

GENERAL TERMS AND CONDITIONS OF SALES

1. **General**
 - 1.1. Our supplies and deliveries shall be effected solely on the basis of the following General Terms and Conditions. These General Terms and Conditions shall apply to all future business transactions between the parties and no further reference to these General Terms and Conditions shall be required. They shall also apply if we do not expressly refer to them in future contracts, in particular, in situations in which we make deliveries or render services to customers without reservation while being aware of contrary or deviating conditions. We do not agree to any conflicting or deviating general conditions of the Buyer; we hereby expressly object to any general conditions of the Buyer.
 - 1.2. All agreements, side agreements, and amendments shall be in written form. This shall also apply to any waiver of the requirement to observe the written form.
 - 1.3. The invalidity of any provision of these General Terms and Conditions or any part thereof shall not affect the validity of the remaining provisions or the validity of the contract.
2. **Information and Consultation**

The provision of information and consultation services regarding our products is based on our past experiences. Any specifications indicated in this context were determined on an average basis. Our provision of information and consultation services does not render dispensable suitability tests of the delivered goods and the compliance with processing requirements. Oral information shall not be binding.
3. **Offers, Specimen and Samples, Contract Formation, Condition of the Goods**
 - 3.1. Our offers to customers are non-binding and shall be perceived as an invitation to the customer to make a purchase offer to us. A contract shall not be formed until we confirm the purchase order or other order of the customer in written or electronic form or if we deliver the goods.
 - 3.2. Samples and specimen are non-binding samples for your visual appraisal. In case of a purchase after having obtained a sample and/or specimen, we reserve the right to deliver goods with deviations, which are customary in the industry or in range within the regular production of the goods. A delivery of samples or specimen shall not constitute a warranty with regard to the condition or the durability of the goods, unless the order confirmation expressly provides otherwise.
 - 3.3. Unless agreed otherwise in writing, the condition of the delivered goods and its possible uses are exhaustively specified in our catalogues, brochures and other publications in writing or in images (e.g., descriptions, illustrations or drawings). Our specifications shall not constitute a warranty with regard to the condition or the durability of the goods and reflect our current status of knowledge. We do not warrant that the goods are suitable for a particular use. We also do not assume any warranty with respect to the condition or the durability of the goods (German Civil Code Sec. 443; hereinafter BGB) unless expressly stipulated otherwise. This shall apply especially to untreated and unrefined natural products.
4. **Prices**
 - 4.1. The prices agreed on at the time of contract formation shall apply, in particular the prices specified in the order form or the order confirmation. In case a price is not expressly determined, the valid prices of our price list at the time of contract formation shall apply. Our prices shall be ex-works including loading in the plant but excluding packaging, freight, transport, insurance and customs duties, unless otherwise provided in the order confirmation. All of our prices, rental fees and other charges do not include VAT which is invoiced in addition in the respective statutory amount.
 - 4.2. Our determined weights shall be decisive for the calculation of the purchase price.
 - 4.3. The statutory rights of withdrawal of the Buyer and the Seller shall remain unaffected.
5. **Payment, Due Date, Right of Retention**
 - 5.1. Payments shall not be considered as effected before the respective amount is at our disposal. Checks shall only be accepted on account of performance (*erfüllungshalber*) and under exclusion of the obligation of timely presentation and protest. In case of checks, any payment shall not be considered effected before the unreserved clearing of the checks. We do not accept bills of exchange.
 - 5.2. The purchase price shall be due and payable (without deduction) within 14 days of the date of the invoice, unless provided otherwise in the order confirmation. The statutory provisions of the Federal Republic of Germany shall govern the legal consequences of default of payment.
 - 5.3. Buyer shall only be entitled to a right to set-off or to a right of retention if his claims have been finally established and are non-appealable, or are due for adjudication (*entscheidungsreif*), or are uncontested or acknowledged by us. In addition, Buyer shall only be entitled to use his right of retention if his claim is based on the same contract as our claim.
