

GENERAL TERMS AND CONDITIONS OF SALE

I. General - Scope

1. All of our services shall exclusively be subject to the following General Terms and Conditions of Sale. These conditions shall be integral components of all contracts we enter into with our contracting partners (hereinafter also referred to as *customers*) with regard to the products and services we offer. They shall also apply to all future deliveries services rendered and quotations made to customers, even if no separate agreement to that effect is made at the time.
2. We shall be bound by general terms and conditions or confirmations of customers that contradict or are in conflict with our General Terms and Conditions of Sale only if and to the extent that we have consented to same explicitly in writing. Our failure to respond to any such conflicting conditions shall in particular not be interpreted as our acceptance or consent. We herewith expressly object to contradicting or conflicting conditions or confirmations of customers. Our performance of the delivery in the absence of objections shall not constitute our acceptance of the terms and conditions of customers.
3. For any oral or written commitments made by our in-office or field sales employees that are in conflict with our General Terms and Conditions of Sale and/or our quotation or order confirmation to be effective, same shall be subject to prior written agreements with our senior management or holders of full commercial power of attorney (Prokuristen) in the number mandated for representation.

II. Quotation and Execution of Contract

1. All of our quotations shall be subject to change provided they are not expressly marked as binding or unless they contain a specific acceptance deadline.
2. A binding contract shall have been made only on the basis of a written or electronic quotation. The written or electronic quotation shall apply to the scope of the delivery. For any ancillary agreements and modifications to be effective, same shall be subject to our written or electronic confirmation.
3. Any reference to standards, similar technical regulations, drawings, other technical descriptions, designations, figures, dimensions, weights, laboratory test results or other performance data or descriptions in our quotations and in our company literature or any other published product information shall be provided merely for non-binding description or identification purposes of the delivery object and shall not constitute any guarantee for the constitution of the product nor a description of its intended condition in the absence of our express written or electronic assurance. Any such statements made by us shall not relieve customers from their obligation to perform their own examinations in terms of the use of what we deliver. Deviations of the delivery object from such descriptions shall be permitted as long as these discrepancies are within the scope of standard trade quantity and quality tolerances. Incidentally, deviations shall be permitted if they are acceptable for the customer.

III. Prices - Payment Terms

1. Our prices shall apply to the scope of delivery and services stipulated in the order confirmation. Any additional and special services shall be billed separately. Unless the contract states otherwise, our prices shall be understood ex works excluding shipping and freight charges, packaging charges beyond those considered standard trade packaging, ancillary fees, public dues (in particular applicable value added tax) and customs duties.

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2. Contracts we are supposed to execute later than four months after the execution of the contract by way of contractual agreement or that are executed more than four months after the contract has been executed for reasons the customer is responsible for shall be billed at the list prices in effect on the day of delivery.
3. Unless otherwise agreed upon with the customer, the purchase price shall be due for payment net without any deductions within 30 business days or subject to a 2 % cash discount within 14 business days after receipt of the invoice by the customer. The timely making of the payment shall be based on the date of receipt of the payment by us or its posting to our account. The customer shall assume the risk for the payment transfer routing.
4. In the event that the customer should fail to make the payment on the due date, the outstanding amounts shall be subject to interest charges of 5 % p.a. as of the due date; in the event of payment default the customer shall be required to pay to us late payment interest in the amount of 8 percent over the applicable prime rate. We do reserve the right to tender evidence that we have incurred greater damages due to the defaulted payment.
5. The customer shall be entitled to set-off rights only if customer's counter claims have been ordered to be legally final by a court of law or if they are undisputed or have been accepted by us. Moreover, the customer shall be entitled to enforcing a right to withhold only to the extent that customer's counter claim is based on the same contractual relationship.
6. All other statutory rights notwithstanding, we shall be entitled to withhold individual deliveries if the customer should be in default of payment on payment obligations from the current business relationship. Moreover, we reserve the right to claim rights pursuant to § 321 BGB (German Civil Code, dubious customer objection).

