



1. Scope and Definitions

- (a) These General Terms and Conditions of Sale (hereinafter referred to as **"Terms"**) apply to all quotes, price lists, offers, order confirmations, delivery of any tangible and intangible goods, and any performance (of any works, services or other) made by the companies mentioned on the top of this page (hereafter individually referred to as **"Seller"**) and all request for quotes and purchase orders placed by Seller's customers (hereinafter individually referred to as **"Buyer"**). Any general terms and conditions and/or any other additional, different or conflicting provision stipulated by Buyer, are expressly not accepted by Seller, and shall not apply. Neither delivery nor performance nor any representations nor other statements or information provided by or on behalf of Seller shall alter these Terms or the rights and duties of Seller and Buyer defined herein, unless they are made in writing with formal signature and explicitly mentioned as prevailing.
- (b) **"Affiliate/s"** shall include any corporation, association, or other entity that directly or indirectly controls, is controlled by, or is under common control with a Party, either currently or during the term of the Agreement. The term **"control"** (including, its correlative meanings "controlled by" and "under common control with") means the power to exercise a decisive influence over the activities and/or the management, whether through the ownership of voting securities, by contract or otherwise.
- (c) Seller and Buyer are herein individually and collectively also referred to as **"Party"** or **"Parties"**, respectively.
- (d) **"Goods"** shall, for the purpose of these Terms, include any tangible and intangible goods and any performance (of any works, services or other), which are delivered by Seller, its Affiliates or subcontractors.

2. Conclusion and Content of Agreement

Seller's quotes, price lists and offers are non-binding. A binding agreement is established by and with the content of Seller's written or electronic order confirmation or, if none, by Seller's delivery or performance. These Terms together with Seller's order confirmation or, if none, with Seller's delivery or performance constitute the entire agreement (collectively referred to as **"Agreement"**) between the Parties. Buyer shall review Seller's order confirmation and respond in writing in case of any incorrectness immediately upon receipt.

3. Affiliates and Subcontractors

Seller is entitled, at its discretion, to deliver or perform entirely or partly:

- (a) through its Affiliates, which shall act in their own name and shall be solely liable to the Buyer for correct execution of the Agreement according to these Terms, and/or
- (b) through third-party subcontractors.

4. Price and Payment

- (a) The price payable by Buyer shall be the price set forth in Seller's order confirmation or invoice. Unless otherwise defined therein or agreed between the Parties in writing, the price is payable in the currency of the country in which Seller is domiciled, and shall be exclusive of any taxes, duties or other levies, which shall be borne by Buyer.
- (b) Prices are based on the status of wages, exchange rates, foreign exchange regulations, freight costs, material, energy and other manufacturing costs at the time of conclusion of the Agreement. Should changes occur up to the time of delivery, Seller shall be entitled to adjust the prices (notification by e-mail sufficient) to the respective concrete cost increases. Seller shall also be entitled to adjust the prices in case of changes to delivery dates, quantities or specifications requested by Buyer and accepted by Seller.
- (c) The prices are FCA at the domicile of Seller, in accordance with the ICC-Incoterms 2020, unless otherwise defined in Seller's order confirmation or agreed between the Parties in writing.
- (d) Unless otherwise agreed in individual cases, invoices shall be due for payment upon receipt and Buyer shall be in default at the latest 30 days after receipt. Seller reserves the right to request payment concurrently with delivery ("step-by-step").
- (e) A set-off or the exercise of a right of retention by Buyer is only permissible if the counterclaim or the opposing claim is undisputed and/or legally established or if it is a counterclaim or claim that is reciprocal to the claim.
- (f) In case of failure to comply with payment terms
 - (i) Buyer is, unless otherwise agreed in the individual case, automatically in default within 30 days of receipt of the respective invoice and is obliged to pay interest on arrears in the amount of the statutory interest on arrears on the corresponding outstanding amount, and
 - (ii) Seller and any of its Affiliates, which is supplying Goods under the Agreement, is entitled to stop and/or request prepayment for pending deliveries to Buyer and any of its Affiliates which are ordering Goods under the Agreement.

This applies immediately and without notice of Seller.

