

## GENERAL TERMS AND CONDITIONS

### Conditions of the validity of the agreement

Different provisions from the following or other regulations with the statutory regulations – particularly in conditions of purchase - are only binding on us unless they are confirmed by us in writing. The unconditional delivery of goods, performance of services or acceptance of payments does not constitute acknowledgement on our part as otherwise stated. They also apply to all future supplies and services, even if they are not expressly agreed again.

### 1. Offer and acceptance

- a) All prices and specifications are subject to change. Contracts and agreements are binding for us only through our written confirmation of by delivery under the following conditions.
- b) Changes, additions and / or rescission of a contract or these conditions shall be in writing.
- c) The buyer is bound to his order three weeks. Also the invoice is to be considered as confirmation of the order. In such cases the date of the invoice replaces the date of the order confirmation.
- d) Our samples are always non-binding view samples. Unless not explicitly described, all analytical data are to be considered as approximate values, also in terms of maximum and minimum limits.
- e) Additional clauses in our quotes for the description as "approximate", "as already supplied", "as usual" or similar additions relate exclusively to the quality or quantity of goods, but not on price. Such statements in orders are called binding.
- f) Quantities are always approximate. Safety-related and filling-due deviations up to ten percent above or below are considered contractual. Such variations in quantity will be fully considered on the invoice.

### 2. Prices

- a) Our prices are normally quoted excluding VAT. The calculation is based on the quantities or weight stated by us or our supplying plant.
- b) All prices are subject to change, ex place of shipment including packaging. Unless otherwise agreed, our prices are only for delivery in one shipment and to a single station.
- c) Sales in foreign currency are based on the exchange rate against the Euro applicable at the conclusion of the contract. Exchange differences are charged to the buyer.
- d) Unless otherwise expressly agreed, the quantities or weight stated by us or our supplying plant are decisive for the calculation of prices.
- e) If the delivery period is more than a month and if the conditions of the rated prices have changed considerably since signing the contract, we reserve the right to charge the prices valid on the day of delivery. The buyer is entitled to object to within 7 days of notification of the price increase. In case of contradiction, we have the choice between the cancellation of the contract or the delivery at the originally agreed price. We must announce our decision to the buyer without delay. If we withdraw from the contract any further claims by the buyer are excluded.

### 3. Delivery

- a) The agreed delivery dates and times are always approximate.
- b) The transport is at the risk of the buyer. The risk to the goods passes to the buyer as soon as the goods leave the supplying plant or are transferred by us to the shipper or carrier, even if our prices are quoted CPT, FOB or CIF. We determine shipping method, dispatch and freight carriers. Water loading presumes open, unobstructed waterways. This also applies to the loading from North Sea ports.
- c) We are entitled to partial deliveries.
- d) We will make best efforts to respect the stated delivery times. But we take no guarantee for this.
- e) All cases of force majeure, strikes, lockouts, insufficient material or energy supply, lack of transportation facilities and other similar events or other causes beyond our influence absolve us from our obligations to fulfil the contract for the duration and extent of such obstacles, plus a reasonable start time. This also applies if these circumstances occur at our suppliers.
- f) In case of a failure to delivery at our responsibility and after setting a grace period of at least six weeks, the buyer is only entitled to withdraw from the contract. Further rights, especially claims for damages for non-performance or late delivery and other claims for damages are excluded.
- g) If the buyer does not take the goods at the contractually agreed time, he has to make the payments dependent on delivery as if delivery had taken place. We are entitled to store the goods at the expenses and the risk of the buyer at Third, as far as we cannot keep the goods without adversely affecting our operations here.

### 4. Shipment and acceptance

- a) At collection the buyer or his delegate are responsible for the loading of the truck and have to ensure compliance with legal regulations for the transport of dangerous goods.
- b) In any case, the unloading and storage of goods is up to the buyer.

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- c) For delivery in tank trucks and demountable tanks the beneficiary is responsible for perfect technical conditions of his tanks or other storage containers and to provide and arrange for the connection of the filling lines to his recording system. Our obligation is limited to the operation of the onboard equipment.
- d) When our staff assist in unloading and offloading and cause any damage to the goods or other damage, they act at the sole risk of the buyer and not as our agents.
- e) The above regulations apply accordingly for delivery by third parties as far as a liability of the seller could be deducted from their behaviour. The liability of third parties remain unaffected.

### 5. Packaging / leased packagings

If our deliveries take place in leased packagings, these are to be returned by the buyer at least within 4 weeks after receipt, emptied, in good condition, on his costs and risks or, if applicable, to return to our truck against a receipt. If the buyer does not fulfil this obligation in due time we are entitled to charge a reasonable fee for the time exceeding 4 weeks. After an unsuccessful deadline for returning of the leased packagings we are entitled to demand the replacement price. The markings applied shall not be removed. Leased packaging may not be exchanged and not be filled with other goods. The buyer shall be liable for impairment, substitution and loss regardless of fault. Decisive are the initial findings upon arrival at our site. Use as storage containers or transfer to third parties is prohibited.

### 6. Payment

- a) Our invoices are payable without any deduction in accordance with the respective agreement. The day when we can dispose of the amount at our bankers is considered as payment day,
- b) The buyer is not entitled to offset, withhold or reduce payments even if complaints or other counterclaims are asserted.
- c) In case of payment arrears the buyer has to pay interest charges at the rates of commercial banks for overdrafts, but at least equal to five percent above the rate of the actual discount rate of the German Bundesbank.
- d) If the buyer fails to meet his payment obligations, in particular if a check or draft or his payments are not honoured, or if other circumstances become known to call his credit into question, the entire balance is due, even for drafts of later due date. We are also entitled to withdraw from all other current contracts or to claim damages for non-performance.
- e) The balance with disputed counterclaims or the withholding of due invoice amounts are excluded.

