

# General terms and conditions

## 1. GENERAL / BASIS OF CONTRACT

1.1 Our terms and conditions of sale and delivery (hereinafter referred to as Terms and Conditions) shall exclusively apply to all our first-time, ongoing or future offers and business relations established with companies in terms of art. 14 of the German Civil Code BGB (hereinafter referred to as Contracting Partner or Purchaser).

1.2 We do not recognize conditions of our Contracting Partner deviating from our Terms and Conditions unless we have expressly agreed to their application in written form.

## 2. OFFERS, ORDERS, CONCLUSION OF CONTRACT

2.1 Our offers are always non-binding and subject to confirmation unless they are explicitly identified as binding offers. The delivery of our price lists shall not be considered as an offer. The technical data, indications of intended purpose and product illustrations included in our advertising and / or brochures and other sales documents do not include an offer on the conclusion of a guarantee agreement in terms of art. 443 BGB.

2.2 The order of a product and / or a service includes the binding offer of the Contracting Partner to be willing to purchase the product / service. We are entitled to accept the offer of contract submitted by means of the order within 14 days from the date of orders receipt. Our acceptance of offers can be effected in writing or by delivering / performing the ordered product / service to the Purchaser. We reserve the right to not accept orders, even without any written statement or further explanation. In case of doubt, our silence shall be considered as a refusal after expiration of the acceptance period.

2.3 If the order is carried out by electronic means, we will immediately confirm its receipt. The confirmation of receipt is not a binding acceptance of the order yet, however, the confirmation of receipt can be combined with the notice of acceptance on our part.

2.4 In case of verbally agreed contracts, the scope of our deliveries shall be determined by our written affirmation of the contract.

## 3. DELIVERY

3.1 Partial deliveries or partial performances shall be permitted obliging our Contracting Partner to pay the pro rata payment, unless the partial delivery or partial performance is unreasonable.

3.2 In case of call orders, the entire order quantity shall be considered to be called off one calendar month after the expiration of the period agreed for the call-off, or in absence of an agreed period three calendar months after the conclusion of contract. The maximum period of a call order is twelve months beginning with the month succeeding the month of the order acceptance, except when otherwise expressly agreed in writing and confirmed with our notice of acceptance.

3.3 If the Contracting Partner is authorized to allocate call quotas and does not carry out the allocation within one calendar month after the expiration of the agreed call-off period or, in absence of such a time period, one month after our request, we shall be entitled to allocate, deliver and invoice the total ordered quantity at our own choice. The same shall apply when the maximum run duration of a call order expires.

3.4 Our deliveries are made "ex works Untereisesheim" (EXW) unless explicitly agreed otherwise. In any case, Purchaser's and seller's obligations shall be determined in accordance with the International Commercial Terms (INCOTERMS) in its current version, regardless of the chosen clause.

3.5 In any case and regardless of the INCOTERM clause possibly agreed in an individual contract and deviating from these terms and conditions of sale and delivery, we shall not be obligated to provide any import documents for the Purchaser to the shipping country which he determines.

3.6 The delivery and performance periods which we have specified can change due to delays in supply or production or due to interruptions in the operating procedure. In case of subsequent contract modifications or amendments, the delivery periods and dates, even if they had already been confirmed by us, shall begin anew or shall be delayed accordingly, as far as no agreement deviating hereof has been made with the Contracting Partner in each individual case.

3.7 If the underlying sales contract is a matter of firm bargain in terms of 286 para. 2 No. 4 BGB or in terms of art. 376 of the German Commercial Code HGB, we shall be liable according to the legal regulations. The same shall apply if the Purchaser is authorized to claim the discontinuance of his interest in the further fulfilment of contract due to a delay in delivery for which we are responsible. In this case, our liability is limited to the foreseeable damage that might typically occur if the delay in delivery is not based on an intentional breach of contract on our part, whereby the faults of our representatives or agents shall be attributed to us. We shall also be liable towards the Purchaser in accordance with the legal provisions in case of a delay in delivery if this delay is based on an intentional or grossly negligent breach of contract on our part, whereby the faults of our representatives or agents shall be attributed to us. Our liability is limited to the foreseeable damage that might typically occur if the delay in delivery is not based on an intentional breach of contract on our part. In case that a delay in delivery for which we are responsible is based on a culpable breach of a contractual obligation whose fulfilment enables the correct execution of the contract in the first place and on whose compliance the Purchaser relies and may rely, whereby the faults of our representatives or agents shall be attributed to us, we shall be liable in accordance with the legal provisions provided that in this case, the liability for damages shall be limited to the foreseeable damage that might typically occur.

