

GENERAL SALES AND DELIVERY CONDITIONS

I. Area of application

1. These conditions apply to all orders received, unless agreed otherwise in writing. These conditions do not apply to legal transactions with consumers. On the basis of formal purchasing conditions, orders placed continue to apply even if not specifically rejected, and always as if subject to our sales conditions.
2. If our delivery or payment conditions are already known to the purchaser, they continue to apply for all future transactions, even if not specifically stated again. The acceptance of our deliveries or services constitutes acceptance of our conditions.
3. Subsidiary agreements, amendments and variations from these conditions require the written form. Modifications, amendments and supplements in relation to this contract must be in writing in order to be valid. The same applies in relation to the abolition of such written form requirement. Individual agreements prevail (§ 305b BGB).

II. Contract conclusion

1. Our quotations are given without commitment. The documentation accompanying the quotation is supplied only for purposes of information to the purchaser, and do not constitute agreements or guarantees with regard to the properties of the goods or services described, and may not be disclosed to third parties.
2. Orders are accepted by us by means of written order confirmation. Orders are also deemed to have been accepted if we either complete the order, or do not reject the order within 10 days of receipt.

III. Prices

1. The agreed prices are subject to value-added tax prevailing on the date of delivery.
2. Calculations are subject to the weights, numbers and quantities as established by us, unless immediate objection is made by the recipient.
3. In the event of graduated prices according to delivery quantity, the price corresponding to the delivery quantity will be invoiced, irrespective of the originally specified graduated price.
4. We will not apply any price increases within the first 4 months following contract conclusion. After this time, we reserve the right to amend our prices in accordance with § 315 BGB (German civil code).

IV. Application advice

1. Application advice is provided to the best of our knowledge and belief. All information and data on the suitability and application of our products does not relieve the purchaser of the obligation to carry out his own tests and trials of the suitability of the products for the intended processes and purposes.
2. The limitation period for claims on the basis of faulty advice is three years, beginning from the end of the year in which the claim was made. If such claims are based on deliberate action, legal regulations on the limitation period apply.

V. Delivery

1. If not expressly agreed to the contrary, deliveries will be made from our works or delivery warehouse.
2. In the event that collection of the goods is agreed, the risk of accidental loss or deterioration of the delivery is transferred to the purchaser on notification that the goods are available for collection. Otherwise, the risk is transferred to the purchaser as soon as the goods are handed over by us to the carrier. We select the type and method of dispatch. Additional costs incurred due to differing requirements by the purchaser must be borne by the latter.
3. We reserve the right to make reasonable part-deliveries.
4. Significant, unforeseeable problems beyond our control, delivery delays or stoppages by our suppliers, interruptions in business operations due to raw material, energy or labour shortages, strikes, lock-outs, difficulties in obtaining transport, transport problems and cases of force majeure affecting us or our subsidiary suppliers, extend the agreed delivery time by the duration of the hindrance, wherever these are important to our delivery capability. We will notify the purchaser immediately of the beginning and end of such hindrances. If this results in a delivery delay of more than one month, both we and the purchaser are entitled to withdraw from the contract with regard to the delivery quantity affected by the problem, to the exclusion of all claims for compensation for damages.
5. If the purchaser declines to accept the goods, we are entitled, after setting a further period for acceptance of 7 days, to withdraw from the contract and require reimbursement of any unnecessary costs.

VI. Payment

1. The invoice amount is due for payment within 14 days with 2% settlement discount, all within 30 days net. Payment is only deemed to have been made in time if we are able to dispose of the funds on the due date from the specified account. Deduction of settlement discount for new business is not allowed, if older outstanding invoices have not yet been paid.
2. Late payments will be subject to interest at a rate of 8% above the prevailing base interest rate. Both we and the purchaser have the right to demonstrate higher or lower damages.
3. Payment by bill of exchange does not constitute cash payment, and is only allowed with our prior agreement. Discount and conversion charges must be paid by the purchaser.
4. Retention of payment and reconciliation on the grounds of disputed claims by the purchaser are not allowed.
5. In the event of repeated non-payment of outstanding invoices or other circumstances indicating a significant deterioration in the purchaser's financial circumstances following conclusion of the contract, entitle us to require immediate payment of all outstanding claims based on the same legal relationship. In such cases, outstanding deliveries will only be made when the outstanding invoices have been paid, or corresponding securities have been lodged by the purchaser.

