

# **Terms and Conditions of Sale**

## **Section 1**

### **General**

The terms and conditions below apply solely and exclusively to any and all of our sales and delivery contracts. Buyer's different terms and conditions of purchase do not become part of the contract, even if the order has been accepted or execution of the order has commenced.

## **Section 2**

### **Conclusion of the Contract**

Our offers are non-binding. In the absence of different agreements, contracts do not enter into force until we have confirmed the order in writing.

## **Section 3**

### **Prices**

- 3.1. Prices in catalogues, brochures and price lists are non-binding.
- 3.2. In the absence of special agreements, our prices are quoted ex works. The agreed prices are calculated on the basis of the expenses for any secondary services such as transport insurance, customs duties, etc., applicable at time of conclusion of the contract. If the said expenses increase after the conclusion of the contract and delivery is effected later than four months after the conclusion of the contract, we are entitled to add a surcharge to the price to cover any such increase.

## **Section 4**

### **Quantity Deviations**

Differences of up to 10% of the agreed quantity of goods are permissible.

**Section 5**  
**Risk of Shipment**

The goods are shipped at the buyers' risk in every case. The buyers also bear the risk for weight losses, breakage, spoilage and any change of the goods during shipment.

**Section 6**  
**Partial Deliveries**

Partial deliveries are permitted.

**Section 7**  
**Delivery Time**

- 7.1.** The delivery date shown on the order confirmation corresponds to the delivery date we have estimated according to the best knowledge available. It is subject to our receiving deliveries from our own suppliers. It is binding only if and when we have expressly declared it as such in writing.
- 7.2.** If the dispatch of the goods is delayed due to reasons for which the buyer is responsible, we will bill him for any costs incurred as a consequence of the delay, beginning fourteen days after notification of readiness for shipping.
- 7.3.** If the failure to observe the delivery time is a consequence of Force Majeure, industrial action or other events which are beyond our influence, the delivery time shall be extended by a reasonable period. We will notify the buyer of the beginning and end of such circumstances as soon as possible.
- 7.4.** If we are in default of delivery and the buyer consequently suffers a loss, we are liable solely and exclusively in accordance with Section 13 of these terms and conditions.

## **Section 8**

### **Samples**

Any and all samples are non-binding type samples.

## **Section 9**

### **Intended Use**

We do not assume any warranty for the suitability of our goods for the use intended by the buyers. Our suggestions and recommendations for use and processing of the goods are non-binding. We are not liable for the said suggestions and recommendations to the buyers or to third parties.

## **Section 10**

### **Industrial Property Rights**

If our deliveries are based on requests for design and material utilization, drawings, models or samples from the buyers, the buyers assume the sole responsibility for ensuring that industrial property rights of third parties are not violated, either in Germany or in other countries. They shall hold us harmless from any third-party claims.

## **Section 11**

### **Force Majeure**

If events as described in Section 7, Item 3, hinder or hamper our delivery and continue for a period of 12 weeks, we are entitled to rescind the contract. Claims for damages or compensation are excluded.

## **Section 12**

### **Warranty**

To the exclusion of any further claims – subject to Sec. 13 ( Liability ) below - we warrant as follows:

- 12.1.** If a defect of the goods appears after delivery , we will replace the defective goods by goods free from defects.
- 12.2.** The buyer is entitled to rescind the contract if we have allowed a reasonable period set for replacement to lapse. In a contract for delivery by installments or in a contract by which we undertake to make recurrent deliveries over a defined period of time, the right to rescind is limited to the particular installment resp. delivery.

### **Section 13**

#### **Liability**

Our liability as provided in this Section 13 shall be in lieu of any other liability caused by his breach of contract or by the negligence or breach of statutory duty or by defective design materials or workmanship.

We are liable for damages which do not occur to the goods themselves ( consequential damages ) only:

- In cases of wilful misconduct;
- In cases of gross negligence on the part of the owner, the executive bodies or the executive employees;
- In cases of culpable injury to life, body, health;
- In the case of defects, for any fraudulent act or omission;
- In cases of defects, to the extent that the Product Liability Act requires liability for personal injury or damage to objects used privately.

In the event of culpable violation of essential contractual obligations, we are also liable for gross negligence of non-executive employees and for slight negligence, in the latter case limited to the damage typical for the contract and which could reasonably be foreseen. Further claims are excluded.

**Section 14**  
**Statutory Limitation**

Any claims of the buyer – regardless of the legal basis – shall be time-barred after a lapse of 12 months.

The statutory limitation period applies in cases of wilful and fraudulent actions and to claims based on the Product Liability Act.

**Section 15**  
**Rights of Set-off and Retention**

Buyers' rights to off set their counter-claims against this or other contracts concluded with us as well as their right of retention are excluded, unless the right is undisputed or finally recognized by a Court decision.

**Section 16**  
**Terms and Conditions of Payment**

1. A cash deduction is excluded as long as previous invoices which are due and payable have not been paid.
2. If there is a deterioration of the buyers' assets after conclusion of the contract, or if we do not learn of a said deterioration until after the contract conclusion, we are entitled to request immediate payment for delivered goods and to make further deliveries subject to advance payment.
3. For claims for which we have accepted bills of exchange we may accelerate the due date in this case. In the event of default of payment, we will charge any losses we suffer as consequence of the default, but will charge a minimum interest at a rate of 8% above the base rate.

## **Section 17**

### **Retention of Title**

We retain title of ownership to the goods until complete payment has been effected for any of our claims, including claims from previous or future deliveries and including expenses and interest.

If we undertake liability related to a bill of exchange, the retention of title does not end until the bill of exchange has been redeemed by the buyers as the drawees.

The buyers are entitled to sell or process the delivered goods in the usual course of their business. Upon conclusion of the contract, they assign to us any claims arising in connection with the sale against their customers, including any and all subsidiary rights, until the complete and full payment of any of our claims. If the goods are processed, the new object which has been created takes the place of the delivered goods. We and the buyers are in agreement that said new object is created on our behalf and is conveyed to us as our property, the buyers safeguarding the said object on our behalf. In addition to the case of processing, the above provisions also apply to cases of combination or mixing of the goods delivered under reservation of title.

## **Section 18**

### **Moulds and Tools**

If we produce moulds, tools and other equipment required for the performance of the order, the said materials remain our property in every case. We are not obliged to surrender them to the buyers.

## **Section 19**

### **Applicable Law and Jurisdiction**

The proper law governing the legal relationship between us and the buyer is solely and exclusively the law of the Federal Republic of Germany, excluding the UN Convention on the International Sale of Goods (CISG).

We and the buyer submit to the jurisdiction of the Hamburg courts. However, in the case of buyers from abroad, we are also entitled to file our claims at the place of jurisdiction of the buyer.