

## GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

### § 1 Scope of Application

(1) Our available general terms and conditions in English language only apply to companies, legal entities under public law or special funds under public law within the meaning of Sec. 310 (1) German Civil Law (BGB) that are not resident in the Federal Republic of Germany.

(2) Our general terms and conditions of business apply exclusively; deviating, contradicting or supplementing general terms and conditions of the customer only become part of the contract insofar and to the extent that we explicitly agreed in written form. Our general terms and conditions also apply if we provide the service to the customer without any reservation under being aware of contradicting or deviating general terms and conditions of the customers. They also apply for all future goods, services or offers to the customer, even if not agreed again separately.

### § 2 Offer, Acceptance

(1) If the order constitutes an offer within the meaning of Sec. 145 German Civil Code (BGB), we are authorised to accept this order by written confirmation or by delivery of the ordered goods within a period of three weeks.

(2) All offers on our part are non-binding as long as they are not explicitly labelled as binding or provide for a certain term of acceptance.

### § 3 Product Composition, Patterns and Samples, Warranties

(1) As long as not agreed otherwise, the composition of the goods is exclusively defined by the product specifications. Relevant applications, identified under the European Directive on Chemicals, REACH, neither constitute the agreement of a respective, contractual composition of the goods nor a particular application under the contract.

(2) Properties of patterns and samples are only binding if they were explicitly agreed as composition of the goods.

(3) Indications of quality and shelf life as well as other indications are considered as guarantees, if they were agreed as such and named.

### § 4 Application-Technical Consultation

(1) We provide application-technical consultation to the best of our knowledge. All statements and information about the suitability and application of the products do not exempt the buyer from performing own tests and examinations as regards the suitability of the products for the intended processes and purposes.

(2) In addition, the buyer must absolutely consider the specification and the safety data sheet for the handling with the delivered materials and their scope of application.

### § 5 Prices, Payment and Default of Payments

(1) The prices apply for the goods and services listed in the order confirmations. Additional or special services are billed separately. The prices are indicated in EURO Ex Works (EXW), according to the Incoterms 2010, plus the legally applicable VAT.

(2) Billed amounts are payable within 14 days after the date of invoice without any deductions if not agreed otherwise in written form. Relevant for the date of payment is the date of payment receipt.

(3) If the debtor is not paying at maturity, the outstanding amounts bear an interest of the basis interest rate plus 9% - points p.a. as from the due date; the claim of higher interest and further damages in case of delayed payment remains unaffected by this provision.

### § 6 Offsetting

The customer is only entitled for an offsetting if his counterclaims were legally determined or accepted by us.

### § 7 Delivery and Delivery Time

(1) Deliveries are made ex works. Upon request and costs of the buyer, the goods are sent to another destination (sales shipment).

(2) Delivery periods and dates provided by the seller are only approximate dates, except that a fix period or fix date was explicitly promised or agreed. If shipment was agreed, the delivery periods and dates refer to the period of handover to the transportation company, the carrier or another third party engaged with the transportation.

(3) The seller can – independent of his rights arising from the delay of the buyer – request a prolongation of delivery periods and delivery dates or a shift of those by the period, in which the seller has not complied with his contractual obligations towards the buyer.

### § 8 Force Majeure

If we are hindered in complying with our commitment due to occurrence of unforeseeable circumstances that we could not prevent despite the due diligence justifiable in the single case and independent whether these circumstances incurred in our facility or at our supplier or sub-suppliers, e.g. due to force majeure, war, natural disasters, breakdowns, delays in delivery of important raw materials and building materials, strike, lockout or administrative orders, the delivery period is prolonged for the period of the disturbance as long as the delivery does not become impossible and the business fundamentals are not violated (reservation of self-supply).

If a permanent impediment is on hand that is outside of our responsibility, we are authorised to withdraw from the contract fully or in parts with regard to that part of the contract not yet performed. If, following the aforementioned events, the realisation of the contract becomes unreasonable for one of the contract parties, in particular in case of delay of material parts of the contract for more than six months, this party may withdraw from the contract.

### § 9 Shipping, Packaging, Transfer of Perils, Acceptance

(1) The shipping method (in case of shipment) and the packaging are at the dutiful discretion of the seller.

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(2) When shipping the goods upon request of the buyer, the risk of perishing and accidental deterioration of the goods is transferred to the buyer as at the date of shipment or handover of the goods to the person in charge of the transportation.

(3) The shipment is only insured by the seller upon explicit wish and cost of the buyer against theft, breakage, transportation damages, fire damages and water damages or other insurable risks. Possible custom duties, fees and taxes or other public charges are upon the buyer.

(4) Loaned packagings must be immediately resent by the buyer upon his own costs. Loss and damage of a loaned packaging is – as long as this has not yet been returned to us – at the charge of the buyer if in his responsibility. Loaned packagings may not be used for other purposes or other products. They exclusively serve the purpose of transportation of the supplied goods. Labels may not be removed.

### § 10 Warranties, Quality Defects

(1) Requirement for any warranty rights on side of the buyer is the orderly compliance with all inspection and reporting duties on his part in accordance with Sec. 377 German Commercial Code (HGB).

(2) Warranty claims become time-barred after 12 months from delivery of goods.

(3) Obvious defects or other defects that could have been identified in case of an immediate, diligent inspection (including incorrect and short deliveries), must be communicated immediately, but at the latest within 14 days after receipt of the goods. Notices of defects of any type must be made in written form under exception of fax or email.

(4) In case of quality defects of the delivered objects, the seller is obliged and authorised in a first step for rectification or replacement delivery, after choosing one of the options within an adequate period. In case of failure, i.e. the impossibility, unreasonableness, refusal or inadequate delay of the rectification or replacement delivery, the buyer may withdraw from the contract or enforce an adequate reduction of the purchase price.

### § 11 Liability for Compensations Caused by Fault

(1) The liability of the seller, independent for which legal reason, in particular for impossibility, delay, defective or false delivery, breach of contract, breach of duties in contract negotiations and unlawful act, is, as long as fault is the decisive criterion, restricted in accordance with this provision 11.

(2) The seller is not liable in case of simple negligence of its bodies, legal representatives, employees or other vicarious agents, if no breach of duties significant for the contract are on hand. Duties significant for the contract are the obligation for due supply of the delivery object, that this is free of defects of title as well as of such quality defects that affect its functionality or usability significantly as well as consultancy, protection and care duties that shall allow the buyer the use of the delivery object according to contract or the protection of life and soul of the buyer's staff or the protection of the property against significant damages.

(3) If, in accordance with Sec. 11 (2), the seller is held liable for damages on the merit, this liability is restricted to damages that were foreseen by the seller when closing the contract as possible

consequence of a breach of contract or that could have been foreseen when applying due diligence and care. Indirect damages and consequential damages following defects of the delivery object are furthermore only replaceable if these damages are typically expected in case of proper use of the delivery object.

(4) In case of liability for simple negligence, the replacement duty of the seller for quality defects and thereof resulting, further financial losses is restricted to an amount of EUR 25,000,000 per damage (in line with the respective cover of his product liability insurance or liability insurance), even if a breach of duties relevant for the contract are on hand.

(5) The aforementioned disclaimers and restrictions of liability apply to the same extent in favour of the bodies, legal representatives, employees and other vicarious agents of the seller.

(6) If the seller provides technical advice or consultancy and if this information or consultancy does not make part of the contractually agreed scope of services, this is provided free of charge and under exclusion of any liability.

(7) The restrictions of this Sec. 11 do not apply for the liability of the seller that arises from intent, for agreed characteristics, fatalities, physical injuries or damage to health or for liabilities under the product liability law.

### § 12 Reservation of Title

(1) We reserve the ownership of the sold goods until all claims towards the buyer that result from the purchase agreement and a current business relationship are met, even if the concerned goods were already paid.

(2) In case of breach of contract on part of the buyer, including delay of payment, we are authorised to take back the goods. The buyer must treat the goods carefully, care for an adequate insurance and maintain the goods where necessary.

(3) The goods that are subject to a reservation of title may neither be pledged to third parties before complete payment of the hedged claims, nor should these goods be transferred as collaterals. Enforcement measures on part of third parties concerning the goods that are subject to a reservation of

title must be immediately communicated by the customer under providing the documents

required for an intervention, this also applies for all damages of other kind. Independent thereof, the customer must inform the third parties about the existing reservation of title already in advance. The cost of an intervention of the seller is upon the customer as long as the customer is not be able to refund these costs.

(4) For the case of resale of the goods subject to the reservation of title, the customer assigns to us, already as of now, his claims towards his customers that arise from the aforementioned transactions until all our claims are satisfied. We accept this assignment.

(5) The reservation of title also refers to the products that are created when processing, mixing or connecting our goods to the respective full value, whereby we are considered as producer. If the reservation of title remains when processing, mixing or connecting our goods with those of third parties

that are also subject to a reservation of title, we acquire a co-ownership in the ratio of the invoice value of the processed, mixed or connected goods. For the rest, the same provisions apply for the arising product as for the goods delivered under the reservation of title.

(6) If the realisable value of the collaterals exceeds our claims towards the ordering party by more than 10%, we must, upon request of the ordering party and upon our own choice, release collaterals we are entitled for in an adequate amount.

### **§ 13 Applicable Law, Place of Performance and Venue**

(1) Place of performance for all commitments that arise from the contractual relationship is, as not otherwise stated, Böblingen in Germany.

(2) If the buyer is a merchant, a legal entity under public law or public-law special funds or does he not have any general venue within the Federal Republic of Germany, the venue for all possible litigations that arise from the business relationship between the buyer and the seller is, upon choice, either Böblingen, Germany or the seat of the buyer. For claims filed against the buyer, Böblingen is the only venue. Mandatory legal provisions on exclusive venues remain unaffected by this provision.

(3) The relations between the buyer and the seller are exclusively subject to the legislation of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods (CISG) from 11 April 1980 does not apply.

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