

## General Terms and Conditions of Sale and Delivery

### 1. General

Exclusively the following terms and conditions apply for all our sales unless agreed otherwise in writing. This also applies if the purchaser has notified any own, different general terms and conditions. Contradictory confirmations of the purchaser referring to its own, different terms and conditions are hereby rejected. Oral agreements are only binding for us if and to the extent that they have been confirmed by us in writing. Our terms and conditions are deemed to have been accepted at the latest when delivery of the goods is accepted.

To the extent that these general terms and conditions do not contain any express provisions, the corresponding Articles 184 to 215 of the Swiss Law of Obligations [*Obligationenrecht*] apply accordingly.

### 2. Offer and conclusion of the contract

The offers we make remain free and are non-binding. A contract is first concluded when the seller has confirmed the purchaser's order in writing. If we receive orders, the corresponding contract is first concluded with our written confirmation or by performance of the order.

### 3. Delivery

All shipments are at the risk of customer, even if the price is charged free domicile. We fulfill our obligation to deliver by handing over the goods to the freight forwarder or other transport agent or by making the good available to be picked up if they are to be picked up by the purchaser.

The delivery will be in our best discretion with regard to the method of transport if there is no special instruction from the purchaser. In the case of shipment paid deliveries, the choice of the method of shipment is left to us. In this situation, the purchaser bears any additional costs resulting from instructions issued to us. Delivery dates and periods are always non-binding unless we have expressly warranted compliance with a delivery date or delivery period in writing. Claims of the purchaser for damages based on late delivery – to the extent that the delay is based on slight negligence – are limited to the normally incurred damages that can normally be expected to be incurred in the course of this contract. The purchaser is entitled to withdraw in the case of delay in delivery if the purchaser has set a reasonable grace period.

Delays in delivery resulting from force majeure and due to events which substantially make it more difficult or impossible for us to deliver, including especially strike, lock-out, orders from public authorities, unforeseen disruption to operations and production, delay or impossibility in production as a result of unavoidable shortages of raw materials, and other events for which we are not responsible entitle us to delay the delivery for the duration of the hindrance plus a reasonable start-up period or to completely or partially withdraw from the contract for the part that has not yet been fulfilled.

The purchaser cannot derive any claims for damages as a result of this. If the delivery is delayed by more than two months as a result of these reasons, the purchaser is entitled to withdraw from the contract with regard to the delivery volume affected by the delay. Any further claims are excluded unless the default is based at least on gross negligence.

#### **4. Acceptance**

If there is agreement that the goods must be accepted within a certain period of time, we are entitled to deliver the goods in equal or approximately equal monthly partial deliveries. The purchaser can only demand the delivery in partial deliveries of a specific size if we have promised this to the purchaser in writing.

If the purchaser does not call up one or more partial deliveries or does not do so in a timely manner, the purchaser remains under the obligation to pay for the deliveries in accordance with the due date if the deliveries had been accepted in accordance with the contract. However, the purchaser is not entitled to demand subsequent delivery before all other partial deliveries to be accepted under the contract have been accepted, and then the purchaser is only again entitled to equal monthly partial deliveries. If the purchaser is in default with accepting the goods on time, the seller reserves the right to assert any damages.

#### **5. Warranty**

We provide technical advice about the application to the best of our knowledge based on our research work and experience. All statements and information about the appropriateness and application of our products, however, are non-binding and do not release the purchaser from making its own trials and tests with regard to whether the delivered goods are free of defects and suitable for the intended use. If the purchaser fails to make such an examination, we are released from all liability. Any objections about the quality or the volume must be raised within 14 days after receipt of the goods. Hidden defects must be notified without undue delay after they have been discovered.

We will comply with properly raised and justified warranty claims at our election by reducing the price, exchanging or taking back the goods in exchange for reimbursement of the purchase price. Goods to which objections have been raised can only be sent back with our express consent.

Any further claims, especially for damages, regardless of the type, are excluded to the extent not provided otherwise in these terms and conditions; this applies also for claims for compensation for damages which are not incurred in the delivered item itself. Even in the case of complaints, the purchase price must be paid on the agreed date unless the warranty claims of the purchaser involved with the complaint are undisputed or have been finally adjudicated.

#### **6. Packaging**

Unless agreed otherwise, all goods will be delivered by us including packaging chosen by us. The packaging will not be taken back unless deposit packaging is involved for which our special terms and conditions apply. Our packaging can only be reused in commerce after removing our company symbol and our designation of the goods.