IV. Delivery Dates, Force Majeure

1. For any delivery dates or deadlines to be binding, same shall be agreed upon in writing. Any delivery dates or deadlines promised by us otherwise in the order confirmation or in any other communication shall always be approximate only.
2. The start of any agreed upon delivery times shall be subject to the clarification of all technical and administrative details of the contract and to the on-time and proper fulfilment of the obligations of the customer. We reserve the right to raise objections for non-fulfilment of the contract.
3. Timeliness of delivery shall be based on the on-time notification of our readiness to deliver.
4. In the event that we should not receive deliveries or services from our suppliers in due time for reasons we are not responsible for, or if same should not arrive properly or in a timely manner, or in the event that incidents of force majeure should arise, we shall have the right to defer the delivery or service for the duration of the hindrance plus a reasonable lead time or, in the alternative, rescind from the contract for the unfulfilled portion as a whole or in part. Incidents of operational interruptions (fire, broken machines, raw material or energy shortages), strike, lock-outs, government agency measures or the refusal of government agencies to issue permits (for instance export permits) shall be deemed equivalent to force majeure, even if they occur at the end of our suppliers or their sub-suppliers, and this shall also apply to all other hindrances that we have not created culpably. The aforementioned provisions shall also apply if the circumstances listed occur after we are in default. We shall notify the customer of the occurrence of the hindrance immediately.
5. In the event that a binding service date is exceeded because of incidents pursuant to Article IV.4, the customer may ask us to make a declaration within two weeks as to

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whether we intend to rescind from the contract or whether we intend to deliver within a reasonable period of remedial time. If we should fail to make such a declaration, the customer shall have the option to rescind from the unfulfilled portion of the contract.

6. In the absence of an agreement on a binding delivery deadline, the customer shall have the option to set a reasonable deadline for delivery within two weeks after the expiration of the non-binding delivery deadline. The service shall be due for performance upon expiration of said deadline.
7. Reasonable partial deliveries in a reasonable volume shall be permitted if same are usable for the customer within the scope of the contractually agreed purpose of use and if the delivery of the remaining goods is assured and the customer does not incur any additional costs or substantial additional work as a result.
8. Entitlements to compensation for damages because of delayed delivery or non-fulfilment - regardless of the reasons - shall exist only pursuant to Article X of these General Terms and Conditions of Sale. We shall not be in default as long as the customer is in default toward us as far as the fulfilment of obligations to us, including those from other agreements.

V. Risk Transfer and Default on Acceptance

1. Unless otherwise stipulated in our quotation, our deliveries shall be made ex works.
2. The risk shall transfer to the customer as soon as the delivery or partial delivery has been handed over to the entity handling its transportation or after it has left our warehouse for the purpose of shipping. This shall also apply to partial deliveries. In the event that shipping is delayed at the request of the customer or for reasons the former is responsible for, the risk shall transfer to the customer as soon as we have notified the customer of our readiness to ship.
3. In the event that the customer should be in default of acceptance or if the customer should be in breach of any participation obligations, we shall have the right to demand reimbursement for any damages we have incurred as a result plus any additional costs/complications. In such a case, the risk for accidental loss or accidental decline of the purchase object value shall also transfer to the customer. After we have set a reasonable remedial period and same has expired without producing results, we shall also have the right to dispose of the delivery object at our discretion and to deliver to the customer within a reasonably extended period of time.
4. In the event that the customer should be in default of acceptance and if the customer should let a reasonable remedial period we have set pass without acceptance, we shall have the right to rescind from the contract and charge the customer 10 % of the agreed upon purchase price as a lump-sum damage compensation penalty. This shall be without prejudice to the tendering of proof of lesser or higher damages.
5. The delivery object shall be insured against loss due to theft, transportation damages, fire and water damages or any other insurable risks only upon the express request of the customer.
6. Delivered objects shall be received by the customer even if they do have minor deficiencies without prejudice to customer's rights pursuant to Article IX of these General Terms and Conditions of Sale and shall not be returned to us prior to the establishment of any entitlement to the customer to rescind pursuant to Article IX.4.

