

General Terms & Conditions of Sale for Traders

1. Scope of validity

1.1 These General Terms & Conditions of Sale (hereinafter referred to as "T&C") shall apply to all letters of intent, contracts, legal transactions or acts similar to legal transactions between ourselves and the customer. They shall also apply to all current and future contracts and other services after binding inclusion. We hereby refute the validity of any terms and conditions set out by the customer which conflict with or differ from our T&C. They shall not constitute any part of agreements unless we have expressly agreed to their validity. We will issue any such notice of consent in writing.

1.2 Our T&C shall also apply if we carry out the delivery to the customer without reservation in the knowledge that the terms and conditions set out by customer conflict with or differ from our T&C.

1.3 Our T&C apply only to traders as defined in section 14 of the German Civil Code (Bürgerliches Gesetzbuch - BGB).

2. Quotations

2.1 Any information issued in catalogues and on our website shall not constitute a binding offer of contract. The documents forming part of our quotations, such as drawings, illustrations, technical data, references to standards or statements in advertisements, shall not constitute quality specifications or guarantees, unless expressly designated as such.

2.2 We will confirm in writing all the agreements made between us and the customer for the purpose of executing the contract.

3. Prices

3.1 Unless stated otherwise in the order confirmation, our prices are quoted in euro ex works Kropfmühl / Wedel inclusive of standard commercial packaging and exclusive of statutory value added tax in each case.

3.2 We shall only be obliged to grant such rebates, discounts or other price reductions as were expressly agreed upon when the order was placed.

3.3. We reserve the right to change our prices accordingly if faced with cost reductions or cost increases after conclusion of the contract, especially on account of collective wage agreements, currency fluctuations or changes in material prices. We will provide the customer with proof of any such changes on request.

4. Terms of payment

4.1 Unless otherwise stated in the order confirmation, the net purchase price (without deduction) shall be due for payment within 30 days of the invoice date. The customer must state the individual invoice number and the customer number or order number when making the payment.

4.2 The deduction of cash discounts shall be subject to the full settlement of all liabilities due from the customer at the time of the deduction.

4.3 Cheques and bills of exchange will only be accepted by special written agreement and only subject to clearance and reimbursement of the bill of exchange and discount charges. In the case of payment by SEPA Direct Debit, we will notify the customer of the withdrawal at least three business days in advance ("Pre-Notification Deadline"). The customer must ensure that there are sufficient funds in the relevant account at the time of withdrawal as notified. We reserve the right to exclude certain payment methods in individual cases or to deliver only against advance payment. In the case of new business relations, the first three deliveries will be made against advance payment or payment upon delivery as a general rule.

4.4 Should the customer default on payment, we shall be entitled, without prejudice to claims for further damages, to charge interest at the bank rates applicable to overdraft facilities but at a minimum of eight percentage points above the respective base interest rate.

4.5 Should it become apparent after conclusion of contract that our claim for payment is jeopardised by the inability of the customer to pay, we shall be entitled to the rights pursuant to section 321 BGB (defence of uncertainty). We shall then also be entitled to ask the customer for immediate payment of all outstanding receivables under the current business relationship in cases where the claims have not lapsed. In the event of default in payment, we shall also be entitled to demand the return of the delivered goods after allowing a reasonable additional period of grace and to prohibit the resale or further processing of the delivered goods in this respect. The customer may avert these legal consequences by making payment or by providing security in the amount of the payment claim in jeopardy. The above arrangements shall be without prejudice to the provisions of the German Insolvency Code (Insolvenzordnung - InsO).

4.6 The customer shall only have rights of set-off in cases where claims can be countered with corresponding claims within the framework of reciprocity and, in cases involving other claims, only insofar as the counterclaims are established as final and absolute by judicial ruling, undisputed, ready for adjudication, or acknowledged by us. Furthermore, the customer will be entitled to exercise a right of retention where the relevant counterclaim is based on the same contractual relationship.

5. Default of acceptance

5.1 Should the customer fall behind with acceptance obligations, the risk of accidental loss or accidental deterioration of the goods shall pass to the customer at the time at which the latter defaulted on acceptance.

