

Standard Terms and Conditions of Sale

1. General - Scope

- 1.1 Our Terms and Conditions of Sale shall apply exclusively. We will not accept any terms or conditions specified by the buyer that conflict with or vary from our Terms and Conditions of Sale unless we have consented, in writing exclusively, to the validity of such conflicting or varying term or condition. Our Terms and Conditions of Sale shall also apply in cases where we, in full knowledge of any terms or conditions specified by the buyer that conflict with or vary from our Terms and Conditions of Sale, execute delivery to the buyer without reservation.
- 1.2 Any and all agreements and understandings made between us and the buyer for the purpose of executing this contract are set forth herein in writing.
- 1.3 Our Terms and Conditions of Sale shall apply only in regard to business enterprises within the meaning of § 310 subsection 1 of BGB (German Civil Code).
- 1.4 Our Terms and Conditions of Sale shall also apply to any future business transacted with the buyer.

2. Offer and Conclusion

- 2.1 The presentation of our product range in our respective catalogues, price lists, brochures and other information material current at the time does not constitute a binding offer of a contract. The purchase order placed with us by the buyer shall be the submission of a binding offer. We reserve the liberty to decide at our own discretion on the acceptance of any such offer. Our written acknowledgement of order shall prevail in any case. Any repeat orders or order increases will be considered new orders.
- 2.2 Unless otherwise explicitly agreed, the illustrations, drawings, weight and dimensional specifications included in any catalogues, price lists, brochures and other information material are authoritative only approximately. Such specifications, notably regarding performance and usefulness of the products supplied as well as any referenced DIN, VDE or other industry-wide or company-level standards, shall not constitute a guarantee of quality or durability within the meaning of § 443 of BGB unless this is explicitly agreed in writing. The quality obligatory under the contract follows from the acknowledgement of order. We cannot be held responsible for any public statements made by manufacturers, their employees or agents, or otherwise in advertising unless said statements can be proved to have been made at our instigation and the buyer's purchase decision has actually been influenced by said advertising.
- 2.3 Liability for any technical advice given will be assumed only in case a separate advisory assignment is taken on and only if we are responsible for any breach of duty on our part.
- 2.4 The buyer shall bear full responsibility for the completeness and correctness of the data and information provided by him and also of the parts made available by him.
- 2.5 Where we make a sample available to the buyer, such sample shall be considered merely a test sample. No quality description can be derived from such sample except where a qualification sample is accordingly agreed upon in writing.
- 2.6 To the extent samples and designs are made available by us, we reserve title to all and any copyrights, and the right of reproduction in particular. We reserve title to ownership of said rights notwithstanding payment for said designs having been made by the purchaser.
- 2.7 In any case it is the responsibility of the buyer to ensure that the samples made to the buyer's specifications, or made available by the buyer, will not infringe any copyrights, trademark rights or other third-party rights.
- 2.8 For all supplies and services we reserve the right of excess or short delivery not exceeding 10% for manufacturing technology reasons, as is customary in this industry.

3. Period of Delivery and Partial Delivery

- 3.1 Delivery dates or delivery periods which may be agreed upon either with or without obligation shall be recorded in writing. A condition of the beginning of the period of delivery as specified by us is that all technical issues have been cleared up. Furthermore, fulfilment of our obligation to deliver shall presuppose the timely and proper discharge of the obligations of the buyer. We reserve the defence of failure to perform the contract.
- 3.2 The period of delivery is deemed to have been observed if by the expiration of said period the delivery item has left the factory, or if notice of readiness for shipment has been given.
- 3.3 Force majeure, government action, unrest, strike, lockout, shortage of labour, energy, raw materials or supplies, traffic delays, problems obtaining means of transportation, failure of suppliers to keep delivery dates, or any other circumstances beyond control which impair timely or appropriate delivery shall entitle us to extend the delivery periods by the duration of such obstruction and a fair and reasonable start-up period, or else, where the economic importance or the substance of the service to be performed is materially affected by the events, to rescind the contract. In this case the buyer shall merely be entitled to claim return. Any further claims, notably any claims for damages, shall be excluded both in case of extension of the period of delivery and in case of rescission of the contract. Upon occurrence of such an event, we shall be permitted in addition to share out the available production and delivery quantity proportionally between the buyers.
- 3.4 We shall be responsible for any delayed delivery and absence of delivery (impossibility) only if the fault can be proved to lie with us, the persons we employ to perform an obligation, or our suppliers. We shall otherwise be liable in accordance with the statutory regulations pursuant to § 9. below. If we are liable to pay damages thereunder for any unintentional breach of duty for which we are responsible, then any claim for damages to which the buyer is entitled shall be limited to not more than 5% of the value of the partial or total delivery or performance to the extent the delay or non-delivery precludes its timely or contractual use. In no event shall we be responsible for any deliveries delayed or omitted through the fault of suppliers.
- 3.5 Any rescission shall be effected by means of a written statement.
- 3.6 Partial deliveries shall be permissible on a reasonable scale.
- 3.7 Call orders require delivery of the total quantity of goods to be taken within the period of time agreed. Where the calls fail to be made within said period of time, we shall be entitled to effect delivery of such quantities as remain to be called off. Any claims arising therefrom shall be subject to our usual terms of payment. For call orders for which no deadline has been set we reserve a delivery period of 6 months.
- 3.8 For each delivery the buyer will receive a delivery note.

4. Prices and Terms of Payment

- 4.1 Except as otherwise specified in the acknowledgement of order, our prices are stated "ex works"; packing expenses and shipping cost will be charged separately.
- 4.2 Our prices are exclusive of applicable value-added tax. On the date the invoice is made out, said tax at the statutory rate will be shown separately on the invoice.
- 4.3 In the event of the prices of raw materials and supplies or of energy rising, or of the wages and salaries agreed by collective bargaining or the tax load of the enterprise increasing after conclusion of the contract, we shall be entitled to effect a fair and reasonable price increase to the extent relating to the respective case.
- 4.4 Unless otherwise agreed upon in writing, payment shall be effected either within 10 days from the date of invoice less 3% cash discount or within 30 days without deductions. Any payment by cheque shall not be considered effected until our account has been credited with the cheque amount. Any payment by bill of exchange shall require our explicit consent. The statutory regulations regarding the consequences of default in payment shall apply.
- 4.5 In the event of the buyer defaulting on payment due to us, also in respect of any previous deliveries, or in the event of any circumstances coming to our knowledge which according to the best judgement of a businessman indicate a major deterioration of the financial situation of the purchaser, we shall be entitled, at our option, to demand immediate cash payment or security from the buyer, or to rescind the contract. In case of rescission of contract, a fair and reasonable compensation for use and/or reduction in value shall be due to us for any goods taken back. The right to claim further damages is reserved. Any freight charges shall be borne by the buyer.
- 4.6 The buyer shall not be entitled to set-off except where his claims have been declared final and absolute, are undisputed, or have been recognized by us. The exercise by the buyer of a right of retention by reason of counterclaims founded on other contractual relationships shall be precluded.

5. Passage of Risk and Packing Charges

- 5.1 Except as otherwise specified in the acknowledgement of order, delivery "ex works" is stipulated and agreed upon. Shipment will be made on buyer's account and at buyer's risk.

6. Defects and Warranty

- 6.1 The buyer shall inspect the goods for identity, absence of defects, and completeness immediately upon their receipt and shall notify us immediately of any defects discovered in the process, within 8 days of receipt of the goods at the latest. If the buyer fails to perform said inspection or notification of defects in due time, the goods delivered shall be deemed to have been approved except where the defect was not apparent during the inspection. Notice of any defects discovered at a later date must be given immediately as well. Otherwise the goods will be deemed to have been approved also in respect of such defects. The notice of defects shall in each case be given in writing and shall give a detailed description of the defect notified. Otherwise § 377 of HGB (German Commercial Code) shall apply mutatis mutandis.
- 6.2 We shall assume warranty and liability for any defects, at our option, by remedy of the defect or by substitute delivery.
- 6.3 We disclaim any warranty or liability for the consequences of inadequate and improper use; of installation, putting into service, modification or repair which is incorrect or has not been performed by us; and of improper or careless treatment, notably improper or careless storage and normal wear and tear. This shall be equally applicable where the defect is attributable to the material supplied by the buyer. The same shall apply in the case of any information, documents and notices provided by the buyer.
- 6.4 Warranty claims and claims for damages and/or reimbursement of expenses in connection with defects will cease to be enforceable one year after passage of risk.
- 6.5 Defects of any part of the delivery shall not justify objection to the entire delivery. Provided we have given our consent, the unsuitable items shall in this case be returned to us.
- 6.6 Any notice of defects shall not release the purchaser from his obligation to effect payment when due.
- 6.7 We will not accept any return deliveries made without our prior consent. Return deliveries shall invariably be at the expense and risk of the consigner thereof.
- 6.8 Any complaint processing costs incurred by the buyer shall not be recognized.

