

General Terms and Conditions of Sale and Delivery

January 2016



1. General Provisions:

1.1 Our General Terms and Conditions of Sale shall form an integral part of all agreements which we conclude with our Customer and shall only apply to businessmen within the meaning of Section 14 of the German Civil Code (BGB). These Terms and Conditions of Sale and Delivery shall also apply to all future orders of customers even if there is no reference in these future orders to the application of our General Terms and Conditions of Sale and Delivery. Unless stipulated in the entire offer and the order confirmation, contrary terms and conditions are hereby rejected. They and any other deviating agreements and ancillary agreements shall only apply if we have expressly approved their application in writing. This shall also apply for any amendment of this present written form clause.

2. Offers, Orders:

- 2.1 Our offers shall be subject to change and are non-committal.
- 2.2 Any written, electronic, or verbal orders issued to us or our representatives shall only be binding upon us, if we confirm them in writing or - if the Customer has expressly or tacitly waived this right -, if we comply with the orders by shipment of the goods. Any modifications - even of current orders - or any collateral agreements must be confirmed by us in writing (also by fax or by e-mail). A purchase agreement shall only take effect upon our confirmation of the order. In the event that delivery is made immediately without confirmation, the invoice shall be considered to be the order confirmation.
- 2.3 In the event an order is sent electronically, the provision of Section 312 e (1), Sentence 1 Nos. 1 through 3 of the German Civil Code (Duties in Electronic Communication) shall be excluded. We shall not be obligated to confirm the receipt of an order electronically. Incoming e-mails received between 9:00 a.m. and 4:00 p.m. on any working day (Monday to Friday) shall be considered to have been received at 4:00 p.m., unless it can be proven that the e-mails were retrieved earlier. Any e-mail we receive beyond these hours shall be considered to have been received at 4:00 p.m. on the next business day (but not Saturday), unless it can be proven that the e-mail was retrieved earlier. We shall only save the contractual provisions and general terms and conditions of business in the event we do not communicate with the customer individually and such provisions and terms and conditions may then be sent to the customer by e-mail upon request.
- 2.4 Based on a separate agreement, we offer our Customer a service to hold goods in inventory as from an agreed date if larger order quantities are placed and to deliver part-quantities from the aforesaid inventory on call at short notice. We require approximately 15 days for replenishing the aforesaid minimum inventory. In the event of demand peaks, there may be therefore delivery periods of up to 15 working days if demand peaks arise. We therefore request the Customer to notify us as soon as possible if and when we have to face demand peaks. We likewise request the Customer to notify us as soon as possible if the required quantities recede sharply. The Customer shall be obliged to call up the total order quantity in full in good time before the end of the minimum life of the goods (at least four weeks before) but at the latest six months after production. The Customer is requested to appreciate that we reserve the right to earmark for dispatch to the Customer the contract quantities after the aforesaid period which have not been requisitioned and are still in the inventory and to invoice them without a special requisition being required. We shall naturally inform the Customer thereof as soon as possible.

3. Terms and Conditions of Payment, Default, Security:

- 3.1 Unless agreed upon otherwise, our invoice amounts shall be due without deduction within 30 days after the invoice date and within 14 days with 2 % cash discount and payable in euros to one of the bank accounts listed on the invoice. The receipt of the payment (value date) shall be decisive for the timeliness of the payment. The Customer shall bear any additional expenses. In export transactions, the Customer shall bear the costs related to the receipt of the payment, as far as such costs accrue in the Customer's country.
- 3.2 In the event of a delay in payment, we shall charge default interest at the common bank interest rate for debit balances, though at least at a rate of 8% above the base interest rate pursuant to Section 247 of the German Civil Code plus exchange losses in other countries; we hereby reserve the right to assert additional damage due to default. The customer shall be free to prove that we did not experience any or less damage.
- 3.3 The acceptance of orders and the performance of deliveries may be made dependent on the provision of security or advance payment.
- 3.4 In the event the financial situation of the Customer substantially worsens after the conclusion of an agreement, whether through a petition for the initiation of insolvency proceedings, initiation of composition proceedings, a petition for the issuance of an affidavit or a warrant of arrest or similar events, we shall be entitled at our discretion to request advance payments or the provision of security within a reasonable period. We shall be entitled to withhold our performance until such requests are fulfilled. We shall be entitled to withdraw from a contract after the expiration of this period in the event the advance payment is not rendered or security is not provided prior to such date. A substantial worsening of the financial situation of the Customer is also to be assumed in the event the Customer is in default with more than two payments.