## 7. Protection of trademarks

If products delivered by us and bearing our trademarks are processed, the use of our trademark in connection with the produced product is only permissible if we have granted our consent in writing. This applies for all steps in processing. Our consent requires above all that the processing be in a manner we approve, in addition to satisfying the formalities relating to trademarks.

## 8. Invoicing

The weight we have identified is determinative for the invoicing and payment of the delivery. Our sales prices do not include value added tax unless stated otherwise. The VAT will be separately invoiced in the respective, statutory amount. Granted discounts, bonuses and similar items will be calculated on the prices without VAT.

Any customs duties and changes in taxes after conclusion of the purchase are borne by the purchaser unless agreed otherwise in writing. The purchaser must also bear the costs which result from conditions imposed by public authorities or the law after conclusion of the contract. If the delivery is made in accordance with the contract later than 30 days after confirmation of the order or the call for delivery, the price applicable on the date of delivery will be charged and is deemed to be agreed.

## 9. Payment

All payment deadlines begin on the date of the invoice. Payments in satisfaction of our claims must be in cash in accordance with the conditions for payment we have granted. Unless provided otherwise, the payment must be made without any deductions within 30 days after the date on which the invoice is issued. In the case of transfers of payment to a bank account or postal checking account we have provided, as well as in the case of payment by check, only the credit to our account without any reservation constitutes payment.

If we accept bills of exchange, the cashing of the bill of exchange first constitutes payment. Discounting and banking charges as well as any incurred taxes must be paid by the purchaser.

If the purchaser is partially or completely in default with a payment, we are entitled to charge interest starting on the relevant date in the amount of the respectively applicable interest charged by commercial banks, but at least 3 % annually above the respective discount rate of the Swiss National Bank. The assertion of any further damages is reserved. If the purchaser is in arrears with a payment for longer than 3 weeks or if the purchaser does not honor a check or bill of exchange when due, all payment obligations of the purchaser owed to us will become due immediately. We are also entitled to demand that security be posted for all other claims and to perform pending deliveries only in exchange for payment in advance or upon posting of security and to prohibit the processing and/or further sale of the goods to which we have title or co-title and to demand that such goods be surrendered.

Set-off by the purchaser is only permissible with our express written agreement except in the case of set-offs with undisputed or finally adjudicated claims.

## 10. Reservation of title

The following reservation of title applies for deliveries to recipients outside of the Federal Republic of Germany:

We reserve title to the delivered goods so long as we still have claims under the present business relationship with the purchaser. However, the purchaser is entitled to dispose of the goods to which we have title in the ordinary course of business. This authorization expires if the purchaser is in default with its obligations, if the purchaser becomes unable to meet its ongoing payment obligations or if reorganization proceedings, bankruptcy proceedings or similar proceedings are requested or opened against the purchaser. The purchaser acknowledges our right to have a corresponding reservation of title registered at the relevant register for reservations of title without any involvement on the part of the purchaser, and the purchaser grants its irrevocable consent to establishing a reservation of title and registering it in the register when making the order.

The following section applies for the reservation of title under German law for deliveries to recipients within the Federal Republic of Germany as a specification of section 13 para. 2 sentence 3 of these General Terms and Conditions:

All goods delivered by us (hereinafter also referred to as the "reserved goods") remain our property until all claims against the purchaser under the business relationship are fulfilled, including all future claims that arise. In the case of a current account relationship, the reservation of title secures our respective balance.

Processing or reworking the reserved goods always takes place on our behalf as the manufacturer [*Hersteller*] within the meaning of § 950 German Civil Code [*Bürgerliches Gesetzbuch*] without this resulting in any liability for us. When processing or reworking the reserved goods with other goods which are not delivered by us, we will have the co-ownership to the new item in the proportion of the final amount invoiced for the reserved goods compared to the cost of procuring the other goods used for the processing or reworking at the time of the processing or reworking. In the event that reserved goods are connected to or combined or commingled with moveable items of the purchaser in such a manner that the item is considered to belong to the purchaser because it is the main item, the purchaser already at this time transfers to us its title to the entire item in the proportion of the value of the reserved goods compared to the value of the other items that have been connected or combined or commingled.

If the reserved goods are connected or combined with moveable items of a third party so that the item belonging to the third party must be considered to be the main item, the purchaser already at this time assigns to use the claim against the third party for compensation belonging to the purchaser in the amount which corresponds to the final invoiced amount for the reserved goods.

