

General Conditions of Sale
(Issued: March 2002)

1. Our following terms and conditions of sale apply exclusively. Any divergent conditions stipulated by the customer are only effective if they have been confirmed by us in writing. Our conditions of sale also apply if we deliver the goods to the Customer without reservation even if we are aware of conditions stipulated by the Customer which contradict our own conditions of sale or deviate from them.
2. Our offers are always subject to confirmation as regards the price, the quantity, the delivery time and the delivery facilities. Where orders are placed on the basis of a square or cubic measure, we will calculate the amount of material required without obligation. We do not accept any responsibility for increased or decreased requirements.
3. Any agreements made between us and the Customer for the purpose of the fulfilment of this contract must be set out in this contract in writing. Any agreements, telephone orders or understandings, especially as regards our expert advisers and sales staff, are only binding on us if we have confirmed them in writing. Declarations to which representative authority applies in accordance with statutory provisions or the principles of apparent or ostensible authority remain unaffected.

Claims brought by the Customer and arising from the agreements concluded with us are not transferable.

4. Unless otherwise agreed, our prices are quoted "ex works", excluding packaging, which is charged separately.

We reserve the right to alter the prices where contracts have an agreed term of over six weeks. If the wages, material costs or other cost factors subsequently change before delivery is completed, we are entitled to adjust the price in line with the changes in costs. The Customer is only entitled to withdraw from the contract if the price increase exceeds the rise in the general cost of living between placement of the order and delivery of the goods by more than a negligible amount. At the Customer's request we will provide evidence of the changes in costs. In the case of open-end contracts the Customer's right to withdraw from the contract is restricted to that part of the delivery that is affected by the price increase.

5. Unless otherwise agreed, the transport risk is carried by the Customer, irrespective of which party meets the freight charges. Special requests by the Customer relating to the mode of dispatch or any insurance must be submitted to us in writing and in good time and will be taken into account where possible. The costs incurred as a result are to be paid by the Customer. Unless special arrangements have been agreed for dispatch, we will choose what we consider to be the most appropriate mode of dispatch.
6. Cases of force majeure (insurrection, traffic embargoes, weather conditions) as well as any kind of event that affects the price and operating conditions and which is beyond our control, entitle us to withdraw from the contract as a whole or in part without the Customer being entitled to any claims of compensation against us. Stoppages of any kind that delay or render impossible the production sequence, release us from compliance with the delivery period for the period of impediment caused by this event.
7. All goods supplied remain our property (reserved goods) until all our claims against the Customer have been satisfied in full. When accepting cheques and bills of exchange the reservation of title does not expire until they have been honoured. Until that time the Customer is not entitled to pawn or pledge the goods as security to third parties. The Customer is required to inform us immediately if our title is impaired by a third party as a result of the goods being pledged or in some other way. The costs of intervention against third parties are to be met by the Customer. If the Customer disposes of the reserved goods, any claims for payment against the second purchaser arising from the resale of the reserved goods are herewith assigned to us in advance. We accept this assignment. The assignment applies to the level of the total debts payable by the Customer to us. We may demand that the Customer informs his purchasers of this and notifies us of the debtors for the assigned claim. The Customer receives the proceeds merely as our trustee. The right to resell, use or process the reserved goods and the authorisation to collect the assigned claims expires in the event of the Customer's insolvency, commencement of bankruptcy proceedings or composition proceedings. The authority to collect also expires in the event of a protest of a cheque or bill of exchange. Where the Customer acts in breach of the contract and is in culpable breach of important contractual obligations, we are entitled to take back the reserved goods if the preconditions for withdrawal from the contract have been met. Taking back of the reserved goods by us constitutes a withdrawal from the contract.
8. The processing or application by the Customer of goods supplied by us is always carried out on our behalf. If the reserved goods are processed or inseparably mixed with other items not belonging to us, we acquire co-ownership of the new items in the proportion of the value of the reserved goods to the other processed or mixed items at the time of their processing and mixing. The same applies to the item created as a result of processing as to the goods supplied with reservation of title. If the items are mixed in such a way that the Customer's goods are deemed to be the main item, then it is deemed to have been agreed that the Customer transfers the proportionate co-ownership to us. The Customer safeguards the sole ownership or co-ownership created in this way on our behalf.
9. We undertake to release the securities to which we are entitled at the Customer's demand in so far as the realisable value of our securities exceeds the claims to be secured by 20 %. It is incumbent upon us to determine which securities are to be released.
10. Unless otherwise agreed, all invoices must be paid within 30 days of the invoice being sent out (invoice date). If the Customer fails to pay by that time, the Customer is in default of payment. We allow 2 % discount if payment is made within 10 days of the invoice date. Cheques, bills of exchange and drafts are only accepted as conditional payment. Offsetting against the purchase-money claim is only permitted if an enforceable legal document has been obtained or if we do not contest the claim.

