

Conditions of Sale

1 General, Written Form

- 1.1 The sale of our goods and our other performances are based solely on the following contractual conditions even if we have not expressly objected in the individual case to deviating conditions of purchase of the Buyer, which we hereby expressly reject. At latest with acceptance of our goods or other performance, the Conditions of Sale are considered to have been accepted without reservation by the Buyer, even in the event of prior objection.
- 1.2 Deviations from the contractual conditions require our express prior written permission for each individual contract for their validity.

2 Prices, Shipping, and Transfer of Risk

- 2.1 The offer is subject to changes unless nothing else is agreed in writing. Our prices are net from a German distribution warehouse. Costs for packaging, customs clearance, customs, and freight are to be born by the Buyer. The offered prices are dependent on the applicable collective agreements for wages and salaries, purchase prices for components and raw materials, customs, freight, taxes, and public charges as well as the kind and scope of the offered performances at the time the offer is made. In the event of changes to the components of the price or changes in the order by the Buyer, until conclusion of the contract the prices can be increased in any amount and after conclusion of the contract in a reasonable amount insofar as the agreed performance is more than four weeks after conclusion of the contract or insofar as the expenses for packaging, freight, customs, customs clearance, taxes, public charges, or other remuneration to be paid in addition to the net price are concerned.
- 2.2 We assume no liability for selecting the cheapest method of shipment. Shipment is always done at risk, and unless nothing else is agreed, at the expense of the Buyer. The risk is transferred to the Buyer as soon as the subject of the order has left the plant.
- 2.3 Trade discounts are not granted if the Buyer is in arrears with the payment of earlier deliveries.
- 2.4 If it concerns the cross-border shipment of goods and the Buyer does not present the required value-added tax identification number,

we are entitled to charge the German value-added tax in addition to the agreed purchase price.

- 2.5 Processing expenses for product changes will be charged on a time and effort basis.

3 Scope of the Duty to Deliver and the Delivery Period

- 3.1 All information about delivery periods in our offers are approximate and not binding. The delivery period indicated in our order confirmation begins - if nothing else is agreed - with the date of receipt of the order confirmation by the Buyer, but not before receipt of the documents to be obtained by the Buyer, permits, authorisations, and any agreed down payment.
- 3.2 A force majeure or circumstances beyond our or our supplier's control (e.g. labour disputes, operational or transport disruptions, official measures, unforeseeable shortages of materials or energy, mobilisation, war, riots, natural catastrophes) entitle us in the event that performance is delayed to a corresponding prolongation of the delivery period plus a reasonable start-up period, in the event of impossibility to withdrawal from the contract for purchase without this giving rise to the Buyer being entitle to claims for damages.
- 3.3 In the event of non-adherence to a delivery period listed in the order confirmation, the Buyer is entitled to set a reasonable written grace period in writing with the threat that the performance be denied after expiry of the grace period and that it withdraw from the contract. If readiness to ship the goods is not reported by expiry of the grace period, which must amount to at least two weeks, the Buyer has the right to withdraw from the contract if it threatened this beforehand. Claims for damages on account of delivery arrears are excluded insofar as we, our agents, or our commissioned parties did not induce the damage in a grossly negligent or wilful manner, and the damage is not based on breach of a material contractual duty.
- 3.4 If the shipment or delivery is delayed upon request of the Buyer, then we can charge the Buyer a storage fee in the amount of 0.5% of the invoiced price for each begun month beginning with the month after announcement of readiness to ship. The storage fee is limited to a total of 5% unless higher expenses can be proven.

