

General Conditions of Sale

§ 1

Scope

1. All deliveries and services of our company, including those of future business, are based exclusively on the following terms in their respectively latest version.
2. Our conditions of sale are exclusive. Terms and conditions of the customer opposing to or deviating from our General Conditions of Sale do not form part of the contract. These only become effective if they have been accepted by us expressly and in writing.
3. Our conditions of sale shall apply only to companies as defined in § 14 BGB (German Civil Code).

§ 2

Conclusion

1. Our offers are subject to confirmation regarding delivery, delivery time and price, unless they are expressly confirmed as binding or contain a deadline for acceptance.
2. Purchase orders issued by the purchaser can be accepted by us within 14 days from receipt. Acceptance is effected by written order confirmation or by delivery of the goods.

§ 3**Delivery**

1. Deliveries are carried out on the basis EXW (Incoterms 2000) place of dispatch at customers risk, unless expressly agreed otherwise.
2. Delivery dates are only binding if they are confirmed in writing. If delivery has been agreed, delivery time and delivery dates refer to the date of delivery to the shipper, carrier or any other third party in charge of the transportation.
3. The initial weight determined in our factory is relevant. It is determined under control. Usual weight loss during transport is at the expense of the customer. Differences in weight beyond usual weight loss shall be claimed in writing immediately on receipt and shall be listed and confirmed on the way bill or the packing list upon delivery.
4. The delivered goods are subject to customary change, insofar as the changes do not affect the customer unreasonably and do not affect the usability of the goods.
5. Partial deliveries are permissible in due consideration of our interests to an extent reasonable to the customer, especially if
 - the partial delivery is usable for the customer in line with the contractual intended use,
 - delivery of the remaining ordered goods is ensured and
 - the customer hereby arise neither significant additional effort nor additional costs.
6. In case of force majeure, Government ordinances, strike, lockout and other incidents that lead to the prevention, disability or significant aggravation of delivery, we are entitled to a corresponding extension of the delivery period, including a required ramp-up time, or to withdraw from the contract. The same applies in case of similar events in the sphere of our suppliers. The customer can ask us to declare whether we withdraw or deliver within a reasonable time; in case of non-declaration he is entitled to withdraw from the contract himself.

7. In case we are in default with delivery or performance, or delivery or performance is impossible for whatever reason, our liability is limited to damages pursuant to § 9 of these General Conditions.

§ 4

Quantity, Quality, Labelling

1. We shall, in any case, be entitled to deliver up to 10 % more or less of the quantity agreed upon. The delivery of an amount of up to 10 % less than agreed does not constitute a defect.
2. The goods' quality shall be governed by the mercantile custom, unless, in the individual case, otherwise agreed upon and confirmed by us in writing. Only our product specification is regarded as agreed legal and factual nature of the product. Public statements, recommendations or advertisements of third parties shall not be considered as a description of quality in addition to the product specification.

§ 5

Prices and Payment

1. Our prices are valid for the agreed scope of service and delivery. Any additional or special services are charged separately. The prices are in EURO, based on a delivery EXW (Incoterms 2000) place of dispatch, plus packaging and current VAT, in case of export shipments plus customs duties and charges and other public charges.
2. Unless otherwise agreed, the purchase price is immediately due and payable net (without deductions) on invoicing. In case of default we are entitled to charge default interest of 8 percentage points above the prevailing base rate.

3. The customer shall only be entitled to setoff with a counterclaim if his counterclaim is legally established, undisputed or recognized by us. To exercise a lien, the customer shall be entitled, if he has an undisputed, approved or legally established counterclaim, based on the same contractual relationship.
4. The withholding of collection- and / or delcredere-commissions is permitted only with prior written conclusion of a collection- and / or delcredere agreement between us and the customer.
5. In case of paying through a third party, particularly in the context of regulatory and / or delcredere agreements, the purchase price debt is fulfilled only when the payment has been received by us.
6. We are authorized to carry out or to provide pending deliveries or services only against advance payment or security, if we become - after completion of the contract - aware of conditions that are likely to reduce the creditworthiness of the customer substantially and by which the payment of our outstanding claims from the respective contractual relationship - including other individual orders for which the same framework contract applies - are endangered.

We keep an export credit insurance for claims against our customers. Facts which are likely to reduce the creditworthiness of the customer substantially, are in particular

- the cancellation of the insurance coverage by the insurer,
- the limitation of insurance coverage, in particular due to adjustment of the relationship for reasons of creditworthiness, subsequently agreed bill renewals, dishonour of checks or bills of exchange and charge backs due to insufficient funds, initiation of court collection proceedings and legal proceedings as well as involvement of a collection agency or attorney for debt collection,
- materialization of risk due to insolvency of the customer.

§ 6**Retention of title**

1. Until full payment of all claims arising from the relationship, including any future and ancillary claims, we reserve title to the delivered goods. In case of a breach of contract, especially in case of default, we are entitled to repossess the goods after setting a reasonable period of time. After repossession of the goods we are entitled to sell them; the proceeds will be applied towards the customer's accounts payable - after deduction of the sales costs.
2. The customer is neither allowed to pledge or to pawn the goods and claims substituting nor to cede them.
3. In case of seizure or other interference by third parties, the customer shall be obliged to notify us immediately in writing so that we are able to bring an action under § 771 ZPO (German Code of Civil Procedure). If the third party is unable to reimburse us for the judicial and extrajudicial costs of an action pursuant to § 771 ZPO, the customer is liable for our loss.
4. The customer is entitled to resell the goods in the ordinary course of business, to process or to mingle it; he assigns to us already now all claims in the amount of the invoice total (including VAT) of our claim, accruing to him from the resale against his customers or third parties, regardless of whether the merchandise has been sold without or after processing (in the case of a current account under § 355 HGB (German Commercial Code) the pre-assigned claim also relates to the approved balance or the existing "causal" balance in the event of a insolvency of the customer). The customer is authorized to collect the debt even after the transfer. Our capacity to collect the debts remains unaffected. However, we commit ourselves not to collect the debt if the customer meets his payment obligations from the proceeds, does not default and in particular has not filed for insolvency proceedings or suspension of payments. In this case, we are entitled to demand that the customer gives notice to us about the assigned claims and their debtors and provides all information necessary for collection, hands over the relevant documents and informs the debtors (third parties) of the assignment.

The same applies to other claims, which substitute the goods subject to retention of title within the meaning of these terms or otherwise result in terms of the goods subject to retention of title, such as insurance claims or tort claims for loss or destruction.

5. The processing or transformation of the goods by the customer is always carried out on behalf of us. If the goods are processed with other goods not associated to us, we acquire joint ownership of the new goods in proportion to the value of the goods (final invoice amount including VAT) to the other processed items at the time of processing. The same applies to the goods delivered under retention of title applies to the good created by processing.
6. If the purchased good is inseparably mixed with other items not belonging to us, we acquire co-ownership of the new goods in proportion to the value of the goods (final invoice amount including VAT) to the other mixed objects at the time of mixing. If the mixing is of such manner that the customer's good is regarded as the principal good, it is agreed that the customer assigns proportional co-ownership to us. The customer shall hold the sole ownership or joint ownership for us.
7. We pledge ourselves to release the securities on the customer's request to the extent the realizable value of our securities exceeds the secured claims by more than 10%; the choice of security to be released is at our discretion.

§ 7

Duty to Investigate and to Lodge Complaints

1. Upon receipt of goods at the destination agreed upon or, in case of self-collection upon their take-over, the customer shall be obliged to immediately
 - a) inspect them in terms of quantity, weights and packaging and to note any complaints in relation thereto on the delivery ticket or counterfoil/disbursement slip of the cold store;

and

b) make, at least by representative samples, a quality test and to open the packaging (cartons, bags, tins, foils, etc.) in reasonable numbers and to check the goods themselves in terms of apparent order and condition, smell and taste, whereas frozen goods should be defrosted by samples at least.

2. When complaining about possible defects, the customer shall observe the forms and terms as stated hereunder:

a) The complaint shall be submitted by the elapse of the working day that follows the inbound delivery of the goods to the destination agreed upon or their take-over. In case of complaining about a hidden defect, which, despite of a properly made initial inspection pursuant to subparagraph 1(b) above, has remained unidentified at first, the following shall apply in deviation from the aforesaid:

The complaint shall be submitted by the elapse of the working day that follows the date of defect detection, however, within two (2) weeks after the delivery of the goods or their take-over at the latest.

b) The detailed complaint shall be forwarded to us in writing, by telegraph, telex or fax within the terms set forth above. A notice of defects by phone shall not suffice. Complaints expressed towards commercial agents, brokers or dealers shall be void.

c) The complaint shall clearly exhibit the type and extent of the asserted defect.

d) The customer shall be obliged to keep the non-conforming good at the place of investigation available for inspection by our suppliers or appraisers authorised by us. The customer is obliged to store frozen goods as required by law. We shall be entitled to claim documentation of complete cold chain.

3. Complaints in terms of quantity, weights and packaging of the goods shall be excluded, provided that the note on the delivery ticket/freight bill or counterfoil as required pursuant to subparagraph 1(a) above is missing. Besides, any such complaint shall be excluded as soon as Buyer has mixed, re-dispatched or resold the delivered goods or started to treat or process them.

4. Goods complained about in non-compliance with form and term shall be considered as approved and accepted.

§ 8

Warranty

1. Claims for defects of the delivered goods only entitle the customer and are not assignable.
2. Insofar as a defect of the goods delivered occurs the customer is entitled to subsequent performance. We are entitled to comply with the claim for subsequent performance of the customer at our discretion by remedying the defect or delivery of conforming goods. The cost of the rectification shall be borne by us if they are not increased by the fact that the goods were shipped to a different location than the place of performance.
3. If the rectification fails, or is carried out not within a reasonable time set by the customer, the customer is entitled either to price reduction or to withdrawal.
4. As far as we are responsible for the defect, the customer is entitled to compensation pursuant to § 9 of this General Conditions of Sale.
5. Aforementioned warranty claims shall become time-barred upon expiration of a 12 month period after bearing the risk. Claims arising as a result of wilful or intentional breaches shall become time-barred in accordance with legal regulations.

§ 9

Liability

1. We are liable according to the statutory provisions if the buyer makes claims for damages based on intent or gross negligence, including intent or gross negligence of our representatives or

agents. As far as an intentional breach of contract exists, liability for damages is limited to the foreseeable damage typically occurring.

2. We are liable according to the statutory provisions if we culpably violate an essential contractual obligation; in this case, the damages shall be limited to the foreseeable damage typically occurring.
3. The liability for culpable injury to life, limb or health shall remain unaffected, as shall the mandatory liability under the Produkthaftungsgesetz (German Product Liability Act).
4. As far as not otherwise regulated, liability is excluded.
5. Insofar as our liability is excluded or limited, this also applies with regard to the personal liability of our officers, employees, representatives and agents.
6. To limit our product liability, the buyer is obliged to immediately provide us with all the information he receives, which may indicate the existence of product defects (especially customer complaints) and to help us with recall campaigns immediately and fully.
7. In case of export of our goods by the customer or its customers in areas outside the Federal Republic of Germany, we are not responsible if our products infringe rights of third parties. The customer is obliged to compensate damages that we have incurred by the export of goods which were not supplied by us expressly for export.

§ 10

Empties

1. The customer shall be obliged to return to us empties (Euro boxes, pallets, Euro hooks, etc.) in such same type, quantity, and value as he has received upon delivery. Empties shall be returned in cleaned condition and in conformity with the regulations set forth in the law on hygiene.

2. For heavily soiled or damaged empties or such, which does not conform in its nature with the delivered ones, there is no credit. In this case, we are also entitled to refuse acceptance. If the return transport of the empties at the request of the customer, he must bear the costs incurred for this purpose.
3. We are entitled to send to the customer an empties balance by e-mail, fax or ordinary mail. On request of the customer we will send an empties balance to him in the same form. If the customer does not disagree with the empties balance set out in the balance notification within one month from the date of the notification letter writing, the empties balance contained in the notification letter is accepted by the customer. We will point in the balance notification to each customer that silence to the balance acknowledgement after the aforementioned deadline is treated as an acknowledgment of the empties balance.
4. Should the customer not be able to return such empties upon delivery of our goods, he shall, without any delay and on own account, care for balancing the empties account. Should the customer default with the return of the empties, we also may, apart from our legal claims after granting a reasonable extension period, refuse the return and require the customer to compensate the damage in cash.

§ 11

Data storage

The customer agrees and is hereby informed that all data relating to him from the business relationship, also personal in the sense of the Bundesdatenschutzgesetz (German Federal Data Protection Act), is stored in our electronic data processing.

§ 12**Quality assurance system**

We are connected to different quality assurance systems. The customer shall be prohibited from offering quality-assured product purchased from us as quality-assured if he is not either connected to the same quality assurance system.

§ 13**Performance, Jurisdiction, Applicable Law, Contract Language, Partial Invalidity**

1. Place of performance for all performances under this contract shall be the respective place of dispatch.
2. Place of jurisdiction is 33378 Rheda-Wiedenbrück, Federal Republic of Germany. We are entitled to sue the customer also at other permissible places of jurisdiction.
3. The law of the Federal Republic of Germany shall apply; the United Nations' Agreement on Contracts pertaining to the International Sale of Goods (CISG) shall be excluded.
4. Relevant contract language is German. If, alongside a German version of the contract or of essential contractual documents, versions in other languages are available, only the text of the German documents shall be binding. In the event of deviations between the German and the other language version only the German version shall be apply.
5. The invalidity of individual provision of these General Conditions of Sale shall not affect the validity of the others.