The item arising as a result of processing or reworking or combining or commingling (hereinafter referred to as the "new item") or the (co-)ownership rights to the new item which belong to us or which must be transferred to us under this section as well as the claims for compensation assigned to us under this section serve in the same manner to secure our claims, just as the reserved goods serve as security.

The purchaser is authorized to further sell the reserved goods or the new item in the normal course of business subject to reservation of title. The purchaser is required to make sure that the claims resulting from the further sales can be transferred in accordance with this section.

The claims of the purchaser resulting from a further sale of the reserved goods are already assigned to us at this time. They serve as security for us to the same extent as the reserved goods serve as security. If the purchaser sells the reserved goods together with other goods which we have not delivered, the assignment of the claim only applies in the amount of the finally invoiced amount which results from the further sale of the reserved goods. When selling goods to which we have co-ownership under this section or the statutory provisions on connecting, combining and commingling of items, the assignment of the claim applies in the amount of our co-ownership share. If the purchaser includes claims under the further sale of reserved goods in a current account relationship existing with the purchaser's customers, the purchaser already assigns to us the acknowledged or final balance resulting in favor of the purchaser which corresponds to the total amount of the claims from the further sale of the reserved goods included in the current account relationship. Sentences 3 and 4 of the preceding paragraph in this section apply accordingly.

The purchaser is authorized to collect the claims assigned to us from the further sale of the reserved goods or the new item. The purchaser is not permitted to assign the claims from the further sale to third parties, also not in the context of a genuine factoring agreement. We can revoke the authorization to further sale reserved goods or new items under this section and the authorization to collect the claims assigned to us under this section in the case of default in payment or if the purchaser stops making payments in general as well as in the case of a request for the opening of insolvency proceedings or in other situations of a significant loss on the creditworthiness and reliability of the purchaser. In the case of a revocation of the authorization to further sell goods or collect receivables, the purchaser is required to inform its customers without undue delay about the assignment of the claims to us and to provide to us all information and documents required for collection.

Aside from this, the purchaser is required to surrender to us or transfer any security the purchaser has for the claims against its customers. The purchaser is required to inform us without undue delay about any attachment or other legal or actual adverse impact or danger to the reserved goods or the other security existing for us. The purchaser undertakes to treat the reserved goods with care; if maintenance and inspection work is necessary, the purchaser must carry out this work in a timely manner at its own expense. The purchaser undertakes to adequately insure the reserved goods at the replacement value against damage from fire, water and theft. The purchaser assigns to us already at this time the purchaser's claims under the insurance contracts.

In the event of default in payment or other behavior of the purchaser which constitutes a minor breach of contract, as well as in the event of an unwinding of this contract, the purchaser already at this time declares its consent to us removing or having removed reserved goods that are located at the purchaser or the new item within the meaning of this section to the extent that we are its sole owner. The removal only constitutes a withdrawal from the contract if we expressly declare withdrawal. The purchaser must grant our agents access to enter upon premises at all times in order to carry out these measures as well as to generally inspect the reserved goods and the new item.

## 11. Liability

Claims for damages based on impossibility of performance, non-performance, culpable conduct when entering into a contract and under tort are excluded unless the damages are based on intentional or grossly negligent misconduct.

Any damages caused by gross negligence will be compensated up to that amount which was known to us or of which we were not aware due to our fault.

Liability for lack of characteristics that have been expressly guaranteed is not affected; in the case of damages which have not been incurred on the delivered item itself, however, we are only liable if the guarantee specifically had the purpose of securing the purchaser against such damages. In the case of slight negligence, we are only liable if a duty is violated for which compliance is of particular importance for achieving the purpose of the contract. In this event, the liability is limited to those damages which can be typically expected in the context of this contract.

## 12. Validity

If one or more provisions in these Terms and Conditions is or becomes invalid, this does not affect the validity of the remaining provisions. Any invalid provision must instead be interpreted in such a manner that the commercial purpose intended with the provision can be achieved to the extent this is permissible.

These General Terms and Conditions apply for all future transactions even if we have not again pointed to these Terms and Conditions.

## 13. Place of performance and venue

Place for our obligations to deliver is the location from which we ship the goods or where we hold the goods available to be picked up by the purchaser. Venue for all present claims and liabilities is in Sins. The legal relationships of the Parties are subject to Swiss Law unless provided otherwise in these Terms and Conditions or by way of individual contract. An exception applies for the reservation of title (Section 10) which is subject to the law of the country where the destination is located.

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