- 3.5 Partial deliveries are admissible.
- 3.6 In the event of call orders we are entitled to obtain the materials for the entire order immediately and manufacture the entire ordered amount immediately. Therefore, desired changes requested by the Buyer after issuance of the order cannot be taken into account.
- 4 **Provision of Materials**
- 4.1 The same quality is assumed for materials provided by the Buyer as for that purchased by the Seller (delivered amount, delivery time, packaging, etc.). Additionally arising expenses for improperly provided materials can be invoiced to the Buyer, in particular in the event of packaging not suitable for automation, defective quality, or late delivery.
- 4.2 The provided materials are to be delivered by the agreed delivery date. The Buyer is to bear any additional expenses at the Seller. Delivery arrears caused by this are to be borne by the Buyer.
- 5 **Retention of Title**
- 5.1 All goods delivered by us remain our property (goods subject to retention of title) until fulfilment of all of our claims against the Buyer from the business relationship, including those that have not arisen yet. The reserve of property during current accounting is deemed to be a security for our individual account balance claims. This also applies if payments by Buyer are allocated to specific debt claims.
- 5.2 The handling or processing of the goods subject to retention of title always occurs by order of us without liabilities thereby arising for us. We are entitled to ownership of the new item arising from the handling or processing. In the event of processing with other goods that do not belong to the Buyer, we are entitled to co-ownership of the new item in the proportion of the value of the goods subject to retention of title to the other goods at the time of processing. In the event that the goods delivered by us are mixed or blended with other goods, the Buyer hereby now assigns to us its ownership or co-ownership rights to the mixed inventory or the new item in the aforementioned relationship and protects this for us.
- 5.3 The Buyer may sell goods under reservation of title only in the usual business at usual conditions of trade and only to the extent that the Customer has met all of our claims in due time. The Buyer is obliged to sell goods under reservation of title only subject to retention of title itself and to ensure that claims from these sales may be transferred to us.
- 5.4 The Buyer's claims from the further sale of the goods subject to retention of title are already assigned to us now regardless of whether the further sale occurs before or after processing, mixture, or blending. They are used as a security to the same extent as the goods subject to retention of title.
- 5.5 Should the Buyer sell goods subject to retention of title together with other goods which we did not supply, the transfer of claims only covers the amount of invoice which results from a selling of our goods subject to retention of title.
- 5.6 Should the Buyer include claims from a selling of goods under retention of title in a current account relationship with his buyers, he already now transfers to us the amount to which he is entitled or the final account balance which corresponds the total amount of our claim in the current account relationship from a resale of our goods subject to retention of title.
- 5.7 The Buyer is authorised to collect the claims from further sale of the goods subject to retention of title as long as it complies with its duties to pay us in any orderly manner. We can revoke authorisation in the event of payment arrears, cessation of payment, transfer of Buyer's business to third parties, if the creditworthiness or trustworthiness of the Buyer's business has deteriorated, or the Buyer's company is liquidated and in the event of any violation of the Buyer of his contractual obligations pursuant to no. 4.3 at any time. In the event of arrears, though, only on in the event of fruitless elapse of a reasonable grace period.
- 5.8 In the event of revocation of the authorisation to collect, the Buyer is obligated to notify its customers immediately of the assignment of the claim to us without delay and submit all information and documentation needed for collection to us. It is also obliged to release or transfer to us all securities to which it is entitled for any customer claims.
- 5.9 If the value of the securities to which we are entitled exceeds that of the secured claims by more than 20%, we are willing to release securities according to our choice upon the

Buyer's request.

5.10 The Customer is obliged to notify us immediately if goods subject to retention of title or any other securities to which we are entitled are attached or there are other legal or actual impairments or dangers.

5.11 In the event of payment arrears and the event of rescission of the contract for purchase, the Buyer now already declares its agreement that we remove or have removed the goods subject to retention of title that are in the Buyer's possession. The removal is only to be deemed withdrawal from the respective contract for delivery if we expressly declare this.

6 Payment Conditions, Payment Arrears

6.1 Our invoices are to be paid within 30 days of invoice date without any deductions whatsoever.

6.2 Payments for deliveries abroad are to be done with an irrevocable letter of credit. All bank and transfer fees are to be borne by the Buyer.

6.3 If the Buyer is in arrears of payment we are entitled to charge interest in the amount of 8% above the legal base rate from the concerned point in time on.

6.4 The Buyer retains the right to prove that no or lesser damages arose.

6.5 The right to claim higher damages for arrears remains unaffected; in doing so we have to prove these damages, though.

6.6 If a significant worsening of the financial situation of the Buyer arises after conclusion of the contract or if such becomes known (e.g. negative credit report, filing of insolvency, settlement, or bankruptcy proceedings, cheque or bill of exchange protest, non-redemption of bank drafts), we are entitled to perform only upon payment and demand a reasonable security. If the Buyer does not comply with a corresponding demand within two weeks, we are entitled to withdraw from the contract.

