

General Terms and Conditions of Sale

1. Prices

The prices stated by the Seller are net prices. The statutory value added tax (currently 7%) is payable in addition to the net price.

Unless otherwise agreed, prices include packaging, shipping and costs of customs clearance, if any.

The Buyer shall bear the costs of the disposal of the packaging material and the unloading of the goods.

2. Reservation of price adjustment

Should the Seller's cost price increase by more than 10% between the conclusion of the sales contract and the date of delivery, the Seller shall be entitled to request an according adjustment of the sales price from the Buyer. Should the contracting parties fail to reach an agreement on the amount of the price adjustment, the Seller shall be entitled to withdraw from the sales contract.

Should after the conclusion of the sales contract a legal norm be promulgated, according to which import duties change with effect on the delivery time agreed upon and should the Seller's provable expenses change as a result of this norm, the sales price shall change by this difference. Import duties as defined by this provision shall include customs duties, levies and excise taxes.

3. Terms of payment / Delays in payment

The sales price agreed upon including the statutory value added tax (currently 7%) shall be payable fifteen (15) days after delivery to a bank account to be specified by the Seller. Should the Buyer fail to pay the sales price within the period stated above, the Buyer shall get into arrears without the Seller being obliged to send a reminder.

In such case, interest in the amount of 5 percentage points above the applicable base lending rate shall become payable beginning on the date the Buyer falls into arrears.

The deduction of an early payment discount shall not be permitted unless separately agreed upon in writing.

4. Commercial samples

Not later than upon the conclusion of the sales contract, the Seller shall make a commercial sample available to the Buyer. The Buyer undertakes to examine such commercial sample immediately at its own expense.

Unless the Buyer makes an immediate objection to the commercial sample, the quality of the commercial sample provided shall be deemed accepted and be deemed to have the quality agreed upon as defined by the sales contract.

Should the Buyer complain about the commercial sample made available to it, the Seller shall provide up to two further commercial samples to the Buyer for examination. If the Buyer also complains about these samples, both contracting parties shall be released from their obligation of performance. In such case of withdrawal, any further claims by either party shall be expressly excluded.

5. Passing of the risk

The place of performance for the Seller's obligation is the seat of the Seller's company.

6. Force majeure

The Seller shall be released from its obligation of performance if the Seller is unable to perform due to an event or circumstances beyond the Seller's control and unforeseeable to the Seller (force majeure), which occurred after the conclusion of the contract.

7. Buyer's obligations

The Buyer shall inspect the goods immediately upon delivery by the Seller and at its own expense. Should the Buyer during such inspection detect a quality of the goods which is not in conformity with the contract, the Buyer shall notify the Seller immediately of such non-conformity. Should the Buyer fail to notify the Seller in due time, the goods shall be deemed accepted unless the non-conforming quality could not be detected during proper inspection.

Should the Buyer detect a quality of the goods which is not in conformity with the contract, the Buyer shall not be permitted to remove the goods or have the goods removed from the place of inspection before the quality has been determined by an expert opinion. Should the Buyer contravene such prohibition, the goods shall be deemed accepted.

8. Warranty

Unless otherwise agreed in the General Terms and Conditions, the legal provisions of the Federal Republic of Germany shall apply to the Seller's warranty obligations.

However, the Seller's obligation to pay damages shall be limited to gross negligence and intent.

9. Self-supply reservation clause

If a self-supply reservation has been agreed upon, the Seller shall be released from its obligation to deliver or its warranty obligation in case the Seller itself is not properly supplied with goods, not supplied in due time or not supplied at all under a purchase contract concluded earlier. A purchase contract complies with this provision if, upon careful evaluation, the Seller could reasonably expect the correct, complete and in-time delivery of goods from its sub-supplier and if, at the same time, the Seller definitely and provably determined such contract to be for the resale of the goods to be delivered by the Seller. If the Seller determined a purchase contract to be for the procurement of goods to be delivered to several Buyers, the Seller shall be released from its obligations only in the proportion to which the goods delivered to the Seller itself were not correct, incomplete or failed to arrive in due time. If, at the same time, the Seller has definitely and provably determined a delivery sequence for such sales to fulfil its delivery obligations, each sale shall be considered separately.

10. Reservation of title of ownership

Open account clause/balance clause (business relations clause)

The Seller reserves the title of ownership to the goods until all of the Seller's receivables from the Buyer arising from the parties' business relations, including future receivables arising from contracts concluded at the same time or at a later point of time, have been paid in full. This shall also apply if any single or all receivables have been included in a current account and if the account has been balanced and the balance acknowledged.

Extended reservation of ownership relating to resale with assignment of future claims

The Buyer shall not be entitled to resell the goods subject to reservation of title in the ordinary course of business unless the Buyer hereby already assigns to the Seller all receivables due to the Buyer from its resale of the goods to its own customers or to third parties. If the goods subject to reservation of title are sold unprocessed or after being processed or combined with objects which are the Buyer's exclusive property, the Buyer now assigns its receivables from such resale in full to the Seller. If the goods subject to reservation of title are resold – after processing / combination – together with goods which are not the Buyer's property, the Buyer now assigns its receivables from such resale to the Seller in the amount of the value of the goods subject to reservation of title with all ancillary rights and with priority over the remaining receivables. The Seller accepts this assignment. The Buyer shall be authorised to collect the sums due also after the assignment of the receivables. This shall not affect the Seller's authorisation to collect the sums due itself; however, the Seller undertakes not to collect any sums due as long as the Buyer duly meets its financial and other obligations. The Seller may request the Buyer to disclose the receivables assigned and their debtors, to provide all information required for collection, to furnish the related documents and to notify the debtors of such assignment.

Extended reservation of the title of ownership with processing clause

The Buyer shall treat or process the goods for the Seller without any obligations arising to the latter from such treatment or processing. In case of the Buyer's treatment, combination, mixing or blending of any goods subject to reservation of title which are not the Seller's property, a pro-rata co-ownership of the new product coming into existence as a result of such treatment or processing shall be due to the Seller in proportion to the value of the goods subject to reservation of title and the other goods processed at the point of time of processing, combination, mixing or blending. Should the Buyer acquire the sole ownership of the new product, the contracting parties agree that the Buyer shall grant to the Seller co-ownership of the new product in proportion to the value of the goods subject to reservation of title which have been processed, combined, blended or mixed and that the Buyer shall keep such new products in custody for the Seller at no charge for the Seller.

Check/Bill of exchange clause

If an obligation to accept a bill of exchange is established for the Seller in connection with the Buyer's payment of the purchase price, the reservation of title and the underlying trade receivables shall not expire until such bill of exchange has been honoured by the Buyer as the drawee.

Excess security clause

If the value of the existing securities exceeds the receivables to be secured by more than 20%, the Seller shall release such excess security upon the Buyer's request.

Return of the goods subject to reservation of title

The Seller shall be entitled to request the return of any goods owned by it at any time, including but not limited to asserting its rights to separation or assignment of the claim to counter-performance in insolvency proceedings, if the settlement of the Seller's receivables by the Buyer is at risk, in particular if insolvency proceedings have been instituted against the Buyer's assets or if the Buyer's financial condition has been deteriorating considerably. The Seller's assertion of the reservation of title or attachment of the goods supplied shall not be considered as the Seller's withdrawal from the contract.

Third-party attachment of the goods subject to reservation of title

The Buyer shall notify the Seller immediately of any attachment and seizure of the goods subject to reservation of title and, in coordination with the Seller, the Buyer shall take all measures necessary to avert such jeopardy. If appropriate for the protection of the goods subject to reservation of title, the Buyer shall assign claims to the Seller upon the Seller's request. The Buyer shall be obliged to compensate the Seller for any loss and costs – including court fees and lawyer's charges – incurred by the Seller due to the Seller's intervention against third-party attachment.

11. Applicability of German law

Should one or several provisions of these General Terms and Conditions of Sale be invalid or not contain any regulation, these terms shall be supplemented by German law.

The Uniform Law on the International Sale of Goods (EKG) dated 17 July 1973, the Uniform Law on the Formation of Contracts for the International Sale of Goods (EAG) dated 17 July 1973 and the United Nations Convention on Contracts for the International Sale of Goods (CISG) dated 11 April 1980 shall not apply.

12. Place of jurisdiction

The parties agree that the seat of the Seller's company shall be the place of jurisdiction.