

# General Terms and Conditions of Sale

## I. Contract closure, contents and scope

The following terms and conditions apply solely to qualified merchants, legal entities under public law or special assets under public law.  
Our sales, services and offers are exclusively subject to the present General Terms and Conditions of Sale. Buyer's diverging terms and conditions shall not be valid, also if Seller does not expressly oppose said terms and conditions. If these General Terms and Conditions are previously known to Buyer, they shall also apply to future transaction without further notification. These terms and conditions are deemed to be accepted at the latest the goods or services are received.  
2. Seller's offers are made without engagement and are non-binding. To be effective, declarations of order acceptance require Seller's confirmation given in writing or by telex. The same shall apply to supplements, modifications or collateral agreements. Seller reserves the right to make modifications to instruction sheets and brochures in circulation without prior notice. The rights accruing to Buyer from the contract may be transferred or assigned only by prior agreement given by Seller. If any provisions of the contract are invalid or ineffectual, the remaining provisions thereof shall remain in full force and effect.

## II. Prices

1. Our pricing is based on the prices valid on the day of delivery for the appropriate quantities and qualities, plus the statutory value added tax applicable on the day of delivery. If in doubt, the prices shall apply ex works excluding freight, customs, import duties and packaging.  
2. In the event that there are substantial changes to the costs arising after contract closure, the parties hereto undertake to come to an agreement on price adjustments.

## III. Quantity and delivery

1. Differences in the quantity of goods delivered deemed customary in the trade shall be permitted. Buyer shall be obliged to pay for the quantity actually delivered. Partial deliveries which Buyer may be reasonably expected to accept shall be permitted.  
2. The terms of delivery shall be agreed separately among Seller and Buyer. The Incoterms as amended shall apply for the interpretation of the delivery clauses, provided that such interpretation does not conflict with the present General Terms and Conditions or with the separate agreements made between Seller and Buyer.  
3. Call orders and specifications for individual deliveries must be made in good time such that proper production and delivery within the period specified in the contract is allowed.  
4. Goods manufactured according to Buyer's special specifications or according to samples provided by Buyer shall be ready for delivery as soon as they are completed or, if provided for in the contract, at the latest on the date the test results are forwarded to Buyer or notice of the delivery is given.  
5. Time is of the essence for deliveries ex works; the dates given for deliveries are approximate only. An appropriate extension of the delivery period shall be granted if Buyer fails in its duties or if the delivery is delayed by unforeseen, excusable or extraordinary events in Seller's production facility, in a facility supplying Seller or in a shipping firm.  
The same shall apply in the event of strikes and lock-outs. If the hindrances exceed one month, or if the sub-supplier's or sub-contractor's production facility is shut down, or in the event of war, governmental intervention, traffic and transport disturbances and other cases of force majeure, Seller and Buyer shall be entitled to withdraw from the contract after written notice, if the delivery is delayed by such events by more than 30 days.  
Seller shall notify Buyer immediately of the beginning and end of such obstacles. Claims for damages arising from delayed delivery or non-performance shall be ruled out in all cases of delays with the exception of gross negligence or intent. In the event of culpable delays by Seller, Buyer shall be entitled to withdraw from the contract after a reasonable period to be set by Buyer, unless the goods have already been manufactured at the date the withdrawal declaration is received by Seller.  
6. If the goods ordered are not called or specified within the specified period or not called or specified, Seller shall be entitled to demand cash in advance or to withdraw from the contract and/or to demand damages after the period allowed has lapsed.  
7. During acceptance and storage of the goods, Buyer undertakes to observe all statutory provisions and regulations, in particular with regard to health protection and industrial safety, and to obtain and keep the necessary permits and licences.  
8. Buyer agrees to return pallets (PRS) and containers capable of being returned in a clean and undamaged condition. The same shall hold for the exchange of Euro pallets.  
9. Export Control: Shipments and services (the fulfilment of contract) shall be under the provision that fulfilment is not being restricted by any national or international regulations, particularly export control regulations and embargoes or any other restrictions. The contract partners shall obligate themselves to provide all information and documentation needed for the export/ domestic shipment/ import. Delays caused by export checks or licensing procedures shall override any lead times or deadlines stipulated. If any required licenses for certain items cannot be obtained, the contract shall be considered as not concluded regarding the items in question; because of this and of above mentioned transgression of deadlines, any claims for damages shall be excluded.

## IV. Industrial property rights

For deliveries according to specifications or details supplied by Buyer, Buyer agrees to indemnify Seller from and against all third party claims under industrial property laws. In the event Buyer violates the contract, Buyer's industrial property rights shall not prevent the utilisation of the goods by Seller.

## V. Liability, warranty

1. Seller warrants that the goods comply with Buyer's specifications as amended.  
2. The duty to examine whether the goods ordered or proposed by Seller are fit for Buyer's purposes and use intended lies with Buyer. Buyer must ensure that the goods ordered by him are fit and suitable for further processing and use intended by Buyer.  
3. Seller does not warrant the fitness of the products for a specific purpose, also if this purpose is known to Seller. Advice and recommendations given by Seller on technical applications are given to Seller's best knowledge and belief. Details on the suitability and use of the goods do not release Buyer from the duty to carry out its own tests and trials involving the suitability of the goods for the intended processes and uses.  
4. The Buyer's warranty rights require that Buyer inspects the goods for compliance with the agreed specifications after receipt and that he notifies Seller in writing immediately of any defects, at the latest within 30 days after delivery (hidden defects immediately after their discovery).  
5. In the event of justified complaints (including wrong deliveries) Buyer's claims shall be limited to substitute delivery, freight paid by Seller. If substitute delivery fails, Buyer may demand reverse transaction of the contract or reduction of the

purchase price. Any further claims, in particular for expenses or damages arising from defects or consequential defect losses, shall exist only within the provisions under No. VI hereunder. If requested, replacement parts shall be returned to Seller, carriage not prepaid.  
6. The warranty period shall be one year after passage of risk.

## VI. General limitations of liability

In all cases in which Seller, in derogation of the above provisions, is obliged to compensate for losses or expenses by virtue of claims arising from the contract or by law, Seller shall be liable only to the extent his executive officers, agents or persons employed in performing his obligations are culpable of intent, gross negligence or physical injury involving life, body or health. Liability without fault under the product liability laws shall remain unaffected. Culpable liability for the infringement of essential contractual duties shall also remain unaffected; however, with the exception of the cases under sentence 1 above, liability shall be limited to the predictable damage typical for the contract.

## VII. Payment

1. Invoices are payable in cash within 30 days after the invoice date.  
Each payment is always accounted for the oldest open invoice.  
2. Seller shall, at any time after expiry of the date due, be entitled to put Buyer in default by reminder. Even without reminder, Buyer shall be in default at the latest 30 days after expiry of the date due and receipt of the invoice. In the event the agreed payment date is exceeded or in case of default, interest of 8% above the base rate under § 288 II BGB (German Civil Code) shall be owed. Both Seller's and Buyer's right to furnish evidence of higher or lower losses shall remain unaffected.  
3. Retention of offsetting for reasons of Buyer's claims disputed by Seller shall be ruled out, unless such claims have been established with final effect. Retention may also be made on condition that the counter-claim rests on the same contract.  
4. The failure to pay invoices fallen due and other circumstances which suggest an essential deterioration in the Seller's financial standing after contract closure shall entitle Seller to render any outstanding deliveries only against cash in advance or against collateral security. If this is refused within a reasonable period, Seller may withdraw from the contract in whole or in part without prejudice to his further rights.  
5. Bills of exchange and cheques shall be accepted only on account of performance and after prior agreement, as well as subject to the possibility of discounting. If payments are made by bills of exchange or by cheque, Buyer shall pay the costs of discounting and collection.

## VIII. Retention of title

1. Ownership of the goods shall pass to Buyer only after Buyer has fulfilled all of Seller's claims arising from the current business relationship.  
2. Buyer shall be obliged to store and keep the goods under retention of title with care, at his own expense and in suitable and clean rooms. Buyer shall insure the goods under retention of title against loss and damage. Buyer assigns to Seller, and Seller accepts such assignment, his claims from such insurance policies in advance.  
3. Buyer processes or commingles the goods on behalf of Seller, without an obligation arising therefrom for Seller. If the goods under retention of title are processed or commingled together with other goods not supplied by Seller, Buyer herewith assigns to Seller, to secure the latter's claims, the co-ownership in the new goods in proportion of the value of the goods under retention of title to the other processed goods, provided that Buyer stores such new goods for Seller free of charge.  
4. Any claims arising from the sale of goods which Seller has sold to Buyer and which have as yet not passed into Buyer's possession shall be assigned by Buyer to Seller in the amount of the invoice value agreed between Seller and Buyer.  
5. Upon Seller's request, Buyer shall provide full information to Seller on the stocks of goods delivered by Seller and as yet not passed to Buyer's possession and on the claims assigned to Seller and to notify Buyer's customers of such assignment.  
6. If the value of the securities existing for Seller exceeds his total claims by more than 10%, Seller shall, upon Buyer's request, be obliged to release and discharge the appropriate securities at Seller's discretion.  
7. Buyer shall be entitled to dispose of the goods under reservation of title delivered to Buyer in the course of normal business transactions and to collect the claims assigned to Seller. These rights shall expire upon Buyer failing to comply in good time with his duties arising from the business relationship with Seller or upon Buyer discontinuing payments and/or upon Buyer forfeiting its assets. If these circumstances occur, Seller shall be entitled, waiving the right of retention and without specifying an extended period for performance or without exercising his right of withdrawal from the contract, to demand the immediate provisional surrender of all goods under reservation of title.

## IX. Data Protection

1. If personal data of employees or business partner is exchanged between buyer and seller, the data must be treated with highest carefulness and confidentiality as well as in accordance with the applicable legal requirements in terms of data protection. The seller is responsible for obtaining the legally required consent of his respective employees and business partners, for data processing.  
2. The buyer agrees that his/ her personal data may be used by the seller in order to be able to conduct business relationships. In compliance with the statutory conditions, this use also includes the transmission of data with the sales group.

## X. Place of performance, jurisdictional venue

1. These General Terms and Conditions of Sale and the contracts based thereon shall be governed by the laws of the Federal Republic of Germany. The application of the UN Treaty on the International Sale of Goods dated 11 April 1980 (BGB 1989, p. 586) for the Federal Republic of Germany shall be ruled out.  
2. If any provision herein is ineffective or invalid in whole or in part, the remaining provisions shall remain in full force and effect.  
3. The place of performance for all liabilities and obligations arising hereunder shall be at Seller's registered place of business. In Seller's discretion, jurisdictional venue for any disputes arising hereunder, also from legal actions involving documents, cheques or bills of exchange, shall be at Seller's or Buyer's registered place of business.

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