

§ 1 General-Scope

- (1) The following general conditions of sale apply exclusively; terms and conditions of Buyer which are inconsistent or deviate from these conditions will not be recognized, unless we have first agreed to such conditions expressly, in writing. These conditions of sale also apply exclusively when we complete delivery to Buyer unconditionally with the knowledge of terms and conditions of Buyer which are inconsistent or deviate from these conditions.
- (2) All agreements between the parties as to the performance of this contract must be made in writing.
- (3) These conditions of purchase apply only to agreements with businesses in the sense of § 310, paragraph 1 of the German Civil Code.

§ 2 Offer – Documentation of Offer

- (1) Our offer is subject to change without notice, provided that nothing to the contrary arises from the order confirmation.
- (2) We will consider an order binding first with a written confirmation or through execution of the order. A counter-confirmation of Buyer containing deviating terms will be considered a new offer and will lead to execution of the contract only after written confirmation from us.
- (3) To the extent that partial delivery is agreed upon, each such partial delivery will be treated as separate business.
- (4) We retain property rights and copyrights to all illustrations, drawings, calculations and all other documents (including computer diskettes and CD-Rom). This applies also to technical information pertaining to development and other internal business. Access to any such documents by third parties requires our prior written consent.
- (5) To the extent that a contract is not executed, all documents provided by us are to be returned to us without delay even in the absence of a request for their return. The same applies when the contract, through any other reason, is not completely carried out, as well as after the completion of the order.

§ 3 Prices – Conditions of Payment

- (1) The value-added tax imposed by law is not included in our prices. It will be calculated separately on the invoice at the amount provided for by law on the day the invoice is prepared.
- (2) We retain the right to change our prices as appropriate, if, after execution of the contract, price decreases or increases occur, in particular by reason of a new collective bargaining agreement or changes in prices for materials. We will provide evidence of such increases or decreases in costs at the request of Buyer.
- (3) In the absence of any agreement to the contrary, payment is due within 30 days of the invoice date without a discount. If payment is made within 10 days of the invoice date, a 2% discount off the value of the goods will be accorded.
- (4) For precious metals and preparations containing precious metals, as well as anodes, payment shall be due immediately, at the latest within 3 days of the date of the corresponding advance invoice, without discount. All legal rules and regulations with respect to defaults in payment and effect on performance apply.
- (5) We will not accept exchanges.
- (6) Buyer can only validly exercise his withholding rights for claims originating out of the same contractual relationship. Buyer has the right to a set-off only to the extent that his demand is undisputed or legally conclusive.
- (7) If we receive the information after completion of the contract, that our claim for the service in return is jeopardized due to the insufficient solvency of the contract partner, we can refuse the obligation until the contract partner effects the payment completely or has offered security for it. The same applies, if the contract partner falls behind with a payment.

§ 4 Delivery – Passing of the Risk

- (1) We have the right to make partial deliveries to the extent reasonable.
- (2) To the extent that nothing to the contrary arises out of the order confirmation, delivery 'to the factory' is hereby agreed upon. The packaging necessary for transport of the goods will be listed separately on the invoice.
- (3) The beginning of the delivery time specified by us presumes the prior clarification of all technical questions as well as the prior presentation of all documents and information to be provided by Buyer, necessary for the completion of the order.
- (4) The delivery time shall be extended for an appropriate time if necessary, due to force majeure, strike or other unforeseeable hindrances that we cannot prevent, despite reasonable care in the circumstances, whether such hindrances occur in our business or the business of one of our suppliers; even when a delay in delivery has already occurred. We will inform Buyer of the existence of such circumstances without delay. We retain in all cases the option of making correct and timely delivery ourselves. The option to make delivery ourselves applies with the proviso that we have been able to timely make a corresponding coverage of costs and/or that we are not responsible for the late delivery by our supplier. If the interruption of performance caused by the above-mentioned circumstances lasts for longer than a month, Buyer can withdrawal from the portion of the contract that is not yet fulfilled after an appropriate final deadline has been set if the delivery delay is no longer reasonable for him.
- (5) Compliance with our delivery obligation presumes the timely and proper performance by Buyer of his obligations.
- (6) If Buyer defaults in taking delivery or if Debtor violates other duties to cooperate, we have the right to demand compensation for the respective corresponding damage, inclusive of all additional expenses. We retain the right to further claims.
- (7) We are liable under provisions imposed by law to the extent that time is of the essence in the underlying sales contract in the sense set forth in § 286 paragraph 2 number 4 of the German Civil Code or in § 376 of the German Commercial Code. We are also liable under provisions imposed by law provided that, as a consequence of a delivery default for which we are responsible, Buyer has the right to declare that his interest in the further performance under the contract has ceased to exist.
- (8) We are further liable under provisions imposed by law provided that a delivery default for which we are responsible is based on an intentional or grossly negligent breach of contract; it remains our right to make a corresponding allocation of blame to our representative or any person we have hired to assist us in performance of the contract. Provided that a delivery default is not based on an intentional breach of the contract by us or our representative or a person we have hired to assist us in performance of the contract, our liability for damages is limited to foreseeable, typically occurring damage.
- (9) We are also liable under provisions imposed by law to the extent that a delivery default for which we are responsible is based on a culpable breach of an essential obligation under the contract. In this case, however, our liability for damages is limited to foreseeable, typically occurring damage.
- (10) Furthermore, we are liable in the case of a delivery default for every full week of default within the framework of a lump-sum default compensation in the amount of 0.5%, limited to a maximum, however, of not more than 5% of the delivery value of the affected goods.