VI. Barrels

Barrels provided by us to the customer in conjunction with deliveries may be returned to us after they have been fully emptied and provided they are not damaged if prior arrangements have been made with us.

VII. Master Contracts and Call-in Shipment Orders

1. The customer shall undertake to purchase the total volume agreed upon in the master contract or call-in shipment contract.
2. In the event that the call-in shipment contract should not stipulate any specific call-in deadlines, the entire quantity of the master or call-in order shall be called in for delivery within twelve calendar months after the execution of the contract.
3. In the event that the customer should fail to comply with bindingly agreed upon call-in deadlines, we shall have the right to ship the entire quantity within four weeks after giving written notice citing the consequences of the failure to call in orders and to bill for the entire quantity. We reserve the right to file further claims.

VIII. Title Retention Clause

1. We shall retain the title to the purchase object until all receivables owed by the customer from the business relationship, including receivables accrued in the future, even those resulting from simultaneously or subsequently executed contracts, have been settled. This shall also apply if individual or all receivables have been included by us in a current invoice and if the sum total has been drawn and accepted. In the event that the customer should commit acts that are in breach of contract, in particular if the customer should be in default of payment, we shall, upon setting a reasonable deadline, have the right to rescind from the contract and to seize the purchase object. In such cases the customer shall be required to absorb all costs of the seizure of the delivery object. After the seizure of the purchase object, we shall be authorized to sell same and the sales revenues shall be set off against the receivable owed by the customer minus reasonable costs of sale.
2. The customer shall undertake to handle the purchase object with care; in particular the customer shall be required to adequately insure it at its new value against losses resulting from damages caused by fire, water and theft.
3. In the event of attachments or any other third party manipulations, the customer shall be required to notify us in writing immediately so that we can file suit pursuant to § 771 ZPO (German Civil Proceedings Act). In the event that the third party should not be able to reimburse us for the court and out of court costs of litigation pursuant to § 771 ZPO, the customer shall be liable to us for the losses suffered.
4. The customer shall have the right to re-sell the delivery object within the scope of normal business transactions. However, the customer herewith assigns to us at this time all receivables along with all ancillary rights that arise from the re-sale against the buyers or third parties, regardless of whether the title retention goods are sold without or with further processing work having been done to it. The customer shall continue to be authorized to collect said receivables even after the assignment of said rights. However, this shall be without prejudice to our authority to collect the receivables directly; nonetheless we shall undertake not to collect said receivables as long as the customer meets the payment obligations to us in due time and as long as the customer is not in default of payment and in particular, as long as no application for the initiation of insolvency proceedings has been filed against the assets of the customer and as long as the customer does not cease to make payments. We shall have the right to demand that the customer does disclose

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assigned receivables and debtors to us, and that customer provide all required information for the collection of same and that customer notify the debtors of the assignment.

5. Any processing or conversions of the purchase object by the customer shall always be performed on behalf of our company. In the event that the purchase object should be processed with other objects that do not belong to us, we shall automatically acquire co-ownership of such new objects at the pro-rated value of the purchase object (final invoice amount, including sales tax) in comparison to the other processed objects at the time of processing. Incidentally, the object resulting from processing shall be subject to the same provisions as the purchase object delivered with the attachment of title retention.
6. In the event that the purchase object should be melded or connected with other objects that do not belong to us in such a manner that the objects can no longer be separated, we shall automatically acquire co-ownership of such new objects at the pro-rated value of the purchase object (final invoice amount, including sales tax) in comparison to the other melded or connected objects at the time of processing. In the event that such melding should occur in such a manner that the object of the customer constitutes the main object, it shall be deemed agreed upon that the customer has assigned to us the prorated co-ownership. The customer shall hold the thus created sole property or co-property in custody on our behalf.
7. We shall undertake to release to the customer the collateral we are entitled to upon customer's request to that end that the recoverable value of our collateral exceeds the receivables to be backed by this collateral by more than 20 %; and we shall select the collateral to be released at our discretion.

IX. Warranty Rights

1. Any deficiency claim entitlement of the customer shall be contingent upon the customer having properly met the examination and claim filing requirements customer is required to comply with pursuant to § 377 HGB (German Trade Law). Any claim of deficiency by the customer shall be filed with us in writing providing detailed information on the type and extent of the deficiency, to allow us to perform a verification of the justification of the claim. As soon as any deficiency has been discovered, any further processing of the deficient object shall be aborted immediately. In the event that the customer should fail to file a form compliant and timely claim for deficiency, the purchase object shall be deemed approved. The timeliness of the claim for deficiencies shall be determined by the point in time it is received by us.
2. All claims for transportation damages shall be submitted to the freight forwarder. Same shall be subject to the notification requirements of the General German Freight Carrier Provisions.
3. In the event that the purchase object should indeed be defective, we shall have the option to remedy the matter either by eliminating the deficiency or by shipping a replacement. In the event of elimination of deficiencies, we shall bear the expenditures required to eliminate the deficiencies only up to the purchase price. In the event that the customer should file justified claims for expenses in conjunction with the remedial action, which stem from the assignment of customer's own employees or use of resources, the reimbursement entitlements of the customer shall insofar be limited to the customer's actual expenses. We shall have the right to refuse the performance of any remedial action within the scope of the statutory provisions.
4. In the event that we should not be able to eliminate the deficiencies or make a replacement shipment, or if we should refuse to perform either, or if such action should be delayed beyond reasonable deadlines for reasons we are responsible, or should the

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elimination of deficiencies fail at least twice for any other reasons, the customer shall have the right – at customer’s sole discretion – to either rescind from the contract or to demand the reduction of the purchase price.

5. The right of the customer to rescind from the contract in the event of deficiencies in the goods shall be excluded in those cases where the customer is unable to return the service rendered and this inability is not the result of the fact that the return is not possible due to the nature of the service received and if we are responsible for this or if a deficiency has not been discovered until the product was processed or converted. In the event that deficient goods should be delivered or if deficiencies should be found in partial deliveries, the customer shall have the right to rescind from the contract as a whole or shall be entitled to damage compensation in lieu of full performance pursuant to the following provisions only, if customer no longer has an interest in the service rendered under the application of objective benchmarks.
6. In the case of products that are largely sourced from third parties, our liability shall be restricted to the assignment of the entitlements we have against the supplier of the third party product. In the event that the filing of claims against the supplier of the third party product should fail for reasons the customer is not responsible for (e.g. bankruptcy of the supplier), the customer shall be entitled to deficiency claims against us pursuant to the provisions of this Article IX.
7. In the event that the customer should have resold the purchase object to a consumer pursuant to § 13 BGB (so-called consumption goods sale) and if customer was required to take back the purchase object from the consumer based on a defect that already existed at the time the risk transferred from our company to the customer or if the consumer has reduced the purchase price, the customer may, in deviation from Article IX.3, at customer’s sole discretion demand the elimination of the defect or a replacement delivery or rescind from the contract or reduce the purchase price. Articles IX.5 and IX.6 shall not apply in this case.
8. Damage and expense reimbursement entitlements of the customer based on defects or related to defects, regardless of the legal grounds, shall exist only pursuant to Article X of these General Terms and Conditions of Sale.
9. The warranties shall be null and void if the customer, in the absence of our consent, further processes the goods or has same further processed by third parties in such a manner that the elimination of deficiencies is rendered impossible or complicated in an unacceptable manner. In any event, the customer shall be required to bear the additional costs incurred when performing remedial work that are the result of any further processing. Moreover, we shall not assume any liability for damages that have occurred for any of the following reasons:
 - improper or inadequate use,
 - modifications of the delivered objects performed by the customer or third parties,
 - natural wear and tear unless we do provide an express guarantee to the contrary,
 - incorrect or neglectful handling or storage,
 - use of inadequate consumables, replacement materials,
 - chemical influences unless they can be attributed to an error on our part.
10. In the event that the customer should file a deficiency claim that proves to be unjustified, we shall have the right to demand reimbursement for any expenditures we have incurred in conjunction with the deficiency claim.

