

# Sales Conditions

## 1. Score

Deliveries will be made subject to these general conditions of sale which will remain in force for all future supplies even without further notification and override any other terms of conditions stipulated or referred to by the Buyer. These general conditions of sale only apply to enterprises, corporate bodies under public law and state - operated funds.

## 2. Formation of contract

Our quotations are not offers. The contract is to be made at the time of our written confirmation by letter, facsimile ore - mail or through the execution of the order by dispatch of goods.

## 3. Price alteration

If our prices are altered between the date of contract and dispatch, the price ruling on the date of dispatch will apply. In the event of a price increase the Buyer is entitled to withdraw from the contract by giving notice in a facsimile ore - mail immediately after having received notification of the price increase.

## 4. Delivery dates

Delivery dates quoted are not to be binding.

## 5. Variations in content

Information supplied with regard to the percentage content and mixing proportions of our products are only to be regarded as approximate average values. We shall not be liable for any variations in such content which are within the tolerances applicable to the particular goods and are unavoidable despite every care in manufacture and in determination of values.

## 6. Use of products

All particulars and information with respect to the suitability and application of our products are given without obligation and do not relieve the Buyer from undertaking his own investigations and tests. The Buyer is responsible for the observance of legal and official regulations covering the use of our product.

## 7. Performance

**7.1.** Complaints arising out of the material defects, deliveries and quantities which are incorrect, so far as these can be discovered by a reasonable examination, must be made in writing immediately and not later than fourteen days after receipt of the goods. If they cannot be discovered by a reasonable examination, complaints must be made immediately after detection.

**7.2.** In the case of justified complaints, shortages will be rectified by further delivery and other complaints will be dealt with by supplementary performance. If we should refuse the supplementary performance according to Section 439 para. I German Civil code or if the supplementary performance should be unsuccessful the Buyer shall have the right to cancel the purchase contract or reduce the purchase price. The Buyer shall not be entitled to return the goods to us without our consent. Any claims in respect of defects or shortages are time - barred in 1 year.

## **8. Liability**

We are liable pursuant to the statutory provisions as far as the Buyer claims damages (i) caused intentionally or by gross negligence, including intent or gross negligence by our representatives or vicarious agents, or (ii) arising out of death, injury to body or health. As far as we are not liable for an intentional breach of duty or for losses arising out of death, injury or health, our liability is limited to the foreseeable, typical damage. We are liable pursuant to the statutory provisions also for ordinary negligence as far as we violate an essential contractual obligation; in this event our liability is limited to the foreseeable, typical damage. Beyond this any liability for damages is excluded. The exemption from liabilities is also effective for the personal liability of our legal representatives, employees and other vicarious agents. Liability pursuant to the product liability law remains unaffected by this exemption.

## **9. Transport**

**9.1.** Unless otherwise agreed, we have the right to choose the route and the means of transport. If we have to bear the transport charges, then any increase occurring therein after the contract has come into force shall be charged to the Buyer.

**9.2.** Unless otherwise agreed or implied by trade custom all deliveries travel at the risk of the Buyer even if transport charges are being borne by us. Claims arising out of damage in transit must be lodged by the Buyer directly to the deliverer within the specified period. General Commercial Terms such as FOB, CIF, CFR etc. shall be interpreted in accordance with the latest version of the Incoterms.

## **10. Force Majeure**

War, breakdowns, strikes, lockouts, shortages of energy and raw materials, transport problems, orders from High Authorities including those which render the execution of the particular business within a reasonable time uneconomical, as well as other cases of "Force Majeure" both in relation to ourselves and our suppliers, relieve us from the obligation to supply for so long as anyone or other of them or its or their consequences last but without any obligation on us to make up for short deliveries later. All the aforementioned occurrences entitle us to withdraw from the contract wholly or in part without the Buyer having any right to compensation, if it is not foreseeable how long the occurrences will last.

## **11. Payment**

**11.1.** Our terms of payment are those ruling on the date of delivery. Any bank charges arising from payment of the purchase price in the Buyer's country or from the opening and confirmation of Letters of Credit shall be borne by the Buyer. Any letters of credit must comply with the Uniform Customers and Practice of Documentary Credits issued by the International Chamber of Commerce, Paris, or any subsequent amendment thereof.

**11.2.** Except with our consent no set off and no right of retention of goods against outstanding debts will be permitted except in respect of claims which are either undisputed or concluded by a judgment against which no appeal can be made.

**11.3.** Where there is any doubt as to the Buyer's ability to pay in accordance with the contract and particularly where the Buyer is in arrears, we are entitled to demand payment in advance or security for all monies due before making any further deliveries. If the Buyer should fall behind in fulfilling his obligations, we are entitled to suspend further deliveries, to stop goods in transit and take back possession of them, to withdraw any credit granted for deliveries already made and without prejudice to any other claims which we may have to charge interest on the amount outstanding.

## **12. Security interest/retention of title**

**12.1.** We retain ownership of the goods until such time as the Buyer has completely fulfilled all his obligations to us, such ownership being retained notwithstanding delivery of the goods to the Buyer or to any person for the purpose of delivering to the Buyer.

**12.2.** The Buyer is, however, authorized to dispose of such goods owned by us in the ordinary course of his business, such authorization being automatically cancelled if the Buyer falls into arrears with payment, becomes insolvent, or if proceedings are issued in any court for bankruptcy or the winding up of the Buyer.

**12.3.** Following such cancellation we have the right to withdraw from the contract and to demand from the Buyer the return of all goods in his possession owned by us. All expenses incurred by us during the hand - over of such goods shall be borne by the Buyer.

**12.4.** Upon request the Buyer shall give us all information necessary to enable us to locate the goods in his possession owned by us.

**12.5.** Where the Buyer sells goods owned by us in the ordinary course of his business he hereby assigns all claims arising from such transactions to us in advance as far as they do not exceed our claims against the Buyer. This applies regardless whether the goods are sold before or after specification. After assignment the Buyer remains entitled to collect this claim. Our right to collect the claim by ourselves remains unaffected. However, we commit ourselves not to collect the claim while the Buyer fulfils his obligations to pay and proceedings are not commenced in any court for bankruptcy or the winding up of the Buyer. In this case upon request the Buyer shall disclose the assigned claims and their debtors, furnish all data necessary for the collection of the claim, hand - over all materials relating to the claim and inform the debtors on the assignment.

**12.6.** Specification is rendered by the Buyer on our behalf. Where the good is brought into new forms together with goods owned by us we acquire co - ownership of the new thing in proportion of the sold thing's value to the other processed things' value at the time of specification. Furthermore, to the new thing the same applies as to any sold thing we retained ownership of.

**12.7.** Where the sold thing is mixed inseparably with things not owned by us we acquire co - ownership of the new thing in proportion of the value of the sold thing to the value of the other mixed things at the time of mixture. Where the Buyer's thing is regarded as the main

thing it is deemed to be agreed that the Buyer transfers proportionally co - ownership. The Buyer keeps the ownership or co - ownership on our behalf.

**12.8.** The Buyer also assigns his claims against a third party which have been arising from the union of a sold thing with real estate, in order to provide security for our claims against the Buyer.

**12.9.** We commit ourselves to release our securities upon the Buyer's Request insofar as the realizable value of our securities exceeds our claims for more than 10 %; our right to choose the securities to be released is reserved.

**12.10.** If the Buyer fails to fulfill any of his obligations in due time we are entitled to rescind the contract forthwith.

**12.11.** If under the law of the country in which the goods are located reservation of title is not permitted, we shall be entitled to demand from the Buyer equivalent security. The Buyer must co - operate fully with us in all measures necessary and legally permissible for the protection of our rights, and must inform us immediately if any third party should make a claim which might prejudice such rights.

### **13. Replacement provisions**

Where individual terms in these conditions are rendered impracticable or invalid the remainder of these conditions shall not be rendered void. In such circumstances the invalid or impracticable conditions shall be replaced by valid provisions ensuring that the intentions of the parties as to the purpose of the contract shall be fulfilled in as effective manner as possible.

### **14. General**

The place of payment shall be our domicile. Any dispute arising out of this contract shall be heard either by a court of law at our domicile, however, we are also entitled to file an action at the appropriate court of law in the Buyer's country. The applicable law of the contract will be exclusively the law of the Federal Republic of Germany.