

General Terms and Conditions of Sales, Delivery and Payment

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I. General provisions

All orders shall be accepted or carried out subject to the conditions below which shall be deemed explicitly accepted by the customer. Any derogations shall be subject to our written consent. Any provisions of the customer diverging from these General Terms and Conditions shall not be binding for the supplier even if their applicability is not explicitly rejected thereby.

All orders, contracts and any other agreements, in particular verbal agreements with our agents and orders made by telephone, telex or telegram, shall be binding only subject to a written confirmation.

Any sales by sample shall be solely subject to a warranty applicable to workmanlike samples. No warranties on any specific applicability thereof shall be made.

II. Prices

All prices shall be quoted per kilogram, litre or packaging unit. They shall be based on the applicable manufacturing costs at the time of contract conclusion. In the event of an increase in prices, we reserve the right to charge the prices applicable on the date of delivery. Orders of less than 20 kilograms or tailored orders at the request of the customer may be subject to a cost surcharge by the supplier. All quotes shall remain valid for 30 days as of the day of issue or as specified therein. All prices shall apply to the time of risk transfer of the goods and shall include packaging costs, unless otherwise agreed.

III. Zahlung

As a rule, payment shall be made free of bank charges within 30 days following the date of issue of the applicable invoice. Any on a case-by-case basis agreed discount or payment deadlines shall also be granted subject to the net invoiced value of the goods. Discounts on new invoices may not be granted until older and overdue invoices are paid in full. Discounted bills of exchange shall be subject to the levying of bank discount and collection charges payable immediately in cash. Bills of exchange and cheques shall not be deemed payments in cash. The date of receipt of payment shall be deemed the date on which payment is credited to our account and any reservations expire; in the event of payment by cheque, the date of receipt of payment shall be deemed the date of encashment thereof.

Overdue payments shall be subject to the payment of interest on arrears in the statutory amount. In the event of delay in payment, we reserve the right to assert further damage claims, such as for foreign exchange losses.

In the event of non-acceptance of ordered goods, the seller shall hold the right to demand the payment of 20% of the value of goods for costs already incurred, loss of profit and a reasonable agency commission in relation thereto unless the customer is able to provide evidence that no damage was incurred or that the damage incurred was considerably lower than the lump sum.

The customer may not offset counter-claims that are disputed or not legally binding and shall not be entitled to exercise its goods retention right. Any claims asserted by third parties shall not be accepted.

IV. Delivery

All facts lying outside of the sphere of influence of the seller shall free the seller for the duration of the disruption or, at its own discretion, ultimately from their obligation to deliver and shall not entitle the customer to assert any claims against the seller as a result of their withdrawal from the contract. Such disruptions shall include strikes and lockouts, operational disturbances, exchange rate differences that reduce the purchase price and shortage of material, in particular restricted allocation and delivery of raw materials. In the event of such disruptions, the seller shall be entitled to, at its own discretion, terminate the purchase agreement or, by giving appropriate notice to the customer, carry out the delivery at a later date without the customer making claims of any sort in association therewith. In the event that orders are placed under such conditions, the seller shall be entitled to, without any obligation to pay damages or carry out a subsequent delivery, suspend or limit deliveries or, in the event of a rise in prices, charge the price applicable on the date of delivery. In the event that the seller delays the delivery for a period of more than two months, the customer shall be entitled to withdraw from the contract concerning the delivery affected by the disturbance. The customer shall not be entitled to any other claims.

If the acceptance of partial deliveries within a certain period is agreed, a regular distribution of the delivery shall be required. In the event that the customer fails to collect the goods within three months from the expiration of the agreed delivery date, or, if no time limit is agreed upon, within a period of one year, the obligation of the seller to deliver the ordered goods shall be extinguished. Upon request of the seller, the customer shall be obliged to collect their goods. The right of the seller to demand damages for non-acceptance of goods shall remain unaffected. Defective partial deliveries shall not entitle the customer to withdraw from the contract or to assert any other claims with respect to still open partial deliveries. All dates of deliveries specified shall be non-binding. In the event of a delayed delivery, the customer shall waive their right to withdraw from the contract or to demand damages. Consignment deliveries or storage of specified products with the local supplier upon request of the customer shall be deemed orders and shall be collected within a reasonable period of time. The storage operator shall be held liable for appropriate storage. They shall hold the right to have these assets covered by their insurance policies. We hold the right, in particular in the event of tailored orders, to reduce or increase delivered quantities by maximum 10%. Freight surcharges shall be applicable solely for countries bordering EU Member States (and for quantities not exceeding net 100 kilograms). Any additional charges applicable to express and rapid dispatches shall be borne by the recipient. In the event of insufficient information on the customer, the seller shall be entitled to withdraw from the contract even following the confirmation of the order.