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11. The statute of limitations for warranty claims to be filed shall be one year as of the date of risk transfer. This shall also apply to the statute of limitations for claims pursuant to § 823 BGB that are based on a defect.
12. Contrary to the above, in the event of the causing of personal injury, death or health damages pursuant to the Product Liability Act, as well as in the event of damages resulting from deceitful conduct or intent or gross neglect of our legal representatives or our executives or agents, we shall be subject to the statute of limitations. This shall also apply in the event that we assume liability toward the customer for a consumption goods purchase.

X. Liability

1. We shall assume liability within the framework of the statutory provisions for all acts of intentional or grossly neglect conduct of our legal representatives or executives, in cases of causing personal injury or death or health damages, and for the guaranteed quality characteristics of our products and those subject to the provisions of the Product Liability Act.
2. In cases other than those stipulated in Article X.1 we shall not assume liability
 - in the event of simple neglect of our organs, legal representatives, employees and other agents;
 - in the event of gross neglect by non-executive employees and other agents,

unless such a violation constitutes a breach of a cardinal contractual obligation. Cardinal contractual obligations shall be those whose fulfilment is required to actually make the fulfilment of the contract even possible and upon the compliance with which the contracting party may trust in and rely upon at all times.

Incidentally we shall be exempt from liability also if the customer has effectively limited the liability on customer's part toward customer's clients. To this end, the customer shall make every effort to enter into liability limitation agreements with customer's client to the maximum extent possible; including those in our favour, provided this is permitted by law.

3. In the event that we do assume liability based on principle pursuant to the above Article X.2 for damages resulting from minimally negligent breach of contractual obligations and for damages that have been caused by simple agents by way of gross neglect or intent in the absence of the violation of cardinal contractual obligations, said liability shall be limited to contract typical foreseeable damages.
4. For indirect damages and consequential damages that are caused by deficiencies of the delivered object, we shall also assume liability only if such damages have to be typically expected if the delivered object is used as intended.
5. In the event that we should provide technical information or render consulting services and said information or advice is not part of the scope of services we owe contractually, this shall be done free of charge and subject to the exclusion of all liabilities.
6. In the event that the customer should desire to file claims against us pursuant to the above stipulated provisions, the customer shall immediately and comprehensively brief us and consult with us. The customer shall be required to give us the opportunity to investigate the damage related incident. The contracting parties shall coordinate any measures to be undertaken, especially in the event of settlement negotiations.
7. The provisions regarding the exclusion of warranties and pertaining to the statute of limitations in Articles IX.9 and IX.11 of these General Terms and Conditions of Sale shall apply accordingly.

XI. Place of Fulfilment, Place of Jurisdiction, Governing Law

1. The place of fulfilment for all entitlements arising from the contractual relationship with the customer - unless otherwise stipulated in the contract - shall be our delivery works, which is performing the contract with the customer.
2. The place of jurisdiction for any litigation arising from or in connection with the contract between our company and the customer shall be our business domicile, provided the customer is a professional business entity. We shall, however, also have the option to file suit against the customer at a different place of jurisdiction.
3. The contractual relations shall be governed by the laws of the Federal Republic of Germany; the application of UN Convention on the International Sale of Goods (CISG) shall be excluded.
4. In the event that one of the provisions of these General Terms and Conditions of Sale should be or become ineffective, this shall not affect the effectiveness of the remaining provisions. The contracting parties shall undertake to substitute the ineffective provision with one that meets the economic result of the previous provision as closely as possible. This shall also apply to any potential omissions in the provisions of these General Terms and Conditions of Sale.