5.2 In case of default of acceptance on the part of the customer, we shall be entitled to store the unaccepted goods at the expense and risk of the customer. If the goods are stored on our own premises, we will charge 1 % of the invoice amount for each month or part thereof for storage, starting 30 days after notification that the goods are ready for dispatch. If the goods are stored on other premises, we will pass on the costs we have incurred for their storage. The customer will be at liberty to furnish proof that we have incurred no damages or lesser damages than the aforementioned amount. Alternatively, in the event of default in acceptance, we shall also be entitled to withdraw from the contract and / or claim damages after allowing a reasonable additional period of grace.

5.3 We reserve the right to assert further claims against the customer.

6. Delivery time and delays in delivery

6.1 The delivery time shall commence on the dispatch of our order confirmation to the customer but not before the provision of any documents, permits and approvals which need to be obtained by the customer and not before the receipt of an agreed down payment, reserving the defence of non-performance of contract.

6.2 Unless agreed otherwise, delivery schedules or deadlines shall be deemed to have been met if the goods have left our factory in Kropfmühl / Wedel or the customer has been notified that they are ready for dispatch by the relevant deadline. If the delivery is late or the deadline is exceeded, the customer shall be required to allow us a reasonable additional period of grace.

6.3 The delivery period shall be duly extended in the event of industrial disputes, especially strikes and lockouts, and in case of unforeseen obstacles and circumstances which are beyond our control (e.g. earthquakes, storms, etc.), provided that such obstacles can be shown to have a bearing on the completion or delivery of the goods. This shall also apply if said circumstances occur at our suppliers (e.g. quarries). We will inform the customer without delay of any such circumstances. Should the execution of the contract become unreasonable for one of the parties, the party in question may withdraw from the contract in this respect.

6.4 We will be liable in accordance with the statutory provisions if the delay in delivery is due to an intentional or grossly negligent breach of contract for which we are responsible; any fault on the part of our representatives or servants will be attributable to us. If the delay in delivery is not due to an intentional breach of contract for which we are responsible, our liability for damages shall be limited to such damages as are foreseeable and typical under such contracts.

6.5 We will also be liable in accordance with the statutory provisions insofar as the delay in delivery for which we are responsible is based on the neglect of a fundamental contractual obligation; in this case, however, our liability for damages shall be limited to the damage foreseeable and typical under such contracts.

6.6 This shall be without prejudice to the further statutory entitlements and rights of the customer.

7. Execution of delivery and call-off contracts

7.1 Unless agreed otherwise, the risk of accidental loss or accidental deterioration of the goods shall pass to the customer upon handover of the goods to a forwarding agent or carrier but at the latest upon leaving the factory at Kropfmühl / Wedel. In all other respects, all deliveries will be covered by our insurance for goods in transit.

7.2 If the customer orders several articles which we are unable to ship together for lack of immediate availability or for other reasons, we will deliver the goods separately as and when they are available unless part deliveries are evidently of no interest to the customer or are unreasonable for the customer due to the functional connection of the goods or for other reasons. In these cases, the customer will only be charged once for shipping costs.

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7.3 In the case of call-off contracts, i.e. contracts for a fixed quantity of goods which must be delivered or accepted – in instalments where applicable – within a certain period of time as requested by the customer, we shall be entitled to manufacture, or to arrange for the manufacture of, the entire order quantity in one batch. Any changes requested after the order has been placed cannot be taken into account unless this has been expressly agreed. Our rights arising from default of acceptance shall already apply in the case of call-off contracts at the point where the customer fails in the duty to accept individual instalments. In the case of call-off orders, each part delivery shall be considered as a separate transaction in respect of which the customer has a duty of inspection and immediate notification of defects under section 377 of the German Commercial Code (Handelsgesetzbuch - HGB).

8. Property rights and copyrights

8.1 We reserve ownership rights and copyrights to illustrations, samples, calculations, drawings and similar documents, including in electronic form. The customer must obtain our express written consent before forwarding said items to third parties.

