cost of acceptance, shipping, packaging and interest after the due date and interest on arrears, the cost of safekeeping, storing and insurance as well as the costs incurred as part of exercising our rights in or out of court.

In dealings with companies we furthermore reserve the right to ownership of the goods we deliver, and the items created from finishing and processing such goods, up until all our current and future claims against the Buyer resulting from the business association, and to which we are entitled, including limited claims, irrespective of their legal basis, are honoured.

Insofar as the matter in question amounts to a legal transaction with a businessman pursuing his corporate activity, we shall be entitled, in the case of default in payment on the part of the Buyer, to assert the rights resulting from the reservation of title without withdrawing from the contract.

- (2) The Buyer undertakes to separately store and label the goods that are subject to reservation of title. Processing and finishing that may apply shall be carried out by the Buyer on our behalf without such action giving rise to obligations on our part. If the Buyer processes our reserved goods with other products that it owns, we alone shall be entitled to ownership of the new item. If the Buyer processes our reserved goods with other products that it does not

own, we shall be entitled to part-ownership in the new product in proportion of the value of the processed reserved goods to that of the other products at the time of finishing and processing. The Buyer assigns to us at this point in time its part-ownership shares that may apply as a result of blending, grouping together or mixing the delivered goods with other items. The Buyer shall possess the items in the capacity of a custodian. It shall be liable for its own intentional and negligent conduct, and likewise for that of its legal representatives and persons upon whose services it calls to honour its obligations. The Buyer may only sell the delivered goods, and the items resulting from processing and finishing, blending, grouping together and mixing such goods during the course of ordinary business activities subject to cash payment or subject to reservation of title. Ownership transfer by way of security, pledging and other disposal that jeopardise our rights are not permitted.

(3) The Buyer assigns to us at this point in time in full the claims to which it is entitled from the sale, or due to another legal reason associated with the reserved goods, including claims for damages due to damage or destruction of the reserved goods irrespective of whether the claims are contractual or legal claims against the damaging party, insurance company or other third parties, and claims due to replacement-related use.

(4) If the reserved goods are sold by the Buyer together with own or third-party goods in an unprocessed condition, the Buyer shall assign to us the claim resulting from the sale in the sum of the value of the reserved goods. If the share of the purchase price that applies to the sale of our reserved goods is higher than the value of our reserved goods, we shall also be entitled to the additional amount.

(5) If the finishing or processing of reserved goods with goods of other suppliers gives rise to us acquiring part-ownership in the new item, the assignment in the case of sale shall include the share of the claim that corresponds with our share of the part-ownership insofar as such a share can be determined, otherwise the invoice value of our processed reserved goods.

(6) If the finishing or processing is carried out as part of a service contract or a work performance contract, the Buyer shall also assign to us in advance the proportionate work compensation entitlement that corresponds with the value of the processed reserved goods.

(7) If the Buyer incorporates the above-mentioned claims in a current account relationship, the current account receivables shall hereby be assigned in full to us. Following balancing, these shall be replaced by the balance that is deemed settled up to an amount that corresponds with the original current account receivables. In the event that the current account relationship ends, this shall apply accordingly to the final balance. This provision does not apply to business transactions with buyers who are consumers, or transactions that are not part of a businessman's business activities.

(8) As long as the Buyer honours its obligations, the assignment shall be regarded as a dormant assignment, and the Buyer shall be authorised to collect the claim. The Buyer is to separately book and hold the amounts received in respect of the assigned claim.

(9) In the event that contracts concluded by the Buyer as part of the sale of the reserved goods are invalid or void, the Buyer assigns at this point in time the statutory claims to which it is entitled in the place of the assigned contractual claims, in particular enrichment claims, in the same amount.

(10) If and insofar as the registration and/or honouring of other requirements is a prerequisite condition for the validity of the reservation of title, the Buyer undertakes at its own cost to undertake all the necessary action in this respect without delay, and issue all the necessary statements.

(11) If the value of the security exceeds our claims by more than 20%, the Buyer shall, insofar, be entitled to demand release of the security.

(12) The Buyer is to inform us without delay of access by third parties to the reserved goods or the assigned claims by way of handing over the documents required for the intervention. The cost of the intervention shall be borne by the Buyer.

(13) The cost of the return transport of the reserved goods shall be borne by the Buyer.

(14) In the event that the Buyer's liabilities are settled by way of participation in direct debiting, all our rights resulting from the reservation of title provided for above shall remain applicable until the direct debits can no longer be revoked insofar as our rights do not remain applicable anyway due to the above regulations.

