

General Conditions of Sale and Supply, Version 7/02

I. GENERAL

- a) These General Conditions of Sale and Supply are an integral part of all offers and contracts for our goods and services. Consumers, as understood by these General Conditions of Sale and Supply, are natural persons with whom we enter into a business relationship, whereby these persons cannot be categorised as a commercial or self-employed business. Contractors, as understood by these General Conditions of Sale and Delivery, are natural persons or legal entities or partnerships with legal capacity with whom we enter into a business relationship and who trade by pursuing a commercial or self-employed activity. Both consumers and contractors are understood as customers in accordance with these General Conditions of Sale and Supply.
- b) All contracts and agreements must be concluded/drafted in writing to be binding on both sides. The content of the order confirmation and the conditions below are definitive for us. No conditions of purchase to the contrary will be recognised by us or consequently become part of the content of the contract. The contract, as well as the performance of the contract, shall only come into effect providing our own General Conditions of Sale and Supply apply. Any conditions to the contrary shall only be applicable if these are confirmed by us in writing.
- c) Orders are only deemed to have been accepted by us if they have been confirmed by us in writing

II. OFFERS, PRICES, QUANTITIES AND CALCULATION

- a) Our offers and/or prices are exclusively subject to change.
- b) All prices are understood as being ex-works, plus the statutory Value Added Tax. We are entitled to apply price changes in respect of a contractor if more than 6 weeks pass between the conclusion of contract and agreed delivery date. This applies in respect of a consumer if more than 4 months pass between conclusion of contract and agreed delivery date. Insofar as there are any subsequent increases in wages, material costs or purchase costs at market rates prior to completion of the delivery, we shall be entitled to apply a reasonable increase in the price to reflect the higher costs. To this extent the client is only entitled to withdraw from the contract if the increase in price is significantly above the increase in the general costs of living between order and delivery.
- c) Details on quantities allow us to increase or reduce the quantities on delivery by 10%, with the price in each case being governed by the actual quantity supplied.
- d) Dimensions, weights and quantities which are definitive for the purpose of calculating prices or quantities, are determined at the goods outward department of the supplying plant.

III. SUPPLY

- a) Over-deliveries are always made for the account and at the risk of the customer. The risk of any loss and accidental damage to the goods passes to the customer once the goods are made ready at the specified location. If the customer is a consumer the risk of accidental loss of and accidental damage to the item sold, including for mail order purchase, only passes to the customer on handover of the goods. Goods are deemed to have been handed over if the customer delays acceptance. At the request and cost of the customer the consignment will be insured against damage and loss. We will charge the cost price for packaging.
- b) The customer shall also meet the costs and risk of return deliveries for which we are not at fault.

IV. DELIVERY PERIOD

- a) We will endeavour to adhere to stated delivery dates, but time is not of the essence in the contract. If we fail to adhere to a delivery date then the customer is entitled to withdraw from the contract following expiry of two weeks after the end of the delivery period and after setting a subsequent, additional two week period of grace. Insofar as part performance of the contract has already taken place, that shall suffice unless the part performance is of no economic benefit to the customer. Items which have been utilised or partially processed will not be taken back by us in any event.
- b) If we are prevented from performing the contract due to force majeure, operational and non-operational disruptions of any kind (strike, shortage of raw materials, operating breakdowns, traffic hold-ups, etc.) our obligation shall be suspended in such a way that the period concerned is excluded when calculating the abovementioned periods.
- c) Changes to deliveries or extensions to the scope of delivery shall extend the delivery periods by an appropriate time.
- d) Claims for compensation and other claims arising from delay in delivery are excluded unless we are guilty of wilful intent or gross negligence. Insofar as the customer is a contractor, claims against us for liability to compensation in the event of simple negligence are excluded unless these involve the breach of cardinal obligations.

V. ACCEPTANCE

- a) The customer is obligated to accept the goods within the agreed delivery period as soon as we issue notification that the goods are ready for despatch.
- b) If the customer refuses to accept the goods or renders it impossible for them to be delivered, after setting a reasonable period of grace and in the case of culpability on the part of the customer, we shall be entitled to claim damages in the sum of 20% of the gross order value. We reserve the right to submit evidence of a greater loss. The customer reserves the right to submit evidence that a lower loss or no loss at all has been incurred. This also applies if, despite a reminder and an appropriate period of grace being set, the customer fails in his obligation to provide assistance or fails to pay the agreed deposit and we withdraw from the contract on these grounds. No subsequent period of grace is required in cases governed by law.

VI. PAYMENT TERMS

- a) All payments must be made exclusively, directly, free of charge and net within 30 days of the invoice date.
- b) If the agreed payment period is exceeded, we shall be entitled to charge arrears interest at the rate of 5% above the base interest rate of the European Central Bank. In the case of legal transactions which do not involve a consumer the rate of arrears interest is 8% above the base interest rate of the European Central Bank. We reserve the right to claim higher rates of interest for arrears based on other legal grounds.
- c) Cheques and bills of exchange will only be accepted for the purpose of performance and shall require our consent, with any expenses and costs being borne by the customer. In these cases payment is deemed to have been settled only when funds have cleared.
- d) In cases where we learn of circumstances relating to the customer's financial position, prior to or on delivery, suggesting that our future claims will not be sufficiently secured or even be at risk of default, we shall be entitled to demand payment in advance or security and to make all outstanding invoice amounts immediately due for payment, including those for which extensions have been granted. We shall also be entitled to withdraw from the contract in accordance with the statutory provisions and to demand claims for compensation in place of performance.
- e) The customer shall only be entitled to withhold payments or offset these against counterclaims insofar as its counterclaims have been established as undisputed or have acquired legal force.

VII. RETENTION OF TITLE

- a) For contracts with consumers we reserve the right to ownership of the goods until receipt of full and final payment of the purchase price; for contracts with contractors, up to full and final settlement of all claims arising from a current business relationship. The customer is obligated to treat the goods with care and to regularly undertake any necessary maintenance and inspection work at his own costs.
- b) The retention of title also extends to ancillary claims economically linked to the sold items.
- c) If goods that we have supplied are resold or processed this shall not cancel our right of ownership. The ownership proviso shall instead be replaced by the purchase price claim insofar as this relates to the item supplied and to the amount of the claim to which we are entitled. To this extent the client herewith transfers to us the claims to which he is entitled. We accept the transfer and following the transfer shall be authorised to collect the claim. However, we reserve the right to collect the claim ourselves as soon as the contractor fails to meet his payment obligations in the proper manner and its payments become overdue. Where goods not owned by us are used or processed we shall acquire co-ownership of the new item in the ratio between the value of the goods supplied by us and the items processed elsewhere. This also applies if the goods are combined with other items not owned by us.
- d) Our goods may not be pledged by the customer nor assigned for the purpose of security. Furthermore, we must be notified immediately of any access by third parties as well as damage to or destruction of the goods. The customer must immediately report any change of ownership of the goods as well as any change of address. The cost for all measures incurred in order to eliminate such accesses shall be borne by the customer.

VIII. NOTICES OF DEFECT AND WARRANTIES

- a) Contractors are obligated to notify us in writing of any obvious defects within a period of two weeks following receipt of the goods. Otherwise the right to assert claims under warranty is excluded. Prompt notification to us is sufficient for adherence to the period of notice. It is incumbent upon the consumer to notify us in writing of any obvious defects within a period of two months after the date on which it was established that the condition of the goods was contrary to the terms of the contract, with the date on which we receive the notice of defect being definitive for adherence to the period of notice. Otherwise the consumer has no entitlement to the rights under warranty. This does not apply in the event of malicious intent on the part of the vendor.
- b) Where the customer is a contractor we will provide a warranty to cover defects to the goods by way of repair or replacement delivery, at our choice. If the customer is a consumer he can choose whether subsequent performance is to be made through repair or replacement delivery, although we shall still be entitled to refuse the chosen method of subsequent performance if this can only be achieved at disproportionate cost and the other form of subsequent performance has no significant disadvantages for the consumer. In the event of failure of the repair the customer has the choice of demanding a reduction in payment or cancelling the agreement, whereby no right of withdrawal applies if any action in breach of the contract is purely minor.
- c) If defects are only reported to us when the goods we have supplied are being or have already been processed, then the customer must furnish us with the evidence that the defect has not occurred through the use or processing or improper handling on the customer's part.
- d) Insofar as the customer chooses to withdraw from the contract as a result of a legal deficiency or technical defect after the failure of subsequent performance, he has no other entitlement to damages due to defect. If the customer chooses compensation following the failure of subsequent performance, the goods will be kept by the customer providing this is a reasonable demand. The entitlement to damages is limited to the difference between purchase price and value of the defective item, unless the breach of contract was caused with malicious intent.
- e) In the event of minor breach of obligations our liability is limited to the foreseeable and direct average loss typical for the contract, depending upon the type of goods. This shall also apply in the event of breaches of obligations by our legal representatives or vicarious agents through minor negligence. We have no liability to contractors for minor negligence in the breach of non-material contractual obligations. The abovementioned liability restrictions do not apply to the customer's claims arising from product liability, nor to cases of physical injury and damage to health attributable to us or in the event of loss of life by the customer. The statute of limitations for claims by the customer for compensation on the grounds of defect is one year from the date of delivery unless we are guilty of malicious intent.

IX. PATTERNS AND SAMPLES

Because of potential variations in appearance and composition which are caused by materials the customer has no claim to patterns and samples being identical to the goods supplied, providing this does not have a detrimental effect on their ability to be used. This also applies to specifications, submissions of analyses as well as maximum and minimum limits. The corresponding details are therefore deemed to only be approximate.

X. MOULDS AND TOOLS

Moulds and tools which we have to create for production purposes and for which we levy a partial charge by way of a contribution to tooling costs, remain our property.

XI. PROTECTED RIGHTS

Our product developments are our property and may only be utilised and passed on with our prior written consent. If applications for patent or trademark protection are submitted for processes and products in which our products represent an integral part, we must be notified to this effect in good time. We reserve ownership and copyrights to samples, cost estimates, drawings and similar information, including in electronic form; these must not be made accessible to third parties.

XII. DATA

We are entitled to store and use data on the flow of goods and payment transactions of the party ordering.

XIII. PLACE OF PERFORMANCE AND JURISDICTION

If the customer is a merchant, legal entity under public law or a special entity under public law, the exclusive place of jurisdiction for all disputes arising from this agreement, including for claims in bills of exchange and documentary proceedings, is our registered offices in Germany. The same applies if the customer does not maintain any general place of jurisdiction in Germany or if the place of domicile or normal place of residence is not known on the date the claim is filed.

XIV. FINAL PROVISIONS

- a) The statutory regulations of the Federal Republic of Germany apply to all legal relationships between the contracting parties.
- b) If individual provisions of these conditions of business or of the contract should be unenforceable, the remaining provisions and the contract itself shall continue to apply.