### 7. Retention of title

- a) All delivered goods remain our property (conditional goods) until fulfilment of all our claims, even if payments are made for specifically designated claims. For current accounts, the retained property serves as security for our balance demands.
- b) The handling and processing of the conditional goods is done without obligation on our part. When processing by the buyer with other goods not belonging to us we are entitled to the joint ownership of the manufactured goods in relation of the invoice value of our manufactured goods to the sum of the invoice value of all other goods used in the production. If our goods are mixed or connected with other items whereby our property to the conditional goods expires (§947; §948 German BGB), it is agreed already now that the ownership of the buyer of the mixed stock or the single item is transferred to us to the extent of the invoice value of our conditional goods and that the client holds these goods free of charge for us. Products emerging from the processing or by the combination or mixture shall be conditional goods within the meaning of these terms.
- c) The buyer may sell or process the conditional goods only in the ordinary course of business at his usual business terms and provided he is not in default. He is authorized to sell only if the claims from the resale as well as additional agreements are transferred to us in the extent of the following paragraphs. He is not entitled to other dispositions.
- d) The demand of the buyer from the resale of the conditional goods are already assigned, including all secondary rights, regardless of whether the conditional goods are sold to one or more purchasers and with or without processing, mixing or combination. If the conditional goods are sold by the buyer together with other goods not belonging to us, this value is transferred only at the amount of our invoice, at first rank.
- e) If the conditional goods are used by the buyer to perform a work or a supply contract the demand from the work or supply contract will be assigned to us in advance in the same extent as specified in the preceding sections for the claim from the resale.
- f) The buyer is entitled to collect the receivables assigned to us until revoked or until he is not in default. If our remaining claim according section 6.d) is due or the buyer offends against the obligations imposed we are entitled to:
  - I) revoke the authorization to sell or process or use the conditional goods and to collect the assigned claims
  - II) demand the return of the conditional goods. In this case the buyer is not entitled to claim against this release and we don't have to withdraw from the contract.
  - III) notify third party debtors of the assignment.

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- g) The buyer agrees to provide us with the necessary information to enforce our rights and to hand over the necessary documents.
- h) The buyer must notify us immediately of seizures or other impairment of our conditional goods or the claims assigned to us.
- i) If the value of the securities for our claims exceeds not only temporarily a total of more than 20%, we will release on demand securities in the appropriate amount of our choice.

### 8. Warranty, Liability, Statue of Limitations

- a) Defects must be reported by the buyer immediately in writing, at least within one week of receipt of the goods, any processing must be stopped immediately. Defects that cannot be detected within this period even after careful examination are to be reported in writing immediately upon detection, at least within six weeks on receipt. Any processing must be stopped immediately
- b) The defective goods must be available to our inspection in the state at the time of detection. A violation of this requirement excludes all liability for us.
- c) If a defect is reprimanded accordingly in due time and properly, we will take back the accepted defective product and replace it by right goods. Instead, we can also replace the reduced value. Further claims, especially claims for damages, on whatever legal basis, are excluded unless intent or gross negligence on our part. In the event of the resurrection of warranty claims and the culpable violation of the subsequent delivery the buyer is only entitled to withdraw from the contract.
- d) The above conditions also apply for deliveries of other than contractual goods or in the absence of guaranteed properties.
- e) Before and after the contract is signed suggestions and advices are given and additional contractual obligations are executed in good faith. However, our liability for this and for any omission is excluded unless intent or gross negligence on our part.
- f) Our liability shall be exclusively directed by these Terms and Conditions. All rights not expressly granted herein – including compensation – of whatever kind and for whatever legal reason – are excluded. §276, section 2 German BGB remains unaffected.
- g) Any claim against us expires at latest after one year, unless a shorter limitation of liability is agreed.
- h) Claims of whatever kind cannot be asserted against us if no action is brought within one month after we have declined to accept the claims.

### 9. Protection and rights of use

We do not assume any guarantee that the use or sale of our products does not violate national or international protection and user rights. The buyer must therefore convince himself that such third-party rights are not violated at use or resale. Compensation claims against us are excluded. The buyer agrees to indemnify us against all claims of third parties for any infringement of property and usage rights, arising from any actions of the buyer.

### 10. Advice

Our department for application and development as well as our other specialty departments advise the buyer in good faith based on the state of the art and our own developments and findings. However, our advice is to the exclusion of all warranty claims to the extent permitted by law. Our advice does not relieve the buyer from the duty of care to verify our proposals for the application to the respective operational and processing conditions through their own tests.

### 11. Storage of data

Customer data are stored and processed by computer as far as it is requested for the proper handling of the contractual relationship and to the extent it is permitted under the Federal Data Protection Act.

### 12. Performance, Jurisdiction and Applicable Law

Performance for each delivery or service is the place of dispatch. Jurisdiction for both parts is Darmstadt / Hessen, Germany. German law applies.

### 13. Part vanities

If any provision of these Terms and Conditions or any provision in any other agreements is or becomes invalid, the validity of the remaining provisions or agreements shall not be affected. If there will be a juridical gap an appropriate provision has to apply to the legally possible extent which comes closest to what the parties wanted or would have wanted if they had considered the matter.