8.2 If we have manufactured or delivered the goods in accordance with drawings, models, samples or other documents provided by the customer, it shall be the responsibility of the customer to ensure that no third-party property rights (e.g. copyrights, trademarks, design rights, patents or utility model rights) or other legal provisions (e.g. competition regulations) are thereby infringed. Should we be prohibited from producing and delivering such goods by third parties, citing the relevant property rights or other legal provisions, we shall be entitled to cease any further activity in this respect and – being under no obligation to check the legal situation – to claim damages if the customer is at fault. The customer also undertakes to indemnify us from all claims brought by third parties in connection therewith upon first request. We will inform the customer of any third-party claims and give the latter the opportunity to comment on the claims. The customer shall be obliged to provide us with all the information and documents necessary for the defence procedure without undue delay.

9. Reservation of title

9.1 We reserve title to the goods until such time as all the payments under the supply contract have been received. In case of breach of contract on the part of the customer, especially in the event of default in payment, we shall be entitled to reclaim the goods. The redemption of the goods shall constitute a withdrawal from the contract. We shall be authorised to use the goods after taking them back. The proceeds earned – after deducting the costs of utilisation – are to be credited against the accounts payable by the customer.

9.2 The customer shall be obliged to treat the goods with due care and must most notably take out and pay for adequate fire, water and theft insurance covering their replacement value.

9.3 The customer must notify us immediately of any cases of attachment or seizure or other third-party intervention so that we can take legal action under section 771 of the German Code of Civil Procedure (Zivilprozessordnung - ZPO). If the third party is unable to reimburse us for the judicial and extrajudicial costs of taking legal action under section 771 ZPO, the customer shall be liable for the loss we have incurred.

9.4 The customer will be entitled to sell the goods on in the normal course of business but hereby assigns to us all claims in the final invoice amount which accrue to the customer against its buyers or third parties through resale, irrespective of whether the goods were resold as purchased or after further processing. The customer will remain entitled to collect the relevant receivables after their assignment. This shall be without prejudice to our right to collect the receivables ourselves. We undertake, however, to refrain from collecting the receivables while the customer duly discharges its payment obligations from the proceeds received and, most importantly, is not in arrears with payments, and as long as no request has been made to open composition or insolvency proceedings, or payments have not been discontinued. If this is the case, however, we may ask the customer for details of the assigned claims and their debtors and for all the information required for collection, including the relevant documents, and may ask the customer to inform the debtors (third parties) of the assignment.

9.5 The processing or alteration of the goods by the customer shall always be carried out on our behalf. Insofar as the goods are processed with other objects not belonging to us, we shall acquire a share in ownership of the new item depending on the value of the goods (invoice amount) in proportion to the other objects at the time of the processing. In all other respects, the same shall apply to the item resulting from

processing as applies to the goods supplied subject to reservation of ownership.

9.6 Insofar as the goods are inextricably mixed with other objects not belonging to us, we shall acquire a share in ownership of the new item depending on the value of the goods (invoice amount) in proportion to the other objects at the time of the mixing. Insofar as the objects are mixed in such a way that the customer's item is to be regarded as the main item, it shall be deemed to have been agreed that the customer transfers the proportional share of the ownership to us. The customer shall hold the resulting sole ownership or co-ownership for us. The customer hereby also assigns to us, by way of security for our claim against the customer, such claims as accrue against a third party through the connection of the goods with a property.

9.7 We undertake to release our securities at the request of the customer insofar as the realisable value of our securities exceeds the relevant receivables by more than 20%; it will be our responsibility to select the securities for release.

10. Warranty and liability

10.1 Any claims made by the customer under the warranty shall be subject to the latter having duly discharged the obligations of inspection and immediate notification of defects under section 377 HGB.

10.2 In case of a defect with the goods, the customer will be entitled to choose the method of redress, opting either to have the defect rectified or to be supplied with new goods free of defects. In case of rectification of defects, we will be liable to bear all the costs required for the rectification of defects, especially transport costs, travel expenses, labour and materials, insofar as said costs are not unduly increased by the fact that the goods have been relocated to a place other than the place of performance agreed in the contract. If the attempt at supplementary performance should fail, the customer will be entitled to choose to withdraw from the contract or to ask for a reduction. This is without prejudice to the statutory rights of recourse under section 445a BGB.

