



GENERAL CONDITIONS OF SALE

PREAMBLE

1. Our terms and conditions of sale apply exclusively; we do not acknowledge conflicting terms and conditions of the customer or terms and conditions of the customer which differ from our sales terms and conditions unless we have specifically accepted their validity in writing. Our terms and of sale shall continue to apply if we unconditionally implement the delivery to the customer in knowledge of the conflicting terms and conditions of the customer or of terms and conditions of the customer which differ from our sales terms and conditions.
2. All agreements which are made between us and the customer for the purpose of implementing this contract are recorded in writing in this contract.
3. Our sales conditions apply only to businesses within the meaning of Section 310 para. 1 of the German Civil Code.

I CONCLUSION OF THE CONTRACT

1. All quotations are subject to change and non-binding. Sales contracts and other agreements, in particular insofar as they alter these terms and conditions, are not binding until confirmed by us in writing.
2. All information in our product catalogue, brochures or other documents accompanying our quotations or confirmation of order are only indicative unless expressly stated to be binding.
3. Dimensions and illustrations are only binding for the implementation of the delivery if they are specifically confirmed by us.
4. We shall take a decision on the contractual offer contained in the customer's order within two weeks of receiving it. The sales contract comes into being upon written confirmation of the order or upon the signing of a written agreement by both parties.

II AVAILABILITY OF SUPPLIES

1. Our sales of goods are subject to correct, timely and proper delivery of supplies to us. We are released from our duty to supply or from our warranty obligations if supplies made to us under a relevant previously concluded and congruent cover contract are incorrect, not on time, or not delivered.
2. If such deliveries to us are likely not to be correctly, punctually and properly made we shall inform the customer of this immediately.
3. Upon the customer's request we shall provide evidence of the congruent purchase as described in para. 1 and within 14 days of receipt of the relevant written request we shall assign to the customer the claims which we have against the supplier contracted to make supplies to us.



III DELIVERY

1. The order confirmation or the contract signed by both parties specifies the quantity to be delivered, the price and the delivery and payment terms. Amendments are not valid unless agreed in writing.
2. Unless otherwise specified in the order confirmation or the contract signed by both parties delivery is agreed to be “ex works”. The following conditions also apply to delivery:
 - a) Description of goods and services do not constitute a warranty as to the properties of said goods and services.
 - b) If “prompt” despatch delivery or collection is agreed for a local or inland transaction such despatch delivery or collection shall take place within five working days from conclusion of the contract; the grace period shall be three working days.
 - c) If “prompt” despatch delivery or collection is agreed for a transaction within the states of the European Community, the European Economic Area or from or to Switzerland such despatch delivery or collection shall take place within 14 calendar days from conclusion of the contract; the grace period shall be five working days.
 - d) If “prompt” despatch delivery or collection is agreed for a cross-border transaction with states other than those named in para. 2 c) such despatch delivery or collection shall take place within thirty calendar days from conclusion of the contract; the grace period shall be 14 calendar days.
 - e) If “call-off” delivery is agreed and the latest call-off or delivery date is specified in advance, we are obliged to despatch, make available for collection or deliver the quantity called off in accordance with the contract within thirty calendar days of calling off. The period of grace is as defined in the above provisions b), c) or d) as appropriate.
 - f) The purchaser bears the risk of natural shrinkage of the goods which may occur during transport.
3. Delivery times quoted are calculated from the time the customer has fulfilled any preliminary obligations and established any preconditions for the delivery which are contractually required of him.
4. Delivery times are extended by the occurrence of unforeseen events which lie outside our control and which affect the manufacture or delivery of the contractual object, irrespective of whether they occur within our business or within the business of our supplier, e.g. force majeure, operational breakdowns, strikes, rejection of parts of materials, delays in the delivery of necessary raw materials and components. In such cases we shall inform the customer without delay of the delay which has thus arisen. We are also not responsible for the above circumstances if they occur in the course of an existing delay in delivery.
5. The fulfilment of our delivery obligations is conditional on the customer fulfilling all his obligations towards us in a timely and proper manner.