5. Benefits, Charges and Risks

Subject to Clause 6 below, the benefits, charges and risks shall pass to Buyer upon the earliest of a) if an obligation to collect has been agreed, Seller's notification that the Goods are ready for dispatch or, in the case of an obligation to send or bring, Buyer is in default of acceptance, or b) the delivery of the Goods in accordance with the agreed delivery terms or c) the delivery of the Goods as agreed to the consignment stock at Buyer's plant, if applicable.

6. Retention of Title

- (a) There is a retention of title to the Goods sold until the full purchase price has been paid in accordance with the following provisions:
 - (i) The delivered Goods shall remain the property of Seller until full payment of all claims arising from the business relationship. This retention of title serves as security for all current and future claims of Seller arising from existing contracts with Buyer. Buyer shall store the Goods subject to retention of title for Seller

(hereafter the **"Reserved Goods"**) free of charge. Buyer shall treat the Reserved Goods subject to retention of title with care.

- (ii) Buyer may resell the Reserved Goods in the proper and normal course of business against payment in cash or subject to retention of title until the conditions for realisation set out below arise; Buyer shall not be entitled to dispose of the Reserved Goods in any other way, in particular by way of transfer of ownership by way of security or pledging.
 - (iii) If Buyer processes the Reserved Goods, this shall be done on behalf of Seller as manufacturer, so that Seller shall acquire direct ownership or - if the processing is carried out from materials of several owners or the value of the processed item is higher than the value of the Reserved Goods - co-ownership (fractional ownership) of the newly created item in the ratio of the value of the Reserved Goods to the value of the newly created item. If this acquisition of ownership by Seller should not occur for any reason, Buyer shall transfer its future ownership or - in accordance with the above ratio - co-ownership of the newly created item to Seller as security for all claims of Seller. If Reserved Goods are combined or inseparably mixed with other goods to form a single item and if one of the other items is to be regarded as the main item, Buyer (if and to the extent that the main item belongs to him) shall transfer pro rata co-ownership of the single item to Seller in the aforementioned proportion.
 - (iv) Buyer hereby assigns to Seller its claims from the resale of the Reserved Goods and/or goods owned or co-owned by Seller - including the corresponding claims from bills of exchange - together with all ancillary rights, irrespective of whether the goods are sold without or after processing or combination or whether they are sold to one or more buyers. Seller accepts this assignment. The same applies to other claims that take the place of the Reserved Goods or otherwise arise with regard to the Reserved Goods (insurance claims or claims in tort for loss or destruction).
 - (v) In the event that the Reserved Goods and/or goods owned or co-owned by Seller are sold by Buyer together with other goods not originating from Seller at a total price, the assignment shall only be made in the amount charged by Seller for the Reserved Goods sold together. In the event that Buyer's claims from the resale are included in a current account, Buyer hereby also assigns its claims from the current account against its customer to Seller accepting this. The assignment shall be made in the amount charged by Seller for the resold Reserved Goods.
 - (vi) Buyer shall be entitled to collect the claim against its customer in its own name. In the event of Buyer's default in payment or deterioration of its financial situation or creditworthiness, this authorisation shall expire.
 - (vii) If third parties assert rights to the Reserved Goods, in particular but not exclusively by way of seizure or execution, Buyer must immediately point out Seller's ownership and inform Seller so that Seller can enforce its ownership rights. Furthermore, Buyer is obliged to provide Seller with all documents proving its ownership rights. This shall also apply in particular in the event of processing and/or mixing.
 - (viii) Seller shall release its securities at Buyer's request insofar as their value exceeds the amount of the secured claims by more than 50%. Seller shall decide which of the securities it will release at its reasonable exercised discretion.
- (b) Buyer undertakes to assist Seller in connection with all measures for purposes of securing credit for the Goods and, in particular, to enter into corresponding supplemental agreements, if necessary and reasonable for Buyer. Buyer authorizes Seller to have the entry or priority note regarding the retention of title registered in public registries and the like provided that this is reasonable for Buyer, taking into account the interests of Seller. Buyer further agrees to keep the Goods in good storage and repair and to insure them against loss or damage until the purchase price has been paid in full.