 - 5.4. We shall be entitled to credit payments of the Buyer to the oldest claim irrespective of Buyer's differing payment instruction.
 - 5.5. We shall also be entitled to raise the defence of uncertainty according to Sec. 321 BGB if a trade credit insurer (*Warenkreditversicherer*) reduces the granted line of credit for transactions with the Buyer by at least 50 %.
 - 5.6. All of our claims, including deferred claims, shall fall due immediately if the Buyer is in default with the fulfilment of other obligations after the conclusion of the contract, Buyer is overindebted, insolvency proceedings are initiated, the opening of insolvency proceedings is rejected due to the insufficiency of assets or we become aware of other circumstances which might cause a significant reduction of the creditworthiness of the Buyer. In the above mentioned cases, we shall be entitled to request prepayment or the provision of security for further deliveries, to claim damages after the expiry of an appropriate grace period or to withdraw from the contract.
6. **Delivery, Time of Delivery and Performance**
 - 6.1. We reserve the right to choose the place of delivery; deliveries shall be conducted according to our delivery capacities.
 - 6.2. Agreed terms of delivery shall only be considered as an approximate estimate, unless it was expressly agreed on a sale with an absolutely fixed date in writing. Especially stipulated delivery terms shall start to run as of the dispatch of our order confirmation. The delivery date is met if the goods leave our plant or warehouse or we indicate the readiness to ship the goods on or before the stipulated delivery date or within the agreed term.
 - 6.3. Compliance with our delivery and performance obligations requires the timely and duly fulfilment of the customer's obligations. If an advance payment is stipulated or our performance requires the provision of documents, approvals or clearances by the customer, the delivery term shall not start to run until the aforementioned requirements are fulfilled. We reserve the right to raise the defence of unperformed contract.
- 6.4. if we still do not deliver on time due to reasons attributed to us, the customer may upon the expiry of an appropriate grace period withdraw from the contract by written notice.
- 6.5. An untimely or wrong delivery by our suppliers shall not be attributable to us. In that case, we will notify the Buyer of the unavailability of the goods without undue delay and refund the respective payments/performance. We shall be entitled to make partial deliveries unless they would be unreasonable for the Buyer. Partial deliveries may be invoiced separately.
- 6.6. In the event of force majeure or other unforeseeable extraordinary circumstances not attributable to us, such as downtime due to fire, flood or similar factors, malfunctioning of production equipment or machines, failure on the part of our suppliers to fulfil delivery dates or to deliver at all, or interruptions in production due to lack of raw materials, adequate power supply or available staff, strike, lockout, difficulties in ensuring transportation, traffic congestion, or action by official bodies, we shall be entitled to delay delivery or fulfilment of the agreement for the duration of such circumstances, plus an adequate recovery period, if such circumstances prevent us, through no fault of our own, from fulfilling our obligations. If the delivery or performance is thereby delayed by more than one month, both the customer and we shall be entitled to withdraw from the contract with regard to the delivery quantities or performances affected by the delay under exclusion of any claims for compensation of damages.
7. **Transfer of Risk and Shipment**
 - 7.1. Delivery terms are ex-works, unless otherwise agreed. Having been made available for dispatch, the risk of accidental loss or deterioration of the items being supplied shall pass to the customer once the customer has been notified of the availability for collection or shipment. Apart from that, the risk of accidental loss or deterioration of the items being supplied shall pass to the customer at the moment of handover to the carrier. The risk of accidental loss or deterioration of the items being supplied shall likewise pass to the customer in case of partial deliveries, or if we, as an exception, have agreed to assume further obligations, such as bearing costs for shipment, travel and installation. If shipment is delayed for reasons attributable to the customer, the risk shall pass to the customer once we have notified the customer that the goods are ready for shipment. On request of the customer the goods can be insured at his costs against theft, breakage, fire, and water damages as well as against other insurable risks.