3.8 In case of events of force majeure as well as other unforeseeable reasons for which we are not responsible and which are hindering or making it impossible to carry out the delivery, we shall be entitled to postpone the delivery for the duration of the impediment or to withdraw partially or completely from the contract without hereby giving the Purchaser a right to claim damages or to subsequent delivery. This explicitly includes the delivery failure of our suppliers as well as business disruptions, fires, accidents etc. on our and our suppliers' premises. Import embargos and

restrictions of the Federal Republic of Germany or export embargos or restrictions of our supplier countries shall also be considered to be reasons for the failure to comply with the delivery periods for which we are not responsible.

#### **4. DEFAULT OF ACCEPTANCE**

4.1 If the Purchaser falls into default of acceptance or if he violates other duties to cooperate, we shall be entitled, regardless of our rights according to lit. 3.2 and 3.3, to withdraw from the contract and to claim compensation for the damage arising from this including any additional expenses after expiration of an appropriate period of grace granted to the Purchaser.

4.2 In case of default of acceptance, the risk of accidental loss or deterioration of the delivered goods shall also be transferred to the Purchaser at the moment in which the latter falls in default of acceptance.

#### **5. PRICES AND PAYMENTS**

5.1 Our prices are always calculated in EURO net cash, ex works warehouse Untereisesheim plus shipping and packaging costs unless otherwise agreed in written. All fees, customs duties and taxes shall be paid separately in the amount applicable at the date of invoice.

5.2 Our prices shall be valid for six weeks from the day of the conclusion of contract.

5.3 Changes in prices shall be permitted if the agreed delivery date falls more than six weeks after the conclusion of contract. If thereafter wages, material costs or the market's cost prices (list prices) are rising or if exchange rates are changing until completion of the delivery, we shall be entitled to raise the price appropriately according to the cost increase.

5.4 Where the order value is for an amount of 50.000 euros net or more, we shall be entitled to invoice 10% of the order value plus statutory charges, customs duties and taxes on receipt of the order.

5.5 Our invoices are due for payment net cash within 30 days after date of invoice or an equivalent payment schedule. In principle, claims have no suspensory effect on the due date of payment unless claims of the Purchaser have been determined to be undisputed or legally valid.

5.6 If a significant deterioration of assets of our Contracting Partner should arise after signing the contract and if our payment claim in particular is at risk, we shall be entitled to demand immediate payment of all claims and to demand advanced payments or securities for future deliveries.

5.7 In case of delayed payments or deferments, we shall be entitled to charge yearly interests on the purchase price without providing any evidence, at the rate of eight percentage points above the base interest rate of the European Central Bank at that time.

5.8 We shall be entitled to charge a processing fee of 5,00 EUR for each written reminder issued after the occurrence of the default.

5.9 Payments to representatives and / or authorized agents shall only have discharging effect if the latter possess a written power to collect.

#### **6. RESERVATION OF TITLE**

6.1 All goods delivered by us shall remain our property until full payment of the purchase price (including possible freight charges). The Purchaser may not pledge the goods under reservation of title or transfer them as security. The Purchaser shall immediately inform us about any restraint or any other impairment of our property rights by third parties, he shall also confirm this to us and to the third party in written.

6.2 However, the Purchaser is entitled to handle, process and / or resell the goods within the scope of ordinary business activities. The processing and handling by the Purchaser always occurs on our behalf and order. Claims arising from this shall be assigned to us with immediate effect in the amount of our invoiced receivable including statutory charges, customs duties and taxes. We accept the assignment. The Purchaser remains entitled to collect these receivables. Our right to collect receivables remains unaffected hereof. However, we undertake not to collect the receivables as long as the Purchaser does not fall behind with the payment of the purchase price. If the Purchaser falls behind with the payment of the purchase price, his right to process, mount and / or resell the goods subject to reservation shall lapse.

#### **7. WARRANTY**

7.1 In principle, only the properties resulting from the manufacturer's product description shall be considered to be agreed as condition of the goods.

