

General Terms and Conditions of Sale

§ 1

Scope of application

- 1.) All deliveries and services of our company, including those from future business transactions, shall be governed exclusively by our following terms and conditions in their respective current version.
- 2.) Our Terms and Conditions of Sale shall apply exclusively. We do not recognise any terms and conditions of the customer which conflict with or deviate from our Terms and Conditions of Sale and which shall only apply if we expressly agree to them in writing.
- 3.) Our Terms and Conditions of Sale shall only apply to enterprises within the meaning of § 14 of the German Civil Code (BGB).

§ 2

Conclusion of contract

- 1.) Our offers are subject to change with regard to delivery, delivery time and price, unless they are expressly marked as binding or contain an acceptance period.
- 2.) Orders placed by customers may be accepted by us within 14 days of receipt. Acceptance is effected by written order confirmation or by delivery of the goods.

§ 3

Delivery

- 1.) Deliveries shall be made on the basis of EXW (INCOTERMS 2000), place of dispatch at the customer's risk, unless expressly agreed otherwise.
- 2.) Delivery dates are only binding if confirmed by us in writing. If shipment has been agreed, delivery periods and delivery dates refer to the time of handover to the forwarder, carrier or other third parties entrusted with the transport.
- 3.) The initial weight determined in our factory shall be decisive. It shall be determined under control. Normal weight losses occurring during transport shall be borne by the customer. Any weight differences in excess of this must be notified in writing immediately upon

receipt of the goods and must be listed and acknowledged on the consignment note or delivery note upon delivery.

- 4.) We reserve the right to make customary changes to the delivery items, insofar as they do not unreasonably prejudice the customer and insofar as they do not affect the usability of the goods.
- 5.) Taking into account our interests to an extent that is reasonable for the ordering party, any partial deliveries are permissible, in particular if
 - the partial delivery can be used by the customer within the scope of the contractual purpose,
 - the delivery of the remaining ordered goods is ensured and
 - neither considerable additional expenditure nor additional costs are incurred by the ordering party as a result.
- 6.) If we are in default with a delivery or service, or if a delivery or service becomes impossible for us for whatever reason, our liability for damages shall be limited in accordance with § 9 of these General Terms and Conditions of Sale.

§ 4

Force majeure

- 1.) “Force Majeure” means the occurrence of an event or circumstance (“Event of Force Majeure”) which prevents a party from performing one or more of its obligations under the contract if and to the extent that the party affected by the impediment (“Affected Party”) proves that:
 - a.) this impediment is beyond their reasonable control,
 - b.) it could not reasonably have been foreseen at the time of the conclusion of the contract; and
 - c.) the effects of the impediment could not reasonably have been avoided or overcome by the affected party.
- 2.) If a contracting party fails to perform one or more of its contractual obligations due to a failure of a third party to whom it has entrusted the performance of the whole or part of the contract, that contracting party may invoke force majeure only to the extent that the requirements for presuming the existence of force majeure as defined in paragraph 1 of this clause apply not only to the contracting party but also to the third party.

- 3.) Until proven otherwise, the following events affecting a party shall be presumed to fulfil the conditions for the presumption of force majeure under paragraph 1 lit. (a) and lit. (b). In this case, the affected party only has to prove that the condition under paragraph 1 lit. (c) is actually fulfilled:
 - a.) war (declared or undeclared), hostilities, attack, acts of foreign enemies, large-scale military mobilisation;
 - b.) civil war, riot, rebellion and revolution, military or other seizure of power, insurrection, acts of terrorism, sabotage or piracy;
 - c.) currency and trade restrictions, embargo, sanctions;
 - d.) lawful or unlawful official acts, observance of laws or government orders, expropriation, seizure of works, requisition, nationalisation;
 - e.) plague, epidemics, pandemics, insofar as a risk level of at least „moderate“ is defined by the Robert Koch Institute, natural disasters or extreme natural events;
 - f.) explosion, fire, destruction of equipment, breakdown of means of transport, telecommunications, information systems or energy supply (in particular electricity and gas);
 - g.) general labour unrest such as boycotts, strikes and lockouts, go-slow, occupation of factories and buildings.
- 4.) The affected party shall immediately notify the other party of the event.
- 5.) If a party successfully invokes this clause, it shall be released from its obligations under the contract and from any liability for damages or any other contractual remedy for breach of contract, but only if it gives immediate notice thereof. However, if the notice is not given immediately, the release shall take effect only from the time when the notice is received by the other party. The other party may suspend the performance of its obligations, if force majeure is indeed to be presumed, from the time of such notification.
- 6.) If the effect of the asserted impediment or event is temporary, the consequences set out in paragraph 5 shall apply only for such period as the asserted impediment prevents the affected party from performing its obligations under the contract. The affected party shall notify the other party as soon as the impediment no longer prevents the performance of its contractual obligations.
- 7.) The affected party is obliged to take all reasonable measures to limit the effects of the event being invoked in the performance of the contract.
- 8.) If the duration of the impediment invoked has the effect of substantially depriving the contracting parties of what they had a right to expect by virtue of the contract, the respective party shall have the right to terminate the affected contract by notifying the other party within a reasonable period of time. Unless otherwise agreed, the parties

expressly agree that the contract may be terminated by either party if the duration of the impediment has exceeded 120 days.

- 9.) If paragraph 8 is applicable and a contracting party has obtained an advantage through an act of another contracting party in the performance of the contract prior to the termination of the contract, it shall pay to the other party an amount of money equal to the value of the advantage.

§ 5

Quantity, quality, labelling

- 1.) We are always entitled to deliver up to 10% more or less than agreed. The delivery of a quantity up to 10% less than agreed does not constitute a material defect.
- 2.) Unless otherwise agreed in individual cases and confirmed by us in writing, the quality of goods shall be based on commercial practice. As a matter of principle, only our product description shall be deemed to be the agreed quality of the goods. Public statements, recommendations or advertisements by third parties do not constitute a description of the quality of the purchased goods in addition to the product description.

§ 6

Prices, terms of payment

- 1.) Our prices apply to the agreed scope of performance and delivery. Additional or special services shall be charged separately. Prices are quoted in EURO on the basis of delivery EXW (INCOTERMS 2000) place of dispatch, plus packaging, plus the respective statutory value added tax, and in the case of export deliveries plus customs duties as well as fees and other public charges.
- 2.) Unless otherwise agreed, the net purchase price (without deductions) shall be due and payable immediately upon issue of the invoice. In the event of default, we shall be entitled to charge default interest at a rate of 8 percentage points above the respective base interest rate.
- 3.) The customer shall only have the right to offset counterclaims if his counterclaim is non-appealable, undisputed or has been recognised by us. The customer shall be entitled to exercise a right of retention insofar as he has an undisputed, recognised or non-appealable counterclaim which is based on the same contractual relationship.
- 4.) The retention of collection and/or del credere commissions is only permissible after prior conclusion of a written collection and/or del credere agreement between us and the customer.

- 5.) In the event of payments via third parties, in particular within the framework of settlement and/or del credere agreements, the purchase price debt shall only be deemed to have been fulfilled when the payment has been received by us.
- 6.) We shall be entitled to perform outstanding deliveries or services only against an advance payment or a provision of security if, after the conclusion of the contract, we become aware of circumstances which are likely to substantially reduce the creditworthiness of the customer and which jeopardise the payment of our outstanding claims by the customer with regard to the respective contractual relationship - including other individual orders to which the same framework agreement applies.

We maintain trade credit insurance for claims against our customers. Circumstances which are likely to substantially reduce the creditworthiness of the customer shall be deemed to be in particular

- the cancellation of the insurance cover by the insurer,
- the restriction of the insurance cover, in particular due to the discontinuation of the business relationship for reasons of creditworthiness, subsequently agreed prolongation of bills, dishonouring of cheques or bills as well as return debit notes for lack of cover, initiation of judicial default actions or filing of a lawsuit as well as the involvement of a collection agency or lawyer for the collection of claims,
- occurrence of the insured event due to insolvency of the customer.

§ 7

Retention of title

- 1.) We reserve the right to ownership of the delivered goods until full payment of all claims, including those arising in the future and including all ancillary claims concerning the business relationship. In the event of conduct in breach of contract on the part of the customer, in particular in the event of default in payment, we shall be entitled to take back the purchased items after setting a reasonable deadline. After taking back the purchased items, we shall be entitled to realise it; the realisation proceeds shall be set off against the liabilities of the customer - less reasonable realisation costs.
- 2.) The customer may neither pledge, nor assign as security, nor transfer any goods and claims replacing them.
- 3.) In the event of seizures or other interventions by third parties, the purchaser must inform us immediately in writing so that we can take legal action in accordance with § 771 of the German Code of Civil Procedure (ZPO). If the third party is not in a position to reimburse us for the court and out-of-court costs of an action pursuant to § 771 ZPO, the customer shall be liable for the loss incurred by us.

- 4.) The customer shall be entitled to resell, process or mix the purchased items in the ordinary course of business; however, he hereby assigns to us all claims in the amount of the final invoice amount (including value added tax) of our claim accruing to him from the resale against his customers or third parties, irrespective of whether the purchased items has been resold without or after processing (in the case of a current account relationship pursuant to § 355 HGB (German Commercial Code), the claim assigned in advance also relates to the recognised balance or the existing "causal" balance in the event of insolvency of the customer). The customer shall remain authorised to collect this claim even after the assignment. Our authority to collect the claim ourselves remains unaffected by this. However, we undertake not to collect the claim as long as the customer meets his payment obligations from the proceeds collected, is not in default of payment and, in particular, no application for the opening of insolvency proceedings has been filed or payments have not been suspended. If this is the case, however, we may demand that the customer informs us of the assigned claims and their debtors, provides all information necessary for collection, hands over the relevant documents and informs the debtors (third parties) of the assignment. The same applies to other claims which take the place of the retained goods within the meaning of these provisions, or which otherwise arise with regard to the retained goods, such as insurance claims or claims in tort in the event of loss or destruction.
- 5.) The processing or transformation of the purchased items by the customer shall always be carried out for us. If the purchased items are processed with other objects not belonging to us, we shall acquire co-ownership of the new objects in the ratio of the value of the purchased items (final invoice amount, including VAT) to the other processed objects at the time of processing. The same shall apply to the object created by processing as to the purchased items delivered subject to retention of title.
- 6.) If the purchased items are inseparably mixed with other objects not belonging to us, we shall acquire co-ownership of the new object in the ratio of the value of the purchased items (final invoice amount, including VAT) to the other mixed objects at the time of mixing. If the mixing takes place in such a way that the purchaser's item is to be regarded as the main item, it shall be deemed agreed that the purchaser transfers co-ownership to us on a pro-rata basis. The customer shall hold the sole ownership or co-ownership thus created in safe custody on our behalf.
- 7.) We undertake to release the securities to which we are entitled at the request of the purchaser insofar as the realisable value of our securities exceeds the claim to be secured by more than 10 %; the choice of the security to be released is incumbent on us.

§ 8**Duty to examine and to give notice of defects**

- 1.) The customer is obliged to examine the goods immediately upon delivery at the agreed destination or, in the case of collection by the customer, upon acceptance at the customer's expense:
 - a.) with regard to the number of pieces, weight and packaging and to note any defects in this respect on the delivery note, the consignment note or the receipt/issue note of the cold store, and
 - b.) to carry out a representative quality control at least on a random basis and to this end to open the packaging (cartons, sacks, tins, foils etc.) to an appropriate extent and to inspect the goods themselves for external condition, smell and taste, whereby frozen goods are to be thawed at least on a random basis.
- 2.) When giving notice of any defects, the buyer shall observe the following forms and deadlines:
 - a.) The notice of defect must be made by the end of the working day following delivery of the goods to the agreed destination or following acceptance. In the case of a notice of a concealed defect which initially remained undetected despite proper initial inspection in accordance with the above clause 1 b.), the following shall apply by way of derogation: The notice of defect must be made by the end of the working day following detection, but at the latest within two weeks of delivery of the goods or their acceptance;
 - b.) The notice of defect must be received by us in detail within the aforementioned periods in writing, by telegraph, by telex or by fax. A notice of defects by telephone shall not be sufficient. Notices of defects to commercial representatives, brokers or agents are irrelevant;
 - c.) The type and extent of the alleged defect must be clearly stated in the notice of defect;
 - d.) The buyer shall be obliged to keep the rejected goods available at the place of inspection for inspection by us, our supplier or experts commissioned by us. In the case of rejected frozen goods, the customer is obliged to store them in compliance with the relevant legal requirements. We are entitled to demand proof of a continuous cold chain.
- 3.) Notice of defects with regard to the number of pieces, weight and packaging of the goods shall be excluded if the annotation on the delivery note, consignment note or receipt required in accordance with item 1 a.) above is missing. Furthermore, any complaint is excluded as soon as the buyer has mixed, reshipped or resold the delivered goods or has started to process them.

- 4.) Goods which have not been rejected in due form and time shall be deemed to have been approved and accepted.

§ 9

Warranty

- 1.) Only the customer is entitled to claims due to defects of the delivery items; such claims are not assignable.
- 2.) If the delivered goods are defective, the purchaser shall be entitled to subsequent performance. We may fulfil the purchaser's claim for supplementary performance at our discretion by remedying the defect or delivering an item free of defects. The costs of the supplementary performance shall be borne by us insofar as they are not increased by the fact that the goods have been taken to a place other than the place of performance.
- 3.) If the supplementary performance fails or is not carried out within a reasonable period of time set by the customer, the customer shall be entitled to demand a reduction of the purchase price or declare his withdrawal from the contract at his discretion.
- 4.) Insofar as we are responsible for the defect, the purchaser shall be entitled to claim damages in accordance with § 9 of these Terms and Conditions of Sale.
- 5.) The limitation period for the aforementioned claims for defects shall be 12 months after the transfer of risk. For liability due to intent, the statutory limitation period shall apply.

§ 10

Liability

- 1.) We shall be liable in accordance with the statutory provisions if the customer asserts claims for damages based on intent or gross negligence, including intent or gross negligence on the part of our representatives or vicarious agents. Insofar as there is no intentional breach of contract, the liability for damages shall be limited to the foreseeable damage typically occurring.
- 2.) We shall be liable in accordance with the statutory provisions insofar as we culpably violate a material contractual obligation; in this case again, the liability for damages shall be limited to the foreseeable damage typically occurring.
- 3.) Liability for culpable injury to life, limb or health remains unaffected; this also applies to mandatory liability under the Product Liability Act.
- 4.) Unless otherwise stipulated above, liability is excluded.

- 5.) 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, representatives and vicarious agents.
- 6.) In order to limit our manufacturer's liability, the buyer is obliged to immediately provide us with all information that he receives and that indicates the existence of product defects (in particular customer complaints), and to immediately and comprehensively support us in the event of recall actions.
- 7.) In the event that our goods are exported by the purchaser or his customers to territories outside the Federal Republic of Germany, we shall not assume any liability in the event that our products infringe the industrial property rights of third parties. The buyer shall be obliged to compensate us for any damage caused by the export of goods which were not expressly supplied by us for export.

§ 11 Empties

- 1.) Loading equipment shall be exchanged by the customer upon delivery in the same type, quantity and quality.
- 2.) We keep a loading equipment account in which all exchange movements are recorded. The balances will be reconciled regularly.
- 3.) Reconciled balances shall be settled by the customer upon request within 14 days by returning loading equipment of the same type and quality. The return shall be at the customer's expense.
- 4.) Loading equipment which is neither of the same type, nor of the same quantity, nor of the same quality, does not constitute an adequate exchange item. We will reserve all legal and contractual claims arising from this poor performance. These claims in our favour shall only become time-barred 2 years after the passing of risk.
- 5.) The parties hereby agree that loading equipment not returned by the customer shall be sold to the customer at the agreed conditions and that the delivery of the loading equipment has already taken place. The customer shall receive a separate invoice for the sale. If, after invoicing, a credit balance results in favour of the customer, we shall be entitled at any time to settle the balance by issuing a credit note on the sales invoice.

§ 12
Data storage

The customer agrees and is hereby informed that all data relating to him in connection with the business relationship, including personal data within the meaning of the Federal Data Protection Act, will be stored within the framework of our electronic data processing.

§ 13
Quality assurance system

We are affiliated to various quality assurance systems. The customer is prohibited from advertising quality-assured goods purchased from us as quality-assured if he is not himself affiliated to the same quality assurance system.

§ 14
**Place of performance, place of jurisdiction, applicable law,
contractual language, partial invalidity**

- 1.) The place of performance for all services under this contract is the respective place of dispatch.
- 2.) The place of jurisdiction is 33378 Rheda-Wiedenbrück, Federal Republic of Germany. We shall also be entitled to sue the customer at other permissible places of jurisdiction.
- 3.) The law of the Federal Republic of Germany shall apply; the UN Convention on Contracts for the International Sale of Goods shall be excluded.
- 4.) The authoritative contractual language is German. If, in addition to a German version of the contract or documents material to the contract, versions in other languages are available, only the text of the German documents shall be binding. In the event of discrepancies between the German and the other language version, only the German version shall apply.
- 5.) Should one or more provisions of these Terms and Conditions of Sale be or become invalid, this shall not affect the validity of the remaining provisions.