V. Dispatch and insurance

All goods shall be transported at the risk of the customer, which shall also include Franco, Fob and Cif deliveries. The seller shall not be held liable for any difficulties experienced during transport. Upon request of the customer and subject to payment of costs incurred in connection therewith by the customer, a transport insurance policy may be concluded.

VI. Packaging

As a rule, deliveries shall be made in single-use packaging of goods per kilogram or litre. Packaging of deliveries of less than 20 kilograms/litres shall be subject to a low-quantity surcharge. Packaging shall be disposed of in compliance with ARA licence no. 12249.

VII. Complaints and liability

Upon delivery, goods shall be inspected for quality and quantity. Complaints regarding identified apparent defects or deviations in quantity shall be made within 8 days of the receipt of goods and shall include proof thereof. In the event of identified defects of goods that form part of our current range, the customer shall be entitled to demand a substitute delivery thereof. Otherwise, the customer shall hold the right to demand a change to the purchase agreement for the defective goods. In the event of identified defects on an individual product, goods that form part of a purchase agreement or partial deliveries, the right to demand a refund or substitute delivery shall be limited to the defective partial deliveries. Claims for damages for direct and indirect damage shall be limited to the value of the defective goods unless damage has resulted from wilful intent or gross negligence. Claims for damages owing to inappropriate storage of the goods by the customer shall not be accepted.

Technical recommendations provided by the supplier either orally or in writing to support the customer/processor on the basis of existing experience to the best of our knowledge according to the current theoretical and practical state of the art shall be non-binding and shall not result in any warranty or any other ancillary obligations arising from the purchase agreement. These shall not absolve the customer or their customers from undertaking their own inspections of the products of the supplier, determining their suitability for the intended purpose at their own risk and creating samples prior to their installation.

Any liability for the coatings manufactured with the delivered coating materials shall be explicitly excluded because the manufacturer does not have any impact on the professional use of the product.

VIII. Retention of title

The title to the delivered goods shall remain vested in the seller until all payment obligations of the customer towards the seller are fulfilled.

The customer shall hold the right to process, mix, blend and resell the received goods in the ordinary course of business. The customer may pledge or use the goods as security in the ordinary course of business, insofar as the collateral taker recognises the superiority of the retention of title in their surety conditions. The customer shall carry out the processing of goods subject to retention of title for the seller without the incurrance of any obligation of the latter as a result.

In the event of processing, mixing and blending of goods subject to retention of title for the seller with other goods that do not belong to the seller, the seller shall be entitled to a joint title on the new goods in proportion to the invoiced value of the goods supplied thereby compared to the value of the remaining goods; in the event that the seller obtains the sole title to the new goods, the seller and customer agree that the customer shall grant a joint title to the new goods to the seller in proportion to the invoiced value of the products supplied by the seller.

In the event that the goods subject to retention of title are resold, the customer hereby assigns to the seller and the seller hereby accepts the customer's assignment of any title and collection of fees.

The same provision shall apply to any receivables associated with contracts related to services and goods whose provision results in the expiration of the retention of title.

In the case of goods subject to assignment of a joint title to the seller following their processing, mixing and blending, the assignment in advance of a partial receivable amounting to the invoiced value of the processed, mixed or blended goods of the seller shall be carried out; the same shall apply in the event that the goods subject to retention of title for the seller are jointly resold with other goods. Contracts related to services and goods whose provision results in the expiration of the retention of title shall be subject to an assignment in advance of a partial receivable amounting to the invoiced value of the goods subject to retention of title. Until revocation of the seller, the customer shall be entitled to collect the assigned receivables. Their collection right shall extinguish also without any explicit revocation of the seller if the customer does not meet their obligations towards the seller, in particular in the event insolvency or bankruptcy proceedings are instigated against them. Upon request of the seller, the customer shall provide the seller with the required information on the assigned receivables, submit the required documentation and communicate the assignment to the debtor. The customer shall promptly notify the seller of any enforcement measures initiated by third parties against the goods subject to retention of title or assigned receivables and provide the seller with the documentation required for an intervention. In the event that the customer fails to meet their obligations towards the seller, in particular if a payment has not been made in full or if the customer becomes insolvent, the seller shall hold the right to demand, without prejudice to other rights of the seller, the return of their property. Any returns of goods shall not be deemed a withdrawal from the purchase agreement unless declared in writing by the seller. The seller hereby undertakes to release the applicable securities at their own discretion to the customer upon the latter's request in compliance with the provisions above insofar as their value exceeds the value of the secured receivables by 20%.

IX. Place of performance and jurisdiction

If the other contracting party is an entrepreneur or any other type of legal person governed by public law, the place of performance and jurisdiction for all rights and obligations of both contracting parties arising from all transactions shall be, at the discretion of the supplier, the headquarters of the supplier (Traiskirchen). Contracts concluded with contracting parties outside of Austria shall be governed by Austrian law, excluding the provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG).