

1. SCOPE

Sales of our goods and other services will be subject solely to the following terms and conditions of sale; this will also be the case if we have not objected in a given case to any conflicting terms and conditions of purchase of the customer, which we hereby expressly reject. The terms and conditions of sale will be deemed to have been accepted without reservation by the customer at the latest upon receipt of our goods or other services, even if the customer has previously objected to them. Any deviations from the terms and conditions of sale require our express prior consent in writing for each individual contract in order to become effective.

2. QUOTES

Our quotes are without obligation.

3. PRICES

When calculating the price, the price which is valid on the day of the delivery or service plus the applicable statutory VAT is relevant, unless an alternative price agreement has been agreed. Unless otherwise agreed, prices for goods delivered are quoted ex-works.

4. SHIPMENT AND TRANSFER OF RISK

Shipment will always be at the risk and, unless otherwise agreed, at the cost of the customer. The risk passes to the customer upon handover of the goods to the transport company, and at the latest upon leaving our plant or warehouse or, in the case of deliveries direct from our supplier to the customer, upon leaving the plant or warehouse of our supplier; this is also the case with carriage-paid, FOB and CIF business. The customer must inspect the goods immediately upon delivery for completeness and visible damage and notify us of any losses or damage without undue delay.

5. DELIVERY

The delivery will be made in a timely manner as soon the goods have left our plant or warehouse or the plant or warehouse of our supplier as per the agreement. We reserve the right to make over-deliveries or under-deliveries of up to and including 10%.

Circumstances or events for which we are not responsible and which make the delivery impossible or unreasonably difficult, e.g. traffic and operational disruptions, raw materials or energy shortages, strikes or lockouts, release us, including if they occur at our supplier, for the duration of the disruption and a reasonable lead time from the obligation to deliver. If it is likely that the disruption will not end within a reasonable period of time, we will have the right to withdraw in full or in part from the contract, without any obligation to make subsequent deliveries. The customer has the right to prove that the damages should be lower.

6. PAYMENTS

The invoice amounts are payable within 30 days of the invoice date without any deduction; if payment is made within 14 days of the invoice date we grant a 2% early payment discount. For a payment to be deemed to have been made on time, the date upon which the amount has been received and is available to us without reservation is relevant. We only accept cheques as conditional payment.

If the payment deadline is missed or if full payment has not been made on time, the customer will be in default without requiring a reminder. If the customer is in default of payment, we will have the right to demand immediate payment of all of its outstanding accounts and/or security before delivery, to withhold outstanding deliveries relating to this or other contracts in full or in part, or to withdraw from the existing contracts.

The customer may only offset against receivables that are undisputed and established in law and only exercise a right of retention as a result of such claims which are based on the same contractual relationship.

7. TITLE

The goods that have been delivered will remain our property until full payment of the purchase price and all existing or future receivables owed as a result of the business relationship with the customer.

The customer has the right to sell the goods which are the subject of retention of title in the ordinary course of business, as long as it meets its contractual obligations towards us. The customer is not allowed to pledge or assign the goods as security; the customer must inform us immediately of any infringement of our ownership rights by a third party. If the customer does not meet its contractual obligations towards us, we will have the right to demand the return of the goods that are subject to retention of title; in this respect the customer has no right of ownership.

The customer assigns to us at the time of the purchase of the goods that are subject to retention of title the receivables owed by its customers from their resale including all ancillary rights. It retains the right to collect the receivables assigned to us until this right is revoked. The customer must inform us if requested to do so of the amount of its receivables and the names of the third-party debtors.

If the goods that are subject to retention of title are processed, we will be deemed the producer and acquire ownership of the new item; the customer will not derive any rights from this transfer of title. If the goods are processed with other materials, we will acquire joint title to the item that is produced in the proportion of the gross invoice value of the goods that are subject to retention of title to the other materials. If the goods subject to reservation of title are the main ingredient in a mixture, composition or blend, the joint title to the new product will pass to us in the gross invoice value of the goods that are subject to retention of title.

8. INFORMATION AND ADVICE

All information that is provided verbally and in writing concerning the application and possible uses of our goods will be provided in accordance with our data sheets. The information provided does not constitute grounds for any claims against us. The customer is in particular not discharged from its duty to satisfy itself with its own checks that the goods are suitable for the purpose intended.

9. WARRANTY

Complaints due to visible defects, wrong delivery or significant deviations in quantity must be made to us in writing no later than 14 days after delivery of the goods. Concealed defects must be reported in writing as soon as they are discovered, but no later than 12 months after the delivery of the goods. If the customer does not provide notification of any defects within this period, the goods will be deemed to have been approved and free of defects.

In the event of a justified complaint, the customer will have the right, at our discretion, to rectification free of charge or, if the goods are returned, to a replacement delivery. Shortfalls will be delivered later. If the rectification or replacement delivery does not take place by a reasonable deadline, the customer may demand that the purchase price is reduced or if necessary cancel the contract. Furthermore, there is no right to make a claim for defects in the event of natural wear and tear, incorrect installation, overloading or exposure to environmental influences that are inappropriate for the material.

Claims due to the absence of promised qualities may only be made if, in the given case, a certain quality has been expressly promised in writing by our Sales Department. We will not be liable for minor deviations in material quality, mixture of materials, toughness, colour, surface, smoothness, purity and the like or for minor errors in quantity and selection. Liability will be determined as provided for by law. We only assume liability for consequential damage if and to the extent this was included in our warranty declaration.

10. COMPENSATION

Claims for compensation for secondary obligations which, for whatever legal reason, might directly or indirectly result from the order, delivery or use of our goods are excluded, unless we or our vicarious agents have caused the damage due to their gross negligence or malicious intent. If the damage has been caused due to gross negligence, the customer's claim for compensation will be limited to reimbursement for the foreseeable damage.

11. PLACE OF FULFILMENT

The place of fulfilment for all performance relating to the delivery contract is the location of the seller's branch.

The place of jurisdiction (including for legal action relating to bills of exchange and cheques) is Arnsherg.

12. FINAL PROVISION

If individual provisions in this contract are ineffective in law, this will not affect the binding force of the remainder of the contract.

We would point out that we process customer data concerning the business relationship with the customer in accordance with the German Data Protection Act (Bundesdatenschutzgesetz).