10.3 The limitation period for claims for defects shall be 12 months, counting from the passing of risk. This is without prejudice to the statutory limitation periods for recourse claims (section 445b BGB). The aforementioned term of warranty shall not apply in the event of deliberate intent or fraudulent concealment of a defect or if we have furnished a guarantee for the quality and condition of the delivered item. Nor shall it apply to claims for material defects in cases of injury to life, limb or health, in case of claims under the law on product liability, in case of gross neglect of duty or failure to discharge fundamental contractual obligations, i.e. such contractual duties as actually enable due fulfilment of the contract and upon compliance with which the customer may routinely rely, and the neglect of which by the other party would jeopardise the accomplishment of the purpose of the contract.

10.4 We will be liable in accordance with the statutory provisions if the customer asserts claims for damages based on deliberate intent, wilful deception or gross negligence, including deliberate intent, fraudulent intent or gross negligence on the part of our representatives or servants. Insofar as we are not accused of intentional or malicious breach of contract, the liability for damages shall be limited to such damages as are foreseeable and typical under such contracts.

10.5 We will be liable in accordance with the statutory provisions insofar as we neglect a fundamental contractual duty (cf. section 10.3, last sentence); in this case, however, the liability for damages shall be limited to such damages as are foreseeable and typical under such contracts.

10.6 If the customer is entitled to claim compensation for damages in lieu of performance, our liability shall also be limited to such damages as are foreseeable and typical under such contracts.

10.7 This shall be without prejudice to liability for neglect of duty entailing injury to life, limb or health; this shall also apply in case of mandatory liability under the law on product liability.

10.8 Unless stated otherwise above, liability shall be excluded in all other respects.

11. Joint liability

11.1 No further liability for damages will be accepted beyond the extent provided for in section 10, irrespective of the legal nature of the asserted claim. This shall apply most notably to claims for damages based on fault in conclusion of contract, for breach of duty in any other respect or for claims in tort for compensation for damage or loss of property pursuant to section 823 BGB.

11.2 The limitation pursuant to paragraph 11.1 shall also apply if the customer asks to be reimbursed for futile expenditure in lieu of performance instead of claiming compensation for damages.

11.3 Insofar as our liability for damages is excluded or limited, this shall also apply with regard to the personal liability for damages of our employees, workers, staff members, representatives and servants.

12. Export regulations and export permits for resale of goods

12.1 The customer shall guarantee and ensure due compliance with all the applicable laws, regulations and ordinances regarding export control, including and in particular the European regulation on dual-use items and other applicable national and international laws and export regulations, insofar as these relate to the activities covered by the contract.

12.2 The customer shall be obliged to observe the relevant legislation when exporting goods purchased from us to countries which are listed as prohibited destinations in the laws or regulations referred to in paragraph 12.1, duly obtaining approvals and any official permits where required. The customer shall provide us with evidence of any such approvals on request. The customer may not resell the goods to a buyer in the knowledge that said buyer intends to export the goods without first obtaining an export licence where one is required or if there are sufficient grounds to assume that this is the case.

12.3 If the customer sells to a reseller, the customer shall be required to impose the obligations set out in paragraphs 12.1 and 12.2 above on the reseller.

13. Data processing and data storage

We attach particular importance to compliance with the data protection regulations, especially as set out in the General Data Protection Regulation (GDPR). The personal data of the customer will be collected, stored and processed for the sole purpose of executing the contracts and processing the payments within the scope of the business relationship. Further details can be found in our data privacy policy, which is available for the customer to download here.

14. Final provisions

14.1 The law of the Federal Republic of Germany shall apply. The provisions set out in the UN Convention on Contracts for the International Sale of Goods and the German Private International Law shall not apply.

14.2 The place of performance for all obligations arising from the contract shall be our plant in Kropfmühl / Wedel. Passau shall be the place of exclusive jurisdiction for all legal disputes arising from or in connection with this contract.

14.3 In case of doubt, the German version of the T&C shall prevail.

14.4 Should individual clauses of the contract with the customer, including these T&C, be or become fully or partially inoperative, this shall be without prejudice to the validity of the other provisions. The parties undertake to replace any invalid or partially invalid provisions with a provision that comes as close as possible in economic terms to the invalid provision. The same shall apply in the event of any loopholes in the contract, including in these T&C.

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