6.7 The Buyer can only set-off or exercise a right of retention with undisputed claims or those established by court of law. Section 369 of the German Commercial Code [*HGB*] is excluded.

7 Notices of Defects

7.1 The Buyer is obligated to inspect the delivered goods without delay (section 377 *HGB*). Complaints about amounts, incorrect deliveries, and defects in the delivered goods are to be complained about in writing within 7 workdays

of discovery, within 5 workdays in the event of hidden defects; otherwise the goods are deemed to have been accepted as defect-free.

7.2 The Buyer may not refuse receipt of deliveries on account of immaterial defects.

7.3 Deviations in amounts of up to 3% are considered immaterial.

7.4 We are entitled to change our goods technically and optically, in particular in the event of longer term deliveries, and adapt them to current market conditions. This is not to be deemed a defect insofar as the contractual use is not compromised by this.

8 Warranty, Time-Barring

8.1 The warranty period amounts to one year after transfer of risk. The warranty is limited to those defects that cannot be traced to natural wear and tear or improper use/treatment.

8.2 In the event that our goods or our performances are defective, we will, according to our choice, rectify the error (repair), replace the good or performance with a defect-free one, or refund the price for the goods. The Buyer is obligated to tolerate two attempts at subsequent improvement. Only after that is the subsequent improvement deemed to have failed.

8.3 If the Buyer or a third party has had subsequent improvement work done on its own accord, our duty to subsequent improvement and the liability for the damages arising on account of the subsequent improvement lapse.

8.4 If the goods sent in by the Buyer are defective, we bear the shipping expenses. Otherwise we are entitled to charge the expenses arising for shipping and inspection of the defect-free goods to the Buyer.

8.5 Returns of goods are to be coordinated with us before they are done.

9 Liability

9.1 If we are responsible for a damage caused by us or an agent pursuant to statutory or contractual provisions, we are liable for slightly negligent causation on in the event of breach of cardinal duties and the injury to life, limb, or health of the Buyer or a third party. Furthermore, we are liable ourselves in the event of breach of cardinal duties only for typical damages foreseeable upon conclusion of the contract.

9.2 The limitation of liability above does not apply insofar as the liability is based on fraudulent

concealment of a defect, the assumption of a guarantee or a procurement risk or liability pursuant to the German Product Liability Act [*Produkthaftungsgesetz*].

- 9.3 The claims for damages to which the Buyer is entitled become time barred within the one-year period pursuant to 7.1. The same applies to claims of the Buyer in conjunction with measures for preventing damage (e.g. recalls). In the event of claims for damages pursuant to the German Product Liability Act, the legal statute of limitations applies.

10 Documents and Samples

- 10.1 Drawings, figures, information about weight and other technical descriptions and documents that are handed over in the scope of the contractual negotiations are only binding if they are expressly designated as such. The ownership and industrial property rights to these documents, samples, and the like remains with us. The documents may not be copied or disclosed to third parties in part or whole without our express authorisation insofar as this is not necessary within the scope of the agreed contractual use.
- 10.2 No copyrights of third parties may stand in the way of our use of documents such as drawings, instructions, samples, etc. to be provided by the Buyer. The Buyer shall release us from liability towards third parties in the event of breach of this duty.

11 Place of Performance and Legal Venue

- 11.1 The place of performance for deliveries, returns, and payments is Krefeld.
- 11.2 The location of the legal venue is Krefeld, also for suits on account of cheques and bills of exchange.

12 Applicable Law, Partial Invalidity

- 12.1 The laws of the Federal Republic of Germany are applicable to the Terms and Conditions and all legal relationship between us and the Buyer.
- 12.2 The provisions of the UN Convention on Contracts for the International Sale of Goods (CISG) are not applicable.
- 12.3 Should a provision in these Terms and Conditions or a provision in the scope of other agreements be or become invalid, this shall not affect the validity of the remaining provisions and agreements. In this case a regulation is agreed that corresponds to the economic

contents of the invalid provision.

13 Personal Data

We save personal data of the Buyer with electronic data processing.