§ 5 Packaging and return of packing

- (1) As long as no necessary regulations of the packaging laws or other statutory regulations require the opposite, the delivery of chemicals is performed according to our decision either in non-returnable packagings, which – whether charged for or not – are neither taken back nor credited or in hired containers.
- (2) The containers and canisters to be returned must arrive on pallets, bound and sealed with the opening on the underside; with the labels completely removed. Sacks must be pressed into balls after thorough cleaning and bound together or stacked and bound on pallets, also with the labels completely removed. The shipment shall be 'free to domicile' at the cost of Buyer.
- (3) We further refer to our instructions regarding the return shipment of non-reusable materials and empty, reusable containers. These provisions are considered binding from the time of order.

§ 6 Liability for Defects

- (1) For chemicals and other materials of consumption, we guarantee the faultless quality and composition of the supplied products, except we grant in individual cases additional commitments or guarantees. Obvious faults have to be claimed immediately, but within 10 days after delivery the latest and concealed faults immediately after discovery in writing. Rights of Buyer related to defects presume that Buyer timely and properly performs the inspection and notification of defect obligations required by § 377 of the German Commercial Code. Notification of any defect must be accompanied by a copy of delivery documents and particulars, with initials to be found on the packet of documents, as well as a sample or model of the goods objected to.

- (2) To the extent that a defect exists in the goods, we shall have the option of correcting such defects or delivering new, defect-free goods. We will not bear additional expenses incurred if the goods were brought to another location than the place of performance, unless the transportation of the delivered goods accords with their intended use.
- (3) If further attempts at performance fail, Buyer has the right to choose to repudiate the contract or to demand a decrease in the sale price.
- (4) We are liable under provisions imposed by law provided that Buyer makes a claim for damages based on intentional conduct or gross negligence, including the intentional conduct or gross negligence of our representative or a person we have hired to assist us in performance of the contract. To the extent that no intentional breach of contract is being alleged against us, our liability for damages is limited to foreseeable, typically occurring damage.
- (5) We are liable under provisions imposed by law provided that we have culpably breached an essential obligation under the contract; essential obligation means that its violation would endanger the intent of the contract in this case, however, our liability for damages is limited to foreseeable, typically occurring damage.
- (6) Liability stemming from culpable injury to life, body or health remains unaffected; this applies as well to the liability imposed by the Product Liability statute.
- (7) The limitations period for claims relating to defective goods constitutes 12 months from the passing of the risk.
- (8) The limitations period in the case of a remedy claimed in relation to delivery under §§ 478, 479 of the German Civil Code remains unaffected; said limitations period constitutes 5 years calculated from the delivery of the defective goods.

§ 7 Joint and Several Liability

- (1) Further liability for damages than that set forth in number 5 in the preceding section is excluded, without regard to the legal nature of the claim made. This applies in particular to damages claims and fault related to execution of the contract stemming from violations of other obligations or from claims in tort for compensation for property damage in accordance with § 823 of the German Civil Code.
- (2) To the extent that our liability for damages is excluded or limited, such exclusion or limitation applies also to the personal liability for damages of all of our employees in whatever capacity, our representatives and any persons we hire to assist in the performance of the contract.

§ 8 Retention of Title

- (1) We retain title to the delivered goods until all payments originating from our business with Buyer have been received. In the case of payment by check, title is considered transferred first when the amount of the check is successfully and irrevocably credited to our account.
- (2) Buyer is obligated to treat the goods delivered by us carefully; in particular he is obligated to insure said goods at his expense for their value when new, against fire, water and theft. To the extent that maintenance work and service checks are necessary, Buyer must carry them out in a timely manner at his expense.
- (3) At the seizure of or interference with the goods by a third party, Buyer must inform us in writing without delay, so that we may file a complaint in accordance with § 771 of the German Civil Process Code. To the extent that such third party is not in a position to reimburse us for the costs incurred both in court and outside of court in accordance with § 771 of the German Civil Process Code, Buyer shall be liable to us for all losses incurred.
- (4) Buyer has the right to sell the goods to a further buyer in the normal course of business; however, Buyer hereby assigns to us any amounts received from such resale proceeds necessary to make payment to us for any amounts (including value-added tax) Buyer owes to us on outstanding invoices, without regard as to whether or not the goods were resold after being reworked. Even after said assignment the Buyer remains empowered to collect the proceeds from such resale. Our authority to collect said proceeds ourselves remains unaffected. We obligate ourselves to assist in the collection of such proceeds provided that Buyer fulfills his payment obligation out of the money so collected, does not lapse into payment default and, in particular, no petition is made to open a bankruptcy or insolvency proceeding of any type or any suspension of payment is made. If, however, any of the foregoing occur, we can demand Buyer makes known to us the assigned debts and their debtors, gives us all particulars necessary for collection of the debts, provides us with all related documents and informs the debtors of the assignment.
- (5) The reworking or conversion of the contract article(s) through Buyer will always be undertaken for us. In the event that the contract article(s) are converted into a new article along with materials that do not belong to us, we shall automatically acquire joint ownership of the new article thus produced. Value of said ownership interest shall be the ratio of the value of the contract article(s) (invoice amount inclusive of value-added tax) to the value of the other converted materials at the time of conversion. Such new article shall be treated the same as the delivered contract article(s) to which title is retained.
- (6) In the case that the contract article(s) are inseparably combined with other materials not belonging to us, we shall automatically acquire joint ownership of the new article thus produced. Value of said ownership interest shall be the ratio of the value of the contract article(s) (invoice amount inclusive of value-added tax) to the value of the other converted materials at the time of the conversion. Such new article shall be treated the same as the delivered contract article(s) to which title is retained.
- (7) In the case that the contract article(s) are inseparably combined with other materials not belonging to us, we shall automatically acquire joint ownership of the new article thus produced. Value of said ownership interest shall be the ratio of the value of the contract article(s) (invoice amount inclusive of value-added tax) to the value of the other combined materials at the time of combination. If said combination occurs in such a manner that the newly created article can be seen to originate primarily from Buyer's materials, it is hereby agreed that the Buyer shall assign us proportionate joint ownership in the newly created article. Buyer shall hold the sole or joint property in safekeeping for us.
- (8) Buyer hereby assigns us as security for unpaid invoices, any amounts receivable originating from the connection of the contract article(s) with any real property.
- (9) We obligate ourselves to release the security to which we are entitled upon request of the claimant to the extent that the realizable value of said security exceeds the thus secured amounts owing to us by more than 10%. The selection of the security to be released devolves upon us.

§ 9 Technical Advice – Product Specifications

- (1) The information in our instructions manual as well as the specifications and special features attached thereto contain exclusively the possible uses and nature of our products.
- (2) Buyer is obligated to inspect the goods delivered by us for fitness for their intended use, if the use and further conversion of the goods have been removed from our control. They lie exclusively within the responsibility of the purchaser.
- (3) The utilization and technical advice through us, our leading employees and persons hired to assist in performance of the contract always occur according to best knowledge. We wish to make it known, however, that we accept no liability for this advice, also in light of the protective rights of third parties. Buyer remains obligated to review through experimentation and research the technical know-how placed at his disposal, as well as the know-how relating to the protective rights of third parties.

§ 10 Product Designation

- (1) Our brand names may only be used by Buyer with our written agreement, even if such names are not protected by law. Placement of any part of our product or the product itself next to a replacement product is not permitted.

§ 11 Assignment

- (1) An assignment to any third party of claims arising out of this contract is basically permitted only with our prior, written agreement.

§ 12 General Provisions

- (1) Exclusive place of performance and jurisdiction is Solingen, Germany.
- (2) The contractual relationship shall be governed by the laws of the Federal Republic of Germany to the exclusion of International private law and United Nations law of sales (Convention for the International Sale of Goods).
- (3) Should any provisions of these general conditions of sale and delivery be or become partially or totally invalid under law, the validity of the remaining provisions shall remain unaffected.