7. Quality of Goods Supplied

- 7.1 The quality of our products is contingent upon the raw materials available. We therefore cannot be held responsible for any variations in quality, differences in colour and deviations in weight except where such variation, difference or deviation would have been avoidable under the given circumstances. Minor deviations from specifications in brochures, from trial shipments or previous shipments are not subject to complaint as a matter of principle.
- 7.2 We do not warrant any fitness of the goods for a particular purpose.
- 7.3 In the case of plastics products, we must for technical reasons reserve the customary variations as regards material thickness and dimensions of such products. Any potential variations within this scope shall not entitle the buyer to put forward any warranty claims and/or claims for damages, compensation, or deduction from the price as agreed upon.

8. Reservation of Title

- 8.1 We reserve title to ownership of the object sold pending receipt of all payments due to us from the business relationship with the buyer. In the event of the buyer acting in breach of contract, and in case of default in payment in particular, we shall be entitled to take back the object sold. Our taking back of the object sold shall constitute a rescission of the contract.
- 8.2 The buyer shall be obliged to treat the object sold with due care. Notably the buyer shall be obliged to adequately insure, at his own expense, said object against damage by fire, water and theft at reinstatement value.
- 8.3 In the event of attachments or any other interventions by third parties, the buyer shall immediately notify us in writing so that we can take legal action pursuant to § 771 of ZPO (German Code of Civil Procedure). To the extent our judicial and extrajudicial costs of an action pursuant to § 771 of ZPO fail to be recoverable from said third party, the buyer shall be liable for the financial loss we have sustained.
- 8.4 The buyer shall be entitled to resell the object sold in the ordinary course of business. However he shall assign to us already now all claims against his customers or any third parties, in the amount of the grand total of invoice (including value-added tax) of our claim, which accrue to him from such resale, irrespective of whether the object sold has been resold unprocessed or after processing. The buyer will continue to be authorized to collect the account receivable also after said assignment. This shall not affect our authority to collect said account receivable ourselves. However we undertake not to collect said account receivable for as long as the buyer meets his financial obligations out of the proceeds collected, does not default on payment and notably has not applied for composition or bankruptcy proceedings or has suspended payments.
- 8.5 Where the object sold is inseparably connected with any other objects not owned by us, we shall acquire the co-ownership of the new object in the proportion of the value of the object sold (grand total of invoice including value-added tax) to the other connected objects at the time of connection. Where said connection is effected in such a manner that the buyer's object is to be regarded as the main object, it is understood that the buyer will convey co-ownership to us on a pro rata basis. The sole ownership or co-ownership as it has thus originated shall be held in custody for us by the buyer.
- 8.6 We undertake to release, at the buyer's request, the security to which we are entitled to the extent the realizable value of our security exceeds the debt to be secured by more than 10%. Selection of the security to be released shall be incumbent upon us.

9. General Limitation of Liability and Statute of Limitations

- 9.1 Subject to the regulation set out below, we shall be liable - for whatever legal grounds - merely for the intentional or grossly negligent breach of duty by us, our legal agents, representatives or persons we employ to perform an obligation. In case of unintentional breach of any material duties under the contract, our liability shall be limited in extent to the damage typically foreseeable. We will not be liable for any breach of duty such as default, impossibility, or violation of protection duties which fails to have been caused intentionally or by gross negligence.
- 9.2 To the extent we have excluded or limited our liability for damages, such exclusion or limitation shall equally apply with regard to the personal liability for damages of our employees, staff members, agents, representatives and persons we employ to perform an obligation.
- 9.3 Liability for fatal injury, bodily injury or injury to health caused culpably shall remain unaffected. This shall equally apply to the mandatory liability under the Product Liability Act.

10. Place of Performance and Jurisdiction

- 10.1 The place of performance of delivery and payment shall be our registered office in Julbach.
- 10.2 Where the buyer is a merchant, our registered office shall be the place of jurisdiction. We will be entitled however to take legal action against the buyer also at his domicile.
- 10.3 The substantive law of the Federal Republic of Germany shall apply. Application of the UN Convention on the International Sale of Goods shall be excluded.

11. Severability

If any provision of these terms and conditions of delivery and payment, or any provision within the scope of any other agreement, shall be or become invalid, such invalidity shall not affect the validity of all other provisions or agreements. This is a translation of terms and conditions worded in the German language; in the case of any inconsistency the German text shall prevail.