3.5 The Customer may only set off or reduce claims in the event they are due and we have recognized the counterclaims or such counterclaims have been recognized by non-appealable judgment. Retention rights are excluded to the extent they are not based on the same contractual relation.

3.6 We hereby reserve the right to refuse bills of exchange. We shall always only accept such bills of exchange on account of performance. Discount charges and expenses for bills of exchange shall be borne by the Customer and shall be due immediately. Bills of exchange shall be accepted without any guaranty of correct submission or protest. We shall likewise only accept checks on the account of performance.

3.7 If the Customer has assigned any claims against us to a third party without our consent, we shall be entitled to make payments to the Customer even if we were aware of the assignment (Section 354a of the German Commercial Code).

4. Deliveries and Shipment:

- 4.1 We shall endeavour to deliver the goods as quickly as possible. Any delivery dates or periods, which may be bindingly or non-bindingly agreed upon, must be specified in writing. Fixed transactions must be expressly designated as such and must be expressly confirmed by us in writing.
- 4.2 In the event the manufacture, procurement or delivery is impossible or cannot be expected of us in due time due to events of force majeure or any other unforeseeable, extraordinary circumstances through no fault of our own such as lack of raw materials, operational disruptions or industrial actions (strike and lockout) at our factory, our suppliers or at transport companies, the delivery period shall be extended in a reasonable scope. In the event our delivery or performance is impossible or cannot reasonably be expected due to the above-mentioned circumstances, we shall be released from the delivery obligation.
- 4.3 In the event we delay the delivery in any other instances, damage compensation claims in accordance with Section 286 of the German Civil Code due to such delay shall be excluded hereby unless we acted intentionally or gross negligently. The claim to damage compensation shall be limited to typically foreseeable damage.
- 4.4 Unless agreed upon otherwise, the goods shall be loaded and shipped uninsured at the risk of the Customer ex works or the delivery warehouse.

5. Prices:

Our prices do not include turnover tax which shall be calculated separately in accordance with the respective valid turnover tax rate. We shall be entitled to insist on the delivery price corresponding to our price on the date of delivery which is charged to other Customers if there is more than 4 months between the contract date and delivery. Unless agreed upon otherwise, delivery prices shall be per net/kg, with free delivery in Germany even more than 1000 € order value, for other countries, duty unpaid, in the case of deliveries in the packaging agreed in the offer (drums, hobboscks, pails, canister, cartridges, sausages, bags, containers, boxes etc.); if deliveries are requested in containers not included in the offer, the price shall be increased by the special container supplement in force as at the invoice date. In the event the Customer requests express delivery or delivery by air, we invoice the additional expenses. We shall reserve the right to amend prices to a reasonable extent if cost increases arise after the conclusion of the contract as a result of changes in our calculation bases (e.g. collective pay agreements, material price increases, etc.) which are beyond our control.

6. Retention of Title:

- 6.1 We hereby reserve the title to the delivered good until all payments from the business relationship, including ancillary claims, damage compensation claims and collection of cheques and bills of exchange have been received, provided such is permissible in accordance with the law at the location of the purchased good.
- 6.2 In the event the retention of title expressly agreed upon herein is not recognized by the law of the country in which the delivery object is located, or in the event such retention is only accepted in consideration of certain prerequisites, the Customer shall be obligated to notify us no later than at the point of time of the conclusion of the contract. In the event the law does not allow the retention of title or the extended retention of title and allows us to reserve other rights to the delivery object serving the purpose of security in a manner similar to the retention of title, we hereby declare that we shall exercise such rights. The Customer hereby agrees to cooperate in the performance of any measures necessary for the performance (in particular in the consideration of formal requirements).
- 6.3 Any treatment or processing of the good that are subject to the retention of title shall be made without compensation on our behalf and without any obligation for us in such a manner that we are to be considered manufacturer in the terms of Section 950 of the German Civil Code, i.e., that we retain title at any time and with any degree of processing of the products. In the event the Customer processes (connects, mixes) the good with other goods not belonging to us, the provisions of Sections 947 and 948 of the Civil Code shall apply with the consequence that we have co-title regarding the new product in the ratio of the invoiced amount of the reserved goods to the total value of the goods. The purchase price claim accrues to us pro rata to the value of our rights to the goods.
- 6.4 In the event the good is resold, to which the Customer shall be permitted in the ordinary course of business, any claims arising for the Customer

- are hereby assigned to us in advance as security equivalent to the invoice amount. We hereby accept the aforesaid assignment. The Customer shall be obligated to specify to us the names of the customers to which it resold the good at our request. The authority to resell in the ordinary course of business shall end with the revocation by us as a result of a sustained deterioration in the Customer's financial position but at the latest upon its stoppage of payment or if petitions have been submitted on its assets for the opening of insolvency proceedings.
- 6.5 The Customer shall keep the reserved good for us and hereby agrees to insure such good against fire, theft and water. The Customer hereby assigns its compensation claims against insurance companies to which it is entitled from damages of the above-mentioned type or any other claims for replacement to us in the amount of our claims. We hereby accept such assignment. In the event the Customer does not fulfil its obligations from agreements concluded with us or delays the performance, we shall be entitled to disclose this assignment of security and directly collect the claim.
- 6.6 If the Customer sells its claim as part of a genuine factoring procedure, the claim shall be due and payable immediately and the Customer hereby assigns its claims against the factor to us and forwards the sales revenue to us in due course. We hereby accept the aforesaid assignment.
- 6.7 The Customer is entitled to collect assigned claims as long as it complies with its payment obligations. The aforesaid collection authority shall lapse if it is revoked but at the latest upon payment delay by the Customer or in the event of a major deterioration in the financial position of the Customer. In the aforesaid case, we are hereby entitled by the Customer to inform the buyer of the assignment and to collect the relevant claims ourselves. The Customer shall, upon request, be obliged to provide us with a precise summary of the claims attributable to the Customer together with the name and address of the buyer, the amount of the individual claims and invoice date, etc., and to provide us with all information required for the enforcement of the assigned claims and to allow us to examine and verify the aforesaid information.
- 6.8 In the event the value of our securities exceeds our outstanding claims by more than 10%, we shall release such securities upon request. The recall of a good which is subject to a retention of title shall not be regarded as a withdrawal from an agreement unless expressly declared.
- 6.9 The Customer shall not be entitled to pledge, transfer by way of security or otherwise dispose of the good without our express written approval. The Customer must inform us without delay in the event of a pledge or other measures of third parties and if necessary take suitable immediate measures.
- 7. Warranty, Notice of Defects, Liability:**
- 7.1 The warranty for defective products shall correspond to the provisions of law unless stipulated otherwise below. Damage as a result of improper handling, storage, installation or other external influence shall be excluded from the warranty duty.
- 7.2 The Customer must inspect the delivered good for defects in quantity and quality upon delivery without delay insofar as can be expected by trial processing, and shall inform us in writing of any defects without delay; otherwise the good shall be considered to have been approved. Any defects not recognizable in such inspection are to be notified to us after being detected without delay. Any complaints are to be issued in writing while specifying the order information and the invoice and shipment number. Our specimens are authoritative for the delivered goods; they only guarantee an approximate trial moderation due to the fact that the specimens withdrawn, especially in the case of large production quantities, cannot be representative in full by their very nature and the storage conditions of the trial cannot be completely identical with the actual storage condition of the delivery.
- 7.3 In the event of justified complaints of defects filed within the prescribed period, we shall have the option right to either remedy such defects free of charge or subsequently deliver goods free of defects (Nacherfüllung). In the event of recourse (Sections 478 and 479 of the German Civil Code), the Customer shall have this option right. Prior to returning a good our agreement must be obtained. The title of a replaced good shall be transferred to us. In the events we do not remedy defects or do not provide the Customer with a subsequent delivery of the defective good within a reasonable period set for us, or if the subsequent delivery fails (whereby we shall be entitled to two attempts), or if we refuse subsequent delivery or such subsequent delivery cannot reasonably be expected of us, the Customer shall have the right to withdraw from an agreement, to reduce the compensation or to have its expenditures and damage compensated in accordance with the provisions of law and within the limits specified below. The claims to withdrawal and reduction shall be excluded in the event of insignificant defects. A claim to damage compensation instead of performance is excluded in the event we do not render a due performance or not as obligated (Section 281 of the German Civil Code) or in the event we breach a duty in accordance with Section 241(2) of the German Civil Code (Ancillary Duties) (Section 282 of the German Civil Code) if we can only be accused of slight negligence. This shall not apply in the event a material contractual or cardinal duty is breached. The claim to damage compensation shall be limited to typically foreseeable damage.