7. Deliveries

- (a) Delivery dates stated in offers or order confirmations are always approximate dates, unless they are expressly agreed as fixed dates. Seller will exercise its reasonable efforts to adhere to agreed delivery dates, subject to the reservation of itself obtaining deliveries and transport contractors' services being provided in due time, in proper and sufficient manner. This reservation shall not apply if Seller is responsible for the fact that a delivery by any sub-suppliers is not made in good time, properly and/or sufficiently.
 - (i) Seller shall inform Buyer without delay if delays arise because a delivery is not made in good time, properly and/or sufficiently. An agreed delivery period shall be extended appropriately in cases of force majeure and other unforeseeable events for which Seller is not responsible, such as riots, war, blockades, difficulties in the procurement of materials or energy, lawful lock-outs, shortages of labour, energy or raw materials, difficulties in obtaining the necessary official permits, official measures, strikes as well as failure of self-supply and operational disruptions for which Seller is not responsible.
 - (ii) Changes to the Agreement at Buyer's request which affect Seller's performance in terms of time shall also lead to a reasonable extension of agreed delivery periods.
 - (iii) Insofar as Buyer cannot reasonably be expected to accept the Goods as a result of the delay, it may withdraw from the contract by means of an immediate written declaration to Seller.
 - (iv) If the aforementioned circumstances make delivery or performance impossible or substantially more difficult, Seller shall be entitled to withdraw from the contract. In this case, the Seller shall immediately reimburse any consideration already received.
- (b) Claims of Buyer for indemnity shall only exist in accordance with Clause 10.
- (c) Seller shall be entitled to make partial deliveries, provided that these do not fall below a scope that is reasonable for Buyer. The additional costs of a partial delivery shall be borne by Seller, provided that Buyer has not culpably caused the partial delivery. In addition, Seller reserves the right to deliver plus/minus 5% of the quantity of Goods defined in the order confirmation. This is a normal variation for bulk deliveries or deliveries of whole shiploads. In addition, there may be weight loss during transport, for example due to evaporation. The weight determined in connection with loading shall be determinative for the calculation.
- (d) Cost for waiting time, demurrage, or the like due to delayed acceptance / taking over of the Goods by Buyer or persons acting on behalf of Buyer shall be invoiced to and paid by Buyer.



8. Warranties

- (a) Seller warrants that, at the time of transfer of risk, the Goods (i) conform to the Seller's standard specifications, (ii) are manufactured, packaged and labelled in compliance with the applicable laws at the place of manufacture, and (iii) are free from any legal encumbrances.
- (b) ANY WARRANTY AND REPRESENTATION OF ANY PERFORMANCE OF THE GOODS AND OF MER CHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE EXCEEDING THE FOREGOING CLAUSE 8.a) IS EXCLUDED. ALL INFORMATION THAT HAS BEEN OR MAY BE GIVEN TO BUYER (E.G. IN PRODUCT INFORMATION, SAFETY DATA SHEETS, OTHER ACCOMPANYING PRODUCT DOCUMENTATIONS, COMMUNICATIONS AND RECOMMENDATIONS) SHALL NOT BE CONSIDERED AS WARRANTY OR REPRESENTATION OF SELLER, UNLESS EXPRESSLY AGREED IN WRITING. THE EXPRESS REPRESENTATIONS SELLER MAKES TO BUYER IN CLAUSE 8.a) ARE THE ONLY REPRESENTATIONS SELLER MAKES. BUYER IS RESPONSIBLE FOR CARRYING OUT APPROPRIATE TESTING REGARDING THE SUITABILITY OF THE GOODS OR WORKS OR SERVICES FOR BUYER'S PARTICULAR PURPOSES AND PROCESSING CONDITIONS.