VII. Packaging

1. In cases where deliveries are made in reusable containers, these must be returned, emptied and carriage-paid, within 4 weeks following receipt of the delivery. Loss and damage to reusable packaging will be charged to the purchaser, if this is due to his actions, where these are not returned to the supplier. Reusable packaging may not be used for other purposes or for the storage of other products. Such packaging is intended only for the transport of the goods supplied. Lettering/labelling must not be removed.
2. Disposable packaging will not be taken back by us; instead, we will specify to the purchaser a third party who will recycle the packaging in accordance with packaging regulations.

VIII. Examination, complaint and checking obligations

1. The purchaser must examine the goods immediately following receipt, and notify us in writing of any faults immediately, and that the latest within 7 days following receipt of the goods. Concealed faults must be notified to us in writing within 3 working days following their discovery. The timely sending of such notification is sufficient for observation of the above periods.
2. If the purchaser fails to comply with the examination and complaint obligations specified under Item 1 above, or fails to do so within the specified time, the goods are considered to have been accepted. To the extent that the goods are deemed to have been accepted, the purchaser has no further right of complaint against us, unless such faults have been deliberately and maliciously concealed.
3. The purchaser is responsible for checking – if necessary by means of test processing – whether the goods delivered are suitable for the intended use. This applies particularly in case of the admixture of thinners, hardeners, paint additives or other components not supplied by us.

4. If the purchaser fails to comply with the examination and complaint obligations specified under Item 3 above, or fails to do so properly or in time, guarantee claims against us or other claims for compensation on the part of the purchaser are excluded to the extent that the performance of such tests or checks would have alleviated the damages sustained. Otherwise, our liability is restricted in accordance with the specifications of IX. and X.

IX. Guarantee

1. If the goods are faulty at the time of transfer of risk, we will supply any short deliveries or replace the goods. If subsequent delivery or replacement of the goods is not possible, or would involve unreasonable costs, or if the replacement delivery is again faulty, the purchaser is entitled to the rights specified under Item 2. An unreasonable cost for subsequent delivery or replacement delivery may be assumed if the costs of the subsequent or replacement delivery exceed the value of goods at the time of transfer of risk by 10%.
2. If we are unable to rectify the fault within a reasonable subsequent fulfillment period, the purchaser may, at his discretion, either reduce the purchase price, withdraw from the contract or claim compensation for damages in accordance with Item X. If subsequent delivery or replacement of the goods is not reasonable for the purchaser, he is immediately entitled to the rights specified in Sentence 1. The right to withdraw from the contract and claim compensation for damages is excluded in the case of minor faults.
3. The above guarantee rights are basically subject to a limitation period of one year, beginning on delivery of the goods to the purchaser.
In cases where the goods have been used for construction work in accordance with their normal method of application, and have been responsible for the faulty result, we provide a guarantee of five years, provided that the purchaser confirms to us by disclosure of the corresponding contractual agreements with his client, that he has not made with his client any agreements restricting such limitation. The above stipulation does not apply in the event of malicious concealment of faults by us.
4. If the goods supplied by us are sold on to an end-consumer by the purchaser or one of his buyers, the prevailing legal regulations apply for the purchaser's guarantee specifications. We will only be liable for compensation to the extent specified under IX No. 2 S. 1, X. If the purchaser fails to comply with the examination and complaint obligations specified under Item VIII. above, or fails to do so properly or in time, the guarantee rights of the purchaser against us become invalid.
5. Claims for material and financial damages by products whose use or effect with regard to the actual utilisation purpose has not been sufficiently tested in accordance with the status of the science and technology, or by other means, are excluded from the guarantee.

X. Liability for other claims for compensation for damages

1. In the event of purely negligent infringement of obligations by us or other persons engaged by us, our liability is restricted to typical damages foreseeable in the case of such contracts. This does not apply in the case of infringement of a cardinal contractual obligation or in the event of damage to life, limb or health. This liability disclaimer further does not apply in cases where liability exists under product liability laws in case of faults with the goods supplied for personal and material damages to privately used objects.
2. If thinners, hardeners, paint additives or other components not supplied by us are mixed with the product supplied, or are used in conjunction with it, liability only exists if these components were free of faults and suitable for the intended purpose, and if the product was used and applied in accordance with the applicable status of the processing technology.

XI. Retention of ownership

1. We reserve ownership of the goods supplied until complete payment of the purchase price. The goods supplied remain our property until full settlement of all claims arising from the ongoing business relationship with the purchase. The retention of ownership remains in effect even if individual claims are included in ongoing business, and the balance has been drawn and acknowledged. Purchase price claims are deemed to remain valid, despite payment, as long as we are still subject to liability in this connection, for example due to a cheque-exchange procedure.
2. Processing or mixing of the goods by the purchaser is carried out on our behalf, without this resulting in any commitment on our part. In the event of processing or mixing of the goods with other goods not belonging to us, the purchaser hereby transfers to us, for the purposes of securing our claims, joint ownership of the new goods in the ratio of the value of the retained goods to the other processed goods, with the proviso that the purchaser keeps the new goods on our behalf.
3. The purchaser is entitled to dispose of the goods in the normal course of business, provided that he fulfills his obligations arising from the business relationship at the required time.
4. The purchaser hereby relinquishes in our favour, and for the purposes of security, his claims arising from the sale of goods to which we have ownership rights, to the extent of our proportional ownership of the goods sold.
If the purchaser combines or mixes the goods supplied with goods belonging to a third party in return for payment, the purchaser hereby relinquishes in our favour, and for the purposes of security, his remuneration claims against the third party, up to the amount of the invoice value of the goods supplied.
5. At our request, the purchaser must provide us with all required information on the extent and condition of the goods belonging to us and the claims relinquished in our favour, and notify his customers of such relinquishment.
6. The purchaser is obliged to keep the retained goods with all due care and attention, and to ensure them at his own cost against loss and damage. The purchaser hereby relinquishes in our favour his corresponding claims from such insurance policies.
We hereby accept this relinquishment.
7. If the value of the securities lodged exceeds our outstanding claims by more than 10%, we will release such securities, at our own discretion, at the request of the purchaser.
8. The right of the purchaser to dispose of the products subject to our retention of ownership and to collect outstanding claims relinquished in our favour lapses, as soon as the purchaser ceases to make payments and/or becomes insolvent. If these circumstances occur, we are entitled, to the exclusion of rights of retention, additional fulfillment periods or exercise of the right of withdrawal, to require the immediate surrender of all goods subject to our retention of ownership.
9. In the event that the retention of ownership is invalid according to law of the country where the goods are located, the purchaser must at our request lodge an equivalent security. If the purchaser fails to comply with this request, we are entitled to require immediate cash settlement of all outstanding invoices, irrespective of any agreed payment targets.

XII. Data protection

We are entitled to process the data relating to the purchaser received in the course of or in connection with the business relationship, irrespective of whether such data has been obtained from the purchaser himself or from third parties, in accordance with German data protection regulations.

XIII. Place of jurisdiction and fulfilment

1. Place of fulfilment for all obligations arising from the business relationship or the individual contract is our relevant point of dispatch, and for payment, our head offices.
2. Place of jurisdiction is Heidelberg; this also applies to disputes relating to certification, exchange or cheque procedures.
3. The contractual relationships with our customers are subject exclusively to the law of the Federal Republic of Germany.

XIV. Miscellaneous

Should individual or several terms of the present contract be or become invalid or void this will not affect the validity of the remaining terms of the contract. The parties agree that the invalid or void terms are to be replaced by terms which come as close as possible to the economic purpose of the invalid term. The same will apply in the case of a legal gap.

PACKAGING CONDITIONS

I.

Reusable containers supplied by us on loan remain our property. Following delivery of the goods, they must be emptied as soon as possible, and either returned on our transport, or returned carriage-paid to us in a usable condition, in accordance with prevailing railway regulations for the return of empty containers. Customers are requested to notify us when returning reusable containers by rail.

II.

If reusable containers have not yet been returned to us after 12 weeks following delivery, they are considered from the 13th week of their absence from our works to be rented, and the following rental rates will then apply:

1. A charge of € 0.50 for every 100 kg (or part of 100 kg) capacity of a barrel or drum for each complete month or part of a month;
2. For cans and other small containers a charge of € 0.25 per containers per month. We reserve the right to claim further damages for late return.

III.

Our reusable containers may not under any circumstances be used as storage containers for the products, the storage and return of contaminated solvents or any other improper purposes. Cleaning charges incurred by us due to failure to observe this requirement will be charged back to the purchaser at cost price.

IV.

All damages and loss sustained to our packaging materials during absence from our works will be charged to the customer, irrespective of whether or not he is responsible. The supplies in particular to damage due to dirt and losses due to force majeure, seizure or the like. In this case, the customer will be charged the prices incurred for the procurement of corresponding new containers.