7.2 The warranty periods commence with the time of delivery of the goods. Goods delivered by us shall be considered to be approved as stipulated in the contract if within 14 days of receipt of the goods or at latest 18 days after the ex works delivery, we do not receive any written information of the Purchaser which concretely communicates the complaints lodged. The Purchaser shall undertake to fulfill his obligations to examine and give notice of defects in accordance with art. 377 HGB. In case of bulk articles, the Purchaser shall not be entitled to lodge a complaint if quantity differences are below 5%. Unless otherwise agreed in written, each delivery shall be effected according to the standard existing on the order date.

7.3 In case of defects of the sales item, we are entitled to first provide supplementary performance in the form of rectification or faultless replacement at our option.

7.4 The Purchaser shall receive no warranties in the legal sense from us. Manufacturer's warranties remain unaffected thereof.

7.5 If the Purchaser or a third party carries out repair work or modifications without our explicit approval, any liability for defects shall lapse.

7.6 The Purchaser's warranty claims shall become time-barred one year after the delivery of the goods at the Purchaser's premises unless we have maliciously concealed the defect. In case of claims due to underperformance covered by art. 438 I no. 2 and art. 634a no. 2 and in case of a delivery recourse in accordance with art. 478, 497 BGB, the legal limitation regulations shall apply.

7.7 Regardless of the limitation of liability mentioned before and hereinafter, we shall be liable, according to the legal regulations, for damages to life, body and health based on a negligent or intentional breach of duty on our behalf or on behalf of our legal representatives or our agents as well as for damages covered by the liability under the terms of the Product Liability Act. We shall be liable according to the legal regulations for damages which are not included in sentence 1 and which are based on intentional or grossly negligent breaches of contract and malice on our behalf and on behalf of our legal representatives or our agents. In this case, however, the liability for damages shall be limited to the foreseeable damage that might typically occur as far as we, our legal representatives or our agents have not acted deliberately. Within the scope of this warranty, we shall be liable to the same extent as for our guarantee of condition

and durability concerning our goods or parts of our goods. However, we shall only be liable for damages based on the lack of the guaranteed condition or duration, but which do not directly affect the goods, if the risk of such a damage is obviously covered by the guarantee of condition and durability.

7.8 We shall also be liable for damages which we cause by simple negligent breaches of those contractual obligations whose fulfillment enables the correct execution of the contract in the first place and on whose compliance the Purchaser relies and may rely. However, we shall only be liable as far as the damages are foreseeable and typically in connection with the contract.

7.9 Any further liability is excluded regardless of the legal nature of the asserted claim, this also applies in particular to tortious claims or for claims for compensation of futile expenditures instead of performance. Our liability according to 3.7 of this contract remains unaffected hereof. As far as our liability is excluded or limited, this also applies to the personal liability of our employees, staff members, representatives and agents.

7.10 The Purchaser's claims for damages due to a defect become time-barred one year after the delivery of the goods at the Purchaser's premises. If we, our legal representatives or our agents were responsible for damage to life, body or health or if we or our legal representatives have acted intentionally or grossly negligent or if our simple vicarious agents have acted intentionally, the legal periods of limitation shall apply to the Purchaser's claims for damages.

#### **8. SET-OFF / WITHHOLDING**

The Purchaser shall only be entitled to set-off rights if his counterclaims are uncontested and recognized by us or if they have been legally determined. The Purchaser shall only be entitled to execute a withholding right as far as his counterclaim is based on the same contractual relationship established with us.

#### **9. MISCELLANEOUS, PLACE OF PERFORMANCE, PLACE OF JURISDICTION**

9.1 Ancillary verbal agreements shall only be considered to be integral part of the contract if they have been confirmed by us in writing. If a clause of these contract terms becomes completely or partially invalid and / or ineffective, the remaining regulations shall remain unaffected thereof. Invalid regulations shall rather be replaced by other ones which come as close as possible to the economic intent.

9.2 Within the scope of the contractual relationship, we are processing the necessary data by means of EDP.

9.3 The place of performance and jurisdiction for deliveries and payments (including claims concerning cheques and bills of exchange) as well as all disputes between us and the Purchaser arising from the sales contracts between us and the Purchaser shall be our head office. However, we shall be entitled to sue the Purchaser on his place of residence or business.

9.4 The relations between the Contracting Parties shall exclusively be settled according to the applicable law of the Federal Republic of Germany. The application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded.