

General business and delivery terms and conditions

1. General

- 1.1 The General Sales and Delivery Terms and Conditions stated in the following are a component of all our sales and delivery agreements. They shall also apply to any consulting services and information which we provide in this context. Through the acceptance of these terms and conditions without objection, but nonetheless by no later than the receipt of our goods or other services, the Buyer declares its agreement with the validity of these terms and conditions – also for any follow-up business dealings.
- 1.2 The validity of any deviating General Business Terms and Conditions of the Buyer shall hereby also be objected to in the event that they have been submitted to us in any confirmation letter or some other manner.

2. Bids and contractual conclusions, ancillary agreements

- 2.1 Our bids are non-binding. All orders, even if they are received by our representatives or other sales employees, shall become binding for us only upon our written confirmation or when the goods are delivered.
- 2.2 Oral ancillary agreements or assurances of our representatives or other sales employees shall require our management's express written confirmation in order to be effective.

3. Prices

- 3.1 All price information is fundamentally understood to be in euro including packaging in addition to the VAT to be assumed by the Buyer in the respective statutorily prescribed amount.
- 3.2 Deliveries shall be made within the Federal Republic of Germany free domicile with a minimum invoiced net amount of € 100. In the event of orders made from our price list which deviate with regards to quantity, the Buyer shall be billed the additional shipping costs upon a lump-sum basis of € 15 as special shipment.
Orders which are delivered outside of the Federal Republic of Germany shall be generally carried out ex works.
If a special manner of shipping is desired by the Buyer, the Buyer shall assume any resulting additional costs.
- 3.3 If the delivery is supposed to be made later than thirty days after the contractual conclusion, we shall reserve the right to bill the prices and VAT which are valid upon the date of delivery.

4. Payment and offsetting

- 4.1 Payments for deliveries of goods shall be payable no later than the due date indicated on the invoice; in the absence of such a due date, within 30 days after the billing date without any deductions. Payments for other services rendered (e.g., hired labour work and repairs) are immediately payable without any deductions. The date of payment shall be considered to be the date we receive the monies or our bank account is credited.
- 4.2 We shall accept checks and rediscountable bills of exchange, for which proper tax has been paid, for payment purposes only; however, we shall accept bills of exchange only if this has been expressly agreed. Credits for bills of exchange and checks shall be made on the value date on which we have the counter-value available at our disposal. Customary bank discount charges shall be assumed by the Buyer.
- 4.3 In the event of the Buyer's payment default, we shall be entitled to charge interest in the amount of the respectively valid bank rates for bank overdrafts or, without documentation, interest in the amount of 8% above the base lending rate of the European Central Bank. The assertion of claims for any more extensive default damages extending beyond those in Clause 1 shall remain unaffected.
- 4.4 If the payment terms and conditions are not adhered to or circumstances become known which, in our best judgment, are suitable for reducing the creditworthiness of the Buyer, then we shall, notwithstanding any more extensive legal rights, be entitled in this case to demand advance payments for any still outstanding deliveries or the provision of suitable security to us and, after the fruitless lapsing of any appropriate notice period for the provision of such security, to withdraw from the agreement or to demand damage compensation owing to non-performance.
- 4.5 Payments may only be made directly to us with a discharging effect. If multiple payment claims are outstanding against the Buyer, then the payments made by the Buyer shall be credited to the respectively oldest payment claims in addition to interest and costs unless the Buyer has expressly made payment for a certain payment claim.
- 4.6 The Buyer shall be entitled to a right of offset only in the presence of undisputed or legally upheld payment claims. The Buyer shall be entitled to a right of retention only in the presence of such undisputed or legally upheld payment claims which originate from the same contractual relationship.

5. Delivery timeframe, non-delivery, delayed delivery, partial delivery

- 5.1 Confirmed orders and delivery timeframes shall apply in all cases subject to the correct and timely deliveries of our own suppliers to us. Delivery timeframes shall begin upon the acceptance of our order confirmation, but in no case before the clarification of all details of the execution of the order and the submission of any required certificates by the Buyer. If sales are made ex warehouse, the delivery timeframes and delivery deadlines shall be considered to have been met when the goods leave the warehouse within the delivery timeframe or by the delivery date. Furthermore, they shall be considered to have been met upon the notification of readiness for shipment if the goods, through no fault of our own, cannot be sent in a timely manner. Delivery timeframes and delivery deadlines shall be extended by the period of time in which the Buyer finds itself in default in its obligations to us.
- 5.2 Force majeure events and circumstances for which we are not at fault which make the delivery impossible or make it excessively more difficult, such as e.g. strikes, lockouts, mobilisations, wars, quasi-war conditions, blockades, importing and exporting bans, traffic bans, governmental measures, shortages of energy and raw materials, among others, regardless of whether they involve us or one of our suppliers, shall entitle us – during the delivery delay as well – to suspend the delivery for the duration of the hindrance. If the events lead to a long-term hindrance in or difficulty in rendering performance, then we may, in whole or in part, withdraw from the agreement owing to the non-fulfilled portion of the contractual performance.

6. Shipment, transfer of risk, acceptance

- 6.1 If nothing to the contrary is agreed in writing, then the shipment shall be made by one of our authorised carriers with freight paid and covered by insurance. We reserve the right to select the transport route and the transport method. The risk shall be transferred to the Buyer when the goods are surrendered to the carrier.
- 6.2 If the shipment is delayed owing to the fact that we, as the result of the complete or partial payment default of the Buyer, avail ourselves of our right of retention or owing to some other reason for which the Buyer is responsible, then the risk shall be transferred to the Buyer no later than the date of the notification of readiness for shipment.
- 6.3 Any goods for which a notification of readiness for delivery has been made or goods which are due for delivery must be immediately called off by the Buyer. Otherwise, we shall be entitled to store the goods at the expense of the Buyer and to bill them as having been delivered.

7. Retention of ownership

- 7.1 All goods we have supplied shall remain our property (reserved goods) until the fulfilment of our, including any of our future, payment claims against the Buyer from the business relationship. In the event that ongoing billing is made, the retention of ownership shall apply as security for our respective payment balance claim. This shall also apply if payments are made by the Buyer for designated payment claims.
- 7.2 The processing or alteration of the reserved goods shall always be made for us as the manufacturer in accordance with § 950 BGB [Civil Code] without our incurring any obligation from this. If the reserved goods are processed, combined or mixed with other goods by the Buyer, we shall be entitled to co-ownership to the new goods in the proportion of the invoiced value of the reserved goods to the invoiced value of the other goods used at the point in time of the processing, mixing or combining. If our co-ownership lapses through the combining or mixing, then the Buyer shall already now assign to us its (co-) ownership rights to the uniform goods in the amount of the invoiced value of the reserved goods and shall store them free of charge for us.
- 7.3 If the Buyer sells the reserved goods together with other reserved goods which we have not supplied, then the assignment of the payment claim shall apply only in the invoiced amount which is derived from the resale of our reserved goods.
- 7.4 If the Buyer incorporates payment claims from the resale of the reserved goods into a current account relationship existing with its end customers, then it shall already now assign to us its recognised or final balance which corresponds to the total amount of the payment claims incorporated into the current account relationship from the resale of our reserved goods.
- 7.5 The Buyer shall be authorised to collect the payment claims from the resale of the reserved goods as long as it properly fulfils its payment obligations to us. However, at any time, we may revoke this authorisation in the event of payment default, the discontinuation of payments, the transfer of business operations to a third party, if there is restricted creditworthiness or trustworthiness upon the part of the Buyer or the Buyer's company is dissolved as well as in the event that the Buyer violates one of its contractual obligations in accordance with Sub-Clause 7.3, but nevertheless in the event of default, only after the setting of an appropriate extension period.

- 7.6 In the event of the revocation of its authorisation to collect payments, the Buyer shall be obliged to immediately notify its end customers of the assignment of the payment claims to us and to provide us with all information and documents which are required for collection. Furthermore, in this case, it shall be obliged to return to us or assign to us any security to which it is entitled for its end customer payment claims.
- 7.7 If the value of the security provided to us exceeds our secured payment claims by more than 20%, then we shall be prepared, at the Buyer's request, to release the security of our choosing in this regard.
- 7.8 The Buyer shall be obliged to immediately notify us of the attachment or any other legal or actual restriction or endangerment of the reserved goods or the other security provided to us.
- 7.9 The Buyer shall be obliged to sufficiently insure the reserved goods against fire and theft. It shall already now assign its claims from the insurance agreements to us.
- 7.10 In the event that the purchase agreement is rescinded, the Buyer shall already now declare its approval to our taking away the reserved goods which are in the possession of the Buyer or having them taken away.

8. Notification of defects and warranty

- 8.1 The Buyer shall be obliged to examine the goods supplied immediately upon their receipt. Written notification must be made of any obvious defects within one week of the receipt of the goods; for any hidden defects, immediately upon their discovery. When making such written notification, the order data must be stated as well as the invoicing and shipping nos. and, if possible, while enclosing a reference sample.
If the Buyer fails to make timely notification and in the proper form, the goods shall be considered to have been accepted. The timeliness of the notification shall depend upon the time when we receive the notification.
- 8.2 If the notification of the defect is justified, we shall, upon a free of charge basis, provide a warranty exclusively in the manner that we shall, at our discretion, either rectify the damaged goods or replace them with new goods subject to the return of the defective goods by the Buyer. If subsequent performance is unsuccessful, the Buyer shall be entitled to demand an appropriate reduction of the purchase price. The Buyer shall only have the right to withdraw from the agreement if two attempts at rectification or making a replacement delivery fail. A right of rescission shall be excluded if the delivered goods merely have minor defects.
- 8.3 We shall be entitled to be released from our warranty obligation to the Buyer if we assign our warranty claims against our subsupplier to the Buyer – even to the extent that our subsupplier disputes this. In this case, our warranty obligation shall only be revived if and to the extent that the legal claims asserted against our subsupplier by the Buyer have been unsuccessful.
- 8.4 Any warranty is excluded if goods supplied have not been immediately examined upon their receipt and/or timely and prompt notification of defects has not been made, if the technical directives and usage instructions provided by us or the manufacturer have not been adhered to, if modifications of any type or repairs made to the goods supplied have not been undertaken by our authorised persons or the goods supplied have otherwise been improperly handled.
- 8.5 Any more substantial claims of the Buyer owing to defects of the goods, particularly to compensation for damages which are not to the delivery object itself (consequential damages) as well as claims to positive contractual violations in accordance with Clause 10 below, are excluded.

9. Specially manufactured goods

In the event that special manufacturing is conducted, the delivery of 15% quantity overages or underages is possible.

10. Liability

- 10.1 All claims of the Buyer based upon compensation for direct or indirect damages – including collateral and consequential damages – against us, our management personnel or other vicarious agents – regardless of the legal grounds – are excluded unless the damages are based upon intentional wrongdoing or gross negligence or owing to simple negligence in the event of the loss of life, physical injury and damage to health or owing to the culpable violation of substantial contractual obligations which are indispensable for the attainment of the contractual purpose and upon the strict adherence to which the Buyer must thus be able to rely. This liability exclusion shall apply particularly, but not exclusively, to any damage compensation claims owing to the impossibility of performance for which we are responsible, owing to default, violation of main or ancillary contractual or pre-contractual obligations as well as tortious actions.
- 10.2 If it is not already excluded in accordance with Sub-clause 10.1 or there has been no intentional wrongdoing or gross negligence upon our part or, in the event of physical injury, simple negligence upon the part of our company's executive management or other management personnel, our obligation to pay damage compensation shall be limited to such damages which were foreseeable as being the potential result of the actions carried out which create an obligation to pay damage compensation.
- 10.3 In the corresponding application of Sub-clause 8.4, any obligation to pay damage compensation upon our part is excluded if the damages, in whole or predominantly, are based upon the sets of circumstances specified in Sub-clause 8.4.

11. Resale and return of goods

- 11.1 Our goods may be resold to third parties only with their original features and in unopened original packaging. Our trademarks and other identifying features may neither be associated with replacement products by making reference to them in offers, on price lists, in catalogues, etc. nor in any other manner.
- 11.2 Without our prior written approval, flawless goods supplied to the Buyer may not be returned or exchanged. Any return shipments made by the customer which we have approved shall be credited with a deduction of 10% of the sales price. Products in sterile packaging as well as goods which have been delivered more than three months before may absolutely not be returned or exchanged. All return shipments shall be made at the expense and risk of the Buyer.

12. Statute of limitations

All of the Buyer's claims against us – regardless of the legal reason – shall become statute-barred one year after the delivery of the goods or after the creation of the claim depending upon which point in time is earlier. The legal statute of limitations specified in § 852 BGB shall remain unaffected; otherwise, the legal statute of limitations periods for liability shall remain unaffected if an instance of damages has been caused by intentional wrongdoing or gross negligence or, in the event of physical injury, through the simple negligence of our company's executive management or one of our managers.

13. Drawings and other documents

Drawings, drafts and other documents which we submit to the Buyer for contractual negotiation or contractual execution purposes, shall be considered to be our Intellectual Property and may, without our express written approval, neither be made available to third parties nor reproduced for any other than the agreed purpose. We shall be entitled to demand the free of charge return of the aforementioned documents – including any reproduced copies – if the Buyer no longer needs these documents or if we become aware of the misuse of these documents. A right of retention to them is excluded.

14. Place of performance, jurisdiction and applicable law

- 14.1 The place of performance for delivery and payment shall be the location where our company has its principal office.
- 14.2 The exclusive jurisdiction for both contractual parties shall be the Munich court which has local jurisdiction for our company's principal office. However, in all cases, legal action may be taken against the Buyer in its general jurisdiction.
- 14.3 The law of the Federal Republic of Germany shall apply. The provisions of the Hague Conventions Relating to a Uniform Law on the International Sale of Goods and the United Nations Convention on Contracts for the International Sale of Goods shall be excluded.

15. Invalid clauses

The validity of our remaining terms and conditions shall not be affected by an amendment or any invalidity of individual terms and conditions. The statutory provisions shall replace the invalid provision.

Note: Data of our customers and end customers shall be saved and processed via EDP provided that this is required for the proper handling of contractual relationships.

As of July 2007 – General Business Terms and Conditions