 - 7.2. If the goods are shipped to a place other than the place of performance at request of the Buyer, he shall bear all costs arising from his request unless otherwise agreed. We shall have the right to choose the transport route and the carrier company without warranting the choice of lowest price shipment, full exploitation of the available cargo weight and requested carriage or container size.
We shall comply with any request of the Buyer as far as possible provided that the costs are borne by the Buyer. The goods shall only be insured against transport damages or losses or breakage at the express request and on account of the Buyer. The Buyer shall report any transport damages specifying nature and scope in writing immediately after the receipt of the goods.
 - 7.3. All shipments, carriages, barrels and other wrapping and packaging materials are transported at Buyer's risk, regardless of whether the freight costs and other transport expenses are borne or advanced by us due to an agreement or not. The risk is transferred to the Buyer at the time of the handover of the goods to the carrier or when the goods leave our delivery place for shipment. In case of shipments of the Buyer to us, the risk is transferred at the time of the handover at our respective delivery place.
 - 7.4. Inland waterway: The order (*Abruf*) and the delivery date (*Vorlagetermin*) of vessels shall be jointly agreed on between the Buyer or an authorized representative and us according to common practice. We shall provide for the timely delivery to the loading station. We reserve the right to claim freight advantages which arise due to reductions of loading time. The Buyer shall be liable for all consequences such as demurrage for carriages (*Wagenstandsgelder*), additional demurrages (*Überliegegelder*) for canal and Rhine-vessels etc. if the inland vessel is not ready to load on the day requested by the Buyer or his authorized representative, or due to lack of storage room or other reasons a part of the ordered quantities must be left behind.
 - 7.5. Sea route: The provision of sea storage capacities shall be jointly agreed on between the Buyer or his authorized representative and us or our authorized representative. In case the agreed date for the presentation of shipping documents (*Vorlagefrist*) is not met, we reserve the right to withdraw from the stem-agreement. The exact day of the readiness to load and the exact loading amount (*stem-Abruf*) shall be communicated to us or to our authorized representative in writing during our office hours; the term of notice (*Notizfrist*) for Benelux-harbours/GNS is ten full working days prior to the first day of loading unless otherwise agreed. The Buyer shall report any changes of the position of the vessel as of the time of the stem-confirmation to us which could affect the originally envisaged readiness for loading. We shall provide for the timely delivery to the harbour. The loading of the vessels and the trimming will be conducted by our authorized representatives. The trimming costs with the exception of coal deliveries through Beneluxharbours in self-trimming open bulkcarrier shall be borne by the owner of the vessel and be calculated according to customary local rates.
The time of loading and the demurrage shall be calculated according customary local conditions depending on the size of the vessel at the time of loading. In addition, the applicable terms and conditions for handling and stowage of the port of lading shall apply. We shall not be responsible for any results and causes outside our sphere of influence including the consequences which hinder or affect the timely shipment or delivery to the board of the vessel. To this regard, claims cannot be asserted against us. If the charta conditions of the vessel do not correspond to these delivery and payment conditions, the Buyer shall be responsible for all risks resulting from this fact.
 - 7.6. The Buyer shall bear all consequential costs such as, but not limited to, storage costs, transport (*Umfuhr*), carriage demurrage (*Wagenstandsgelder*), demurrage for inland vessels if the vessel nominated by the Buyer is not ready for loading within the agreed laydays at the nominated place of performance or if a part of the ordered goods must be left behind due to a lack of storage capacity or other reasons not attributable to us.
 - 7.7. In case the shipment of the goods is delayed for reasons attributable to the Buyer or the Buyer has to provide for the transport of the goods, the risk shall be transferred to the Buyer at the time of notice of readiness for dispatch. Any storage costs arising after the transfer of risk shall be borne by the Buyer. If the goods are stored at our place of delivery, the storage costs amount to 0.5 % of the invoiced purchase price per month. We reserve the right to demonstrate and claim higher storage costs. After the expiry of an appropriate grace period, we shall be entitled to dispose of the goods otherwise and deliver other goods to the Buyer within an appropriate extended period.
 - 7.8. The Incoterms® 2010 shall apply to cases in which the delivery was agreed according to Incoterms®.

- 8. Returnable Packaging, Means of Transportation, Equipment for the Protection of Cargo, Pallets etc.**
- 8.1. Means of transportation and shipment containers of the Buyer shall be delivered timely and free of charge in a clean and "ready to load" condition to one of our determined delivery places accompanied by a respective notice to us. We shall not be obliged to examine, clean and repair such; however, we shall be entitled to do so at Buyer's expense.
- 8.2. The Buyer shall empty all rented or leased returnable packaging and return it free of charge in a clean and undamaged condition indicating the original marks and numbers to our respective place of delivery. Any necessary cleaning costs shall be borne by the Buyer. Return freight costs shall be borne by the Buyer.
- 9. Retention of Title**
- 9.1. We shall retain full title to the delivered goods until the Buyer has paid the purchase price in full and satisfied all other current and future claims arising from the business relationship with the Buyer. The retention of title shall remain unaffected if our claim for payment of the purchase price is added to a current account and the balance is acknowledged.
- 9.2. The Buyer shall not pledge or transfer our goods as security. However, he shall be entitled to resell the goods in the ordinary course of business according to the following provisions. The Buyer shall not be entitled to resell the goods if he assigns or pledges his claim arising from the resale of the goods against his contractual partner in advance to a third party or agrees to a non-assignment clause.
- 9.3. The Buyer assigns with immediate effect all claims, also future and conditional claims, resulting from the resale of our delivered goods with all supplementary rights in the amount of the value of the delivered goods outranking the remaining parts of his claims in order to secure the fulfillment of all our claims referred to in No. 9.1 to us. We hereby accept this assignment.
- 9.4. The Buyer shall be entitled to collect the claims assigned to us from his customers in the ordinary course of business as long as he meets his payment obligations towards us. However, he shall not be entitled to enter into a current account arrangement with regard to these claims, to agree to a non-assignment clause or to an assignment to third parties or to pledge the claims. In case of the existence of a current account arrangement contrary to sentence 2 between the Buyer and the purchaser of our goods subject to retention of title, the assigned claim shall comprise any acknowledged balance and in case of insolvency of the purchaser, the respective balance existing at that time shall be included as well.
- 9.5. The Buyer shall account for each claim assigned to us at our request and notify his debtors of the assignment demanding payment to us until all of our claims against the Buyer are satisfied. We shall be entitled to notify Buyer's debtors of the assignment and collect our claims at any time. However, we will not make use of this authorization as long as the Buyer (alternatively) duly meets his payment obligations without default, an application for the opening of insolvency proceedings against the Buyer is not filed, and the Buyer continues to make his payments. If one of the aforementioned cases occurs, we may request that the Buyer discloses the assigned claims and the debtors and provides all necessary information and pertinent documents for the collection of the claims.
- 9.6. In case of seizures or other interventions by third parties, the Buyer shall notify us in writing without undue delay so that we can file a complaint according to Sec. 771 German Code Civil Procedure (ZPO).
- 9.7. We agree to release the securities due to us at Buyer's request as far as the realisable value of our securities exceeds our claims against the Buyer by more than 10 %; we shall have the right to choose the securities to be released.
- 9.8. If the Buyer is in breach of contract, in particular if he is in default of payment with more than 10 % of the invoiced amount for a not insignificant period of time, we shall be entitled – without waiving other claims for damages – to withdraw from the contract and demand return of the delivered goods. After the return of the delivered goods, we shall be entitled to resell the goods. The proceeds of the sale shall be credited towards the existing liabilities of the Buyer with deduction of reasonable sales costs.
