

§ 1. General, Scope of Application

- 1) Buyer's General Conditions of Purchase shall apply exclusively; Seller's conflicting terms or terms deviating from the present General Conditions of Purchase shall not be applicable unless Buyer has expressly agreed to their application in writing. The present General Conditions of Purchase shall also apply if Buyer pays the delivery without reservations and is aware of conflicting terms or terms deviating from the present General Conditions of Seller.
- 2) The present General Conditions of Purchase shall apply for all future contracts concluded with Seller unless such future contract is concluded on the basis of new General Conditions of Purchase.
- 3) The General Conditions of Purchase shall only be applicable in dealings with companies, legal entities under public law or special asset funds under public law within the meaning of Section 14 BGB (*German Civil Code*) and Section 310 Para 1 BGB.

§ 2. Terms of Delivery and Payment

- 1) Unless expressly agreed otherwise or if the present General Conditions of Purchase contain deviating provisions, the Incoterms of the International Chamber of Commerce in their latest version shall be applicable for all deliveries.
- 2) If insolvency proceedings are instituted against Seller or if Buyer learns of circumstances giving rise to serious doubts regarding the solvency or creditworthiness of Seller or his ability to dutifully perform the contract, Buyer may – without prejudice to other rights or remedies – withdraw, wholly or in part, from all existing contracts with Seller whatever their kind or nature. Instead, Buyer may, at his discretion, delay the performance of such contracts or make his payments conditional on advance delivery or on the provision of adequate securities by Seller. Buyer shall further be entitled to declare all his receivables under the existing business relationship due for immediate payment.
- 3) Seller guarantees that the goods delivered comply with the contractual specifications and requirements, that they are free from harmful, hazardous or toxic substances or radiation, and that they comply with relevant environmental regulations, requirements and standards.
- 4) Buyer is entitled to request Seller to take back any and all packaging materials for the supplied goods free of charge.
- 5) The agreed purchase price shall be binding. A retroactive price increase without separate agreement shall be excluded.
- 6) Seller shall not be entitled to partial performances unless an agreement to the contrary was made.

§ 3. Notification of Defective Quantity, Quality and Incorrect Delivery

Notifications of defective quantity, quality and incorrect delivery are deemed to have been asserted in due time if they have been presented to Seller within ten days after arrival of the goods at the place of unloading or within ten days after arrival of the goods in the processing factory. In the case of hidden defects, notification must be presented within ten days after their discovery. Notification of defect does not require submittal in a specific form.

§ 4. Liability of Buyer

- 1) Buyer shall be liable according to statutory provisions if Seller claim damages based on intent or gross negligence, including intent or gross negligence by representatives or vicarious agents.
- 2) Liability on the grounds of culpable injury to life, limb or health shall remain unaffected; this shall also apply for legally compelling liability regulations under the German Product Liability Act.
- 3) Unless provided otherwise herein above, any other liability shall be excluded. Recourse to officers, employees or other auxiliary staff of Buyer is not possible.

§ 5. Governmental Approvals and Permits

Seller undertakes to obtain all governmental approvals, licenses or permits which are required or purposeful for export or any other performance of the contract, and to maintain such licenses and approvals.

§ 6. Acts of God, Force Majeure

- 1) The Contractual Parties shall not be liable for noncompliance with their obligations if such noncompliance is caused by circumstances beyond their control or in particular caused by one of the following reasons: fire, natural disasters, war, seizure, export ban, blockades, embargo or other official measures, general shortage of materials, restrictions in the use of power, strike, industrial disputes, lack or shortage of means of transport or if a breach of contract of subcontractors is based on one of these reasons. The impediment and its elimination shall be promptly notified to the other contractual party.
- 2) Should Seller invoke force majeure regarding such volumes for which Buyer has already booked means of transport or storage capacities, Seller shall be obligated to reimburse to Buyer the resulting costs, like for example dead freight or cancellation costs.
- 3) Each party may cancel the contract by written notice in the event that its performance is impeded for a period of more than six (6) months pursuant to Section 6 Para 1.

§ 7. Place of Jurisdiction, Applicable Law

- 1) Solely the laws of the Federal Republic of Germany to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall be applicable.
- 2) If the Seller is a merchant, a legal entity under public law or a special asset fund under public law, the place of jurisdiction for all claims under this business relationship shall be Buyer's registered office.
- 3) Unless provided otherwise in individual contracts or in the present General Conditions of Purchase, the place of performance for contractual claims under this business relationship shall be Buyer's registered office.
- 4) In case of disputes arising from this business relationship these may be resolved before the courts. Arbitration proceedings are not provided for.

§ 8. Miscellaneous

- 1) Should individual provisions of the present General Conditions of Purchase be ineffective, the effectiveness of the other conditions shall remain unaffected. The contractual parties undertake to replace ineffective provisions by effective provisions reflecting as closely as possible the original intention.
- 2) Amendments and supplements to the contract shall be made out in writing. This provision shall also apply for the revocation of the requirement of the written form.
- 3) Notifications related to the contract may be submitted informally unless a stricter form has been agreed or is required by law.
- 4) Seller is not entitled to transfer rights or obligations under the contract, wholly or in part, to third parties without a prior written consent from Buyer.
- 5) In the case of an agreed retention of title, Buyer shall be entitled to resell the delivered goods in the ordinary course of business, to process, convert or mix and combine them with third-party products.