9. Buyer's Claims

- (a) Buyer shall inspect the delivered Goods immediately upon delivery. Defects which are recognisable on proper inspection must be reported in writing immediately after delivery, defects which are not obvious and defects which are not recognisable on proper inspection must be reported in writing immediately after discovery, otherwise the delivered goods shall be deemed to have been approved in accordance with the Agreement and the assertion of claims for defects shall be excluded. Timely dispatch shall be sufficient to meet the deadline. Buyer shall bear the full burden of proof for all claim prerequisites, in particular the defect itself, for the time of discovery of the defect and for the timeliness of the notice of defect.
- (b) Seller shall be entitled, at its discretion, to inspect or have inspected the objected Goods at Buyer's premises, and/or to require Buyer to send a sample of the objected Goods to Seller within reasonable time.
- (c) Buyer shall keep the objected Goods separate from other goods in their original condition and not use them.
- (d) No Claim for non-compliance with the represented specifications or shortage in quantity of any individual delivery or for any other reason shall be valid after the delivered Goods have been mixed with other goods or used in the production process of Buyer or Buyer's customers. For the purposes of these Terms, "Claims" means any claims, demands, causes of action, legal actions, proceedings, judgments, awards, damages, losses, costs, expenses, fines, penalties, litigation costs, reasonable attorney's fees, regress claims and any other liability.
- (e) Subject to timely complaint and compliance with the above provisions by Buyer, Seller, at its option, shall either replace the nonconforming Goods with Goods that conform to the current specifications, or cure the Goods, or reduce or refund the price.
- (f) If a cure carried out by Seller has failed, Buyer may in principle, at its option, demand a reduction of the remuneration (abatement) or rescission of the contract (withdrawal). In the event of only a minor breach of contract, in particular in the event of only minor defects, Buyer shall not be entitled to withdraw from the contract. The refusal of cure by Seller due to disproportionality of the cure as well as unreasonableness for Buyer shall be equivalent to the failure of the cure or replacement delivery.
- (g) Claims of Buyer for indemnity shall only exist in accordance with Clause 10.

10. Limitation of Liability

- (a) CLAIMS FOR DAMAGES AGAINST SELLER ARE EXCLUDED.
- (b) THIS EXCLUSION OF LIABILITY DOES NOT APPLY TO DAMAGES CAUSED BY SELLER INTENTIONALLY OR BY GROSS NEGLIGENCE, IN CASES OF SLIGHT NEGLIGENCE FOR DAMAGES BASED ON INJURY TO LIFE, LIMB OR HEALTH, IN THE EVENT OF A BREACH OF THE PRODUCT LIABILITY ACT OR OTHER MANDATORY STATUTORY LIABILITY PROVISIONS AS WELL AS FOR DAMAGES BASED ON A BREACH OF ESSENTIAL CONTRACTUAL OBLIGATIONS BY THE SELLER. MATERIAL CONTRACTUAL OBLIGATIONS ARE ALL OBLIGATIONS THE PERFORMANCE OF WHICH IS NECESSARY TO ENABLE THE PROPER PERFORMANCE OF THE CONTRACT AND THE OBSERVANCE OF WHICH BUYER NORMALLY RELIES ON AND MAY RELY ON.
- (c) IN THE EVENT OF NEGLIGENT BREACH OF MATERIAL CONTRACTUAL OBLIGATIONS, SELLER'S LIABILITY - WITH THE EXCEPTION OF DAMAGE TO LIFE, LIMB OR HEALTH OR IN THE EVENT OF A BREACH OF THE PRODUCT LIABILITY ACT OR OTHER MANDATORY STATUTORY LIABILITY PROVISIONS - SHALL BE LIMITED TO THE DAMAGE TYPICAL FOR THE CONTRACT AND FORESEEABLE FOR SELLER AT THE TIME OF CONCLUSION OF THE AGREEMENT OR THE BREACH OF DUTY.
- (d) THE ABOVE EXCLUSIONS OF LIABILITY SHALL APPLY ACCORDINGLY TO SELLER'S EMPLOYEES AND BODIES, ITS GROUP COMPANIES, THEIR EMPLOYEES AND BODIES, VICARIOUS AGENTS, SUBCONTRACTORS AND THEIR EMPLOYEES AND BODIES.

11. Trademarks

In connection with further processing or other use of the Goods (including transferring into another container, repackaging, mixing, etc.), the trademarks (including, in particular, brand names, logos, etc.) are to be removed from the delivered Goods. Any further use of such signs shall be permissible only with the prior written consent of owner of such signs.

12. Obligation to keep Records and to cooperate

- (a) Buyer shall maintain complete and accurate records of all quantities of product purchased and their use.
- (b) If any governmental or other competent authority or Seller issues a product withdrawal or recall or wants to communicate an information to the market, Buyer shall fully cooperate with Seller, in particular, upon and in accordance with Seller's instruction, in:

- (i) promptly contacting any third party users which Seller desires to be contacted, which have received the Goods or processed products containing the Goods (hereafter the "Users") from Buyer,
- (ii) promptly communicating to such Users any information or instructions which Seller wishes to transmit,
- (iii) obtaining the removal of all Goods or processed products containing the Goods from Buyer's inventory and the inventory of Users, and/or to organize a recall, and
- (iv) disposing of removed Goods.
- (c) Seller agrees to reimburse Buyer for all reasonable direct out-of-pocket costs and expenses actually incurred as a result of removing of and disposing of Goods produced by Seller as requested by Seller. Seller disclaims any liability for Goods produced by third party producers, Buyer's or third parties' finished products or work in process.

13. Confidentiality

- (a) Until the end of the term of the Agreement and for a subsequent period of 5 (five) years, Buyer agrees to keep the existence of the Agreement and any information supplied to it by Seller under the Agreement and/or before the Agreement is made (including, in particular, information regarding offers, pricing, financial information, market information, customer data, data of employees, manufacturing and technical information and know-how) confidential.
- (b) This obligation does not apply to information which
- (i) is already public knowledge at the time it becomes known, i.e. is readily accessible to any third party,
- (ii) are lawfully made accessible to the Buyer after becoming known to Buyer by a third party who is not subject to any confidentiality obligation vis-à-vis Seller in this respect,
- (iii) must be handed over at the request of an authority or other state institution, or
- (iv) must necessarily be disclosed to legal or tax advisors of the respective contractual partner or other persons bound by professional law to secrecy for the purpose of providing advice.

14. Force Majeure

- (a) Non-, bad-, or late-performance of Seller shall be excused to the extent that performance is rendered impossible or prevented or hindered or is delayed by an event of force majeure, governmental act, or change of circumstances beyond the control of Seller (e.g. war and war like activities, revolution, terrorist act, strike, environmental catastrophe, geological implications, epidemics, pandemics, implementation of new economic restrictions/sanctions, economic collapse, collapse of currency, non-, bad-, or late-performance of Seller's own suppliers, service providers and (sub-)contractors, explosions, fire, collapse of infrastructure, cyber incidents or attacks, IT systems failure, shortfalls/shortages of any kind, etc., insofar as Seller is not responsible for the respective circumstances). Seller shall (i) inform Buyer accordingly, and (ii) resume performance of its obligations under the Agreement within reasonable time after such causes are removed.
- (b) In case performance by Seller of any of its obligations under the Agreement is rendered impossible by any of the above events, the Parties agree to negotiate in good faith their respective affected obligations, whereby the rights mentioned in the above Clause 7. a) remain unaffected.

15. Miscellaneous

- (a) **Assignment.** Except as per Clause 3 above, neither Party shall have the right, without the prior written consent of the other Party, to assign, transfer or dispose of, in whole or in part, its respective rights, claims and obligations under the Agreement.
- (b) **Modifications and Amendments.** With the exception of price adjustments according to Clause 4.b) above, any modifications and/or amendments of the Agreement, including of this Clause, shall be valid only if made in writing and signed by both Parties, whereas the signed documents can be exchanged physically or electronically.
- (c) **Severability.** Should any provision of the Agreement be held unenforceable or in conflict with the applicable laws, then the invalid or unenforceable provision shall be replaced with a provision which accomplishes, to the extent possible, the original business purpose of such provision in a valid and enforceable manner, and the remainder of the Agreement shall remain binding upon the Parties. This Clause shall apply by way of analogy if the Agreement is incomplete.
- (d) **Compliance with laws and Trade Control.** Buyer undertakes that in connection with the use of the Goods (including end use thereof) and the performance of the Agreement, Buyer and those under its control shall comply at all times with all applicable laws, rules and regulations of all relevant jurisdictions, including those relating to product safety laws and to the export or import of goods including economic sanctions or embargos imposed by the United Nations and other international and national bodies (hereafter collectively the "Regulations"). Seller is relieved from its supply/performance obligations in case these would constitute an infringement of such Regulations.

16. Applicable Law and Jurisdiction

- (a) These Terms and the entire business relationship between Seller and Buyer shall be subject to the applicable law at the domicile of Seller, giving no effect to the conflict of law provisions and the UN Convention on Contracts for the International Sale of Goods (CISG).
- (b) The competent court at the domicile of Seller shall have exclusive jurisdiction, except that Seller has the right to initiate legal proceedings concerning outstanding payments before the competent court at the domicile of Buyer.

17. Prevailing Language

In case of discrepancies between the two languages used in this document, the German language shall prevail.