Passing of risk – Liability for defects – Claims for damages

(1) Any risk shall pass to the Buyer upon hand-over of the delivery item to the forwarding agent or carrier. This also applies in the case of freight-free deliveries; CIF, FOB and similar transport clauses. In the case of forwarding via our vehicles and employees, any risk shall pass to the Buyer upon completion of the loading procedure. In the case of delivery delays that are not our responsibility, any risk shall pass to the Buyer on the day of receipt of notification of readiness for dispatch.

(2) We provide a warranty for defects in the goods existing at the point of the passing of risk in accordance with the following regulations:

a) The Buyer undertakes to inspect the goods without delay following delivery by the Seller. Notice is to be provided without delay in writing of obvious or identified defects by way of immediate discontinuation of finishing and processing that may apply. Notification of defects that are subsequently identified must be given without delay once such defects are identified. Warranty claims shall be excluded in the event that these obligations to inspect and provide notification are violated.

b) The Buyer shall initially be entitled to subsequent performance in respect of a warranty claim. We shall, insofar, provide a guarantee at our discretion by way of subsequent improvement or replacement. If both forms of subsequent performance are associated with disproportionate costs within the meaning of Section 439, sub-section 3, of BGB (German Civil Code), we shall be entitled to refuse both types of subsequent performance.

c) If the subsequent performance fails, or if we justifiably reject it, the Buyer may demand the rescission of the contract (withdrawal) or reduction of the remuneration (abatement). In the case of merely insignificant breach of contract, in particular in the case of merely insignificant defects, the Buyer may not exercise a right of withdrawal.

(3) Claims for damages on the part of the Buyer are excluded, irrespective of whichever legal grounds these are based. This does not apply insofar as we,

our legal representatives or vicarious agents have acted intentionally or gross negligently, or mandatory liability applies in accordance with the German Product Liability Act due to damage attributable to us resulting from a threat to life and limb or violation of key contractual obligations. However, claims for damages in the case of violation of key contractual obligations are restricted to typical contractual and foreseeable damage insofar as intent or gross negligence do not apply, or insofar as damage does not apply that is attributable to us resulting from a threat to life and limb for which mandatory liability applies.

(4) Suitability of the goods, in terms of quality and nature, for the Buyer's special use is solely the responsibility of the Buyer. A lack of suitability shall not give rise to any claims, unless we had expressly provided written assurance of the suitability of the goods for the proposed use.

Details of condition provided by us do not constitute any guarantees in a legal sense. This does not affect manufacturers' guarantees that may apply.

(5) The Buyer's warranty claims shall fall under the statute of limitations one year following delivery of the goods unless we had maliciously concealed a defect.

(6) The Buyer's claims for damages due to a defect shall fall under the statute of limitations one year following delivery of the goods (acceptance of the product). This shall not apply if the defect is attributable to intentional or gross negligent acts, or the failure to honour guarantees, and in the event of damage attributable to us regarding a threat to life and limb.

(7) Negotiations between the parties shall not give rise to a suspension of the running of the statute of limitations in accordance with Section 203 of BGB.

(8) The period of limitation shall not be extended by way of replacing parts as part of performing subsequent performance work or by replacement deliveries.

(9) Advice given by our employees neither constitutes a legal contractual relationship nor an accessory obligation resulting from the contract. We are therefore not liable as a result of such advice subject to other agreements expressly reached in writing that may apply.

(10) The Buyer's statutory right of recourse against us shall only apply insofar as the Buyer has not entered into any agreements that apply above and beyond the statutory warranty claims.

Final provisions

(1) We are entitled to process the personal data obtained as part of the business association within the meaning of the German Federal Data Protection Act.

(2) Our principal place of business is deemed the place of performance and jurisdiction for all disputes resulting from any business transaction governed by these General Terms and Conditions of Business. This applies to lawsuits brought by and against us. This provision does not apply to business transactions with buyers who are neither merchants within the meaning of the German Commercial Code nor special assets of the Federal Government or legal entities under public law, or transactions that are not part of a merchant's commercial operations.

(3) The relations between us and the customer are solely subject to the law of the Federal Republic of Germany, however, by way of exclusion of the conflict of laws; the Hague Uniform Laws on the International Sale of Goods, and the Convention on the International Sale of Goods (CISG).

(4) If individual provisions of these General Terms and Conditions of Business are or become invalid, this shall not affect the validity of the other provisions. A legally valid regulation shall apply, in the place of an invalid provision, which comes closest to the purpose intended by way of the invalid provision.

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