6. If between conclusion of the contract and shipping of the goods we acquire information concerning the business circumstances of the customer or of the relevant destination country or of the country in which the customer has his seat of business and such information places in doubt the proper fulfilment of the customer's obligations towards us, in particular if this involves the removal of any credit insurance lines which may exist with a credit insurance in the name of the customer, we are entitled to cancel all consignments which have not yet been shipped provided that we have first informed the customer and the customer has not immediately provided adequate security for the fulfilment of his own commitments towards us. Until such security is provided any duties which we may have in respect of the delivery are suspended.
7. If despatch of the goods is delayed at the customer's request, the costs of storage will be charged to the customer commencing one month after notification of readiness for despatch. If an appropriate notice period has expired without results we are entitled to make alternative arrangements for use of the contractual object and to charge the expenses which thereby arise to the customer provided that we have previously notified the customer of this and of an appropriate deadline in writing. In this event we are also entitled to re-supply the customer with the contractual goods at an appropriate new delivery time.
8. If the customer defaults in acceptance or is otherwise culpably in breach of his obligation to cooperate we are entitled to request him to compensate us for loss or damage arising there from including any additional expenses. We reserve the right to make additional claims.
9. Subject to the conditions of para. 4 above, the risk of accidental loss or accidental deterioration of the goods passes to the customer at such time as he is in default of acceptance or payment.
10. We shall be liable in accordance with the provisions of law provided that the underlying purchase agreement is a "sale to be performed at a fixed point in time" under Section 286 para. 2 no. 4 of the German Civil Code or of Section 376 of the Commercial Code. We shall also be liable in accordance with the provisions of law insofar as the customer is entitled to assert, as a consequence of a default in delivery for which we are responsible, that his interest in further performance of the contract has ceased.
11. We shall also be liable in accordance with the provisions of law insofar as the default in delivery arises from an intentional or negligent breach of contract for which we are responsible; any culpability of our representatives or agents shall be attributable to us. If the default in delivery does not arise from an intentional breach of contract for which we are responsible, our liability to make compensation shall be limited to the foreseeable naturally arising damage.
12. We shall also be liable in accordance with the provisions of law insofar as the default in delivery for which we are responsible arises from the culpable breach of a material contractual duty; in such case, however, shall be limited to the foreseeable naturally arising damage.
13. Furthermore in the event of default in delivery for which we are responsible we shall be liable in the amount of 0.5% of the delivery value for each complete week of default but amounting in total to no more than 10% of the delivery value as a lump-sum compensation for default.



IV PRICES AND PAYMENT

1. In the absence of any agreements to the contrary, all prices are ex works, net, and exclusive of packing, carriage costs and insurance.
2. The deduction of any discount must be specifically agreed in writing.
3. Unless otherwise agreed in the order confirmation or the relevant contract, the purchase price is due net (without deduction) within 30 days of the invoice date. If the customer delays payment interest at the rate of 8 percentage points per year above the applicable basic interest rate of the European Central Bank will be added. We reserve the right, however, to claim an increased amount for losses caused by delay if evidence is provided thereof.
4. If we become aware of circumstances which indicate that our claims against the customer are jeopardised, we are entitled to require the additional provision of a security. If the requested security is not provided, we may require the immediate payment of any instalments which are not yet due or take the decision to withdraw from the contract.
5. The customer has no rights to set-off or retention unless his counterclaims have been established as legally valid, uncontested or acknowledged by us.

V RETENTION OF TITLE AND SECURITY

1. Until the fulfilment of all claims (including all net amounts owing on the current account) which we may have on any legal basis against the customer, we are entitled to the securities defined in the following paragraphs which we shall release upon request and as selected by us if the value which can be realised from them consistently exceeds the amount due to us by more than 10%.
2. We retain ownership of the goods until receipt of all payments arising from the delivery contract. If the customer is in breach of contract and in particular if he has defaulted on payment we are entitled to repossess the goods but not obliged to do so. If we repossess the goods we are withdrawing from the contract. After repossession of the goods we are entitled to realise them; the proceeds of such realisation – after deduction of appropriate realisation costs - are set off against the amounts owed by the customer.
3. The customer shall handle the goods with care; in particular he is obliged to insure them adequately and at replacement value at his own expense against damage by fire, water or theft.
4. The customer shall notify us in writing without delay of any judicial attachments or other interventions by third parties, so that we can institute proceedings under Section 771 of the Civil Procedure Code. If the third party is unable to reimburse us for the costs of these court or out-of-court proceedings, the customer shall be liable for the loss incurred by us.



5. The customer is entitled to resell the goods in the normal course of business; however, he hereby assigns to us all claims in the amount of the final invoice sum (including any value added tax) of our claim which accrue to him against his customers or third parties as a result of the resale, irrespective of whether or not the goods are in any way processed before resale. The buyer shall remain entitled to collect such claim even after the assignment. Our right to collect the claim ourselves shall not be prejudiced hereby. However, we undertake not to collect the claim so long as the customer meets his payment obligations from the proceeds he receives and is not in default in payment and in particular so long as no petition is filed for the initiation of composition or insolvency proceedings and no payments have been suspended. In such event, however, we may request the customer to notify us of the assigned claims and of the debtors thereof, provide all information necessary for collection, surrender the relevant documents and notify the debtor or third party of the assignment.
6. Processing or remodelling by the customer shall be on our behalf. If the goods are processed with other items which are not of our property, we are entitled to co-ownership of the newly manufactured item in the ratio of the value of the goods (final invoice amount including any value added tax) to the other processed items at the time of processing. Such provisions as apply to goods supplied under retention of title apply also to the item which arises from processing.
7. If the goods are irreversibly blended or combined with other items which are not of our property, we acquire co-ownership of the newly manufactured item in the ratio of the value of the goods (final invoice amount including any value added tax) to the other blended or combined goods at the time of blending or combining. If the blending or combining takes place in such a way that the supplier's item is to be regarded as the principal item, it is taken as agreed that the supplier to us the proportionate co-ownership; the supplier thus preserves sole or joint ownership for us.
8. The customer also assigns to us the claims to security of our claims against him which arise against a third party from the connecting of the goods with a plot of land.

VI INSPECTION OF THE GOODS, NOTIFICATION OF DEFECTS

1. The purchaser must notify us in writing immediately and at the latest within 5 days of delivery of complaints on account of any defects, incorrect delivery or variations in quantity.
2. We are required to acknowledge complaints only if the goods have not yet been treated or processed, packed or unpacked or used in any other way. The purchaser's right to take the quantity required for the purpose of his inspection is not hereby affected.
3. The purchaser must give us opportunity to verify that the goods are not in conformity with the contract. In particular he shall upon request immediately make the contested goods or samples thereof available.
4. If defects can only be identified by an expert and if the purchaser has notified us in writing of the involvement of the expert immediately after said expert has been contracted and has given us the opportunity to make contact with the expert, his notification of these defects will be valid if it is lodged with us within 3 days of receipt of the results of the analysis but at the latest within 2 weeks of receipt of the delivered goods.

GENERAL CONDITIONS OF SALE



5. If notification of defect is not lodged in accordance with the provisions of this Section VI or is not lodged within the stipulated time, the goods are considered to have been accepted. If notification of defect is not lodged properly in accordance with the provisions of this Section VI or if the purchaser fails to meet any of his obligations specified in this Section or does not properly meet such obligation any resulting detriment in particular with regard to provability shall be chargeable to the purchaser.
6. A purchase on the basis of "approval of a sample" is transacted on condition that the purchaser accepts the sample. The sample is considered to be accepted if the purchaser does not reject the purchase in writing within five days of receipt of the sample.
7. In the case of goods sold on a "tel quel" basis the purchaser must accept any goods in the agreed category without regard to quality.