- 7.4 The Customer shall have no recourse claims against us on account of the onward transmission of the delivery to a third party if the Customer has entered into agreements with the third party exceeding the statutory mandatory defect claims (especially contract penalty agreements) unless we have expressly consented in writing to such agreement exceeding the statutory mandatory defect claims.
- 7.5 If damage compensation claims are made against us by a third party on account of the delivery, the Customer shall extensively indemnify us, our legal representatives, our employees and our vicarious agents (including but not limited to reasonable legal pursuit and legal defence costs, disbursements, charges, taxation, etc., together with reasonable and appropriate advance payments) if the cause of the claim (vis-à-vis us) is within the control and organization of the Customer. The same indemnification obligation shall apply for third party damages which are attributable in any way to defaults in the delivery within our control and organization unless our liability is based on a culpable breach of life, body or health, wilful intent or gross negligence or a breach of cardinal obligations. If third party compensation claims are supported in any way by a slightly negligence breach of the aforesaid cardinal obligations and if they exceed foreseeable damages, the aforesaid indemnification obligation shall be borne by the Customer with regard to the excess amount.
- 7.6 Warranty claims shall lapse one year as of the delivery of the good.
- 7.7 Any other damage compensation claims shall be excluded unless based on intentional action or gross negligence. This shall not apply to damage due to the loss of life, personal injury, or illness based on the negligent breach of duty on our part or an intentional or negligent breach of duty by our legal representative or vicarious agent. Claims in accordance with the Product Liability Act are not excluded in any way.
- 8. Documents and Secrecy:**
- 8.1 Samples, specimens, brochures, illustrations, drawings, cost advances and any other documents which we assigned to the Customer during the course of the contract negotiations and which have not been compensated separately by the Customer shall be returned to us (together with all related copies) upon our request. We shall reserve the ownership, copyright and any other intellectual property rights to the aforesaid items and documents. They may not be used in any other way without our written consent, especially not copied and/or made available to third parties. If the items and documents remain in the possession of the Customer, a constructive possession of chattels is hereby agreed (Section 868 of the German Civil Code). A retention right to the aforesaid items and documents is excluded.
- 8.2 Transportation equipment, containers or covers made available by us, may only be used to transport and store the goods delivered by us. Unless one-way packaging is involved, they shall be returned to us immediately to the designated return delivery address with all freight and other expenses paid after they have been emptied. In case they are not completely emptied, the remaining good is not paid by us. The Customer bears all costs incurred in connection with the emptying, cleaning and disposal.
- 9. Place of Performance, Jurisdiction and Applicable Law:**
- 9.1 The place of performance for delivery shall be Kassel.
- 9.2 The place of jurisdiction for all disputes resulting from an agreement shall be Kassel. We shall also be entitled to file an action before the court competent at the registered office of the Customer.
- 9.3 The law of the Federal Republic of Germany under the exclusion of the UN Sales Convention on Contracts for the International Sale of Goods shall be decisive. Unless specified otherwise in these General Terms and Conditions of Sale and Delivery, the last amended Incoterms issued by the International Chamber of Commerce ("ex works") shall apply.
- 10. Secrecy:**
- The contracting parties shall undertake to maintain secrecy at all times regarding all information made available to them in connection with the present agreement and which are designated as confidential or are identifiable as business or industrial secrets for any other reasons and shall not be copied - unless required to achieve the agreed contract purpose - nor used in any other way.
- 11. Safeguarding Clause:**
- In the event any of the individual provisions above are or become invalid, the validity of the other provisions and this Agreement shall not be affected thereby.