11. Default of payment, deterioration of the Customer's financial circumstances, insolvency, commencement of bankruptcy or composition proceedings, a change in or dissolution of the company, entitle us, with reservation as to our other rights, to demand advance payment or the furnishing of security for all contracts still to be fulfilled. In this case any invoice amounts not yet due become due for immediate payment.

At our option we are entitled in such cases to withdraw from all other current contracts with the Customer in whole or in part, without the Customer being able to raise any claims for compensation in this regard.

12. If the Customer is in default with acceptance of the goods, then we are entitled, without granting an extension, to invoice the Customer for the goods and to put them into storage at the Customer's expense and risk. In so far as the goods are stored on our premises, the Customer will be charged 1 % of the invoice amount for each month or part thereof. The Customer is entitled to prove that lesser damage has been incurred.
13. The Customer is required to notify us of any defects in writing and without delay, and not later than 14 days after transfer of the goods. As regards any defects which cannot be identified within this period, even as a result of a thorough examination, the Customer is required to notify us in writing of such defects as soon as they become apparent.

We do not accept any responsibility for defects arising as a result of natural wear, faulty or negligent treatment, improper storage or unsuitable or improper use or failure to comply with the instructions for application and use. Non-conformities in terms of quality, measurements and quantities that are usual in the trade do not constitute a reason for a notice of defect. We only accept liability for the suitability of our goods for specific purposes or for achieving a particular production result as well as for the chemical resistance when the goods undergo further processing with other materials, if we have provided an express warranty of such a quality.

In so far as the goods have a defect for which we are responsible, we are entitled, at our option, to replace the goods or remedy the defect. In making our choice, we must take the nature of the defect and the justified interests of the Customer into account. In the event of subsequent fulfilment of our deliveries, we are required to meet all the costs incurred in relation to such subsequent fulfilment, in particular transportation charges, transport costs, costs of labour and materials, in so far as these are not increased as a result of the goods having been moved to a location other than the Customer's commercial establishment, unless such a transfer is in keeping with the intended use. If remedying the defect fails after a reasonable period, the Customer is entitled, at his option, to a deduction or to withdraw from the contract. If the Customer chooses to withdraw from the contract, he is not entitled to claim compensation on account of the defect as well. If the Customer chooses compensation, the goods are left with the Customer, if this is reasonable. Compensation is restricted to the difference between the purchase price and the value of the defective object, provided that we have not maliciously caused the breach of contract. If only part of the total delivery of goods is defective, the Customer may only withdraw from the contract as a whole if he has no interest in the remaining part of the delivery.

The Customer may only assert the claims and rights of the Customer on account of a defect in the goods within a warranty period of 12 months after delivery of the goods. The same applies to work performance from its acceptance. This period does not apply in so far as the law stipulates longer periods: in accordance with article 438 paragraph 1 subsection 2 BGB (Civil Code) for constructions and construction elements; in accordance with article 479 paragraph 1 BGB for claims under a right of recourse; and in accordance with article 634 a paragraph 1 subsection 2 BGB for construction defects.

14. Services extending beyond our obligations as Supplier, require a separate agreement. Unless otherwise agreed, we do not accept any responsibility for services and in particular for advice given by us to the Customer with regard to the way in which the goods are used.
15. The above clauses contain the final warranty for the goods and exclude any other warranty claims or claims for compensation of any kind and regardless of the legal nature of the asserted claim, in particular on account of a neglect of duty arising from a contractual obligation or from actionable tort as well as claims for compensation for loss of profit or for other pecuniary loss by the Customer. This does not apply in the event that a guarantee has been furnished or a supply risk has been accepted, nor does it apply to liability arising under the product liability act, for liability for damages arising from injury to life, body or health and from culpable breach of major contractual duties. In the event of a culpable breach of major contractual duties we are liable – except in cases of criminal intent, gross negligence and the liability for damages arising from injury to life, body or health – only for the damages that are typical of this kind of contract and that are reasonably foreseeable. This is not associated with any change in the burden of proof to the detriment of the Customer. In so far as our liability is excluded or limited, this also applies to the personal liability of our employees, representatives or vicarious agents.
16. The place of performance is our registered office in Minden.

The legal venue for all disputes is our registered office in Minden. However, we are entitled institute legal proceedings against the Customer at a place of general jurisdiction.

In the event of provisions of this contract and the general conditions of sale being void as a whole or in part, the other provisions shall remain unaffected.