- 10. Buyer's Claims in Case of Defect**
- 10.1. The Buyer shall only be entitled to bring claims for defects as to quality (warranty claims) if he has duly fulfilled his inspection and notification obligations according to 377 German Commercial Code (HGB). The Buyer shall inspect the delivered goods – even if samples or specimen were provided in advance – upon receipt with regard to completeness and defects without undue delay. The delivery is deemed to be approved if we do not receive a notice of defect in writing, by telex or by fax without undue delay, however, not later than three workdays after receipt of the goods at its final destination, or, if the defect was not recognizable in spite of a proper inspection, within three workdays after its discovery. This shall apply accordingly to excess deliveries. If an excess delivery is not objected to within three work days from the time of its receipt at its final destination, it shall be deemed as approved. Our sales force and field staff is not authorized to receive notices of defects or notices of excess deliveries.
- 10.2. If the Buyer objects to certain quantities of goods, he shall not use or alter the concerned goods before we completed a proper examination. We will only accept a sample as decisive for submission to testing authorities if it was taken in the presence of one of our authorized representatives.
- 10.3. If the buyer accepts defective goods even though he is aware of its defects, he shall be only entitled to assert claims and rights with regard to defects if he expressly reserved those claims and rights at the time of acceptance.
- 10.4. In case of a justified notice of defects, the Buyer initially shall only have a right to supplementary performance (*Nacherfüllung*) which will be rendered by delivery of goods free of defects. If supplementary performance has failed or is unreasonable for the Buyer or dispensable due to our final rejection or it cannot be effected timely in cases in which the interest of the Buyer to receive the goods is connected to the timeliness of the delivery or in case of extraordinary circumstances which justify an immediate withdrawal after an evaluation of both parties' interests, the Buyer shall have the right to reduce the price or withdraw from the contract and claim damages according to No. 11.
- 10.5. The provision under No. 10.4 shall not apply to cases of Buyer's recourse against us according to Sec. 478 BGB. If a customer of the Buyer claims recourse against the Buyer due to defects of newly manufactured goods, the Buyer shall notify us without undue delay. The Buyer shall impose the same obligation on his customers if they are an entrepreneur. We reserve the right to fulfil any claims of the customers against the Buyer. In that case, the fulfilment of the claims of the customers shall be deemed as the fulfilment of the claims of the Buyer against us.
- 10.6. Any costs arising in connection with the supplementary performance, in particular costs for transport, tolls, labour and material are borne by us. This shall not apply if the costs increase due to the fact that the goods were brought to a different place as the place of residence or business of the Buyer unless it is in accordance with the designated use of the goods. Any costs arising in connection with visual inspections due to notices of defects, such as travel costs, demurrages (*Wagenstandsgelder*), examinations etc., shall be borne by the losing party.
- 11. Liability**
- 11.1. We shall only be liable for damages or unnecessary expenses – for whatever legal ground – if the damages or the unnecessary expenses
- a) were caused by us or one of our vicarious agents through a culpable breach of an obligation, the fulfilment of which is essential for the carrying out of the contract and which the customer would ordinarily be entitled to depend upon (material contractual obligation), or
- b) can be attributed to gross negligence or wilful infringement of a contractual obligation on our part or our vicarious agents.
- 11.2. Notwithstanding of Sec. 11.1 a), we shall be liable for damages or unnecessary expenses that arise from providing consultation services and/or information that is not to be billed separately only in the event of wilful or gross negligent infringement of a contractual obligation, insofar as such an infringement does not constitute a defect as to quality with respect to the delivered goods according to Sec. 434 BGB.
- 11.3. If we are liable according to Sec. 11.1 a) for the infringement of a material contractual obligation without acting with gross negligence or wilfully, our liability shall be limited to the foreseeable damage typical in such situation. In this case, we shall neither be liable for any lost profits of the Buyer nor for non-foreseeable, indirect, or consequential damages, in particular consequential damages to assets of the Buyer are excluded. The above limitation of liability according to sentence 1 and 2 shall apply mutatis mutandis to claims arising from gross negligent or wilful conduct of our employees or authorized representatives, insofar as such persons are not members of our board of directors or management staff.