VII PASSING OF RISK AND ACCEPTANCE

1. Unless otherwise agreed, risk passes to the customer at the time of handover to the forwarder or carrier but at the latest at the time of leaving the works.
2. Any increases in transport or customs costs after conclusion of the sale contract shall be borne by the customer, as shall any additional costs which arise if a different or more expensive means of despatch than that originally planned has to be used as a result of circumstances for which we are not culpably responsible.
3. The goods will only be insured at the customer's request and at his expense.
4. The goods delivered are to be accepted without prejudice to the rights in Section VI. even if they have immaterial defects.

VIII LIABILITY FOR DEFECTS/COMPENSATION

1. Claims by the customer in respect of defects are contingent on proper performance of his duties to examine the goods and provide notice of defects.
2. If the goods are defective, we are entitled to make subsequent performance in the form of removal of the defect or to supply a new defect-free object, provided that we do not incur disproportionate costs in so doing. In this regard particular account is to be taken of the value of the goods in defect-free condition and the importance of the defect. If the defect is removed we shall bear all expenses necessary for removal of the defect, in particular the costs of transport, tolls, labour and materials, except insofar as these are increased because the goods have been taken to a place other than the place of fulfilment.

If a new delivery is made, the customer shall immediately after the new delivery surrender to us the defective goods which were supplied.



3. If the subsequent performance is unsuccessful the customer is entitled at his option to withdraw from the contract or to seek mitigation.
4. We shall be liable in accordance with the provisions of law if the customer asserts claims for damages arising from intention or gross negligence, including the intention or gross negligence of our representatives or agents. Unless we are charged with intentional breach of contract, liability for damages is limited to the foreseeable naturally arising damage.
5. We shall be liable in accordance with the provisions of law if we culpably breach a material contractual obligation; in this event, however, liability for damages is limited to the foreseeable naturally arising damage.
6. If the customer has a claim to compensation for damages instead of performance, our liability including our liability under para. 3 is limited to compensation for the foreseeable naturally arising damage.
7. Liability for culpable damage to life or health or culpable damage for physical injury is not affected; this applies also to binding liability under product liability law.
8. Unless here otherwise agreed to the contrary, liability is excluded.
9. The limitation period for claims in respect of defects is 12 months, calculated from the transfer of risk.

IX OTHER GROUNDS FOR LIABILITY

1. Any further liability for compensation other than that described in Section VIII is excluded irrespective of the nature of the claim which has been asserted in law. This applies in particular to claims for compensation arising from culpability at conclusion of the contract or from other breaches of duty or from claims in tort for compensation for material damage under Section 823 of the German Civil Code.
2. The limitation in accordance with para. 1 also applies if the customer, in place of a claim for compensation for damages, is requesting compensation for fruitless expenditure instead of performance.
3. Insofar as liability for compensation from us is excluded or limited, this applies also with regard to the personal liability for damages of our employees, workers, co-workers, representatives and agents.



X RIGHT OF WITHDRAWAL

1. In the event of force majeure which makes it impossible for us to fulfil the contract or makes fulfilment of the contract so difficult that there would be significant economic detriment for us, irrespective of whether such events occur to us or our supplier, we have the right to withdraw wholly or in part from the contract. The same applies to the consequences of circumstances for which we are not responsible, in particular if the circumstances of which we had cognisance at conclusion of the contract have changed in such a way as to make adherence to the contract significantly more difficult or impossible. The right of withdrawal does not apply to circumstances for which we are responsible.

XI TRANSFER OF RIGHTS

1. Rights arising from the contract may not be assigned by the customer to third parties without our express consent.

XII PLACE OF DELIVERY AND PLACE OF JURISDICTION

1. If the customer is a registered trader, the place of jurisdiction is our place of business; we shall however also be entitled to bring proceedings against the customer at the court of his place of residence.
2. The law of the Federal Republic of Germany shall apply, excluding the UN Purchasing Convention. The same applies to contracts with an overseas element.
3. Unless otherwise stated in the order confirmation, the place of delivery is our place of business.

XIII SEVERABILITY CLAUSE

1. Should one or more of the above provisions be or become unenforceable, the validity of the remaining provisions shall in no way be affected. In such case the parties undertake to replace the unenforceable provision with a valid new provision coming as close as possible to the intention of the unenforceable provision.