

Standard Terms and Conditions of Sale and Delivery

1 General terms, conclusion of the contract

- 1.1 These standard terms and conditions shall apply to all current and future business relations. We do not accept the buyer's contrary or deviating conditions unless we have expressly agreed in writing to their validity. Our terms and conditions of sale also apply if we deliver to the buyer without reservation with knowledge of the buyer's contrary or deviating terms and conditions.
- 1.2 Our terms and conditions of sale apply only to companies within the meaning of section 14 of the German Civil Code.
- 1.3 Our offers are without obligation. We reserve the right to make technical changes and changes to dimensions, weight and quality in the framework of what is reasonable.
- 1.4 With an order buyers declare bindingly that they wish to acquire these products. We shall be entitled to accept the offer in the order within two weeks of receipt here. Acceptance can be declared either in writing or by delivering the goods to the buyer.
- 1.5 Contracts shall be concluded subject to the proviso of correct and on-schedule self-supply. This shall only apply in the event that we are not responsible for the non-delivery, in particular on the conclusion of a congruent covering transaction with our supplier. Where necessary the buyer will be informed without delay of the non-availability of the goods.

2 Prices

- 2.1 Unless otherwise shown in the confirmation of the order our prices shall be understood as net cash ex works or ex stores plus costs of packaging, freight, insurance, customs duties, clearance charges, etc., which will be invoiced separately.
- 2.2 Carriage-paid prices shall apply subject to the precondition of open unobstructed transport on the transport routes in question.
- 2.3 Deductions of discounts shall be governed by a separate written agreement.
- 2.4 Prices may be altered if there are more than two months between the conclusion of the contract and the agreed delivery date. If wages, material costs, standard purchase prices or the costs of freight, taxes, customs duties, charges or other costs used to calculate prices change after this we shall be entitled to increase the price appropriately in accordance with the increases in costs. The buyer may only withdraw from the contract if the increase in the price considerably exceeds the increase in the general cost of living between the date of the order and the delivery date.
- 2.5 Our prices are net of value-added tax; this is shown separately in the invoice at the rate applicable on the date the invoice is issued.

3 Terms of payment

- 3.1 Unless shown otherwise in the confirmation of the order, the sales price is due net (without deductions) no later than the 15th day of the calendar month following the delivery.
- 3.2 If the buyer fails to pay by the latest date provided for payment in subsection 3.1 of the Terms of Delivery, whereby the date on which the payment is credited to our account and we have the corresponding amount at our disposal shall be relevant, we shall be entitled to charge default interest in the amount of 8 % above the basic rate of the European Central Bank without prior notification of default. We reserve the right to show proof of greater default damage.
- 3.3 We shall accept bills only on account of payment. We are not obliged to accept bills. If we have explicitly stated that we are prepared to accept trade acceptances these shall be settled subject to charges of the valid discount rate, stamp duty, bank and collection charges, where applicable; these charges shall be due and payable in cash immediately after presentation.
- 3.4 Credits for bills or cheques shall always be subject to receipt without prejudice to the earlier maturity of the purchase price where the buyer is in default. The value date for these credits shall be the date on which we have the corresponding amount at our disposal.

4 Delivery dates

- 4.1 Unless otherwise agreed delivery periods and dates shall be approximate only.
- 4.2 The start of a delivery period presupposes in each case clarification of all questions concerning delivery. In addition, compliance with our obligation to deliver presupposes the on-schedule and correct fulfilment of the buyer's obligations, in particular the supply of all documents, approvals, releases that the buyer is obliged to obtain and the receipt of any advance payment that was agreed.
- 4.3 In so far as a delivery is ex stores or ex works the delivery period and dates shall be complied with if the goods leave the store or the factory within the delivery period or on the delivery date; they shall also be deemed to be complied with if the goods cannot be sent on time for reasons beyond our control.
- 4.4 In the case of transfer orders based on imports the delivery periods and dates shall be deemed to be complied with when we notify that the goods are ready for shipping.
- 4.5 We shall be liable under the statutory provisions where, by way of exception, the basic contract of sale is a firm deal within the meaning of section 376 of the German Commercial Code.
- 4.6 We shall also be liable under the statutory provisions if a delay to delivery is caused by intention or gross negligence, including the intention or gross negligence of our vicarious agents or representatives or if we have culpably infringed a contractual obligation. If we cannot be made responsible for an intentional or grossly negligent infringement of a contractual obligation we shall be liable for the amount of the foreseeable typical direct average damage. In other cases claims for damages for delays to delivery are excluded.
- 4.7 We shall not be liable if the delay to the delivery results from force majeure. For these purposes the occurrence of unforeseen hindrances that are not intended by us shall be deemed to be the same as force majeure, e. g. strikes, lockouts, mobilisation, war, blockades, export and import bans or disruption of traffic. In such cases we shall be entitled to extend the delivery period for a suitable length of time or to withdraw from the contract in whole or in part with regard to that part which has not yet been fulfilled. In these cases the buyer may demand that we withdraw from the contract or deliver within a suitable period. If we do not declare that we will deliver within a suitable period the buyer may withdraw from the contract.
- 4.8 Part deliveries shall be permitted; they shall be deemed to be independent transactions.