- 11.4. The above limitations of liability (Sec. 11.1 to Sec. 11.3) shall not apply if the liability in question is arising under the provisions of the Product Liability Act (*Produkthaftungsgesetz*), or if claims are brought against us for the injury of life, limb or health.
- 11.5. In the event of goods delivered by us not possessing a guaranteed characteristic or feature, we shall only be liable for losses directly resulting from the failure to supply this specific characteristic or feature.
- 11.6. Any liability in excess of the liability stipulated in the aforementioned provisions of Sec. 11.1 through 11.5 is hereby expressly excluded, irrespective of the legal nature of the asserted claim.
- 11.7. As far as our liability is excluded or limited according to Sec. 11.1 to 11.6, this limitation of liability shall also apply with regard to the personal liability of our employees, labourers, co-workers, representatives and vicarious agents.
- 12. Limitation of Actions**
- 12.1. Claims of the Buyer relating to defects of delivered goods or to a breach of obligations including claims for damages and unnecessary expenses, are subject to a limitation period of one year unless otherwise stipulated in Sec. 12.2 and Sec. 12.3.
- 12.2. If we have provided consulting services and/or information to be billed for separately constituting a breach of duty without delivering products in connection with the information or consulting services or the consulting services or information in breach of duty did not give rise to a defect as to quality of the delivered goods / goods to be delivered according to Sec. 434 BGB, any claims of the Buyer against us shall be subject to a limitation period of one year running from the commencement date of the statutory limitation period. Claims of the Buyer against us arising from breach of contract, breach of precontractual or statutory obligations which do not constitute a defect as to quality of the delivered goods to be delivered, shall be subject to a limitation period of one year, running from the commencement date of the statutory limitation period. As far as the afore-mentioned breaches of contract constitute a defect as to quality according to Sec. 434 BGB arising in connection with the provision of consulting services or information of the delivered goods, the respective claims shall be subject to a limitation period according to Sec. 12.1 and Sec. 12.3.
- 12.3. The provisions of Sec. 12.1 and Sec. 12.2 do not apply to limitation periods of claims arising from injury to life, limb or health, nor do they apply to claims brought under the German Product Liability Act (*Produkthaftungsgesetz*) nor to claims arising from a defective title of the goods delivered by us, which invoke a third parties right *in rem* and would result in that third party's claim to have the delivered goods handed over to him. They furthermore do not apply to the limitation period of the Buyer's claim relating to a fraudulent concealment of defects in the delivered products or the wilful or gross negligent breach of an obligation. The limitation period according Sec. 438 para. 1 No. 2 BGB (defects of buildings or construction materials) and the limitation period in case of a supplier's recourse according to Sec. 478, 479 BGB shall likewise remain unaffected by No. 1 and 2. This shall also apply if the Buyer is a consumer (Sec. 13 BGB). In these cases the statutory limitation periods shall apply.
- 13. Place of Performance, Jurisdiction, Applicable Law**
- 13.1. Our respective delivery place shall be the place of performance for deliveries and performances of both parties irrespective of the method of pricing with the exception of Buyer's payments; the place of performance for payments of the Buyer shall be our accounting office.
- 13.2. The exclusive place of jurisdiction for all disputes with merchants shall be Essen, Germany. However, we shall also be entitled to file a complaint at the statutory place of jurisdiction of the Buyer.
- 13.3. All legal relationships between us and the Buyer shall be governed by substantive German law in the way it applies to two German merchants; the provisions of the United Nation's Convention on Contracts for the International Sale of Goods and the provisions of international private law shall be excluded.
- 13.4. Any personal data accrued in the course of our business relationship will be saved.
- 13.5. The Buyer shall be responsible for the compliance with the governing tax and custom provisions applicable to him. He shall indemnify us from all disadvantages which arise due to the violation of statutory provisions.
- 13.6. Should any provision be or become invalid, the validity of the remaining provision shall not be affected thereby.

Date: November 1, 2018