5 Delivery, transfer of risk

- 5.1 Unless otherwise agreed we supply in all cases on the basis ex store or ex works.
- 5.2 All goods are dispatched for the account and at the risk of the buyer. In the absence of special instructions from the buyer we shall select the transport route and the means of transport and protection at our discretion.
- 5.3 Transport and all other packaging in accordance with the Packaging Regulations will not be taken back. The buyer shall be responsible for disposing of the packaging at its own expense.
- 5.4 If we use loading apparatus (supporting timbers, scaffolding, covers, etc.) at the buyer's request this shall be done at the buyer's risk and for its account and shall be invoiced separately; where they are lent, the apparatus shall be returned at the buyer's risk and expense.
- 5.5 The risk, including of confiscation, shall pass to the buyer in all cases, e. g. including FOB and CIF transactions, when the goods are transferred to the freight forwarder or carrier. This shall also apply where goods are sent carriage paid by way of exception.
- 5.6 If the buyer is in default with acceptance this shall be deemed to be the same as a transfer.
- 5.7 Transport insurance will only be taken out at the express wish of the buyer, who shall bear the costs.
- 5.8 The buyer shall call immediately for goods that are notified as ready for dispatch. If the call for the goods is not received within 14 days of the notification of readiness for dispatch we shall be entitled to store the goods at our discretion at the expense and risk of the buyer and to invoice the goods that are ready for dispatch. In addition, we shall be entitled, after setting a deadline of an additional 14 days, to withdraw from the contract or to demand damages. It shall not be necessary to set a deadline if the buyer seriously or finally refuses acceptance or is obviously unable to pay the purchase price within this period.

6 Costs of cancellation

If the buyer cancels an order that has been placed without justification, without prejudice to the possibility of claiming higher actual damages we shall be entitled to claim 10 % of the purchase price for the costs that accrued through the handling of the order and for lost profits. The buyer shall have the right to show proof that the damage was lower.

7 Reservation of title

- 7.1 All items that we supply shall remain our property until payment in full of all obligations from a current business relationship. In the event that the buyer acts in contravention of the contract, in particular in the case of default, we shall be entitled to take the purchased items back. Taking items back shall not be deemed to be a withdrawal from the contract unless we have expressly declared this in writing. Attachment of goods by us shall always be deemed to be withdrawal from the contract. After taking the purchased items back we shall be entitled to realise them and the revenue from the realisation shall be set off against the buyer's obligations, less suitable realisation costs.
- 7.2 The buyer undertakes to inform us immediately in writing of any seizure of the goods by third parties, for example attachment, and of any damage to or destruction of the goods. If the third party is unable to reimburse us the costs of legal proceedings in accordance with section 771 of the German Civil Procedure Rules, the buyer shall be liable for our losses.
- 7.3 The buyer shall have the right to resell the purchased goods in the normal course of business. The buyer hereby assigns to us all claims against its buyers or third parties in the amount of the final amount of our invoiced amount (including value-added tax) that accrue to it under the resale, independently of whether the purchased goods were resold with or without processing. The buyer shall remain entitled to collect these debts even after assignment. However, this shall not affect our right to collect the debts ourselves. We agree not to collect a debt as long as the buyer fulfils its payment obligations from the proceeds it has collected, does not default and in particular has not petitioned for bankruptcy or ceased to make payments. If this is the case, we may demand that the buyer discloses the assigned obligations and their debtors to us, provides all information that is necessary for collection, hands over the appropriate documentation and notifies the debtors (third parties) of the assignment.
- 7.4 Processing or converting the goods by the buyer shall always be done on our behalf. If the item purchased is processed with other items that do not belong to us, we shall acquire co-ownership in the new item in the ratio of the value of the item purchased (final invoiced amount including value-added tax) to the other processed items at the time of the processing. The provisions governing items purchased under reservation of title shall also apply to the purchased item that is created through processing.
- 7.5 If the item purchased is inseparably mixed with other objects that do not belong to us we shall acquire co-ownership in the new object in the ratio of the value of the item purchased (final invoiced amount including value-added tax) to the other mixed items at the time mixing takes place. If the mixing takes place in such a way that the buyer's product is to be regarded as the main item, it is agreed that the buyer assigns the pro rata co-ownership to us. The buyer shall safeguard the sole ownership or co-ownership that is created in this way on our behalf.
- 7.6 The buyer shall also assign to us all claims against third parties to secure our claims against it that arise through the combination of the item purchased with real property.
- 7.7 We agree to release at the request of the buyer all securities to which we are entitled in so far as the realisable value of our securities exceeds the claims secured by more than 10 %. We shall have the right to select securities for release.

8 Warranty

- 8.1 If the item purchased has a defect for which we are responsible we shall have the initial option of choosing between reworking and supplying a substitute.
- 8.2 If the subsequent performance is unsuccessful, the buyer shall have the right to choose between reducing the purchase price and cancelling the contract (rescission). However the buyer shall not be entitled to rescind the contract in the case of minor contraventions of the contract, in particular in the case of minor defects.
- 8.3 The buyer's warranty rights presuppose that he has complied correctly with his commercial duties to inspect and submit complaints. The buyer shall in particular notify obvious defects in writing without delay, but not later than five days after receipt of the goods; if this is not done, claims under warranty are excluded. Sending the notification within the period shall be sufficient for compliance. The buyer shall be fully responsible for showing proof of all preconditions for a claim, in particular of the defect itself, of the time the defect was detected and that the complaint was submitted in time.
- 8.4 If the buyer chooses to withdraw from the contract because of a legal or technical defect after an unsuccessful attempt at subsequent performance, he shall not be entitled to any claims for damages because of the defect.
- 8.5 We shall otherwise be liable for damages in so far as the buyer claims damages based on intention or gross negligence, including intention or gross negligence on the part of our representatives of vicarious agents, or in so far as we have deliberately contravened a material contractual obligation. However, if we are not alleged to have contravened the contract intentionally or as a result of gross negligence, our liability for damages shall be limited to foreseeable typical direct average damages. In other cases liability for damages is excluded.
- 8.6 The above limitations on liability shall not affect the buyer's rights under the Product Liability Act. The limitations on liability shall also not affect injury to life and limb or loss of life for which we are responsible.
- 8.7 The warranty period shall be one year from the delivery of the goods. This shall not apply if the buyer does not notify us of any defects in good time (see No. 8.3 of these Terms and Conditions).
- 8.8 Claims for damages arising from a defect shall be statute-barred in one year from the delivery of the goods. This shall not apply if we are grossly negligent and in cases of injury to life and limb or loss of life for which we are responsible.
- 8.9 All the information that we provide on the nature of the goods and all patterns, sample and analysis data that we provide are non-binding and do not represent contractual information on the nature of the goods.
- 8.10 No legal warranties are being given.

9 Limitations of liability

- 9.1 Unless otherwise agreed in the above Terms and Conditions we shall be liable otherwise in accordance with the statutory provisions for damages in so far as the buyer claims damages based on intention or gross negligence, including intention or gross negligence on the part of our representatives of vicarious agents, or in so far as we have deliberately contravened a material contractual obligation. In other cases liability for damages is excluded. The amount of a claim for damages shall be limited to the foreseeable direct average damage typical for these goods. This shall not apply in so far as the contravention of the contract is the result of intention or gross negligence, including intention or gross negligence on the part of our representatives or vicarious agents.
- 9.2 The above limitations of liability shall not affect the buyer's claims under the Product Liability Act. The limitations on liability shall also not affect injury to life and limb or loss of life for which we are responsible.

10 Final provisions

- 10.1 The contract shall be governed by the laws of the Federal Republic of Germany. The provisions of the UN Sales Convention shall not apply.
- 10.2 If the buyer is a trader, a legal entity under public law or special assets under public law, the location of our registered place of business shall be the exclusive venue for all disputes arising under this contract. This shall also apply if the buyer does not have a general venue in Germany or if his address or usual place of abode are not known at the time proceedings are instituted.
- 10.3 The place of performance shall be our registered place of business.
- 10.4 If any of the provisions of the contract with the buyer including these Standard Terms and Conditions are or become wholly or partly invalid, this shall not affect the validity of the remaining provisions. The wholly or partly invalid provision shall be replaced by a provision whose financial aims most closely approach those of the invalid provision.